

Gun Lawyer -- Episode 51 Transcript

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SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:11

I am Evan Nappen and welcome to Gun Lawyer. I want to talk to you today about some emails that I have received from listeners. They raise some interesting questions and issues that I want to discuss. The first one comes from Michael. Michael has questions regarding the New Jersey Safe Firearms Storage Map. He wants to know, "Am I aware that the Rutgers (New Jersey) Gun Violence Research Center is promoting temporary gun storage outside the home?" This is actually quite interesting because they are doing that very thing, and we need to talk about this. Rutgers runs this so-called Gun Violence Research Center. They always want to tie the word gun to violence, right? It is not a Violence Research Center. It is not a Gun Research Center. It has to be a Gun Violence Research Center that looks at all kinds of things with their anti-gun bend.

Evan Nappen 01:26

So, immediately, you know that this is suspect. What it is saying here is an effort to promote voluntary surrender of firearms. Voluntary surrender, for temporary firearm storage. You go to the website, and they developed a map of community members that are willing, supposedly, to temporarily store firearms. It is an interactive map, and it lays out who may temporarily store firearms. They say, if you are traveling out of state and want to keep them secure while they're away, a teenager in the home is in crisis and a risk of suicide. grandkids are visiting for a week, couples divorcing, and arguments are getting heated, family member experiencing mental health or substance abuse, the homeowner is listing the home for sale and wants firearms to be secure while showings occur. These are all reasons they claim you might want to voluntarily and temporarily store your firearms away from home. If you find that you do need to do this, they then say on the website that firearms can be temporarily stored in many places such as gun shops, shooting ranges, police departments, special storage facilities, and pawn shops and self-storage units may also provide storage. View the map to find options in your area.

Evan Nappen 03:09

Let's talk about this. Specifically, this is Rutgers (School of Public Health) doing the New Jersey Gun Violence Research Center. You would think they might have maybe a familiarity with New Jersey gun laws just as a starting point. When it comes to New Jersey gun law, you better be extremely careful if you let firearms out of your possession and temporarily store them anywhere. Because if you store them at a friend's, now granted, they did not say here, a friend's house. But if you do that in Jersey, you are actually breaking the law because the friend needs to have the permits on the transfer. You cannot

just store your guns with a friend or with a relative. Again, it does not say to do that, although it kind of gives the impression that maybe that is out there but it is not specifically in there.

Evan Nappen 04:08

But what is specifically in there is storing at gun shops. Well, if you store a firearm temporarily at a gun shop and the gun shop takes that firearm in, they actually have to put it in their books. Now for you to get it back, you are going to have to go through the licensing procedure. You are going to have to get new permits. You are going to have to go through a whole NICS check and everything if it is booked in, and they want to do the transfer out. If you store more than one handgun, then you are going to have to wait 30 days per handgun under Jersey law to get them back. Unless you apply to get special permission from the state police which is a whole other application for the gun shop to even do the paperwork to return firearms that you "temporarily stored".

Evan Nappen 05:03

Shooting ranges are an interesting option because there are authorized ranges and then there are ranges that are not, "authorized". When you look at storing firearms at a shooting range, Are you a member of the range? Are you within New Jersey's exemptions to be able to possess your firearm at the shooting range? And in your transport there, did you transport it according to (N.J.S. 2C:) 39-6 that required you, depending on what exemption you are relying on, to go directly to the shooting range. None of this gets explained.

Evan Nappen 05:43

Then, of course, they put the option of a police department. Well, if you surrender guns to the police department, good luck getting them back. Anytime I've had clients that surrendered to a police department for whatever reason, the prosecutor has to be notified, and they are not eager to return anybody's guns. You end up with a problem. Plus, I might add, that there is no exemption in New Jersey that allows you to bring your guns to the police department for temporary storage. It does not exist. The only way you can bring guns to the police department under New Jersey law is by voluntarily surrendering them under N.J.S. 2C:39-12 where you have to give written notice in advance of your intention to do so. When you turn them in, they are no longer yours. You have surrendered them to the police for them to dispose of and destroy. New Jersey has no provisions to bring the guns to the police unless you are voluntarily surrendering them, and no less for the police to store them as a favor for you and then return them without licensing. But there it is. They are putting it out as a potential option. I would highly recommend that nobody utilize that option.

Evan Nappen 07:11

Now they do also say special storage facilities but that is not elaborated upon. What are special storage facilities? Well, I don't know, and they don't say, but I am assuming they mean something like Gun Sitters. Now Gun Sitters is a bona fide place where firearms can be stored, and it has been approved for firearm storage. It is very regulated, etc in how it gets done and that is a bona fide option; going to a place like Gun Sitters for storing your firearms. Then they talk about pawn shops and self-storage. Well, pawn shops are not even allowed to take guns in pawn. So, I do not know where they get off saying that in New Jersey. Additionally, Self-Storage Units themselves often prohibit firearms and ammunition

specifically from being stored in those Self Storage Units. Now it does say may also provide, but normally it just does not provide.

Evan Nappen 08:23

So, I would be very skeptical of any of these suggestions and their ramifications. I would just stick to, if you're going to do this, special storage facilities where their entire focus is to do this very thing; to store firearms accordingly under the supervision that they have and with the state police. They have it all worked out to do it legally and correctly. With any of these other things, you are asking for potential trouble. You are asking for possibly losing your guns, losing your gun rights, having to get relicensed and just a whole host of issues here. This is definitely something that you cannot do lightly. You need to make sure that you are covered by whatever action you are choosing.

Evan Nappen 09:22

Now they do advise that before taking your firearms to a storage location, you should first ask about the process for storage, any costs, whether you need to complete a background check for getting your firearms back, and any limit on duration that they could be stored there. Of course, those are legitimate concerns because the process for storage. Are they going to be maintained? If you actually brought your guns to the police, I have seen police evidence rooms. They are not handled in the best way. Many times, the firearms are just piled and stored in a manner that is not in the way you would normally want to store guns that you treasure.

Evan Nappen 10:12

Any costs involved? Well, there are costs, particularly for the commercial facilities, and you want to find out about those. The completion of a background check for getting your firearms back is absolutely out there, and it is more than that in New Jersey. You need to get all new permits for handguns, because it is an actual transfer. It is viewed in this manner, and it can be really problematic. Then you are going to go through NICS again and the whole process. The delays that come with the NICS checks and the limits on licensing. If it talks about any limits on the duration that firearms can be stored at the location, that is also possibly an issue if it goes on for too long, and then you may relinquish your rights, who knows. So, there are all kinds of complications.

Evan Nappen 11:12

When bringing your guns to a storage location, call in advance and arrange a time to bring them. Do not bring loaded firearms to a gun shop, a police station, or other safe storage unit. Oh really, you don't think we should bring loaded firearms to a police station or a gun shop or other safe location. Particularly since in order to transport your firearms in New Jersey, the first rule is your guns have to be unloaded. If you are transporting your guns to any place, you need to be in conformance with subsection g. of the exemptions. The first requirement is that your gun be unloaded. Now, of course, there is not a legitimate way to go to the police station, unless you are doing the voluntary surrender. Keeping your guns unloaded is logical, but it is also legally required. It is pretty obvious - do not bring loaded firearm to any of these places. So, do not bring your loaded firearms anywhere. It needs to always be unloaded.

Evan Nappen 12:20

Then it talks about if you leave your firearm in a vehicle while making safe storage arrangements, lock the firearms in a case, store them in a locked compartment so they are not visible from outside. Some locations may provide pickup services. Really? That is interesting. I do not know how the third party ends up handling your firearms to pick them up, but it says you can inquire about that. They have reached out to gun shop owners that want to agree to do this temporary voluntary firearm storage. Unless the gun shops have it set up in a way similar to Gun Sitters where they have gotten the approvals and have it done in this correct manner, you may very well have issues getting them returned and temporary will end up not being very temporary at all. So, these are important considerations. The question provided by Michael is greatly appreciated.

Evan Nappen 13:25

Listen, folks, when you see these things, you cannot just believe what Rutgers (New Jersey) Gun Violence Research Center is telling you applies to you in New Jersey or any other jurisdiction where you are living. Of course, you realize there are agendas here, and the funding for these things that are coming from people that are not vigorous defenders of the Second Amendment. These are things that you see pushed and put into a package to show what is concern and real issues, but the solutions can often become very problematic for you. So, beware. If you have specific gun storage questions, check with an attorney who understands gun law and knows the jurisdiction's laws where you are and about what is actually involved in doing it legally and correctly. There is a lot of risk in trying to do this, and based off the information on the website, it is not a good idea. When we come back, I have another question regarding trigger modifications.

Speaker 3 14:54

For over 30 years, Attorney Evan Nappen has seen what rotten laws do to good people. That's why he's dedicated his life to fighting for the rights of America's gun owners. A fearsome courtroom litigator fighting for rights, justice, and freedom. An unrelenting gun rights spokesman tearing away at anti-gun propaganda to expose the truth. Author of six best-selling books on gun rights, including Nappen on Gun Law, a bright orange gun law Bible that sits atop the desk of virtually every lawyer, police chief, firearms dealer, and savvy gun owner. That's what made Evan Nappen America's Gun Lawyer. Gun laws are designed to make you a criminal. Don't become the innocent victim of a vicious anti-gun legal system. This is the guy you want on your side. Keep his name and number in your wallet and hope you never have to use it. But if you live, work, or travel with a firearm, the deck is already stacked against you. You can find him on the web at EvanNappen.com or follow the link on the Gun Lawyer resource page. Evan Nappen - America's Gun Lawyer.

Speaker 3 16:09

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Evan Nappen 16:24

Hey, welcome back to Gun Lawyer. I'm Evan Nappen, and I really enjoy speaking to all of you. Helping to get the word out about guns and gun laws, and the issues that can cause us problems. Also, things that can help us navigate and stay safe without becoming victims of gun laws. They talk here about victims of gun violence. But you do not ever hear them talking about victims of gun laws. I find that the

gun laws create victims. They take law-abiding citizens, and they turn a law-abiding citizen into criminals. New Jersey is so harsh with its gun laws. You can face mandatory incarceration, felony conviction, have your life ruined, your career ruined, your hopes and dreams taken away. I don't see any website from Rutgers on that issue and how to not become a victim of gun laws. But that is why we are here with Gun Lawyer. Please tell your friends to listen and subscribe. It's very important. This is our voice. As the social media and big tech shuts us down and hits us with algorithms and shadow bans and everything else, they can. Here is a source to get straight information about what is near and dear to us, our Second Amendment rights.

Evan Nappen 18:03

So, here's an email from Sebastian regarding trigger modifications. "What are some defining modifications of a trigger and its weight of pull that could lead to a conviction of intent or manslaughter in a self-defense case? Thank you for your time. Love our podcast." Okay, Sebastian, that is an interesting question, and it is flowing I guess in a way to civil liability for firearm modifications and also potential criminal ramifications, depending on what modifications are done. When we are talking about a firearm being modified from its original and you are in a lawsuit or a civil action over the firing of your gun when somebody was injured from it, even if you were righteous, 100% righteous, and legit in the use of deadly force, the other side may try to make something out of your firearm. They may try to make out something based on modifications that have been done to make it more prone to firing or shooting or discharging. This liability has been expressed even in terms of so-called New York trigger on Glocks where they put a heavier trigger to avoid the potential for accidental discharge supposedly and/or to make it clear of the deliberation that is required in the firing of a gun.

Evan Nappen 19:53

For the most part, if your firearm is factory and it is factory's spec then the issues of modification are not there. But once you start modifying it and if the other side picks up on it, they could try to make these arguments civilly that your gun was dangerous or created a situation where there could be negligence etc, to pursue civil charges. On criminal, I guess it is in theory possible. I have not seen that so much in my practice, but if it is something they can allege, that it created a reckless or an endangering situation, I guess a prosecutor could try to push that on a criminal side. I have not really encountered much on the criminal side. But if you're charged because you shot somebody or used deadly force, then in your effort to make the case on the self-defense or the justification for your use of force, maybe the State will try to imply or show that because of whatever modifications you did, this was something that was either intentional or not within the guidelines and the law for use of force. So, it could be possible.

Evan Nappen 21:24

I will tell you something that I have seen and that does make a difference. You should not have firearms that are aggressively named. If you are defending your home and you have the Death Slayer 2000 and that ends up getting in front of a jury when you are trying to say how reasonable you were in use of force, it can paint a bad picture. So, you do not really want to have any of those names that are cool and modifications to your gun that in terms of symbols and things that the jury could be forced to think about and try to extrapolate whatever attitude you may have had by having these things on your firearm. There are some famous cases out there where individuals had a biblical saying on the inside of the AR, and there folks that have macho names on it. There are guns, even from manufacturers, which

use these names because they are sexy to sell the guns, but it is not a good idea in terms of minimizing your potential liability or the other side trying to present you as some kind of nut or extremist, etc.

Evan Nappen 23:05

Way back in law school, I had a great professor who I loved, and his name was Professor Shapiro. Don Shapiro was one of our favorite teachers, and he taught Torts. I am talking about the other guys and gals that I went to law school with, and he was definitely a favorite. He told us a story about how he ended up getting a German Shepherd that was a \$20,000 dog, trained on hand signals and German commands. It was just an unbelievably great trained, self-defense dog that he had. I forget how he ended up getting this dog, but the one thing I do remember quite clearly is the torts Professor specifically named his dog, Bambi. That's right. He named this incredible killer German Shepherd, Bambi. We were like what? Bambi, he said, because if the dog ever had to use its training to bite somebody and do whatever the dog had to do and a lawsuit was filed, he wanted the other side to have to say, "Bambi bit... Bambi did this ... Bambi . . ." and that is the greatest to have through the papers with a person complaining about Bambi. I am like, that is great. So, he knew what he was doing, and it was a great idea. So, if you have a super fantastic dog that is trained and really top of the line and you are afraid that you might try to be used civilly against you, a good name like Bambi or Hello Kitty or Teddy Bear, might make a difference. The same idea applies when talking about names that are on your firearms, because the prosecutor will be waving that around and calling it by whatever name you put on it. They will just hammer it to the jury over and over if it helps make their case. So, do not give them the ability to do that.

Evan Nappen 25:36

The other thing folks wonder about is the use of hollow nose bullets or that kind of thing? Well, with expert testimony, we can show hollow nose is actually a safer round, particularly in a home because of fear of over penetration. That is one of the things that a good attorney can do in the showing of what's necessary on what you may use to defend yourself, particularly rounds like that. The gun law itself, when you look at it, is full of pejoratives. The antis have taken the gun laws and just loaded it with pejoratives. Even looking at what we talked about today, gun violence. It always has to be gun violence. Even worse, when you look at the statutory definitions in New Jersey and other places, they call a group of firearms that have arbitrarily been picked - assault firearms. They are called assault firearms. Now, the truth is, they are not really assault firearms, at least as far as what was a Sturmgewehr, the original assault rifle.

Evan Nappen 26:59

The Sturmgewehr gun was select fire. It fired fully automatic and semi-automatic and that was what the true term meant way back. Now, they take a term, and they call it assault firearm. Then they make a definition that is so broad and sweeping, and it ends up bringing in the Ruger 10/22. Firearms that traditionally have always been sporting firearms. Not that there is any problem with having a tactical firearm. But the term is there to inflame. It is then made into the term of the law itself so that we then have to call these guns, if they are so defined as assault firearms, even though that is not the original meaning of those words. We see this over and over again.

Evan Nappen 28:00

What is a large capacity magazine? That is an actual legal term in Jersey. But really what you are talking about is a standard capacity magazine because that is what the gun came with. It was standard. Oh, no, we make it large and then we pick an arbitrary number that in New Jersey went from 15 to 10 rounds under Murphy, and yet it is still the same large capacity magazine. It was large when it was over 15. It is large when it is over 10. It is a large capacity magazine. Oh, here's a good one - ghost guns. This is the terms that they use, and these words are important. They put these words out there. Sometimes they are turned into the statutory terms that are actually the legally defined term, and they use these pejorative words. Other times, it's just used in the general arguments made by the other side. We try not to use the words of our adversary when we can, because words are important, and they rise with emotion.

Evan Nappen 29:13

Try not to call it a gun; call it a firearm. Do not call it a weapon. Many of my clients have a military background, and they call it a weapon because they are trained to call it a weapon. But if you are arguing about it in terms of your innocence in possession and lawful use, you are way better off that you possessed a firearm. These are important distinctions and words are critical here. So, keep that in mind as you discuss what you have and when you talk about firearms with others. See, I even called it firearms then and not guns. Although guns are still an okay term. The difference is basically you have a pejorative which is the negative part of it. Then you have euphemism which is making it better than it sounds. And then you have neutral.

Evan Nappen 30:16

Again, going back to law school I had another professor, Professor Silverman, a great professor in New York Law School. One of the things I remember him illustrating was the difference between a pejorative, euphemism, and neutral. This is what he said. Now today, of course, it is extremely sexist, but it still made the point. He said that horses sweat, men perspire, and women glow. That was what he said. So, there you see sweat as a pejorative, perspire as a neutral, and glow as a euphemism. These word games get played all the time in our battle arguing for our rights and even in the courts.

Evan Nappen 31:10

Alright folks, this is Evan Nappen, reminding you that gun laws do not protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 31:21

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