

The Nevada Legislature delegates powers to the counties, cities and towns via Nevada Revised Statutes. Without “permission” of the State, subordinate governing bodies have no authority. Consequently, every city and county has enabling NRS (statutes) for their codes and ordinances.

From 1948 until present, mandatory handgun registration (blue card) is enforced in Clark County. In 1989, the NV Legislature passed NRS 244.364 (counties), NRS 268.418 (cities), and NRS 269.222 (towns) which established a uniform state law for all firearms in the State of Nevada. However, the legislature caved to pressure from the Sheriff’s and Chief’s Association (re Clark County Sheriff) and added a “grandfather clause” to the legislation which said “*The provisions of this act apply only to ordinances or regulations adopted on or after the effective date of this act, June 13, 1989*”. There were three (two cities-Boulder and North Las Vegas and one county-Clark) governing bodies that had codes or ordinances that were in effect before June 13, 1989.

On March 22, 1989 Assemblyman Danny L. Thompson questioned the legality of the Clark County Ordinance (registration, three day wait, NV Constitution question-as referenced by the recent post). The answer from the NV Legislative Counsel Bureau (attached) stated “*It is the opinion of this office that the ordinances in question do not violate section 11 of article 1 of the Nevada constitution because they do not significantly infringe upon the right to bear arms.*”

The Clark County Handgun Registration Ordinance (there are many other Clark County ordinances regarding firearms as well under the grandfather clause) was found in Clark County Code Title 12, Chapter 12.04. In summary it stated:

- 12.04.080: “When any sale of a pistol is made by a dealer under this chapter, seventy-two hours must elapse between the time of sale and the time of delivery....the pistol must be registered with the sheriff within twenty-four hours.”
- 12.04.100: “A dealer making a sale of a pistol, shall within 24 hours thereof, furnish the sheriff with a duplicate copy of the receipt...”
- 12.04.110: “Any person receiving title to a pistol, whether by purchase, gift, or any other transfer, and whether from a dealer or from any other person, shall, within twenty-four hours of such receipt, personally appear at the county sheriff’s office, together with the pistol, for the purpose of registering the same with the sheriff.....”
- 12.04.200: “It is unlawful for any person to own or have in his possession, within the unincorporated area of Clark County a gun, pistol, revolver, or other firearm capable of being concealed, unless the same has first been registered with the sheriff or with a police department of any on the incorporated cities of Clark County.”

In 2005, when I began developing the operational procedures for the future Clark County Shooting Park (and was serving as a Director of the NRA), I brought these ordinances to the attention of Senator John Lee who was the Chair of the Citizen Advisory Board for the Shooting Park as formed by the Clark County Board of County Commission. I explained that these ordinances precluded the shooting park (and other ranges in Clark County) from inviting out of county guests for competitions. As a result, we met with the Clark County Sheriff and METROs handgun registration unit who confirmed that they could not register 100+ guns on a Thursday for a Friday and Saturday competition. We then met with officials of the National Shooting Sports Foundation (NSSF) and advised them that ALL of their handguns at the SHOT Show were illegal and subject to confiscation by METRO. After overcoming their shock, their general council advised them that we were correct. Hence the SHOT Show in Las Vegas was in jeopardy. The NRA does not have their annual convention in Las Vegas for that reason.

Please see attached a letter from Senator Lee to Sheriff Young regarding this issue.

In 2006, therefore, Senator Lee introduced SB 92 which would have eliminated the grandfather clause from NRS 244. NSSF hired a full time lobbyist to protect the NSSFs interest in the SHOT Show. The NV Sheriff's and Chief's Association mounted heavy lobby efforts to defeat or modify the bill.

On March 14, 2007 there was a public hearing at the Grant Sawyer Building (for Southern Nevada input) and despite public notifications ONLY 10 people presented testimony in support of elimination of the grandfather clause. If the gun owners of Southern NV had showed up in force on that day, blue cards would be history. Unfortunately the firearms community was not focused on the repeal of the blue card system, it was not "one for all and all for one."

What did happen, however, was that the elimination of the grandfather clause was changed to read as amendments to NRS 244.364, NRS 268.418 and NRS 269.222 all three amended as follows: Note, the only difference between the three statutes is that 244 identifies counties, 268 identifies cities, and 269 identifies towns. Only one county in NV has a population of more than 400,000. So this was amended to keep the handgun registration program in Clark County. NSSF was told that the 60 days for nonresidents was a balm to them and if they stuck with the elimination of the program the bill would be completely killed in committee. It was obvious that it was impossible to eliminate the blue card program at that time. Of interest is that the original law was to keep guns out of the hands of the mob. Now the mob has 60 days to register, so completely invalidating the original intent of the ordinance.

NRS 244.364 1. Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, ownership, transportation, registration and licensing of firearms and ammunition in Nevada, and no county may infringe upon those rights and powers. As used in this subsection, "firearm" means any weapon from which a projectile is discharged by means of an explosive, spring, gas, air or other force.

2. A board of county commissioners may proscribe by ordinance or regulation the unsafe discharge of firearms.

3. If a board of county commissioners in a county whose population is 400,000 or more has required by ordinance or regulation adopted before June 13, 1989, the registration of a firearm capable of being concealed, the board of county commissioners shall amend such an ordinance or regulation to require:

(a) A period of at least 60 days of residency in the county before registration of such a firearm is required.

(b) A period of at least 72 hours for the registration of a pistol by a resident of the county upon transfer of title to the pistol to the resident by purchase, gift or any other transfer.

4. As otherwise provided in subsection 1, as used in this section "firearm" :

(a) "Firearm" means any device designed to be used as a weapon from which a may be expelled through the barrel by the force of any explosion or other form of combustion.

(b) "Firearm capable of being concealed" includes all firearms having a barrel less than 12 inches in length.

(c) "Pistol" means a firearm capable of being concealed that is

intended to be aimed and fired with one hand.

Clark County, the City of Henderson, and the City of North Las Vegas subsequently amended their ordinances or codes to reflect the revised NRS language and Henderson and CLNV deferred the registration to METRO.

Currently, Henderson, Boulder, CLNV and Clark County also have other pre 1989 grandfathered codes and ordinances on their books, and Henderson, CLNV and Clark County are still enforcing them. These are codes and ordinances not addressed by the above legal changes.

Senator Lee and I met with CLNV and advised them that their codes were no longer valid and we were informed that they will continue to enforce them.

As a result of these experiences I came to the conclusion that: the gun owners of Nevada need to be organized and represented by an Nevada gun rights organization. Only a strong pre-emption law that also had penalties to punish those governmental agencies who refused to follow NRS would be effective.

Consequently, we formed the Nevada Firearms Coalition to replace the defunct NV State Rifle and Pistol Association, and Senator Lee accepted a new pre-emption bill that would provide one gun law for all of Nevada. Unfortunately Senator Lee was defeated in the primary.

Our challenges are: To build up NVFAC, To put in place firearms supporter legislators, county commissioners and city council members, To raise funds to hire a lobbyist that will represent the gun owners of NV, To raise funds to establish a PAC, To sign on sponsors of our pre-emption bill in the assembly and senate, To push for other priority gun right legislation, ordinances and codes, To carry out the other goals and purposes of NVFAC for the gun owners of NV.

Strategy: There are four areas to attack the gun registration ordinance.

1. At the Board of County Commission. Get a majority of commissioners to agree with us and eliminate all the gun ordinances.
2. At the METRO finance committee. METRO is 64 million dollars in the red. The finance committee is comprised of three county commissioners and three city council members. If they can be convinced that the program is costing money with no results they can defund the program.
3. At the state legislature. Eliminate the registration approval with a state pre-emption that also has penalties for not repealing ordinances and codes that are contrary to law.
4. Challenge the law in court..

Activity:

1&2. Commissioner Rory Reid and Commissioner Tom Collins have requested audits of the registration program. Reid's request was ignored. NVFAC will be pushing for a response to Mr. Collins request (see attached). NRA-ILA and NVFAC met with Commissioner Collins and requested the audit letter.

3. NVFAC has drafted a pre-emption law that eliminates all the various gun laws in NV including state, county, city and town. Senator Lee was defeated in primary, so we need sponsors in Assembly and Senate. This draft law also includes penalties for failure to comply.

4. The NRA-ILA has an active program to challenge the law in court, but so far every person who has been charged has had a record of other charges and violations. We have not found a "clean" defendant yet that we can challenge the law solely on the basis of the code/ordinance. In one case, the court ruled that the defendant did not have "standing" just because he was a resident of CNLV. He had to have been arrested/detained by the police for the specific code violation only.

The best solution may be “death by a thousand cuts” where we push forward on all four fronts. We are considering a County wide petition to the commission to repeal the law also. First we need the audit results to prove the ordinance is a waste of our tax money.

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

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CARSON CITY, NEVADA 89710



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March 22, 1989

Assemblyman Danny L. Thompson
Assembly Chambers

Dear Mr. Thompson:

You have asked our office to respond to various questions concerning two ordinances in effect in Clark County, one concerning the registration of pistols and the other requiring a 3-day waiting period before the purchase of a pistol. You have also asked what effect Assembly Bill No. 147 would have upon these ordinances if it is passed. The questions are addressed individually. Most of the questions involve the meaning of a county ordinance, a matter that will be determined by the county district attorney and the courts. Perhaps the District Attorney of Clark County would be willing to answer these questions; certainly his response will give you a better idea of how the ordinance will be enforced than will mine. In the absence of such a response, I will attempt to interpret the ordinance based upon general principles of statutory construction.

1. Would a non-resident of Clark County, but a resident of this state, or a non-resident of some other state, who is lawfully in possession of a handgun, be required under the ordinance to register that handgun either while traveling through Clark County, and/or being in Clark County for several days under temporary residence?

No. Section 12.04.110 of the Clark County Code states that a person "receiving title to a pistol...shall, within twenty-four hours of such receipt" appear at the sheriff's office to register the pistol. By its terms, the ordinance is limited to the receipt of title to a pistol. A person who already owns a pistol when he enters Clark County is not required by the terms of the ordinance to register the pistol.

2. Under the provisions of the Handgun Ordinance must handguns brought into Clark County and remaining there for a period exceeding 24 hours be registered with the Sheriff, whether solely in the possession of one person controlling them, or several as a unit/group?

No. The analysis is the same as the analysis of question 1.

3. Does the three-day waiting period required for the purchase of any handgun in Clark County apply to purchasers attending gun shows in convention at any of the hotel sites in Clark County?

It appears to. Section 12.04.80 of the Clark County Code requires a 72-hour waiting period between the sale of a pistol by a dealer and the delivery of the pistol to the purchaser. A person is required to obtain a license as a dealer "to engage in the business of buying or selling pistols at retail or wholesale." The nature of the gun show and the persons selling at the show may effect the determination of whether they are "in the business" of selling pistols. If they are, licensing is required, as is the 3-day waiting period. Finally, the ordinance applies only to the unincorporated area of Clark County--hotels in Las Vegas and other cities in Clark County are not affected.

4. Would handgun registration be required of all handguns brought into Clark County by participants of a pistol match extending over a 24-hour period?

No. The analysis is the same as the analysis of question 1.

5. Are there any exceptions to the Handgun Registration ordinance in the case of civilians, or just law enforcement?

Law enforcement officers are exempt from the 72-hour waiting period. It does not appear that there are any exceptions to the registration requirement. Any person receiving title to a pistol is required to register the pistol within 24 hours.

6. May the three-day waiting period under the language of the ordinance be amended to include 10, 15 or 30-day waiting periods?

The period may be amended, but extending the period to an unreasonable length may violate the constitutional right to bear arms. (See response to question 7).

7. Do the two Clark County ordinances appear constitutional in every detail under the Nevada Constitution?

The primary challenge to such an ordinance would be that it violates the provision in the Nevada constitution granting citizens "the right to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes." (Article 1, § 11). The provision was adopted in 1982 and has not, to our knowledge been judicially construed. A comparable provision of the United States Constitution ("the right of the people to keep and bear Arms, shall not be infringed") applies only to Congress. The federal constitutional provision has been held not to prohibit federal regulation of possession of firearms or licensing requirements. Under the Nevada constitution, if an ordinance infringes too significantly on the right to bear arms, the ordinance would be

unconstitutional. It is the opinion of this office that the ordinances in question do not violate section 11 of article 1 of the Nevada constitution because they do not significantly infringe upon the right to bear arms. However, as there is no case law interpreting the constitutional provision, we can only speculate as to its interpretation.

8. Are both ordinances constitutional under the U. S. Constitution, as firearms regulation is vested with the state per Supreme Court decree?

As indicated in the answer to question 7, the U. S. Constitution has not been interpreted to prohibit local regulation. Rather, it is a limitation on the power of Congress.

9. Should a resident of Clark County having a previously registered handgun run afoul of the law and then convicted as a felon, would this by virtue of his/her response on the forms used for registration and three-day waiting period, be a consideration of their rights under the Fifth Amendment against self-incrimination.

The privilege against self-incrimination does not constitute a defense to a crime committed after registering the gun, and does not prevent use of the registration against the defendant. The registration is evidence of ownership of the gun, and is admissible in the same manner as other documents that are relevant to the charge against the defendant.

However, the privilege against self-incrimination would constitute a defense to an action to enforce the registration requirement if the information provided in the course of registration could be used against the registrant in a prosecution for a prior or concurrent offense. In other words, you cannot force a person to register a gun if to do so would amount to testimony against himself as an "ex-felon with a gun" unless use of the information obtained through registration cannot be used in the prosecution for unlawful possession by an ex-felon.

10. Can the Handgun Ordinance be amended to include prohibitions concerning sporting firearms, i.e., shotguns, rifles and others?

Yes. However, the limitations upon the extent of the permissible regulation is a question for the Nevada supreme court in construing the state constitutional provision granting the right to bear arms. That provision makes specific mention of lawful hunting and recreational use. Any ordinance that significantly infringes upon that right would be constitutionally suspect.

Effect of Assembly Bill No. 147.

If Assembly Bill No. 147 is passed, the ordinances in question would be preempted by state law. The legislature reserves power over the "transfer, sale, purchase, possession, ownership, transportation, registration and licensing of

Assemblyman Danny L. Thompson
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firearms" in that bill. The ordinances in question clearly fall within the scope of the exclusive state jurisdiction proposed by this legislation.

Very truly yours,



Lorne J. Malkiewich
Legislative Counsel



RORY REID
Chairman

Board of County Commissioners

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October 11, 2010

Virginia Valentine
Clark County Manager
Clark County Government Center
500 South Grand Central Parkway
Las Vegas, Nevada 89106

Dear Virginia:

I am writing to request that you pursue an audit of the Clark County Firearms Registration Unit. I have numerous concerns with the effectiveness of the program and its benefit for public safety and would like to know the specific answers to the following questions:

1. In what fiscal year was the Firearms Registration Unit authorized and what was the appropriation at the time?
2. Has the appropriation for the management of the program changed since it was authorized?
3. Is the Firearm Registration Unit a budget line item? If so, what are the budget details?
4. What is the administrative indirect cost of the Firearms Registration Program?
5. What is the annual data processing-related cost of the Program?
6. If the Firearm registration Program is not a budgeted line-item, from what departmental program have the resources been directed?

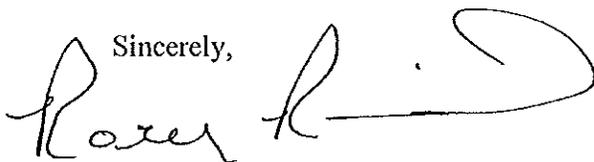
Virginia Valentine
October 12, 2010
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7. Are all of the registrations online?
8. If not, how are those records accessed and by whom can they be made accessible?
9. Is there a purge criteria for the firearms registered?
10. If a firearm is registered to an individual and that gun owner moves out of Clark County, is that firearm still listed in the database as registered to that individual and address?
11. Do you know how many firearm registrations are current?
12. How many times is the handgun registration database accessed each day?
13. How many arrests, citations and convictions result from handgun registration database each year?
14. How many "investigative leads" does the registration program produce each year?
15. How many handguns are seized each year as a result of failures to register?
16. How many disciplinary actions are taken against county peace officers for violating the registration code?
17. The registration program has been in operation for 62 years – Metro has mounted a spirited defense of the program by offering strongly held opinions and anecdotes. What objective data can you provide that supports your conclusion that would lead a reasonable person to conclude that there is a real law enforcement benefit to Clark County?
18. Assuming that the registration program is the equivalent of 3 officers (from previous information that there are three civilian personnel assigned to the program) is the cost of this program worth the trade-off if those funds can be utilized elsewhere?

Virginia Valentine
October 11, 2010
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Please follow up with the results of this audit so that we can release it to the public.
Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Rory Reid". The signature is fluid and cursive, with a large, sweeping loop at the end.

Rory Reid
Chairman
Clark County Commission



Board of County Commissioners

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May 3, 2012

Don Burnette
Clark County Manager
Clark County Government Center
500 South Grand Central Parkway
Las Vegas, NV 89155

Dear Don:

I am writing to request that you pursue an audit of the Clark County Firearms Registration Unit. I have numerous concerns with the effectiveness of the program and its benefit for public safety and would like to know the specific answers to the following questions:

1. In what fiscal year was the Firearms Registration Unit authorized and what was the appropriation at the time?
2. Has the appropriation for the management of the program changed since it was authorized?
3. Is the Firearm Registration Unit a budget line item? If so, what are the budget details?
4. What is the administrative indirect cost of the Firearms Registration Program?
5. What is the annual data processing-related cost of the Program?
6. If the Firearm Registration Program is not a budgeted line-item, from what Departmental program have the resources been directed?
7. Are all of registrations online?

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18. Assuming that the registration program is the equivalent of 3 officers (from previous information that there are three civilian personnel assigned to the program) is the Cost of this program worth the trade-off if those funds can be utilized elsewhere?

Please follow up with the results of this audit so that we can release it to the public.
Thank you very much.

Sincerely,



Tom Collins
County Commissioner

cc: Sheriff Doug Gillespie