

## **Gun-rights advocate: High-capacity magazine restrictions 'makes sense'**

From NBC's Michael Isikoff

A leading gun-rights advocate says there is no constitutional barrier to restricting the sale of high capacity gun magazines such as the one used by accused Tucson shooter Jared Loughner and that such proposals are justified to prevent "looney tunes" from committing more gun massacres.

Robert A. Levy, who served as co-counsel in the landmark Supreme Court case that established a Second Amendment right to bear arms, said there was no reason the court's decision in that case should apply to the purchase of high-capacity gun magazines.

"I don't see any constitutional bar to regulating high-capacity magazines," Levy said in an interview with NBC. "Justice [Antonin] Scalia made it quite clear some regulations are permitted. The Second Amendment is not absolute."

The comments by Levy, chairman of the board of the libertarian Cato Institute, come as Democratic Rep. Carolyn McCarthy of New York is preparing to circulate a bill tomorrow that would ban the sale or transfer of high-capacity magazines. Supporters took Levy's comments as a sign that at least some gun-rights advocates might be open to the idea.

"For somebody like him to say this is significant," said Kristen Rand, legislative director of the Violence Policy Project, a leading gun control group. (Levy was one of the lead lawyers for gun rights in *D.C. v. Heller*, the 2008 Supreme Court case that overturned Washington D.C.'s ban on handgun ownership and affirmed that the Second Amendment encompassed an individual right to own firearms.)

There is little doubt that any gun-control proposal will face tough sledding in the Congress. A spokesman said today House Majority Leader Eric Cantor is against the idea. One leading gun-rights group, Gun Owners of America, posted a statement on its Web site this week denouncing "liberal politicians flocking like vultures" to gain political advantage from the Tucson tragedy by proposing new gun control measures.

But gun-control groups argue that measures like the one being proposed by McCarthy in the House (and Sen. Frank Lautenberg (D-NJ), who is sponsoring a similar bill in the Senate) are so modest and reasonable that they could gain traction. Law-enforcement officials have noted that Loughner's high-capacity round magazine substantially increased the lethality of his rampage; he was able to get off at least 31 shots without reloading and was only wrestled to the ground when he tried to reload with another high-capacity magazine.

The manufacture of such magazines were prohibited under the 1994 federal assault weapons ban, but that law lapsed in 2004 and gun experts say the sale of such magazines have since proliferated.

President Obama, during his 2008 campaign, had supported reinstating the assault weapons ban, but soon abandoned the idea as politically impractical after taking office. This week, the White House has declined to respond to requests for comment on whether the president would support a restriction on high-capacity magazines.

Although he is strongly opposed to most gun-control measures, Levy said in this case, "as a policy matter," restricting access to high-capacity magazines such as the 33-round ones used by Loughner makes sense.

"It may stop a few of these looney tunes," Levy said. While saying that he saw it as a "close call, he said that that a restriction of "10 to 15 rounds makes sense."