

The Progressive

The Times Has Finally (Quietly) Outed an NRA-Funded “Independent” Scholar

By Frank Smyth

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Last Friday *The New York Times* finally addressed a conflict of interest that it had been ignoring for years. Although, among the powerful institutions that have long done so, the *Times* is hardly alone. The matter helps illustrate how the gun lobby has managed to shape the nation’s gun debate without showing its hand. The news comes to light one day before the start of the National Rifle Association’s annual convention in Indianapolis.

David Kopel is the [Research Director](#) and Second Amendment Project Director of the Colorado-based nonprofit Independence Institute, which describes itself as a “free-market think tank.” He is an Associate Policy Analyst at the Washington-based Cato Institute, and an adjunct professor of advanced constitutional law at Denver University. Kopel is also [the author](#) of 15 books and 90 scholarly articles many having to do with the Second Amendment and gun policies.

Kopel is widely known as one of the nation’s leading legal scholars on gun issues, writing from a pro-gun rights perspective. He [testified](#) in the Senate last year as an apparent independent expert in the nationally televised hearings held in the wake of the Newtown, Connecticut Sandy Hook Elementary School tragedy. For even longer, he has regularly written opinion pieces for newspapers like [The Wall Street Journal](#) while being similarly identified as an independent scholar.

David Kopel has managed to establish himself as an independent authority on gun policy issues even though he and his Independence Institute have received over \$1.42 million including about \$175,000 a year over eight years from the NRA.

NRA officials at the nonprofit group’s Virginia headquarters declined to respond to repeated requests for comment.

Kopel, for his part, has rarely disclosed his NRA funding. But when presented with evidence of it, he has not denied it, either.

“If that’s her editorial judgement, that’s fine with me,” he said in a brief telephone interview on Friday from his Colorado office at the "[Independence Institute](#)" about a *New York Times* editor’s [decision to disclose](#) his NRA funding in an opinion piece under his byline posted the day before. “I’m not going to second-guess an editor.”

For years, Kopel’s defense of the gun lobby has been unmistakable. “Today, with 4 million members, the N.R.A. is one of the largest civic organizations in the U.S., and by far the largest civil liberties organization on the planet,” he wrote [in the Times “Room for Debate”](#) section last year less than one month after the Newtown Sandy Hook shooting.

Kopel also often suggests, much like NRA leaders, that there is little possible compromise in the gun policy debate. “The only item on the agenda of today’s antigun advocates that realistically could have prevented a psychopath from stealing his mother’s legally registered guns would be banning and confiscating the more than 300 million firearms in the United States,” he added in his *Times*’ piece last year right after a disturbed young man in Newtown used his mother’s guns to murder first his mother and then 26 others including 20 first-grade children.

Last week, in the same *Times* forum, Kopel [painted](#) former New York City Mayor Michael Bloomberg, who recently pledged to devote \$50 million to promote gun reform efforts, as an extremist. “[A]ccording to my analysis, the Bloomberg version of background checks felonizes the vast majority of American gun owners.” A link embedded into the words “my analysis” refers to an article last spring under his byline in the [National Review](#) that similarly fails to disclose Kopel’s NRA funding.

His arguments often set up straw men that he then knocks down. How many gun control advocates or groups, for instance, have ever suggested that Mexico’s failed gun policies could somehow be a model for us? Yet Kopel recently wrote online in [The Washington Post](#), one of two major newspapers to run his gun policy opinions last week, a piece titled “Mexico’s gun control laws: A model for the United States?”

News broadcasters and a leading journalism institute have also treated Kopel as an independent expert. Both [PBS](#) and [NPR](#) have brought him into gun policy debates as an apparent independent voice. The nonprofit [Poynter Institute](#) has asked Kopel to help [lead seminars for journalists](#) on gun policy issues including last spring during the Congressional gun debate. (This coming Friday Kopel [will help lead](#) a Firearms Law Seminar at the NRA convention in Indianapolis.)

Newspapers like [The Christian Science Monitor](#) have cited Kopel as an independent expert in news reports. Although two newspaper reporters, Ed O’Keefe and Tom Hamburger, in the news section of the *Washington Post* [did identify](#) Kopel’s NRA funding at least once last spring, after I broke news of it on [MSNBC.com](#), and after the NRA itself began distributing one of Kopel’s opinion pieces during the Congressional debate over gun control legislation.

LAST FRIDAY [at 3:53 PM](#) in New York editors at *The New York Times* “Room for Debate” online section changed Kopel’s author ID on his opinion piece [almost 22 hours after](#) it had been originally posted. The change informed readers that Kopel “has received grant money from the National Rifle Association’s Civil Rights Defense Fund.” Kopel had been previously identified

in this piece, like in his [previous Times “Room for Debate” pieces](#), as an independent researcher, author and legal scholar.

Kopel received [\\$1.39 million](#) in grant money from the NRA Civil Rights Defense Fund between 2004 and 2011, according the Fox News affiliate television station in Denver, Fox31, in a May 2013 report by Eli Stokols. The report was about a lawsuit filed by Kopel and his Independence Institute on behalf of 55 of Colorado’s 62 elected sheriffs challenging Colorado gun control laws passed last year.

The same day that Kopel led a press conference with Colorado sheriffs to announce the law suit, Colorado resident Tom Mauser called the Independence Institute to ask the think-tank whether it has received money from the NRA. Mauser has been a well-known Colorado gun control advocate for years, ever since his 15-year-old son, [Daniel](#), was one of 12 students murdered along with one teacher in the 1999 Columbine High School shooting.

“I asked them if they got money from the NRA, and they wouldn’t tell me,” [Mauser told Fox31 Denver](#). “They said, ‘look it up for yourself.’”

In February 2013, less than one month after Kopel testified in the Senate, I reported in MSNBC.com that two of the Senate’s recent witnesses, Kopel and David T. Hardy, another legal expert who similarly testified at the nationally televised Senate hearing as an independent witness, [had received over \\$108,000](#) and \$67,500, respectively, from the NRA Civil Rights Defense Fund in 2011.

At the hearing, Senate Judiciary Committee Chairman Senator Patrick Leahy from Vermont read Kopel’s biography including his affiliations with the Independence Institute, the Cato Institute and Denver University Strum College of Law. Chairman Leahy jokingly added, “[Did I get that all correct?](#)”, before giving Kopel the floor. No one, not any Senators, Kopel or the press made any mention of his NRA funding.

Kopel later conceded to me that he has received NRA funds, but maintained that he was not obligated to disclose them.

“I’ve never heard of [a] think tank or interest group employees naming donors during legislative testimony,” Kopel wrote to me in an email last year.

Kopel’s role at the Independence Institute is larger than it appears. [Dozens of staff members and experts](#) including the institute’s President Jon Caldara are listed on the institute’s website. But the highest paid employee is not the organization’s president but Kopel who earned \$187,666 including bonuses, a total of \$67,000 more than Caldara in 2011, according to the group’s latest financial records available.

The same year, Kopel received not only one \$108,000 grant from the gun lobby, but part of another grant from the [NRA’s Civil Rights Defense Fund](#), this one for a \$55,000 grant to him and two other Independence Institute scholars. The NRA fund has continued supporting the

Independence Institute, giving the group \$317,500 in 2012, according to the NRA fund's latest records on file.

Kopel has bona fide [Ivy League](#) credentials. He graduated with honors from Brown University and earned his J.D. magna cum laude from the University of Michigan Law School. He has written for scholarly journals at Yale, New York University, Johns Hopkins, Notre Dame and the University of Pennsylvania.

Kopel is a regular contributor, too, to "[The Volokh Conspiracy](#)," an influential and self-described "libertarian, conservative, centrist" legal blog that since January has been hosted by The Washington Post. Kopel wrote another piece there on Monday arguing that both the First and Second Amendments "[safeguard natural, pre-existing human rights](#)."

At the same time, Kopel's gun lobby funding is now no longer in doubt. The question is how should those who give him a platform to air his gun rights views like Congress and the Times identify him to the public?

"The more readers know about the background of an opinion writer, the better they are served. And that applies here," *The New York Times* Public Editor Margaret Sullivan told me last year in an email after I first broke news of Kopel's NRA funding.

Last Friday, I forwarded her email to editors at the *Times* "Room for Debate" section, after they ran another one of Kopel's pieces without disclosing his NRA funding. Editors made the change to identify Kopel's receipt of NRA grant money little over an hour later, after first calling Kopel to confirm his receipt of NRA funds.

Kopel's piece last Friday in the *Times* was part of an online series by six different authors about the nation's gun policies pegged to both Bloomberg's funding announcement and this weekend's NRA convention. The series was titled, "Toe to Toe with the NRA."