

S.C.O.P.E Legal Update

November, 2021

Candidates Answer Questions at Schuyler SCOPE Meeting

The Schuyler County Chapter of Shooters Committee on Political Education (S.C.O.P.E.) invited candidates for county and state office to attend its quarterly meeting Thursday as a “Meet the Candidates Night.”

Candidates were given the opportunity to make a few brief remarks and answer questions from the membership. Over fifty members of S.C.O.P.E. and the general public were in the audience.

Among the topics addressed were each candidate’s belief in the right to keep and bear arms, possible “Constitutional County” legislation for Schuyler County, pistol permit procedures, support for law enforcement and related issues. Each candidate in attendance affirmed his or her strong support for the Second Amendment.

The following candidates attended and addressed the audience:

- Kevin Rumsey, Republican Candidate for Sheriff
- Breck Spaulding, Independent Candidate for Sheriff
- Theresa Philbin, Republican Candidate for County Clerk
- David Reed, Republican Candidate for County Legislature (District I)
- Laurence Jaynes, Republican Candidate for County Legislature (District II)
- James Howell, Republican Candidate for County Legislature (District IV)

Following the meeting, the S.C.O.P.E. executive committee determined that each candidate who attended should receive an “A” rating from the group, based on their presentations and/or responses to a written S.C.O.P.E questionnaire. An “A” grade means that S.C.O.P.E. believes these candidates will work to preserve, protect and defend the right to keep and bear arms, as enshrined in our Constitution.

<https://www.fingerlakesdailynews.com/2021/10/15/1198122/>

Hochul signs gun control package addressing “hard-to-trace” guns

A package of bills meant to curtail gun violence in New York by banning the sale of so-called “ghost guns” as well as barring the possession of unfinished frames or receivers was signed into law Thursday by Gov. Kathy Hochul.

The measures, which also include a new law meant to address guns that can be designed to look like toys, comes amid a spike in gun violence in cities across New York and the country.

The bills also come as Hochul this week extended an executive order that deemed gun violence in New York a public emergency.

Selling or possessing unfinished frames or receivers by anyone other than a licensed gunsmith has been outlawed; the materials can be used to form the lower part of a firearm and can be combined with other pieces to form a fully functioning weapon.

A companion measure bars the sale of ghost guns, or firearms that lack a registration and serial numbers, which make it difficult for law enforcement to trace. Gunsmiths and dealers must register and serialize firearms as well as unfinished frames or receivers they possess.

And Hochul approved a bill that seeks to crack down on guns that seemingly look like toys, but are firearms by expanding the definition of a disguised gun under the law.

<https://spectrumlocalnews.com/nys/central-ny/ny-state-of-politics/2021/10/29/hochul-signs-gun-control-package-addressing-hard-to-trace-guns>

The Supreme Court's Next Big Gun Rights Case Has Allies Trading Fire

The Supreme Court begins its new term on (the first Monday in October) with no shortage of high-stakes cases to wrestle with. One of them is *New York State Rifle and Pistol Association v. Bruen*, where the justices will consider the constitutionality of a New York law that dispenses concealed-carry licenses very sparingly, mostly to ex-cops and a select group of famous celebrities. As one might expect, gun rights advocates and gun-control groups alike are jockeying for the court to adopt an interpretation of the Second Amendment that fits their vision for the right to bear arms. Beneath that surface, however, a more intriguing debate about the Second Amendment is taking place between two groups that usually aren't at odds.

On one side is the American Civil Liberties Union and its New York state counterpart, which contend that the state law is justified to protect First Amendment rights in the public sphere. On the other side are a coalition of New York-based public defender groups who contend that the law actually gives cops a license to discriminate and harm indigent and minority New Yorkers who try to exercise their Second Amendment rights. The result is two starkly different visions of how the law affects civil rights, public safety, and the Constitution.

Bruen is slated to produce the first major Supreme Court ruling on the scope of the Second Amendment in nearly a decade. (It was previously known as *New York State Rifle and Pistol Association v. Corlett*.)

<https://newrepublic.com/article/163823/concealed-carry-racism-aclu-guns>

Public Defenders vs. Gun Control

The U.S. Supreme Court will hear oral arguments this fall in *New York State Rifle & Pistol Association v. Bruen*, which challenges the constitutionality of a state law requiring that anyone seeking a license to carry a concealed handgun in public first satisfy a local official that he has "proper cause" to do so.

Like other big cases about hot-button issues, this one has attracted a lot of amicus curiae ("friend of the court") briefs. Many of those briefs will have zero influence on the ruling. But one filed in July just might have an impact.

The brief comes from a coalition of public defense lawyer organizations, including the Black Attorneys of Legal Aid, the Bronx Defenders, and Brooklyn Defender Services. They urged the Supreme Court to overturn New York's gun licensing scheme both because it violates the Second Amendment and because it disparately harms black and Hispanic people who carry firearms for self-defense purposes....

It's possible that such arguments will resonate with Justice Sonia Sotomayor, the Court's leading critic of overpolicing and related law enforcement abuses. As the public defenders make abundantly clear in their brief, a Supreme Court decision against New York's gun control scheme would be a victory not only for the Second Amendment but for criminal justice reform too

<https://reason.com/2021/10/17/public-defenders-vs-gun-control/>

Why Martin Luther King Couldn't Get a Carry Permit

After his home was bombed in 1956, Martin Luther King Jr. applied for a permit to carry a gun. Despite the potentially deadly threats that King faced as a leader of the Montgomery, Alabama, bus boycott, the county sheriff, Mac Sim Butler, said no.

Next week the Supreme Court will consider a challenge to a New York law similar to the Alabama statute that empowered local officials like Butler to decide who could exercise the constitutional right to bear arms. The briefs urging the Court to overturn New York's statute include several from African-American organizations that emphasize the long black tradition of armed self-defense, the racist roots of gun control laws, and their disproportionate impact on racial and ethnic minorities.

At the time, it was illegal in Alabama to carry a pistol "in any vehicle" or concealed on one's person without a license. The law said a probate judge, police chief, or sheriff "may" issue a license "if it appears that the applicant has good reason to fear injury to his person or property, or has any other proper reason for carrying a pistol."

That remains (largely) true in New York, as the Black Attorneys of Legal Aid and several other public defender organizations note in their brief. "Each year," they say, "we represent hundreds of indigent people whom New York criminally charges for exercising their right to keep and bear arms," nearly all of whom are black or Hispanic.

That situation is unsurprising, the brief says, given the origins of New York's gun licensing regime. The Sullivan Act of 1911, which required a license to own handguns and "gave local police broad discretion to decide who could obtain one," was enacted after "years of hysteria over violence that the media and the establishment attributed to racial and ethnic minorities—particularly Black people and Italian immigrants."

<https://reason.com/2021/10/27/why-martin-luther-king-couldnt-get-a-carry-permit/>

Anti-gunners Launch Campaign to Intimidate U.S. Supreme Court as Second Amendment Case Looms

With a dubious chance of prevailing on the merits, anti-gunners have adopted a tactic of not-so-thinly-veiled threats to delegitimize and even dismantle the U.S. Supreme Court itself if they don't get their way.

Proposals to pack the court, to establish term limits for justices, to reduce the Supreme Court's jurisdiction to hear cases, or even to abolish the court in its current form are now in vogue on law school campuses, in opinion pieces of far left media outlets, and even in the U.S. Congress and White House.

These efforts intensified with President Trump's appointment of three established originalists to the U.S. Supreme Court. They are now reaching a fever pitch as the court embarks on a new term with numerous high-profile issues before it, including the scope of the right to bear arms.

Part and parcel of these efforts is trotting out luminaries of the legal world to lecture the public about the supposedly radical changes these justices are about to unleash on the country. Ironically, however, even these arguments usually devolve to the idea that the court will simply revert to an earlier status quo that was itself disrupted by activist decisions that disregarded public opinion, to say nothing of laws enacted by democratically elected legislatures.

<https://www.buckeyefirearms.org/anti-gunners-launch-campaign-intimidate-us-supreme-court-second-amendment-case-looms>

Letitia James will run for New York governor, sources say

New York Attorney General Letitia James plans to run for governor, according to three people directly familiar with her plans who spoke to The Associated Press on Wednesday...

James, who was born and raised in Brooklyn and made her first run for City Council as a candidate of the liberal Working Families Party, would have the reverse task of winning over upstate Democrats who might be more conservative.

Before this year, James was best known nationally for her frequent legal tussles with former President Donald Trump.... James also filed a lawsuit accusing the National Rifle Association's leaders of financial mismanagement, the latest in a string of regulatory actions that have delighted liberals but drawn complaints from Republicans that she has unfairly used her office to target political opponents

<https://www.cnn.com/2021/10/27/letitia-james-will-run-for-new-york-governor-sources-say.html>

NY AG: “In Some Parts of New York State, You Can Find a Gun More Easily Than You Can Find an Apple”

A local paper quoted New York State Attorney General Letitia James as saying, recently, “What’s so tragic is that in some parts of New York State, you can find a gun more easily than you can find an apple.”

Problem is, New York State is flush with apples. According to the U.S. Apple Association, out of the 32 states that grow apples commercially, New York State is the second largest producer of the fruit in the country. Last year, for example, the yield was an estimated 1,385,000,000 pounds of apples. The New York Apple Association even has a “find apples” search feature on its website.

Compounding her very strange comment is the fact that New York State – A-rated by gun control groups like Giffords – already has what are arguably the nation’s most restrictive gun control laws.

<https://www.nraila.org/articles/20210927/ny-ag-in-some-parts-of-new-york-state-you-can-find-a-gun-more-easily-than-you-can-find-an-apple>

Public Advocate Williams Reportedly Preparing Run for Governor

New York City Public Advocate Jumaane Williams has announced an exploratory committee for governor earlier this week, indicating that next year’s Democratic primary may be a fierce competition.

Williams has previously made gun control and investments in social programs major parts of his platform.

<https://hamodia.com/2021/09/30/public-advocate-williams-reportedly-preparing-run-for-governor/>

NY, NJ, CT, PA to share gun crime data in effort to prevent violence

The governors of four northeastern states agreed (October 7) to share information about firearms purchases to help detect and investigate straw buyers and other gun crimes.

Chief executives in Connecticut, New Jersey, New York and Pennsylvania signed a 10-page agreement to exchange gun crime data for use only by law enforcement, with provisions governing security and mandated notice if the information is misused or improperly accessed.

The four Democratic governors said the initiative will help target gun networks that cross state lines.

<https://abc7ny.com/ny-nj-ct-pa-team-up-to-share-gun-crime-information/11095161/>

Gun Store Warning Label Law (Westchester County, NY)

Westchester County Legislator Ruth Walter has drafted a proposed local law requiring all gun dealers in Westchester County to post signage intended to warn customers of the dangers ownership of a gun poses near the point of sale.

The purpose of the bill is, "To better inform potential buyers of firearms in Westchester County of the dangers of owning a gun in the home, which can lead to accidental discharge, preventable suicide, unintended death of a child, other household members, or death during a domestic dispute."

<http://www.gunpoliticsny.com/?p=24380>

Erie County Legislature fails to override County Executive's veto of bill to expand youth hunting opportunities

The Erie County Legislature on (October 7) failed to override the County Executive's veto of a measure that would have expanded opportunities for youth hunting.

As a result, Erie County and Rockland County are the only ones remaining in New York State where you will still have to be 14 years old to hunt deer or other large game with a firearm or cross bow.

In his veto message, Poloncarz also cited a couple of rare examples of young people being injured or even killed (or injuring or killing others) while hunting across country while claiming the proposed expansion of youth hunting "comes at a time when there have been many unfortunate firearm hunting accidents across the state and country, especially those involving youth hunters."

But those taking aim at his decision say Poloncarz is ignoring the facts. According to the DEC, hunting accidents are rare, with an average incident rate of only 2 per 100,000 hunters over the last five years.

Whether the County Executive approves of it or not, under state law 12 and 13-year olds in Erie County will still be able to legally go hunting with an experience adult and shoot small game such as squirrels, rabbits, water and other fowl, and coyotes.

And when they do, they'll be using the same weapons, such as shotguns, that they might use to take a deer.

<https://www.wgrz.com/article/news/local/erie-county-legislature-fails-to-override-veto-bill-to-expand-youth-hunting-opportunities/71-eb687a8d-bd4f-4e78-92d1-e176eb78e0ee>

Rally held in Elmira to make Chemung County a Constitutional County

A group of Chemung County citizens are calling for the County to become a Constitutional County, and they held a rally Tuesday night in front of the Hazlitt building to make their voices heard.

But what exactly does that mean? In basic terms, it means that the county would follow the Constitution to the letter, and any law made by the County Legislature or New York State that they deem to be against the Constitution, they would not enforce that.

<https://www.weny.com/story/44950568/rally-held-in-elmira-to-make-chemung-county-a-constitutional-county>

Congresswoman Claudia Tenney Expresses Strong Opposition to Red Flag Provision in Defense Bill

Congresswoman Claudia Tenney (NY-22) ... announced her strong and continued opposition to the inclusion of a red flag provision in the annual defense authorization bill.

Tenney joined 160 of her House colleagues in sending a letter to the House and Senate Armed Service Committee Chairs and Ranking Members requesting that Sec. 529 be removed from the National Defense Authorization Act (NDAA). This provision would allow the military court on an ex parte basis to take a service members Second Amendment right away without due process.

Leading up to consideration of the House-passed NDAA earlier this month, Congresswoman Tenney advocated strongly for the provision's removal. She received an assurance from House and Senate leaders that this provision would not be included once the bill is reconciled between the House and Senate, which will happen later this year. She will hold congressional leaders to this commitment.

<https://www.binghamtonhomepage.com/news/up-to-the-minute/congresswoman-claudia-tenney-expresses-strong-opposition-to-red-flag-provision-in-defense-bill/>

Schumer Calls on Feds to Speed Up Crackdown on Ghost Guns

Senate Majority Leader Chuck Schumer wants the federal government to more quickly implement rules to curb untraceable so-called "ghost guns," as NYPD seize more and more of the unregistered firearms.

A recent increase in law enforcement seizing unregistered guns shows that more dealers are using loopholes to legally sell firearms in parts thereby bypassing mandatory background checks, according to Schumer.

<https://www.longislandpress.com/2021/10/04/schumer-calls-on-feds-to-speed-up-crackdown-on-ghost-guns/>

Debbie Wasserman Schultz files bill to define ‘school shooting,’ create federal database

Congressional Democrats from Florida are again pushing legislation to create a federal bank of actionable school shooting data ...

U.S. Rep. Debbie Wasserman Schultz of Florida, whose district includes the school, is leading the charge with help from U.S. Reps. Ted Deutch of Florida, Lucy McBath of Georgia and others.

If enacted, the measure would direct the departments of Education, Justice, and Health and Human Services to produce detailed, annual reports on school safety indicators, including fatality statistics, shooter and victim demographics, the types of firearms and ammunition used, and track prevention efforts like building designs and communications and response plans.

Wasserman Schultz said she expects HR 5428 to pass through the Education and Labor Committee, of which McBath is a member. For now, only Democrats have voiced support for the bill.

And if HB 5428 can't pass on its own, she said, it could be tucked into a bigger bill that would.

“(This) is the type of legislation that can be easily incorporated into larger legislation to which it would be germane,” she said. “Being a senior member of the Appropriations Committee, (there is) the opportunity to add it to appropriations legislation.”

<https://floridapolitics.com/archives/462283-debbie-wasserman-schultz-files-bill-to-define-school-shooting-create-federal-database/>

Federal Lawsuit Challenges New York’s Stun Gun, Tazer Ban

The Second Amendment Foundation has filed a federal lawsuit challenging New York state and municipal laws prohibiting private citizens from possessing and using stun guns and tasers, noting in its complaint, “Most courts have found that bans on stun guns and tasers violate the Second Amendment and are unconstitutional.”

Joining SAF are the Firearms Policy Coalition, Inc., and three private citizens, Nunzio Calce, Shaya Greenfield, and Raymond Pezzoli. The lawsuit was filed in U.S. District Court for the Southern District of New York. Plaintiffs are represented by attorney David Jensen of Beacon, N.Y.

The case is known as Calce, et.al. v. City of New York, et. al.

Named as defendants are the City of New York and Police Commissioner Dermot Shea.

<https://www.tampafp.com/saf-federal-lawsuit-challenges-new-yorks-stun-gun-tazer-ban/>

Supreme Court declines to take felon's Second Amendment challenge to lifetime gun ownership ban

The Supreme Court Monday declined to take a challenge to a Wisconsin law banning state residents who have been convicted of felonies – including non-violent crimes – from owning handguns for the rest of their lives.

Leevan Roundtree challenged his conviction after police found a revolver and bullets in his home and charged him in 2015 with possessing a firearm despite a prior felony conviction. Twelve years earlier Roundtree pleaded guilty to failure to pay child support for more than four months, a felony in Wisconsin.

Roundtree appealed to the Supreme Court after Wisconsin's high court ruled against him earlier this year, noting that the state law "does not draw any distinctions among felonies." The state court considered Wisconsin's interest in preventing gun violence and asserted that the law was substantially related to that interest.

The Supreme Court has scheduled oral arguments on Nov. 3 in a separate dispute over New York State's requirements for receiving a permit to carry a concealed handgun in public.

<https://www.usatoday.com/story/news/politics/2021/10/04/supreme-court-declines-challenge-gun-ownership-ban-felons/5895319001/>

What's behind rising violent crime? Progressive prosecutors' non-enforcement of the law

You want to know why violent crime is surging in the nation's urban centers? Why, as the latest FBI statistics indicate, murder was up an astonishing 30 percent year-over-year in 2020, a record increase? Look no further than the Progressive Prosecutors Project (as I branded it in a March 2020 Commentary essay). This is the radical left's enterprise to "reform" the criminal justice system by pretending that we don't have criminals — or, to get so very nuanced about it, to assign blame for all crime on our systemically racist society.

If you want to know why crime is up, you need to understand why it went down, dramatically, after the high-crime generation from the 1970s into the '90s.

Prosecutors and police back then grasped that crime rates were a function of expectations about the rule of law. When prosecutors set the tone by acting against quality-of-life crimes, it signaled to more serious criminals that the community's laws would be enforced. When serious crimes were committed, police were not told the cases would be dismissed; they were encouraged to conduct interrogations and follow-up investigations that improved law enforcement's intelligence data bank. That intelligence was carefully and continually studied so that police could be deployed in the places where crime trends were emerging. Order does not need to be re-established if you take pains not to lose it in the first place.

This is not quantum physics. Progressive prosecutors' dereliction of their duty invites more crime. Professional criminals are recidivists, and if they are repeatedly returned to the

streets, rather than prosecuted and imprisoned, they commit lots more crime. The only way to stop it is to stop it. That means enforcing the law...

<https://thehill.com/opinion/criminal-justice/576078-whats-behind-rising-violent-crime-progressive-prosecutors-non>

JPMorgan Bond Deal Is Paused by Louisiana Over Gun Policy

On Thursday (10/21), a Louisiana panel delayed the approval of a \$700 million state bond sale set to be underwritten by JPMorgan Chase & Co. as the attorney general pushes for information on the bank's policies on gun control...The Louisiana commission's move comes one week after Attorney General Jeff Landry asked JPMorgan Chief Executive Officer Jamie Dimon to clarify the bank's policy regarding any restrictions on business with the gun industry.

(It) stems from a decision by the state in 2019 to question banks over whether they have gun-related policies. In 2018, Louisiana blocked Bank of America Corp. and Citigroup from underwriting a bond issue because of such policies, and the following year required would-be underwriters for specifics.

Earlier this year, Dimon told a Congressional committee that his bank won't finance gun companies that make military-style weapons for consumers.

"I believe that the Bond Commission should not conduct any business with an entity that discriminates against law-abiding citizens and businesses in the state of Louisiana," Landry, a Republican, wrote in the Oct. 14 letter to Dimon, asking him to provide a supplemental certification regarding JPMorgan's policies.

"The State reserves the right to reject the response if this certification is subsequently determined to be false," he wrote in the letter, quoting the Dec. 2019 solicitation for offers for underwriting services.

<https://www.bloomberg.com/news/articles/2021-10-21/louisiana-pauses-jpmorgan-bond-deal-to-probe-bank-s-gun-policy>

Illinois Supreme Court: Cook County Gun, Ammo Tax Unconstitutional

The Illinois Supreme Court ruled 6-0 Thursday (10/21) that Cook County's tax on guns and ammunition violates the Second Amendment.

Cook County officials were pushing a "violence tax" on guns and ammunition to offset the cost of gun violence in Chicago. The Firearm Tax Ordinance was implemented in 2013 and the Chicago Sun-Times noted that it "[imposed] a \$25 tax on the purchase of a firearm from a retailer in Cook County."

A separate county tax "\$0.05 per cartridge for centerfire ammunition, typically used for rifles, shotguns and handguns, and \$0.01 per cartridge for rimfire ammunition."

The Illinois Supreme Court ruled against the taxes, remanding the case to the circuit court "for summary judgement in favor of the plaintiffs."

The Case is Guns Save Life, Inc., et al., Appellants, v. Zahra Ali, No. 126014 in the Illinois Supreme Court.

<https://www.breitbart.com/politics/2021/10/22/illinois-supreme-court-cook-county-gun-ammo-tax-unconstitutional/>

New study finds little effect from Massachusetts gun control measures on violent crimes

A new study from American University found that the tightened gun-control measures that went into effect in Massachusetts six years ago had little effect on the violent crime rate in the state....

The study, published in Justice Quarterly, used modeling and FBI data from 2006 to 2016 to examine the impact of the 2015 gun law on crimes including murder, rape, robbery and aggravated assault....a one percentage point rise in denied licenses and denied licenses due to unsuitability increased robberies by 7.3% and 8.9%, respectively, after the new law took effect.

<https://www.bostonherald.com/2021/10/23/new-study-finds-little-effect-from-mass-gun-control-measures-on-violent-crimes/>

California Will Let 'Violence Prevention' Researchers Know That You Have a Gun

California Gov. Gavin Newsom signed into law last week A.B. 173, which among other things gives various academics, most of them very likely to be hostile to private gun ownership, access to all the information California collects about the state's buyers of guns, gun parts, and ammunition.

The law says that an assortment of government info about gun possessors "shall be available to researchers affiliated with the California Firearm Violence Research Center at UC Davis for academic and policy research purposes." Furthermore, "At the department's discretion...information collected pursuant to this section may be provided to any other nonprofit bona fide research institution accredited by the United States Department of Education or the Council for Higher Education Accreditation for the study of the prevention of violence."

<https://reason.com/2021/09/27/california-will-let-violence-prevention-researchers-know-that-you-have-a-gun/#comment-9127427>