

# The Gottlieb-Tartaro Report

## THE INSIDERS GUIDE FOR GUN OWNERS

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Issue 126  
June, 2005

Dear Subscriber,

**Gun owners benefit** from a U.S. Supreme Court decision in January (*U.S. v. Booker*) **striking down federal sentencing guidelines** as unconstitutional.

First example: ROBERT F. MYERS of New London, Iowa, **got himself into a heap of trouble** when he decided to **shorten the rusty barrel of his old shotgun** by 8 inches so it would be usable again. He didn't realize that by "fixing" his gun, **he violated federal law** prohibiting possession of a **"sawed-off" shotgun**.

Three years later Myers sold the shotgun to a cousin, **who subsequently used it in an assault**. Police traced the gun back to Myers, who immediately **cooperated fully** with investigators.

Under the **mandatory guidelines**, Myers would have faced **two or three years** in federal prison. Instead, U.S District Judge ROBERT W. PRATT gave Myers **three months** of supervised release - like probation.

**IN THE  
COURTS**

Judge PRATT could do that because the high court said the guidelines, which were intended **to impose uniform sentences in all cases**, are unconstitutional, in that **they rely on facts not decided by juries**. *They used to be mandatory*, but the Supreme Court made them **"advisory," truly guidelines** from which **judges can depart** when justified by circumstances.

The *Des Moines Register* editorialized: "Judges must be allowed to use their training and instincts based on real lives. If they are wrong, an appeals court is in place to correct decisions upon review."

**The Missouri Circuit Court of Appeals** has ruled that the right to bear arms in the state **does not free a concealed carry applicant from the obligation of answering questions** about *past crimes or military service*.

PAUL HEIDBRINK demanded a permit **without answering Sheriff's Department questions** about his past **on privacy grounds** and sued when he was denied.

St. Charles County **Circuit Judge TED HOUSE ruled in favor of HEIDBRINK**, but was overturned on appeal.

Court documents showed that **HEIDBRINK had received a bad conduct discharge** from the Navy for being AWOL, a misdemeanor. State law denies permits to anyone with a dishonorable discharge, but the appeals court **did not rule** on whether **a bad conduct discharge was the same as dishonorable**, so HEIDBRINK may get his permit.

The three-judge appeals panel said that Judge HOUSE ignored the obligation of the sheriff to **enforce "reasonable" regulations**, which include requiring an applicant to **provide truthful information and identification**.

HEIDBRINK has said he will appeal to the **Missouri Supreme Court**.

In Michigan, a news report revealed that **federal prosecutors in Project Safe Neighborhoods have filed 564 gun cases** in Detroit since 2002. The project targets *felons caught with guns*, and has resulted in 166 convictions. The average sentence in 2004 convictions was eight years.

Minnesota Attorney General MIKE HATCH has **asked the state Supreme Court to review a Court of Appeals ruling** that struck down the state's handgun concealed carry law for being "bundled" in a bill with another subject.

However, **the legislature recently passed a new stand-alone bill** and Governor Tim Pawlenty has signed it. HATCH's request will probably be withdrawn.

**Also in this issue:** ● *Legalizing war trophy guns* ● *Venezuela, Brazil two murder capitals* ● *California ammo serial numbering plan* ● *Several states arming judges in the courtroom* ● *New Jersey to seize homes containing illegal guns?* ● *Dealing with some uninvited visitors in our Page Eight "Parting Shot"*

### GUN COMMERCE PROTECTION BILL PASSES HOUSE COMMITTEE

The House Judiciary Committee **has passed H.R. 800**, the House version of the **"Protection of Lawful Commerce in Arms Act,"** by a vote of 22-12.

Most encouraging is that *all proposed anti-gun amendments were defeated.*

Rep. Cliff Stearns (R-FL) said, "This measure provides protection **only against lawsuits based on the criminal or unlawful acts of third parties**--not against their own negligent or criminal conduct."

Rep. Rick Boucher (D-VA), Democratic co-sponsor of the bill, said, "The effort of cities to sue gun manufacturers because someone misuses a firearm is **nothing but an attempt to impose gun control by judicial means.**"

The bill currently has 255 cosponsors in the House and must face a floor vote. The Senate must also approve a companion bill.

**AT THE  
FEDERAL  
LEVEL**

### GUN RIGHTS BILL INTRODUCED FOR THE DISTRICT OF COLUMBIA

Exercising the **congressional duty of oversight for the nation's capital**, Sen. **Kay Bailey Hutchinson** (R-TX) has introduced a bill to decriminalize handguns in the District of Columbia.

Dubbed the **"District of Columbia Personal Protection Act of 2005,"** it is similar to a measure in the House of Representatives that already has 123 sponsors.

Sen. John Cornyn (R-TX) and Sen. George Allen (R-VA) joined Sen. Hutchinson in a recent news conference announcing the bill. Sen. Hutchinson said, **"Every woman in the District of Columbia should have the ability to protect themselves in their home, particularly if they're alone most of the time."**

Joe Waldron, executive director of the Bellevue, Washington-based Citizens Committee for the Right to Keep and Bear Arms, said "For more than a generation, **it has been disgraceful** that American citizens living in the nation's capital have been stripped of their Second Amendment rights under the Constitution."

"The gun ban has been **a dismal failure**," he added. **"Criminals ignore it** and honest citizens are essentially **prisoners in their own homes** because of it, fearful to venture far from the front door."

### BILL WOULD ALLOW REGISTRATION OF OLD WAR-TROPHY FIREARMS

Veterans of World War II, the Korean War and the Vietnam War could **legally register firearms** brought home as **war trophies** under a bill introduced by Rep. Jim Gibbons (R-NV).

The **Veterans' Heritage Firearms Act** would give veterans who possess such war weapons a chance to lawfully own them. A **1934 law made it illegal** to own such trophies without registering them with the government, and many veterans who never knew of the requirement are now subject to **confiscation of the guns and possible criminal charges** if discovered.

### ANTI-GUN DEMOCRAT WANTS STATE LAW AGAINST .50-CALIBER RIFLES

Rep. Carolyn McCarthy (D-NY) is helping Assemblywoman Patricia Eddington (D-Medford) push a New York law **to ban .50-caliber rifles**: the so-called "Anti-Terrorism and Aviation Act."

The **sales pitch** is that the rifle supposedly "can bring down an airplane with a single shot," and could also be used to "wreak havoc on chemical plants and oil storage facilities."

**McCarthy urged state lawmakers to pass the bill.** As usual, she resorted to name-calling, comparing opponents of the bill to "school-yard bullies."

**The Gottlieb-Tartaro Report** ® (ISSN 1079-6169) is published monthly by the Second Amendment Foundation, Liberty Park, 12500 N.E. 10th Place, Bellevue, WA 98005. Phone (425)454-7012. FAX (425)451-3959. Please call or write if you have a question regarding your subscription.

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Design: Northwoods Studio

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Published by:

Second Amendment Foundation

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**POSTMASTER:** send address changes to **The Gottlieb-Tartaro Report**, 12500 N.E. 10th Place, Bellevue, WA 98005.

**Printed in the USA.**

### SCOTLAND KEEPING ITS GUNS DESPITE HANDGUN BAN

There are **192,333 legally held guns** in Scotland, according to recently released government figures. With the 1997 handgun ban in effect, 129,218 were shotguns, **but 63,115 handguns are still legally owned.**

Scottish police received **1098 new applications for firearms certificates** and **1086 were actually granted.** About **700 were for air guns**, because of a new law requiring owners to obtain firearm certificates for them.

## AROUND THE WORLD

But there were also **536 legal handguns**, such as humane killers, antiques, "trophies of war" and race-starter pistols.

Firearm owners **must satisfy police** they have **a reason for keeping a handgun** and **would not pose a danger.** Hunting, vermin control and target shooting are among acceptable reasons.

### IRELAND PLANS GUN AMNESTY BEFORE BIG CLAMPDOWN

Irish Minister for Justice Michael McDowell has introduced a **"weapons amnesty"** in advance of his planned **clampdown on gun offences.**

**Mandatory sentencing for possession of firearms** will begin immediately after the amnesty, as well as **home confinement sentences** for those caught with an unlicensed firearm, regardless of circumstances.

Gun control in Ireland was prompted by the dramatic rise of gangs and gangland killings last year.

### AUSTRALIA: TASMANIAN REPORT SPURS CALL FOR MORE GUN RESTRICTIONS

The Auditor-General of the Australian state of Tasmania has released a report on **conditions since the 1996 gun ban of the Firearms Act.**

While noting a **small reduction** in gun-related injuries and crimes, the Auditor-General **also recommended new restrictions**, which *gun rights defenders predicted when the law was passed in 1996.*

The new target is a **total ban on semi-automatic handguns** and magazines carrying 10 rounds of ammunition. Other recommendations included broadening the scope of **random inspections** "to ensure safe storage of guns."

Australia has become a police state.

### SOUTH AFRICAN CITY CONFISCATING GUNS BY THE THOUSAND

More than **4,000 firearms have been taken by police from gun owners** using the amnesty for illegal weapons, which ends on June 30.

Pretoria Police Captain Piletji Sebola said that between January and the end of April, **204 firearms and 74,000 rounds of ammunition** had been handed in at police stations in and around the capital.

**Raids would also be conducted** across the city to seize illegal guns, said Pretoria Area Commissioner Amon Mashingo.

### PAPUA NEW GUINEA WOMEN'S GROUP CALLS FOR TOTAL GUN BAN

**Mary Soondrau**, president of the National Women's Council has called upon the government **to ban all guns in the country.**

The call was submitted to the National Gun Control Committee, along with a demand for a ban on the sale of children's toy guns and T-shirts with pictures or slogans about guns.

### VENEZUELA AND BRAZIL HAVE MOST SHOOTING MURDERS

A United Nations study has proclaimed **Venezuela and Brazil to have the highest gunshot death rates in the world.**

**Shooting murders** are the leading cause of death in Brazil, which ranked second to Venezuela out of 57 countries studied in the U.N. report.

In Venezuela, 22.15 people out of every 100,000 are murdered with guns, while 21.72 are killed in Brazil.

**Those rates are higher than for Israel**, which is in **an armed conflict** with the Palestinians. **At the bottom of the ranking was Japan**, with a rate of 0.06 people.

### CALIFORNIA CONSIDERING DRASTIC AMMUNITION LAW

The California state Senate has passed Senate Bill 357, a bill **requiring serialization of handgun ammunition**--a unique serial number engraved on the casing of each cartridge and on the bottom of every bullet.

**The cost of this program would be staggering** and result in the practical ban of all existing handguns because ammunition may not be available.

Advocates of the measure, California Attorney General Bill Lockyer, Sen. Joe Dunn and Senate President *pro tem* Don Perata all claim that the laser engraving would cost only half a cent per round, but the Sporting Arms and Ammunition Manufacturers' Institute reported that not only would new factories be required, costing in the tens of millions, but production time would be slowed so it would take three weeks to produce what is now made in one day.

**IN THE  
STATES**

### DELAWARE SENATE PASSES HANDGUN HUNTING BILL

SB 46, which would **allow certain handguns to be used for hunting deer**, has passed the Delaware Senate.

The bill is scheduled to be heard in the House Natural Resources and Environmental Management Committee.

### ILLINOIS GUN CONTROL GETS MIXED RESPONSES

Richard Pearson of the Illinois State Rifle Association has applauded a **"successful" 2005 legislative session**. These pro-gun bills were passed:

Senate Bill 53, improves ammunition mail order regulations.

Senate Bill 251, reduces landowner liability, opens more places for hunting.

Senate Bill 2103, protects shooting ranges from newcomer complaints.

House Bill 132, increases penalties for felons possessing illegal firearms.

House Bill 340, eliminates waiting period for gun purchases with a trade-in.

However, **there were several major problems**: Senate Bill 2104, which would pre-empt a patchwork of municipal gun transportation ordinances, passed the legislature, but Gov. Blagojevich said he will veto it.

He likewise promised to veto Senate Bill 57, a gun show background check bill that required purchase records to be destroyed after 90 days, while saying he will sign Senate Bill 1333, a similar gun show bill without destruction of records.

**Pearson is preparing for November's veto session.**

### MAINE "ASSAULT WEAPONS" BAN DIES IN COMMITTEE

A state-level attempt to replace the expired federal ban on semi-automatic firearms has failed by a unanimous vote of the Criminal Justice and Public Safety Committee.

The bill's sponsor, state Senator Ethan Strimling (D-Portland), acknowledged **flaws with the proposal**.

### MINNESOTA GOVERNOR SIGNS NEW CONCEALED CARRY BILL

With little fanfare, Republican Gov. Tim Pawlenty has **signed a concealed carry bill into law**. It replaces a nearly identical measure that was struck down by state courts because the earlier bill was "bundled" with Natural Resources Department provisions, violating the state Constitution's rule against bills with more than one subject.

### MISSOURI FIXES FLAWED CONCEALED CARRY LAW

The state legislature has passed a new version of the 2003 concealed carry law that failed to provide a funding mechanism.

The state Supreme Court upheld the legality of concealed guns, but said the lack of funding provisions imposed an unconstitutional unfunded mandate on local governments.

Republican Gov. Matt Blunt has said he will sign the bill, which **allows sheriffs to use permit fees to fund personnel and other costs of the program**.



### NEBRASKA SENATOR'S CHILDISH ATTEMPT TO TORPEDO CONCEALED CARRY

Anti-gun Democrat State Senator Ernie Chambers has inserted a bizarre amendment into Sen. Jeanne Combs' concealed carry bill as a set-up to filibuster it into oblivion.

The amendment contains clearly sarcastic language ridiculing citizen rights to self defense: He inserted a requirement that permittees "carry concealed the maximum number of pistols for personal protection due to paranoia and stark terror."

In order to avoid a Chambers filibuster **Senator Combs agreed to hold her bill** in return for a promise to consider it early next year.

## IN THE STATES

### NORTH CAROLINA: GUNS FOR DOMESTIC VIOLENCE VICTIMS?

The state House Judiciary Committee has approved a bill giving domestic violence victims **easier access to concealed handgun permits**.

Victims with a protective order would be able to get a temporary concealed handgun permit from local sheriffs. Background checks would still be required.

### NEVADA SENATE AMENDS STUN GUN BILL

AB 123, a bill regulating stun guns, passed by the House and was amended by the Senate to **exclude those under 18** and make it illegal for anyone to sell the guns to juveniles.

The amended bill now returns to the House for a decision on whether to accept the Senate changes. Gov. Kenny Guinn has indicated he will sign a stun gun bill.

### NEW JERSEY LAWMAKER WANTS TO SEIZE HOMES CONTAINING "ILLEGAL" GUNS

Assemblyman Louis Manzo (D-Jersey City) has introduced a bill that would allow the government to **seize the home or car of anyone whose property contains an illegal firearm**--an extension of illegal drug laws, he says.

The bill would allow confiscation "even if the firearm was not possessed by the owner of the motor vehicle, building or premise." Any unlicensed handgun, rifle or shotgun is considered illegal under the bill.

### NEW YORK DEMOCRATS PUSHING WIDER SEMI-AUTOMATIC FIREARM BAN

Assemblyman John Lavelle (D-North Shore) introduced an expanded "assault weapons"-type bill that was passed by the Democrat-controlled Assembly late last month. It would **outlaw a wide range of semi-automatic rifles and pistols**.

Lavelle and other Democrats tried to embarrass Republican Governor George Pataki by holding a ceremony at which the names of slain police officers were added to a memorial wall, taunting the Governor to support the bill "before another police officer's name is added to that wall."

The bill would ban any gun with pistol grips or anti-recoil devices. It must now pass the Republican-controlled Senate.

### PENNSYLVANIA COMMISSION BACKS SENSIBLE MEASURES

A 26-member special commission on gun crime formed by Gov. Ed Rendell has backed **harsher penalties for criminals** but rejected one-gun-a-month limits on gun purchasers and turned down local control over gun laws.

### TEXAS BILL WOULD ALLOW JUDGES AND ATTORNEYS TO HAVE GUNS IN COURT

The state Senate has passed a bill that would allow district and county attorneys and federal judges **to carry concealed handguns inside the courthouse**. The bill came in response to a courthouse killing in February. Gov. Rick Perry was expected to sign the bill into law.

### WISCONSIN BILL WOULD ALLOW COUNTY CONTROL OVER GUN LAWS

State Senator Spencer Coggs (D-Milwaukee) has introduced a bill that would extend criminal background check requirements by county to **private gun sales**. The bill has little chance of passage in the Republican-controlled Legislature.

**GUN NEWS TICKER - QUICK TAKES ON THE NEWS**

● **Bridgeport, Connecticut:** Gun control advocate Joel Gonzalez is known for going to extremes. In 1994, he brought a little homemade guillotine, a 2-pound hammer, and a cameraman to the state Capitol and cut off his trigger finger on videotape in a protest against gun rights advocates. Now he's trying to sell the guillotine and hammer on eBay for \$50,000 or more. No bids so far. The fingertip he cut off was not returned to him at the hospital, so he can't sell that. "When I did it, people said I was crazy," said Gonzalez. "I wonder what they're saying now." Well....

● **Greenville, South Carolina:** A gunshot was fired into the floor of Lakeside Middle School in Anderson County when students asked school resource officer Robert Miller how his holster works. Chief Deputy Tim Busha said Miller was trying to explain that holsters are so secure that no one could take an officer's gun. At that point, Miller told a student to try taking the gun out. The student tried and the gun went off. The gun never left the holster, said Busha. Fortunately only splinters hit anyone, and caused no injuries. Sheriff David Crenshaw said officers like Miller carry guns to stop tragedies like the school shootings at Columbine High in Colorado, where 12 students and a teacher died six years ago before the shooters killed themselves. "Had there been armed officers at Columbine, there would be a lot less dead people there," Crenshaw said. "The most dangerous places in our country are where there are no guns."

● **Columbus, Ohio:** Activists in the Ohio Coalition Against Gun Violence have asked Ohio's more than 80 daily newspapers to drop classified ads from unlicensed gun sellers. The anti-gun group said the ads could put guns in the hands of people who would flunk background checks required by federally licensed dealers. A gun rights supporter challenged the request, noting that newspapers publish ads for other businesses where illegal activity could flourish. At least six Ohio newspapers ban the ads already and ten more are considering such bans.

● **Philadelphia:** A ballot measure sponsored by two City Council members received voter approval for a charter change that asks the state legislature and governor to let the city draft its own gun laws. Gun control advocates want to impose various restrictions on access to guns, but dismiss measures to control criminals. House Speaker John Perzel (R-Philadelphia) says the legislature is adamantly opposed to limiting handgun sales. The vote is non-binding and will produce only public opinion pressure on politicians who are not likely to turn away from their own constituents who oppose gun control.

● **Jonesboro, Georgia:** A March 11 shooting rampage in an Atlanta courtroom has prompted Clayton County judges to request guns and firearms training from police. Clayton Sheriff Victor Hill said police gave guns to eight Superior and State court judges. Chief Judge A. L. Thompson said the FBI and other agencies have warned them that another defendant might use a gun to escape, settle a score or seek publicity. Terry Norris, executive vice president of the Georgia Sheriffs Association, said it is not unusual for judges to carry guns, especially in rural areas.

● **Pearl, Mississippi:** Twenty-two Mississippi judges took firearms classes recently, learning safety procedures and participating in target practice at a training facility in Rankin County. Supreme Court justices joined judges from the Court of Appeals and circuit, chancery and county courts for training at the Mississippi Law Enforcement Officers Training Academy. Officials there said all 22 qualified with their weapons. "The main purpose is to help these judges feel more secure individually," said Mississippi Supreme Court Chief Justice Jim Smith, Jr., who participated in the training. The recently created Supreme Court Committee on Court Security is examining security issues for the appellate courts and seeking to help trial court judges improve courthouse security across the state. Supreme Court Justice Mike Randolph said it's important to plan for threats or violence.

**GUN NEWS TICKER - QUICK TAKES ON THE NEWS**

● **Westland, Michigan:** Better technology and better management have dug Wayne County out from thousands of concealed weapons permit applications. When a 2001 state law made it easier for more people carry guns, it became routine for county employees to be buried in more than 3,000 applications, and applicants were waiting as long as 9 months for their permit. With new fingerprinting and background check equipment, the wait has been reduced to as few as 45 days. Each permit application requires the Michigan State Police to run a statewide criminal background check. If they recommend approval, then county employees conduct a local background check for outstanding warrants. It takes time and people. Officials say further improvement is possible but likely to be slow in coming.

● **Bellevue, Washington:** Neighbors were furious when Albert Kwan received city permission to sell guns from his home in a quiet neighborhood. The permit was granted only after the city initially denied it and Kwan appealed. State laws pre-empt local authority in firearms cases, so Kwan won the appeal. The city hearing examiner's decision said, "There is no basis for concluding that the sale of firearms *per se* is unacceptably dangerous."

● **Washington, D.C.:** The armed pilot was supposed to be the last line of defense against a terrorist who managed to get into a cockpit. But now it's more than two years after Congress approved a training program to deputize flight deck officers and allow them to carry guns in the cockpit, and only about 5,000 are armed while they fly--only a little more than 5 percent of the 95,000 commercial pilots in America. The Bush administration has done little to help the program. Pilot applicants have to undergo background and psychological checks, then travel on their own time to the training center in Artesia, New Mexico, which has no commercial airport and is a three-hour drive from the nearest one, in El Paso, Texas.

● **Fairfax, Virginia:** Former National Rifle Association President Kayne B. Robinson has been appointed executive director of the NRA's General Operations division. He was named to the position by NRA Executive Vice President Wayne LaPierre to replace retiring director Craig D. Sandler, who has held the post since 1996. Robinson will work to expand NRA's General Operations programs in hometowns and neighborhoods across America. Last year, 129,000 competitive shooters participated in 10,326 NRA-sanctioned tournaments, including 30 national championship matches.

● **Washington, D.C.:** The Brady Campaign to Prevent Gun Violence and its Brady Voter Education Fund have paid a fine of \$12,000 to the Federal Elections Commission to settle a campaign finance case from the 2000 election. The American Conservative Union, in a complaint filed with the FEC, accused the Brady organizations of making illegal corporate contributions to the Democrats' campaigns. The FEC disclosed the outcome of the case last month. The complaint alleged that "Handgun Control, Inc. and Handgun Control Voter Education Fund made prohibited, unreported, in-kind contributions to the campaigns of several candidates during the 1999-2000 election cycle." Television advertisements, press conferences, and websites, purportedly sponsored by the Brady respondents, resulted in the challenged contributions. The Federal Elections Commission said it "found reason to believe that the Brady respondents violated the Act."

● **Cleveland, Ohio:** Ohioans for Concealed Carry has recently begun speculating on the possibility of supporting a Democratic candidate for Governor in the next election. With anti-concealed carry Republican Betty Montgomery a possible winner of the 2006 GOP primary, all eyes are on pro-concealed carry Democrat Congressman Ted Strickland, an unannounced but likely competitor for the governor's chair. For once, Second Amendment and Right to Carry issues could play into a Democrat primary race, just as they are certain to in the Republican race. Montgomery has two pro-concealed carry Republican rivals, Jim Petro and Ken Blackwell. Ted Strickland is a known friend to gun owners--and they are known for voting their issue.

# Parting Shot

## WHEN UNINVITED VISITORS CALL

In Wichita Falls, Texas, 21 year old Ervin Flint entered Mike's Cut Rate Liquor on Kemp at about 7:30 p.m. and threatened the assistant manager with a bottle.

The worker was not impressed. He took the store's gun from under the counter, chased Flint outside and shot him with a .38-caliber pistol in the back of the leg.

Flint was taken to a nearby hospital for treatment and released to police, who charged him with robbery.

In Oklahoma City, at 10:30 one recent night, Ervin (yes, two different "Ervin"s in one *Parting Shot*) Donaldson was prowling around the backyards of a neighborhood where he did not live. One homeowner chased him away.

He knocked on the back door of the Wilkinson home on Woodward Street and owner Matt Wilkinson went to see who was there.

Donaldson asked if he could come in, and Wilkinson said no, but Donaldson forced his way in after a struggle.

The owner's wife heard the commotion and retrieved the family pistol.

Donaldson was defiant and the woman shot several times, hitting the intruder twice in the chest and accidentally wounding her husband in the hand.

Donaldson stumbled outside where he collapsed.

Paramedics treated Wilkinson without hospitalization.

Donaldson was taken to the University of Oklahoma Medical Center where he was in serious condition.

According to state prison records, Donaldson spent time in prison for seven burglaries committed over two days in 1997.

He also served time on drug and trespassing charges in 1996.

Police said the case will be referred to the district attorney to determine whether the shooting was justified.

In Pittsburgh, Pennsylvania, William Zapf was tending the Love Food Bank, a church charity, when Kenneth Mathews, 45, broke in with a screwdriver and brandished it at Mathews.

Mathews shoved Zapf, who feared for his life. He shot Mathews in the calf. Mathews fled and was captured.

The suspect was arraigned at Allegheny General Hospital on charges of burglary, robbery, and possession of instruments of crime.

*Alan M. Gottlieb*

*Joseph A. Tartaro*

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