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**April  
2013**

**STATEMENT  
OF  
PRINCIPLE**

Monitor and selectively evaluate government actions including laws, regulations and policy.

Provide appropriate forums for informing as well as soliciting input from the public.

Establish positions based on responsible studies and consistent with the aims and purpose of the organization.

Advocate these positions.

Founded in 1962, the Civic League is non-profit volunteer organization, which studies and illuminates County and State government actions concerning comprehensive developments and the quality of life and is a vocal advocate of relevant positions.

County Comments is the official publication of the Civic League for New Castle County.

Chuck Mulholland,  
President

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# COUNTY COMMENTS

CIVIC LEAGUE FOR NEW CASTLE COUNTY  
Informed Citizens for Sound County Growth

**MEETING**  
**Tuesday, April 16, 2013**  
7:00 PM  
Paul J. Sweeney Public Safety Bldg.  
3601 N.DuPont Hwy ( Route 13 )  
New Castle, DE

**AGENDA**  
Speaker:  
Senior Lt. Patrick Crowell, New Castle County Police  
Targeted Analytic Policing System

## **Prepared Remarks for House Judiciary Committee Hearing on Proposed Background Checks Legislation (HB 35, 147th General Assembly)**

I'm Victor Singer, and I'm speaking in my own behalf. I haven't sought or received endorsements of these remarks by any of the several groups, organizations, leagues, committees, commissions or agencies that I have been or am now a member of.

We should all thank the NRA and associated groups for reminding us that the benefits we share under our system of governance also burden us to study AND UNDERSTAND the fundamental law that our government is based on. Our Constitution's Preamble lists the reasons for ordaining and establishing our government. ENSURING DOMESTIC TRANQUILITY is one of them. Our current attentions focus elsewhere, particularly to the final words of the Constitution's 2nd Amendment - - "the right of the people to keep and bear arms shall not be infringed." These fourteen words follow the first thirteen words of the same sentence - - "A well regulated Militia, being necessary to the security of a free State . . ."

Just what is "a well regulated militia?" By any reasoned definition, a militia where nobody knows what weapons are out there, or who holds which ones, is not well regulated. The government formed to ensure domestic tranquility must know what's where out there in whose hands, that's powerful enough to be meaningful in armed military conflict. Indeed, recent events teach that that's not enough.

Smithsonian Magazine for Feb 2013 reported that there have been 419 KNOWN instances of smuggled or stolen nuclear materials since 1993 - - one every 2.5 weeks on average. The first self-sustaining nuclear fission reaction was

(continued)

achieved in 1942 by Enrico Fermi and Leo Szilard under the west stands of the Alonzo Stagg Stadium in Chicago. They distributed a critical mass of uranium pellets within a forest of graphite rods that controlled how densely packed the pellets could get. (see [http://en.wikipedia.org/wiki/Chicago\\_Pile-1](http://en.wikipedia.org/wiki/Chicago_Pile-1) ) Fermi and Szilard started the self-sustaining reaction by partially withdrawing some of the rods to increase pellet packing density. A nuclear explosion would have been easier to produce, by merely dumping the critical mass of fissile pellets into an empty barrel, without control rods.

Taken alone, the final fourteen words of the 2nd Amendment would give Timothy McVeigh a Constitutional right to whatever arms collection he and his friends could conceive and afford to assemble. Their 1996 assault on Oklahoma City's Murrah Federal Office Building, killed 168 people. With more money and what's given by those fourteen words ALONE, the McVeigh team might have assembled a nuclear weapon that could have made their deed hundreds of times more horrific for the more than one million residents of Oklahoma City's metropolitan area.

The first thirteen words of the 2nd Amendment add too little to protect against the likes of Timothy McVeigh, resurrected, wreaking havoc with several pails full of fissile pellets. But the domestic tranquility provision in the Preamble authorizes AND OBLIGATES government to prevent such a horror. The only conceivable protection is preventing ANYBODY from having or making fissile material in sufficient concentration and amount for a nuclear weapon. The domestic tranquility provision clearly extends to keeping lesser weapons than nuclear bombs out of the hands of those in our society of demonstrably undependable or unstable character.

HB 35 goes no farther than monitoring transfers of gun ownership more closely than present practices. It only starts towards where government needs to be AND IS OBLIGATED TO BE BY OUR CONSTITUTION. Government needs to know what's out there that's bigger than trivial, and who is holding it, without infringing unduly on the right to carry. It's time for our Government to more closely fulfill the role written into our Constitution.

Victor Singer, P.E. (retired)  
3/20/2013

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## **Synopsis Presented Orally at 3/20/2013 Hearing**

The benefits we share under our system of governance also burden us to UNDERSTAND the fundamental law that our government is based on. Our Constitution's Preamble lists reasons for establishing our government, including ENSURING DOMESTIC TRANQUILITY. Currently we focus on the final words of the Constitution's 2nd Amendment - - "the right of the people to keep and bear arms shall not be infringed." These fourteen words follow the first thirteen words of the same sentence - - "A well regulated Militia, being necessary to the security of a free State . . ."

By any reasoned definition, a militia where nobody knows what weapons are out there, or who holds which ones, is not well regulated. The government formed to ensure domestic tranquility must know what's where out there in whose hands, that's powerful enough to be meaningful in armed military conflict.

The first thirteen words of the 2nd Amendment add too little to the next fourteen words to protect against the likes of Timothy McVeigh wreaking havoc with several pails full of fissile pellets. But the domestic tranquility provision in the Preamble authorizes AND OBLIGATES government to prevent such a horror. Government must try to prevent ANYBODY from having fissile material in sufficient concentration and amount for a nuclear weapon. The domestic tranquility provision extends to keeping lesser weapons out of the hands of those of demonstrably undependable or unstable character.

## Pending Delaware Legislation on Gun Control Comments Based on Constitutionality

Our Constitution's Preamble lists ensuring domestic tranquility and providing for the common defense among reasons that our government was established. Thankfully, the NRA and its friends remind us that the benefits we share under our Constitution also burden us to understand its embedded logic.

The final 14 words of the 27 word long 2nd Amendment - - "the right of the people to keep and bear arms shall not be infringed" - - follow 13 words in the same sentence - - "A well regulated Militia, being necessary to the security of a free State . . .". The militia - - an assembly for military service (according to most dictionaries) - - is empowered by the 2nd Amendment to arm itself with weapons of war. But by any reasoned definition, a militia where nobody knows what weapons are out there, or who holds which ones, is not well regulated. Other provisions of the Constitution empower government to prescribe how to regulate the militia.

**Government is entitled to preserve itself.** The Preamble's domestic tranquility and common defense provisions authorize this. Also, Article I Section 8 empowers Congress to regulate land and naval forces and to organize, arm, discipline and call out the militia. Further, Article III Section 3 defines treason and empowers Congress to punish it.

The notion that the 2nd Amendment overrules the Preamble and Articles I and III is untenable since it requires assuming that the framers lacked the skills to recognize and eliminate ambiguities. If the framers had intended to overrule, they would have said so.

**Small Arms.** Arms too small for armed military conflict - - in today's world, ranging from semi-automatic guns to rocks for throwing - - are constitutionally unregulated, and thus subject to whatever conditions government imposes legislatively.

**Large Arms.** Our civilization has conceived and built Weapons of Mass Destruction - - nuclear, poison gas, other chemical and biological weapons, all regarded as too dangerous to entrust to ANYBODY in the general public and all but a very few nations. Within the US, government's authority for this absolute restriction is the Preamble's domestic tranquility provision.

The nuclear WMD control strategy includes tracking fissile materials. With enough fissile material in sufficient concentration, a fission bomb could be built quite easily. That was taught by the first self-sustaining nuclear fission reaction, in 1942 under the west stands of the Alonzo Stagg Stadium in Chicago. (see [http://en.wikipedia.org/wiki/Chicago\\_Pile-1](http://en.wikipedia.org/wiki/Chicago_Pile-1) ) Enrico Fermi and Leo Szilard distributed a critical mass of uranium pellets within a forest of graphite rods that limited the pellet packing density They started the reaction by partially withdrawing some of the rods. A nuclear explosion could have been produced merely by omitting the control rods.

Smithsonian Magazine for Feb 2013 reported that there have been 419 KNOWN instances of smuggled or stolen nuclear materials since 1993 - - one every 2.5 weeks on average. The 2nd Amendment's first 13 words add too little to the next 14 words to protect against the likes of Timothy McVeigh with a big wallet wreaking havoc with several pails full of fissile pellets. The Preamble's domestic tranquility provision OBLIGATES government to try to prevent ANYBODY from having fissile material in sufficient concentration and amount for a nuclear weapon.

The same conceptual simplicity describes other WMD's. For lesser weapons with capabilities suitable for the militia, Constitutional provisions other than the 2nd Amendment amply enable training and disciplinary controls to prevent possession by those of demonstrably undependable or unstable character.

Government needs to know what's out there that's bigger than trivial, and who is holding it. Indeed, the 2nd Amendment REQUIRES that much, to assure that the Militia is "well regulated" according to other provisions of the Constitution. On the other hand, government regulation of arms too small to be militarily useful is neither required nor prohibited by the Constitution.

## Substantial Lapses in Buyer Notification Workforce Housing Projects in New Castle County

Ian McConnell  
Chief deputy Attorney General  
Delaware Department of Justice

Sir,

Yesterday you were emailed regarding the failure to disclose aspect of affordable / workforce housing projects in New Castle County by Frank Szczuka. Complete disclosure is a primary aspect Frank and I have pursued for over (3) years, now embodied in the January 1, 2011 version of the seller's disclosure form for new construction from the Delaware Real Estate Commission:

<http://dpr.delaware.gov/boards/realestate/documents/DREC%20New%20Construction%20Property%20Disclosure%20effective%20101111.pdf>, namely on page 2, line 13 of said official document.

The present problem is that the line is not being enforced, and the opinion of the Real Estate Commission is that only if one is buying an affordable unit is one advised that the project contains affordable units. I have that in writing from Kay Warren, Deputy Director, Division of Professional Regulation.

In mid 2012 Frank and I, along with Senator Bruce Ennis, appeared before the Commission, along with all the applicable New Castle County documents clearly showing that all the project parcels were "subject to agreements concerning affordable housing or workforce housing". Sub committee chairman Mike Harrington audibly agreed with our points, but said they were powerless to enforce the matter. Deputy Attorney General Patricia Davis-Oliva was also in attendance and while we were pleading for the wording of the officially adopted State disclosure form to be enforced, she sat in silence until I asked why she was there. "To represent the Commission" I recall was her answer.

**What about the folks who buy real estate in New Castle County, who's protecting them??**

To date I have verbal confirmation from various members of the General Assembly that there is a genuine problem with disclosure on this subject, yet all have declined to seek a formal opinion from your office on the current version of the Seller's Disclosure Form. Thus, we seek your assistance, not for us personally, but for the new home buyers, too often out of state residents newly moving to Delaware and completely unaware of some of the surprises in new home ownership that await them in New Castle County. We believe that a level of integrity should be maintained and that the exact wording of the above adopted document should not be kept a secret from any home buyer.

In closing, we did not seek to jump the ladder of authority but we have exhausted every other avenue for full disclosure, namely the Board of Realtors, the Real Estate Commission, various State Representative and Senators as well as numerous contacts with officials in New Castle County government. We also have a list of numerous contacts with Consumer Affairs in your department, dating back over a year, all the while real estate transactions have taken place in (3) zip codes in the County, with millions in transfer amounts having been transacted amidst the official silence. To date we have never encountered anyone who has advised us that we misunderstand the wording, or that there is any legitimate reason to justify the omission, said omission confirmed by Ms Warren's January 2012 communication to me.

Regards,  
Chuck Mulholland  
President, Civic League for New Castle County  
President, Southern New Castle County Alliance  
March 8, 2013