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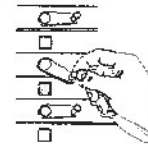
# Bucks County Sportsmen's Coalition

(affiliated with Keystone Firearms Coalition and Gun Owners of America)



Gun Owners and Sportsmen  
ARE Conservationists...

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...and DEFEND their  
Inalienable Rights!

## Gun owners' reservations regarding enforcement of existing firearms laws

Andrew E. Barniskis  
Legislative Chairman

Almost everyone will agree with the statement that we should "get tough on criminals with guns," and in that context, "enforce existing firearms laws," and "keep guns out of the hands of criminals." However, when people agree with those statements, if you question their visions of a "criminal," they will usually describe a stereotype of a vicious predator -- a scraggly street-thug holding up a convenience store, a baggy-drawered gang-banger in a drive-by shooting, or a psychotic rapist waiting to ambush a jogger in the park. The accepted vision may be summarized as "*violent criminals.*"

Starting from that vision, many of our associates in the firearms rights community readily endorse any legislation that purports to "keep guns out of the hands of criminals." What they really mean is, "*violent criminals,*" and if we are speaking about the stereotypes described above, we agree that such sociopaths deserve the most severe sanctions for the crimes they commit.

However, we also are sincere in our belief that possession of firearms is a human *right* -- a right that our state constitution says "shall not be questioned" -- and like every other human right, we believe it should not be subject to lifelong forfeiture except for the most egregious violations of that right. As with the freedom of speech, freedom of assembly, and all of the other civil liberties Pennsylvanian's enjoy, we do not believe that individuals should be denied the right to keep and bear arms simply for a record of non-violent indiscretions, or bureaucratic or political crimes. We observe that someone convicted of inciting a riot does not subsequently lose their freedom of speech, even though they have demonstrably abused that very right; however they would very likely lose their right to own firearms, under Pennsylvania law!

We recently had the opportunity to review a draft version of Rep. McIlhinney's so-called "Operation Hardtime" legislation, that was widely praised by firearms rights advocates as a law that would "crack down on criminals with guns." We choose this as an example, because in fact the legislation does nothing to enhance penalties on crimes *committed with guns.* It merely enhances the penalties for *possession* of guns by persons with prior convictions of certain crimes already enumerated in Section 6105 of Title 18 of the Pennsylvania Consolidated Statutes. So, this is a proposal that specifically embraces the issue of "enforcement of existing firearms laws."

We did not join in the praise for this proposal, because we already had observed that while the existing law did enumerate the violent and predatory crimes we all abhor, it also listed a number of crimes that were non-violent, bureaucratic, and in some cases entirely political. Thus, this was an example of an existing law that we did not support *as it was*, much less support more vigorous enforcement of it.

Some of our specific objections are to the following provisions:

**Section 908** (relating to prohibited offensive weapons): This section could easily and quickly be amended to become a so-called "assault rifle" or "sniper rifle" ban, so that people who today possess a certain class of totally legal sporting firearm become felons, without ever engaging in any sort of violent or anti-social behavior. It has happened in other States.

**Section 911** (relating to corrupt organizations): While we know this law presently is directed toward "organized crime" and "gangs," it remains essentially a guilt-by-association crime that could be expanded to include entirely political crimes. We do not believe the denial of fundamental rights is justified without a demonstrated, specific abuse of those rights by the individual in question.

**Section 912** (relating to possession of weapon on school property): This section involves a "crime" that is ambiguous in its interpretations, and may involve a totally innocent, non-criminal intent on the part of the convicted person. We observe that its interpretation and enforcement may be substantially different in different regions of the Commonwealth.

**Section 2709** (relating to harassment and stalking): This is a crime that may result from accusations that are easily made by either party in an acrimonious divorce or other domestic dispute. Unless evidence of actual violence has been demonstrated, life-long forfeiture of human rights because of unusual behaviors during a period of high emotional stress is inappropriate.

**Section 3301** (relating to arson): This is a crime that does not necessarily imply violence. We have one report of an individual disbarred from the right of firearms possession, resulting from a youthful prank involving firecrackers thrown into a metal phone booth. Again, we believe the loss of an individual human right as a result of a non-violent, non-malicious crime is not justified.

**Section 3302** (relating to causing or risking a catastrophe): Once more, this does not seem to be a crime that always implies violent intent. As with the arson example above, it appears to be a charge that could be applied inappropriately by overzealous prosecutors. We also observe that it could be applied rather loosely to certain weapons possession crimes, during a period of political hysteria.

**Section 5515** (relating to prohibition of paramilitary training): This provision we find decidedly political in nature, and thus subject to fluid definitions as public hysterias wax and wane. In fact, that it is a crime at all, we regard as justification for many of our other expressed reservations.

**Section 6110.1** (relating to possession of firearm by minor): Youthful possession is a crime, that makes possession as an adult a more serious crime. How's that again?

**Section 6302** (relating to sale or lease of weapons and explosives): It seems once again that this is a crime that does not necessarily imply a predisposition to violence.

As stated above, this is but a partial list of our concerns, which could expand after more in-depth study of the cited sections defining each offense, or, after further research into how these provisions may already have been used to deny the rights of otherwise innocent gun owners.

We have observed that there has been a great deal of conflicting rhetoric in recent years, roughly divided between the Clinton Administration claiming that the Brady Law has prevented some hundreds of thousands of "criminals" from getting guns, and firearms rights advocates complaining that of those, only the tiniest handful have been indicted or convicted for Brady Law violations. We believe both camps are engaged in a degree of half-truth telling, or at least, half-truth believing.

It would take an extraordinarily stupid criminal to submit to a background check knowing that he or she has a well-documented criminal record. Discounting that large percentage of purchase denials that are outright errors, we would suggest that the majority of "criminals" prevented from buying guns are in fact people with convictions so old and so insignificant that they themselves did not realize they were "criminals." And, that would provide the best possible justification for lack of enforcement -- that the purpose of the law should not be to harass people who may have lived exemplary lives for decades since some past indiscretion or bureaucratic violation.

Our position is that the mechanisms for such harassment should not exist in the first place, and that existing firearms laws require extensive reform in that regard, before gun owners should begin to endorse stricter enforcement of those existing laws. We call for the members of the House Judiciary, and all of the General Assembly, to begin considering such reforms in the spirit of the fact that firearms ownership and possession is both a human right and a constitutional right equal to all other rights.

(End)