

OpenCarry.org

For Immediate Release – August 31, 2008



PA Police Follow “Smoketown 6”¹ Playbook in Beaver County!

Did PA Police to Suspend Right to Bear Arms in Entire Town?

Here we go again. When a Presidential candidate comes to town in Pennsylvania, Americans had better “watch what they say, watch what they do.”²

Last Friday Beaver County resident John (“Jack”) Noble was just doing his normal thing – passing out some fliers about Pennsylvania gun rights in a park **while openly carrying his holstered “small-caliber handgun”**³ in a holster so secure the police “could not confiscate his gun without his help.”⁴

And then the police began breaking the law.

Let’s be clear on the facts:

- Mr. Noble was not at the Obama event – he was merely in McIntosh Park “near the Obama event,”⁵ which was scheduled to be held later that evening at Irvine Park across Market Street.⁶

¹ See generally Shannon P. Duffy, *Thong-Clad Protesters Stripped of Civil Rights Suit*, Legal Intelligencer, May 23, 2008 (reporting that despite fact that disorderly conduct charges were dismissed, police officer Defendants in civil suit were “entitled to ‘qualified immunity’” because the right to wear thongs as expressive conduct (protesting Abu Graib Prison abuses in Iraq) was not “clearly established”), available at <http://www.law.com/jsp/article.jsp?id=1202421637055>.

² See Ari Fleisher, at <http://www.whitehouse.gov/news/releases/2001/09/20010926-5.html> (quoting Presidential spokesman as telling press “Americans . . . need to watch what they say, watch what they do. This is not a time for remarks like that; there never is.”).

³ Bill Vidonic, *Man arrested for having gun at rally*, Beaver County Times, August 29, 2008, available at <http://www.timesonline.com/articles/2008/08/29/news/doc48b8adb204d42890214530.txt>.

See also *Man Brought Gun, Bible To Obama Event In Beaver*, The Pittsburgh Channel.com, August 30, 2008, at <http://www.msnbc.msn.com/id/26464328>.

⁴ Milan Simonich, *Gun-rights advocate arrested at rally of 30*, August 31, 2008, available at <http://www.post-gazette.com/pg/08244/908415-57.stm>.

⁵ Brian C. Rittmeyer, *Beaver County man defends carrying gun near Obama rally*, Tribune-Review, August 31, 2008, available at http://www.pittsburghlive.com/x/pittsburghtrib/news/breaking/s_585805.html.

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- Mr. Noble did not breach “a secured perimeter of a presidential candidate political rally” as **falsely alleged** by PA State Police Trooper Shawn Schexnaildre,⁷ nor did Noble ignore any signs or warnings.
- Jim Gehr, agent in charge of the U.S. Secret Service field office in Pittsburgh, said **Mr Nobles “never entered the event area.”**⁸
- Even if, *hypothetically*, a person were to carry a handgun inside a “secured perimeter of a presidential candidate political rally,” whatever that means, that conduct would not *per se* violate any federal or Pennsylvania law.

“I am a threat to no one. Mr. Obama doesn't trump my constitutional rights. The president of the United States doesn't trump my constitutional rights,” said John Noble, who was handcuffed, questioned for about two hours and then told by state police that he would receive two citations for disorderly conduct.”⁹

But here's the rub - Jack carries openly through that town routinely, and Obama being there does not change state law.

Unlike the “Smoketown 6” protesters, Jack Noble was not wearing a thong or “protesting.” Jack was just passing out fliers and openly carrying his holstered handgun – activities “clearly protected” by the Pennsylvania and federal constitutions.¹⁰ The idea of the police needing to verify Jack's “permit to carry”¹¹ (reported by one news outlet) is a canard – in Pennsylvania, like most states, no permit is required to openly carry a holstered handgun at age 18.

Again, as can be verified by one of several concealed carriers observing the police misconduct, Jack was in **McIntosh** Park, and not Irvine Park where Obama's

⁶ See map at <http://paopencarry.org/beaver/map.jpg> provided by PAOpenCarry.org.

⁷ Brian C. Rittmeyer, **Beaver County man defends carrying gun near Obama rally**, Tribune-Review, August 31, 2008 (emphasis added), available at http://www.pittsburghlive.com/x/pittsburghtrib/news/breaking/s_585805.html.

⁸ Milan Simonich, **Gun-rights advocate arrested at rally of 30**, August 31, 2008, available at <http://www.post-gazette.com/pg/08244/908415-57.stm>.

⁹ Milan Simonich, **Industry man contests arrest outside Obama rally**, Pittsburgh Post-Gazette, August 30, 2008, available at <http://www.post-gazette.com/pg/08243/908351-100.stm>.

¹⁰ See, e.g., **McIntyre v. Ohio Elections Com'n**, 514 U.S. 334 (1995) (handing out fliers in public protected by First Amendment); **District of Columbia v. Heller**, 128 S.Ct. 2783, 2793 (2008) (“At the time of the founding, as now, to ‘bear’ meant to, ‘carry.’”); *Id.* at 2809 (“In **Nunn v. State**, 1 Ga. 243, 251 (1846), the Georgia Supreme Court construed the Second Amendment as protecting the “natural right of self-defence” and therefore struck down a ban on **carrying pistols openly**. Its opinion perfectly captured the way in which the operative clause of the Second Amendment furthers the purpose announced in the prefatory clause, in continuity with the English right.”) (emphasis added).

¹¹ Frankly, Jack is well known by the Beaver County police community as a frequent open carrier and holder of a background check vetted Pennsylvania License to Carry Firearms (needed to conceal carry) issued by the Beaver County Sherriff.

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private event was scheduled to be held later in the evening.¹² And Jack was not attempting to gain entry into, or get in the path of, Obama's private event.

When "deputies asked why he had a gun, Noble replied, 'Because I'm an American,' and one of the deputies responded, 'Well, you're under arrest.' Noble was hustled to a nearby [United States Secret Service] vehicle, and state police took him to the Brighton Township barracks to [interrogate] him."¹³

Adding insult to injury, Pennsylvania State Police officers refused to identify themselves to Noble, never issued a summons, but still confiscated his handgun without issuing a receipt as required by the Pennsylvania Uniform Firearms Act which provides that

The owner of any seized or confiscated firearms **shall be provided with a signed and dated written receipt** by the appropriate law enforcement agency. This receipt shall include, but not limited to, a detailed identifying description indicating the serial number and condition of the firearm.¹⁴

Nobody's questioning the right of Presidential candidates to hold private events, but Pennsylvania police don't get a free pass to suspend the Constitution just because a Presidential candidate is coming to town.

OpenCarry.org calls on Pennsylvania's Governor Rendell to order a halt to unlawful police-state tactics at Presidential campaign events so as to preclude any more "Smoketown 6" or "Beaver County Jack" incidents.

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¹² See map at <http://paopencarry.org/beaver/map.jpg> created by PAOpenCarry.org.

¹³ Bill Vidonic, **Man arrested for having gun at rally**, Beaver County Times, August 29, 2008, available at

<http://www.timesonline.com/articles/2008/08/29/news/doc48b8adb204d42890214530.txt>.

See also Bill Vidonic, **Man says he had right to carry gun to rally**, Beaver County times, August 30, 2008, available at

<http://www.timesonline.com/articles/2008/08/31/news/doc48ba0ed765c78582222905.txt>.

¹⁴ 18 Pa.C.S. § 6105(f)(4) (emphasis added).