



Written by [Dave Bohon](#) on April 17, 2013

Is N.Y.'s Gun Confiscation Scheme Tied to Larger Federal Plan?

A report from [TheBlaze.com](#) alleges that the state of New York is using its recently enacted NY SAFE Act as justification to confiscate firearms from law-abiding citizens — specifically individuals who have been prescribed anti-anxiety medication. But some Second Amendment advocates allege the scheme is part of a larger federal gun control plot.



According to the Blaze, on April 1 a legal gun owner in upstate New York, later identified by a Buffalo newspaper as 35-year-old David Lewis, “received an official notice from the state ordering him to surrender any and all weapons to his local police department. The note said that the person’s permit to own a gun in New York was being suspended as well.”

Lewis went to the police station with his attorney, New York gun law expert Jim Tresmond, where he voluntarily turned over his firearms, and was given a receipt for them. If Lewis had not voluntarily turned in his guns, the police would have come to his house to demand them.

The language of the [NY SAFE Act](#) explains that the purpose of the law is to “protect New Yorkers by reducing the availability of assault weapons and deterring the criminal use of firearms.” The new law bans “assault” style “weapons” — meaning most semi-automatic firearms — and imposes a strict gun-licensing process. As enacted, it also banned the sale of 10-round magazines, but [this provision was amended](#) to allow the continued sale of the magazines while requiring that no more than seven rounds be loaded into them.

There is an additional provision that applied to Tresmond’s client, and, most likely, thousands of other New Yorkers. That provision requires “mental health professionals, in the exercise of reasonable professional judgment, to report if an individual they are treating is likely to engage in conduct that will cause serious harm to him- or herself or others.” Under such a determination, “the Division of Criminal Justice Services will determine whether the person possesses a firearms license and, if so, will notify the appropriate local licensing official, who must suspend the license. The person’s firearms will then be removed.”

That provision apparently extends to requiring that doctors breach their responsibility of maintaining patient privacy by informing law enforcement agencies, led by the New York State Police, if a patient has been prescribed or is taking an anti-anxiety medication.

That is apparently what happened in the case of Lewis. Although Lewis has no criminal record or any history of violent behavior, he did, in fact have what Tresmond described as a temporary, short term health issue in his past that required medication. That record, known only to the health professional Lewis dealt with, is what appeared to trigger the confiscation.

But how did the New York State Police, which has been identified as behind the confiscation, access



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Lewis' private record? Tresmond said that it appears there was a violation of the federal [HIPAA](#) (Health Insurance Portability and Accountability Act), not to mention the Fourth Amendment's prohibition of unreasonable search and seizure. Since Lewis' doctor did not report anything to the authorities, it seems the New York's law enforcement bureaucracy accessed Lewis' records — "a gross violation of privacy rights," said Tresmond.

Thankfully, the New York Supreme Court ruled that the local police had wrongly identified Lewis as having a mental health issue that violated the NY SAFE Act, and ordered the police to return his firearms to him.

For its part, the New York State Police accused the clerk for Erie County, where Lewis resides, with wrongly identifying him as a threat. In an official statement the state police insisted that it was "very clear" in its letter to the clerk's office "regarding the need for due diligence and the need for a positive identification by the County before they removed any weapon. The final determination on whether to revoke or suspend a pistol permit or license rests solely with the County and the licensing officials."

But County Clerk Chris Jacobs shot back that the state police made a mistake in providing his office with information about the wrong person. "The information they gave us, the letter they gave us with the supporting documentation ... was incorrect and we need to rely on accurate information from our state partner," said Jacobs.

As for Lewis and his attorney, they charge that there was no mistake — the state police were definitely targeting Lewis to take away his guns. "When they targeted David, they not only targeted him by name, but they also targeted him by his pistol permit," said Tresmond, "so they identified him as David Lewis with this particular pistol permit number on the letter that they sent to him." That letter demanded that he surrender his firearms and informed him that his handgun permit was being suspended.

Some concerned citizens have suggested that Lewis was chosen as a test case in a round-one confiscation strategy, targeting citizens deemed unsuitable to own firearms. Second Amendment advocate Dan Roberts, writing on [Ammoland.com](#), noted that sources had told him that "two prominent and well regarded Buffalo area psychiatrists received subpoenas from State Officials ... commanding them to turn over all of their patient files to the State."

More troubling still is that the alleged confiscation bid may thread its way to the federal Department of Homeland Security. According to Roberts, local Buffalo, New York radio talk-show host Tom Baurele said that multiple sources within the New York state government had told him a secret committee had been created in the state government after passage of the NY SAFE Act to work with the New York State Police and Homeland Security to obtain the private medical records of millions of New York residents. Those records would be compared with the records of known firearms owners and pistol permit holders "in order to facilitate the confiscation of firearms under the extraordinarily broad language in the law regarding those that have been deemed 'mentally unstable,'" reported Roberts.

New York is not the only state in which private records of gun owners are being accessed. In Missouri, the state's Highway Patrol admitted that on at least two occasions it had provided a list of 163,000 Missouri residents with conceal-carry permits to federal investigators. [St. Louis Business Journal](#) reported that in testimony before a state Senate committee, Missouri Highway Patrol official Ron Replogle admitted that "the concealed guns list was given to an investigator looking into potential fraud involving Social Security benefits for the disabled." Replogle insisted that the feds would not be able to identify names on the list because the information was supposedly encrypted.



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But St. Louis radio talk-show host [Dana Loesch reported April 16](#) that Missouri State Senator Kurt Schaefer had discovered that the federal Department of Alcohol, Tobacco, and Firearms (ATF) was the entity that had made the request for the Missouri conceal-carry list, along with the Department of Social Security. “We were never told that the ATF was part of this request,” Schaefer told Loesch. “Why does the ATF need a list of Missouri gun owners except to have a list of Missouri gun owners?”

In March Missouri [Lieutenant Governor Peter Kinder revealed to Loesch](#) that the Missouri Department of Revenue is working with the Department of Homeland Security to collect data on Missouri citizens — including, no doubt, records of gun owners and those holding conceal-carry permits.

Add to this [highly publicized reports](#) that Homeland Security has committed to purchasing up to two billion rounds of ammunition and dozens of armored vehicles, and it all begins to take an ominous aura of an impending assault on gun-ownership in America.

AmmoLand’s Dan Roberts agreed, writing that taken individually, any one of these seemingly unrelated occurrences may easily be ignored. “But when one endeavors to put those pieces together ... you eventually reach a point of critical mass and the end picture suddenly snaps into stark focus,” Roberts wrote. He added that the “end picture” of the various activities and policies at both the state and federal level appears to be gaining focus, “and what is emerging and should be self evident from the puzzle pieces ... is a picture of only one thing” — a full frontal attack on the vital Second Amendment freedom that is a crucial foundation of America’s liberty.



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