

Posted 3/14/10

SHOOTOUT AT TIMES SQUARE

As the Supreme Court gets set to expand firearms rights, an out-of-State gun brings havoc to the Big Apple



By Julius (Jay) Wachtel. “It’s first day in New York, so it makes very real what you see in the movies. What [Suzanne Davis](#) captured on video wasn’t what she originally intended. In addition to the usual touristy scenes the Australian visitor would be taking home sobering images of a young man sprawled lifelessly on the pavement, a fearsome-looking pistol and detached magazine lying inertly nearby.

During the morning hours of December 10, 2009 NYPD plainclothes officers working Times Square approached two peddlers to ask for their permits. Raymond Martinez, 25, bolted. He was chased by Sergeant Christopher Newsom. Martinez suddenly stopped. Drawing a gun from his coat he pointed it at the officer and repeatedly squeezed the trigger. Just steps away and with nowhere to hide, the 17-year police veteran instinctively pulled his pistol and fired four times.

Miraculously, Martinez’s first two rounds missed. His gun then jammed, reportedly because [turning it sideways, hoodlum style](#) didn’t let empty cartridges eject. For the cop that was a very good thing, as Martinez’s gun held *twenty-seven* more rounds.

Sgt. Newsom didn’t miss. Each of his bullets struck Martinez, killing him.

Martinez was well known to police. Cited not long before for unlicensed peddling, he was wanted for disorderly conduct and in connection with an assault. Known on the streets as “Ready,” the would-be hip-hop artist had recently composed a rap tune whose lyrics now seem oddly prophetic:

*If they call the cops, then I'm aiming at the sergeant,
like aiming at my target,
and sure that f---ing dirty pig will feel it the hardest.*



Martinez's gun, a [Masterpiece Arms MPA930T](#) top-cocking, semiautomatic 9mm. pistol is a dead ringer for a MAC-10 machine pistol, the gangster's favorite it was designed to imitate. Authorities traced the weapon to [Dale's Guns](#), a retailer in Powhatan, Virginia. Its owner, [Dale Blankenship](#), said that the gun was purchased by a female customer on October 18, 2009. As the law requires, she displayed Virginia ID and passed an in-store criminal record check.

Ten days later she reported to police that the gun had been stolen from her vehicle.

As we pointed out in an [earlier post](#), New York State, which requires that handguns be licensed, grants localities broad discretion to determine who should get a permit and under what circumstances. [New York City](#) makes it virtually impossible for an ordinary person to obtain permission to have a handgun in the city.

That may soon change. Washington, D.C. also used to prohibit handguns. But two years ago, in [District of Columbia v. Heller](#), the Supreme Court invalidated the law. Whether its reasoning – that bearing arms is an individual right, independent of membership in a State militia – extends to non-Federal areas is the subject of [McDonald v. City of Chicago](#), a challenge to that city's handgun ban. If, as most assume, the Justices rule against Chicago, New York City is next.

Local handgun bans have always been an imperfect solution. Since most states don't vigorously regulate gun purchases, it's easy for traffickers to acquire guns for resale where they're prohibited. [Police recovered 5,129 guns](#) in New York City in 2008, including 4,243 handguns. Of the 2,758 that could be traced, 2,413 (87.5 percent) were first sold in another state. Overall, the top five sources were Virginia (372), New York (345), Georgia (252), North Carolina (251), and Pennsylvania (247).

A [2008 report](#) used [ATF gun recovery and trace data](#) to estimate state export/import ratios. The top five destination states were New Jersey (1:50, or one NJ gun recovered elsewhere for every *fifty* external guns recovered within), New York (1:14.3), Massachusetts (1:11.1), Rhode Island (1:6.3) and Illinois (1:5.9). Top source states include New Hampshire (4.6:1, or nearly five NH guns recovered elsewhere for each external gun recovered within), West Virginia (4.2:1), Mississippi (3.7:1), Arkansas (3.1:1), and South Carolina (2.5:1).

New York City's arch-nemesis, Virginia, was the tenth largest source state (2.1:1). [With its legislators now poised](#) to strike a long-standing rule limiting handgun purchases to one a month, it should soon move up in the rankings.

[Federal law](#) offers little hope to areas besieged by outside guns. Although it's only legal to buy guns in one's state of residence, Federal law doesn't restrict quantity. Private party transfers are also unregulated. That's right – if a transaction doesn't involve a licensed gun dealer, the Feds require no paperwork or criminal record checks. And while it's illegal to give guns to felons, underage persons or residents of other states, lacking reporting or recordkeeping requirements compliance is impossible to monitor.

An [ATF study](#) reviewed 1,530 gun trafficking investigations conducted between 1996-98. Straw purchase – buying guns at dealers on behalf of others – was the most common way to illegally convey guns. Many straw purchasers were friends or intimates of persons whose age or criminal record disqualified them from buying a gun. Some straw buyers were working for gun traffickers, while others were themselves traffickers.

A [report](#) by Mayors Against Illegal Guns indicates that straw purchase is common in states with weak gun laws. [In 2006](#) New York City sent pairs of private investigators – males posing as intended possessors, females posing as straw buyers – to sixty gun stores in five states that have a reputation as gun sources: Georgia, Ohio, Pennsylvania, South Carolina and Virginia. Fifteen dealers were caught on camera handing guns to the males while their partners filled out the paperwork.

[New York City sued](#). Several gun stores eventually settled, agreeing to monitor purchases with video cameras and to train their staff to recognize the indicators of a straw purchase. But Virginia Attorney General Bob McDonnell was furious. He promptly got legislators to [make it a felony](#) for non-law enforcement agents to play a ruse on gun dealers. NYC Mayor Michael Bloomberg shrugged. “We wish,” said his aide, “that Attorney General McDonnell was as aggressive in enforcing the laws that prevent illegal guns from getting in the hands of criminals as he was in enforcing the laws that protect the gun lobby.”

So what about the Times Square pistol? [NYPD Commissioner Raymond Kelly](#) confirmed that its buyer, ostensibly a Virginia resident, had ties to New York City. “Whether or not that is a legitimate theft is a matter that's being investigated. We do see a pattern of people buying guns and then reporting them stolen. That may in fact be a method used here, as far as a straw purchase is concerned.” Meanwhile ATF is investigating how the gun wound up on the streets of Gotham. “Anything less than two years is a very important indicator that a weapon could be part of an interstate

trafficking organization,” a spokesman said. “If we can use this case to intercept other guns before they hit the streets of New York, we've succeeded.”