

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. draft agreement	[Gun Industry] Settlement Document (21 pages)	03/07/00	P5
002. draft letter	Reed to Eliot Spitzer re: Letter of March 6, 2000 (1 page)	nd	P5
003. draft letter	Reed to Eliot Spitzer re: Letter of March 6, 2000 (2 pages)	03/09/00	P5
004. draft letter	Reed to Eliot Spitzer re: Letter of March 6, 2000 (2 pages)	03/10/00	P5
005. draft letter	Reed to Eliot Spitzer re: Letter of March 6, 2000 (2 pages)	03/09/00	P5
006. draft agreement	[Gun Industry Code of Conduct?] (6 pages)	02/07/00	P5

COLLECTION:

Clinton Presidential records
 Domestic Policy Council
 Bruce Reed (Crime)
 OA/Box Number: 21553

FOLDER TITLE:

Guns-Smith and Wesson [4]

rs27

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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RR. Document will be reviewed upon request.

observers in Taiwan assumed he was buying time to allow Lien to consolidate his support within the party and to head off any attempt by Soong to return and take control.

"President Lee's number one objective is to ensure that James Soong does not become the biggest political force in Taiwan," said Shelley Rigger, a political science professor at Davidson College in North Carolina who is in Taiwan to observe the election.

The government, she said, is now running largely on "autopilot," although President-elect Chen already appears to have taken command of one of the most important matters: Taiwan's complex and delicate relations with China.

NRA working to isolate Smith & Wesson, plans boycott of its guns

**By Jackie Koszczuk
Knight Ridder Newspapers**

WASHINGTON Hoping to stanch further defections by gun manufacturers, the powerful gun lobby is responding in force to Smith & Wesson's decision to adopt tighter controls on the sales of its handguns.

The 3.5-million strong National Rifle Association is depicting the Springfield, Mass.-based company as a traitor to the cause of gun-ownership rights and is trying to isolate it in the clannish world of gun owners, dealers and distributors.

In an escalating war with the Clinton administration, the group hopes to discourage other manufacturers from joining in the White House-brokered agreement.

Already, two gun makers have announced they will not be part of the agreement and a third, Glock Inc., rejected the deal after briefly considering it.

Paul Jannuzzo, vice president and general counsel for Glock, said the company "had to balance the cost of bleeding to death with legal bills against the possibility of a consumer boycott."

Robert Delfay, president of the National Shooting Sports Foundation, a major trade group, said he canvassed most of the big manufacturers, including the top 10, and none intend to follow Smith & Wesson's lead.

"I talked to the vast majority of them and the unanimous response was, 'No way,'" Delfay said.

Under the agreement, Smith & Wesson would institute new controls on the design and distributions of its guns to make them safer and keep them out of the hands of children and criminals. Smith & Wesson is the nation's largest manufacturer of handguns.

In return for the concessions, 17 of 29 state and local governments have agreed to dismiss lawsuits against Smith & Wesson, and the firm will be protected from future suits that seek to hold manufacturers responsible for the widespread problem of gun violence in cities.

Since the agreement was announced Friday, Smith & Wesson has been swamped with thousands of phone calls, e-mails and faxes, mostly from angry gun owners and dealers.

Typical of the reaction was Bob Viden, owner of Bob's Little Sports Shop, which is, despite its name, a large seller of firearms and other sporting goods in Glassboro, N.J.

Viden, a member of the NRA board of directors, said he will not agree to some of the conditions the agreement imposes on retailers who deal in the company's products.

"If they expect me to sign on to this, I will no longer be a Smith & Wesson dealer," he said. "And if the agreement is what I've read so far, I can't imagine Smith & Wesson being in business at this time next year."

Loss of sales of its popular firearms is now the central concern at Smith & Wesson. Even more of a threat than the boycott by owners is the possibility that a half-dozen big distributors will decide not to buy more guns from the firm once inventories in their warehouses are depleted.

The company was scrambling Wednesday to keep dealers and distributors on board in marathon phone conversations explaining the agreement to its customers.

"The ones that we're talking to and explaining things to are more accepting," said company spokesman Ken Jorgenson. "It's going to take awhile to sort all of this out."

He said the company knew it would suffer some short-term loss of sales when the agreement was announced. "We knew going into this that it was not going to be popular with some

people," Jorgenson said.

To counter the assault on Smith & Wesson by the gun lobby, Andrew Cuomo, secretary of the Housing and Urban Development agency, has been personally calling top executives of gunmakers. On Wednesday, the White House took further steps to try to make the agreement look attractive to other manufacturers.

A group of government officials including Cuomo and top White House advisers announced the formation of a Communities for Safer Guns Coalition, a group of local governments that promise to favor gun makers that adhere to the agreement when they buy firearms for law enforcement agencies.

Cuomo has assumed a leading role in the strategy because any federal litigation would be based on gun violence at HUD's public housing complexes.

Also attending the announcement were Sen. Charles Schumer, D-N.Y., Rep. Carolyn McCarthy, D-N.Y., the attorneys general from three states, and the mayors of Atlanta, Bridgeport, Conn., and Brownsville, Texas. The White House released a list of other cities that have agreed to join, including Los Angeles; San Francisco; Miami-Dade County; New Orleans; Boston; Detroit; Flint, Mich.; St. Louis; Newark, N.J.; Akron, Ohio; Honolulu; Gary, Ind.; and Providence, R.I.

Cuomo said, "Governments at every level should use their procurement policies to support manufacturers who take responsible steps to make guns safer and to keep guns out of the wrong hands."

The administration's agreement with Smith & Wesson is a threat to the gun lobby's usually impregnable defenses against new restrictions on guns.

In a special alert to its membership, the NRA called Smith & Wesson "the first gun maker to run up the white flag of surrender and duck behind the Clinton-Gore lines, blindsiding other members of the U.S. firearms industry."

While stopping short of calling for a boycott, the NRA said gun distributors and retailers must choose between selling the company's guns "or selling firearms and accessories from those manufacturers who are not willing to cave in to anti-gun threats of suits or promises of financial reward."

According to the agreement, Smith & Wesson promised to build additional safety locks into new guns, devote 2 percent of revenues to "smart gun" technology allowing guns to be fired by just one owner, develop guns that can't readily be operated by children under 6 and deny guns to purchasers unless they have completed a background check, even if a check takes longer than the current legal standard of three business days.

It also agreed to terminate contracts with gun dealers or distributors if a "disproportionate number" of crimes are traced to the weapons they sell.

US Airways shutdown could strand tens of thousands of travelers

**By Tom Belden
Knight Ridder Newspapers**

PHILADELPHIA Negotiators for US Airways and its 10,000 unionized flight attendants were meeting Wednesday in Washington, D.C., an effort to resolve a dispute that threatened to make life miserable for air travelers in Philadelphia and other East Coast cities this weekend and beyond.

US Airways, which boarded almost 7 million passengers in Philadelphia last year, has said it would shut down all operations if it fails to reach an agreement on a new contract with the Association of Flight Attendants by 12:01 a.m. Saturday.

The US Airways threat, if carried out, could lead to the largest planned shutdown ever by a U.S. airline, one longtime aviation observer said.

The airlines, the nation's sixth largest, operates 1,800 flights a day.

A shutdown, which would not affect US Airways Express, would leave tens of thousands of vacationers eager to reach Florida or the Caribbean, and business travelers headed to cities nationwide, scrambling for alternatives.

Other airlines and Amtrak said they would take as many passengers as they can, but that won't help most US Airways customers here because of the limited number of additional airplanes that other carriers would have available.

Philadelphia International Airport, where more than 21,000 US Airways passengers board every day, was ready to treat

Saturday as if a major snowstorm socked the region, with flights cancelled or delayed and passengers stranded, airport spokesman Mark Pesce said.

"We hope it doesn't happen, but in case it does, we'll have extra security here, along with a passenger assistance plan," Pesce said.

The airport is prepared to deactivate the airport-issued badges, which give special clearance to secured areas, for the more than 5,800 US Airways employees who could be locked out of a job if the airline asks for that to be done, he said.

The flight attendants' union outlined early this year how it would stage a "CHAOS" campaign, involving random strikes on one or more of 49 US Airways routes, if it doesn't have a contract by the deadline.

"CHAOS" stands for "create havoc around our system," and US Airways management decided that the union's tactic would do just that.

The airline responded Feb. 23, saying it chose to cancel all its jet flights and shut down its operations at 106 airports around the country rather than subject customers to the uncertainty of random walkouts.

Richard S. Golaszewski, executive vice president of GRA Inc., a Jenkintown, Pa., aviation-consulting firm, said he could not recall any bigger planned suspension of service in U.S. airline history.

US Airways and its commuter unit, US Airways Express, dominate Philadelphia's air service, operating almost 400 nonstop flights a day to 98 cities. About 58 percent of the 11.8 million passengers who boarded flights at Philadelphia International Airport in 1999 were US Airways customers.

Flights operated by US Airways Express, a group of eight small carriers that provide commuter-airline feeder service, were expected to continue if there is a strike or shutdown. Flight attendants for the express airlines are not part of the contract talks.

More than a third of the 400 US Airways flights out of Philadelphia each day are operated by express airlines, with the majority to smaller cities.

As a connecting-flight hub for US Airways, Philadelphia has more direct flights to other places than most cities, including nonstops to six cities in Europe and nine countries in the Caribbean and other tropical climes. But the dependence by one carrier also means severe disruptions if it quits operating.

In addition to already using two-thirds of the gates at the airport, US Airways is managing construction of two more terminals where it will be the major tenant, one for international flights and another for commuter service. The new terminals are scheduled to be ready for passengers by the end of 2001.

"If they shut down, I think it hurts Philadelphia from Day One," Golaszewski said.

US Airways employed 5,845 people at the airport as of March 1, including 2,350 flight attendants who live in the area or use Philadelphia International as their home base.

The contract negotiations, with US Airways chief executive Rakesh Gangwal and union president Lynn Lenosky participating, were being held at an undisclosed location in Washington.

The talks were being conducted by a mediator from the National Mediation Board, which oversees labor negotiations in the airline and railroad industries. The Saturday deadline marks the end of a 30-day "cooling-off" period, as established by the federal Railway Labor Act, designed to keep parties in a labor dispute talking as long as possible.

President Clinton has the power under the labor act to order the flight attendants back to work while the two sides continue to negotiate. Neither side in the dispute has asked for Clinton to get involved, and the White House hasn't indicated what the president might do if there is a walkout.

The last major labor-related airline disruption came in February 1999, when American Airlines pilots staged an illegal sickout, forcing the airline to cancel about 6,700 flights over a 10-day period. The last strike occurred in 1998, when Northwest Airlines was grounded for two weeks.

The airline has offered a package that would link flight attendants' pay to the average of the four largest airlines, plus 1 percent.

Flight attendants, whose contract expired in 1996, say the airline's offer proposes a formula that would actually cut pay and fringe benefits by 5 percent. Flight attendants have had no raise

since 1996 and their pay ranges from \$17,145 to \$36,918.

Flight attendants staged rallies Wednesday in Baltimore; Boston; Charlotte, N.C.; Los Angeles; Pittsburgh and Washington, as they had done last week in Philadelphia.

New legislation ends earnings limit for Social Security recipients

By David Goldstein

Knight Ridder Newspapers

WASHINGTON The Senate voted unanimously Wednesday to eliminate earnings limits on Social Security benefits that penalized working seniors, thus assuring both parties bragging rights with elderly voters this fall.

The move, which follows a similar unanimous vote March 1 in the House, means that some 800,000 workers ages 65 to 69 will be able to keep all their outside income this year. The bill is retroactive to Jan. 1. President Clinton has said he will sign it.

Under the current law, enacted during the Depression, those workers lose \$1 in Social Security benefits for every \$3 in income they earn above \$17,000; that limit was to rise in steps to \$30,000 by 2002.

"The earnings limit is part of a bygone era," said Sen. William V. Roth Jr., a Delaware Republican and chairman of the Senate Finance Committee. "It is the product of the Great Depression, a time when folks believed that an individual should retire completely and make room for others to work. It is antiquated and anti-productive."

With the economy booming and jobs going begging, supporters said repealing the 70-year-old provision will mean more jobs will be filled. And with Social Security reform a major political issue that has gotten much debate but little action, the repeal gives lawmakers in both parties something to take back to voters.

"Eliminating the earning limits is an important first step in undertaking comprehensive Social Security reform," Clinton said in a statement from India, where he is traveling. "We should build on this bipartisan spirit."

Senate Minority Leader Tom Daschle said he did not think passing the repeal would drain the energy from the larger issue of Social Security reform. But he seemed to imply that wholesale entitlement remedies could be a long way off.

"We just didn't think we ought to hold the millions of seniors hostage to that day when some comprehensive reform can be enacted," the South Dakota Democrat said.

Republican Sen. John Ashcroft of Missouri, the bill's lead sponsor, who is involved in a tight contest for re-election, said he has had many elderly constituents relate tales of being penalized by the Social Security earnings test, such as an operating room nurse who has to limit her time in the hospital.

"Seniors should have the ability to earn if they choose," Ashcroft said.

After the vote, Senate Majority Leader Trent Lott of Mississippi said his own mother wondered why she had to lose a portion of her Social Security payment because she worked past age 65. "This is a wonderful piece of legislation," Lott said.

Politically, the elderly are a key voting bloc in the November presidential and congressional elections. Recent polls show voters have more confidence in the Democrats and Vice President Al Gore to deal with Social Security than they do in the Republicans and their presumptive presidential nominee, Texas Gov. George W. Bush. The unanimity on the issue in both houses of Congress is emblematic of its political sensitivity.

Horace Deets, the executive director of the American Association of Retired Persons, said eliminating the earnings limits "shows what Congress can do when it puts partisanship aside and listens to the American people."

Clinton implores India to stop building nuclear weapons

By Christopher Marquis

Knight Ridder Newspapers

NEW DELHI, India President Clinton implored India on Wednesday to abandon its pursuit of nuclear weapons, asserting that a nation's greatness today depends on the strength of its moral example, not on its military might.

"Great nations with broad horizons must consider whether actions advance or hinder what Nehru called the larger

Settlement gets lawsuits canceled

The agreement by Smith & Wesson officials may be an important step toward settling disagreements between government and gunmakers. The manufacturer frees itself from costly litigation, and its challengers win promises of improved gun safety.

Q: When did the legal disputes between the gun industry and cities and counties begin?

A: The confrontation began in June 1998, when the National Rifle Association held its annual meeting in Philadelphia. At the same time in the city, a group of mayors met to discuss litigation against the gun industry. Since then, 28 cities and counties have filed lawsuits.

Q: Which cities filed the first lawsuits?

A: New Orleans filed on Oct. 30, 1998. The action is based on product liability law. It claims gun manufacturers knowingly refuse to equip guns with safety mechanisms that could prevent use by children and other unauthorized people. Chicago filed suit Nov. 12. It contends the gun industry created a public nuisance by flooding the city with guns from suburban stores when it knew they

would be used to commit crimes in the city.

Q: Why did Smith & Wesson settle?

A: "I think we felt we could probably win these things in the long run, but the cost of another 10 years of legal battles just wasn't something we wanted to undertake," company spokesman Ken Jorgensen said.

Q: What cities and counties have accepted the agreement?

A: Miami-Dade County, Fla.; Los Angeles, Inglewood, San Francisco, West Hollywood, Sacramento and Berkeley, Calif.; Bridgeport, Conn.; Newark and Camden, N.J.; Gary, Ind.; Atlanta; St. Louis; Detroit; and New Orleans.

Q: How many guns are involved in the settlement?

A: According to the Bureau of Alcohol, Tobacco and Firearms, about 1.2 million revolvers and pistols are manufactured in the USA each year. Smith & Wesson produces about 20% of those.

Q: Can other manufacturers join in the agreement reached by the

cities, the federal government and Smith & Wesson?

A: Yes.

Q: Haven't manufacturers taken some of the steps laid out in the agreement?

A: Yes. More than 20 gun manufacturers, including Smith & Wesson, provide free devices, such as trigger locks, with their firearms.

According to the Sporting Arms and Ammunition Manufacturers' Institute, those gunmakers account for nine of 10 guns manufactured in the USA annually.

Gun manufacturers also refuse to sell to unlicensed firearms distributors or dealers, and they give the federal Bureau of Alcohol, Tobacco and Firearms direct access to gun records so agents can trace guns used in crimes.

Q: The agreement requires companies to work on "smart" guns that can be fired only by the owner or authorized user. What is their status?

A: Jorgensen says Smith & Wesson has been working on the technology since 1993, and all new guns will be so equipped within three years.

Three killed in fire at fraternity house

The Associated Press

BLOOMSBURG, Pa. — A fire at an off-campus fraternity house near Bloomsburg University killed three people early Sunday. Others jumped to safety from a second-story window.

Five fraternity members and an alumnus who was visiting were sleeping in the Tau Kappa Epsilon house when the fire broke out about 6 a.m. The alumnus and two fraternity members got out safely, said Jim Hollister, a university spokesman.

The cause of the fire was not immediately clear. School President Jessica Kozloff said the building was

owned by the fraternity and had been maintained well.

City officials cleared the house for occupancy after noting a dozen code violations in October. The violations included a battery missing from a smoke detector, five electrical heaters being run on an inadequate electrical system, a missing doorknob and an empty fire extinguisher, said Dean Van Blohn, a code enforcement officer. He said the violations had been corrected in January.

All three who escaped reported awakening and finding heavy smoke in the building; one heard a smoke alarm.

Another college fire Sunday, in Big Rapids, Mich., left one woman hospitalized with a back injury and two others with minor injuries. The fire, in Brophy Residence Hall at Ferris State University, broke out about 6 a.m. Fire officials believed the cause was accidental.

On Jan. 19, three students were killed and six were critically injured in a dormitory fire at Seton Hall University in South Orange, N.J.

Bloomsburg, founded in 1839, is a state university about 100 miles northwest of Philadelphia.

Gunmakers might join Smith & Wesson deal

Companies could make concessions on firearm safety or keep fighting

By Martin Kasindorf
and Gary Fields
USA TODAY

The USA's largest gunmaker, which broke ranks with the industry to make peace with courthouse adversaries, might not be alone for long.

Other manufacturers face two stark choices: Join Smith & Wesson and agree to precedent-setting concessions on firearm safety and sales practices, or keep paying lawyers to fight the Clinton administration, two states and 30 municipalities.

Robert Delfay, president of the National Shooting Sports Foundation, the industry's trade association, says he expects other manufacturers to continue what have been sputtering negotiations with critics.

"We are confident that no other major manufacturers will desert this coordinated effort in favor of their own individual deal," Delfay says.

Austrian firearms maker Glock, however, is pondering a truce. "It's certainly not impossible," says Paul Jannuzzo, vice president and general counsel for Glock's U.S. unit.

"You have to do a cost-benefit analysis. What's the consumer reaction going to be, compared to our legal expenses?"

Browning Arms of Mountain Green, Utah, isn't rejecting the agreement out of hand.

"We're still evaluating all the information so we can make a deci-

sion," spokesman Travis Hall says.

The settlement signed Friday by Ed Shultz, CEO of Smith & Wesson, calls for the company to be dismissed from suits filed by 11 cities and counties. The Springfield, Mass.-based company produces 20% of the handguns sold annually in the USA.

The suits allege that negligence and unfair business practices by gunmakers have resulted in thousands of deaths and injuries nationwide.

Also, the federal government and the states of New York and Connecticut promise to leave Smith & Wesson out of threatened legal actions.

Mandates of the deal include:

► Internal gun locks within two years, one of several innovations aimed at preventing children under 6 years old from being able to fire.

► A second, hidden serial number to thwart criminals who file off numbers so guns can't be traced.

► A company promise to spend 2% of gross sales revenue on developing "smart" guns that can be fired only by the owner or an authorized user. Researchers at Smith & Wesson, Colt and other makers have been exploring various smart gun technologies. Most experts say that truly "personalized" guns, with functioning linked to a user's fingerprints or other characteristics, are at least two years away.

► Factory sales limited to dealers who sign stringent codes of conduct.

In states without "one gun a month" laws, buyers will have to wait 14 days to receive more than one gun. Buyers will need to prove they've passed a safety course or exam. Retailers will be trained to recognize "straw purchasers," people who buy guns for juveniles or felons.

Dealers won't be allowed to sell a gun shows that don't require background checks.

Enforcing the settlement will be a five-member commission: two city or county representatives, one from state government, one from the Bureau of Alcohol, Tobacco and Firearms and one from the gun industry.

Delfay dismisses the pact as "one-sided" in favor of "anti-gun government officials." Also, he says, it requires practices already observed by many manufacturers, such as test-firing every new gun so a distinctive "print" it makes on a bullet can be registered in a national database.

The NRA's president, Charlton Heston, said the British owners of Smith & Wesson don't value the Second Amendment's right to bear arms clause as Americans do.

"I am not comfortable about the Brits telling us how to deal with our Bill of Rights," Heston said. "I think we settled that in 1776, didn't we?"

The NRA has opposed the wave of municipal lawsuits, which New Orleans started in October 1998, chiefly by persuading 16 state legislatures to pass measures banning local governments from suing gunmakers for the costs of firearm violence.

The NAACP, which started its own litigation against the gun industry last year, says the Smith & Wesson deal is "encouraging" but "lacks teeth with regard to multiple gun sales" that flood the underground market with weapons.

Smith & Wesson spokesman Ken Jorgensen said the company settled primarily because of litigation costs.

Company CEO Shultz, a longtime industry maverick, had two additional incentives:

► Smith & Wesson's corporate owner, Tomkins PLC, is trying to sell the beleaguered subsidiary. Eliminating potentially huge court judgments "certainly makes them a more attractive company," says Carmel Sella, lead lawyer in Los Angeles' suit against the gun industry.

► Smith & Wesson is lobbying in Washington for some of the \$10 million in research money for smart gun technology that President Clinton has asked Congress to approve.

Mayor Joe Garlin of Bridgeport, Conn., another city that is suing the industry, says the defection by Smith & Wesson "will definitely increase pressure" to settle.

Prompted by news of the settlement, the Department of Housing and Urban Development and mayors of Atlanta, Detroit and Miami moved to see that their police agencies give preference to Smith & Wesson when buying guns.

► Dueling ad campaigns, 24A

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FOR IMMEDIATE ATTENTION

TO: GUN LITIGATION MAYORS AND COUNTY OFFICIALS

FROM: NANCY KIRSHNER-RODRIGUEZ
Deputy Assistant Secretary for Intergovernmental Relations

DATE: MARCH 10, 2000

Please join Andrew Cuomo, Secretary of Housing and Urban Development, Bruce Reed, Domestic Policy Advisor to the President, and Stuart E. Eizenstat, Deputy Secretary of the Treasury, on Wednesday, March 22nd, 2000, from 11:00 a.m. to 1:00 p.m. for an update meeting regarding gun industry negotiation and litigation strategy.

We will follow-up shortly by phone with details. We look forward to seeing you on March 22nd.

***** **MEETING INFORMATION** *****

Date:	Wednesday, March 22 nd
Time:	11:00 a.m. to 1:00 p.m.
Location:	US Department of Housing and Urban Development 451 7th Street SW Washington, DC 20410

Please confirm your attendance by completing the bottom portion of this form and returning it via facsimile to the Office of Intergovernmental Relations at (202) 708-9981 by COB Friday, March 17th. If you have any questions, please do not hesitate to contact us at (202) 708-0030.

Name: _____ Title: _____

Organization: _____ City: _____

Social Security #: _____ Date of Birth: _____

Phone: _____ Fax: _____

E-mail Address: _____

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COLLECTION:

Clinton Presidential records
Domestic Policy Council
Bruce Reed (Crime)
OA/Box Number: 21553

FOLDER TITLE:

Guns-Smith and Wesson [4]

rs27

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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FEB-14-2000 12:00

A.G. ELIOT SPITZER



National Shooting Sports Foundation, Inc.

FLINTLOCK RIDGE OFFICE CENTER • 11 MILE HILL ROAD • NEWTOWN, CT 06470-2899 • 203 426-1920 • FAX: 203 426-1087
 WEB SITE www.nssf.org • E-MAIL rdelfay@nssf.org

ROBERT T. DELFAY
 PRESIDENT AND
 CHIEF EXECUTIVE OFFICER

February 8, 2000

Attorney General Elliot Spitzer
 State of New York
 Office of Attorney General
 120 Broadway
 New York, NY 10271-0332

Fax: 212/416-8942

Dear Attorney General Spitzer:

Now that a certain amount of smoke has cleared since the SHOT SHOW and taking into account your decision to postpone our scheduled January 21 meeting regarding issues raised by the municipal litigation against the firearms industry, the Board of Governors of the National Shooting Sports Foundation has urged that I contact you in the interest of reactivating our previous meeting schedule.

News accounts have stated or suggested that the firearms industry has totally removed itself from these discussions regarding issues of gun safety and crime prevention. However, as you will recall from our phone conversation on Saturday, January 15, such representations are not accurate. We remain interested in proceeding with the meeting structure and format that both sides, somewhat painstakingly, put in place last fall and would like to reschedule the January 21 meeting as originally structured.

I will contact your office, this week, in hopes of discussing the nature, time and location of such a meeting.

Sincerely,

Robert T. Delfay
 President and Chief Executive Officer

RTD:dp

cc: Attorney General Richard Blumenthal

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. draft agreement	[Gun Industry Code of Conduct?] (6 pages)	02/07/00	P5

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→ Monitor?
 → ATF reports?

<u>CITIES</u>	<u>ADMINISTRATION</u>	<u>COMMENTS</u>
<u>Design</u>		The proposals in the Cities Column are more specific, while the Administration column provides for greater flexibility for terms and conditions to be worked out in the agreement
Compliance w/ performance design standards set forth in 18 USC 925 and strongest existing state law or regulation (1/1/01)	Manf. And importers could be required to make or import guns that conform to safety standards set forth in the agreement, including the sporting purposes test, tests that screen out poor quality guns, or drop and jam tests.	Need to define "design standards". 18 USC 925 does not set forth design standards.
Serial number visible only with infrared dectector or similar device (6/1/00)	Manf. and importers could be prohibited from including features that facilitate criminal activity or make it difficult to apprehend and prosecute criminals, such as easily obliterated serial numbers or ability to accept large capacity magazines.	ATF has proposed regulations requiring minimum height and depth for serial numbers and other info required to be marked on firearms. The comment period for the proposed rulemaking was on 9/21/99. ATF is currently reviewing comments. May also consider requiring unique serial number
Magazine safeties: Introduced (6/1/00); Sold (1/1/01)	Manufacturers and importers could be required to ensure that guns sold in the U.S. have existing safety features such as internal trigger locks, magazine disconnect safeties, chamber-load indicators.	What is the distinction between "introduced" and "sold"?
Sale of guns with warning on risk of guns in the home and proper home storage (6/1/00)	No corresponding provision	Probably already done in the warranty booklets by many manufacturers.
Chamber load indicator (1/1/01)	Manf, importers required to ensure guns sold in the U.S. have existing safety features such as internal trigger locks, magazine disconnect safeties, chamber-load indicators.	

<u>CITIES</u>	<u>ADMINISTRATION</u>	<u>COMMENTS</u>
Prevention of operation by children 5 or younger	Manf. and importers could be required to develop and employ safety features, such as smart gun technology, within a particular timeframe. (A more modest alternative would be to provide for research and development)	
Prevention of accidental discharge, repeat firing, or risks of explosion (1/1/01)	Manufacturers and importers could be required to ensure that guns sold in the U.S. have existing safety features such as internal trigger locks, magazine disconnect safeties, chamber-load indicators.	
Authorized user technology (1/1/04)	Manf. and importers could be required to develop and employ safety features, such as smart gun technology, within a particular timeframe. (A more modest alternative would be to provide for research and development)	
Agreement only to use materials in the gun's frame, barrel, cylinder that have a melting point above 900 degrees, have an ultimate tensile strength above 55,000 per sq. inch, and powdered metal with a density of more than 7.5 grams per cubic centimeter	Manf. And importers could be required to make or import guns that conform to safety standards set forth in the agreement, including the sporting purposes test, tests that screen out poor quality guns, or drop and jam tests.	Where does this come from?

<u>CITIES</u>	<u>ADMINISTRATION</u>	<u>COMMENTS</u>
Agreement not to sell gun kits, guns that can be converted to an illegal firearm, guns with fingerprint resistance, or guns that accept magazines with greater than 10 round capacity.	No corresponding provision	Need to define terms such as "gun kits." Already are some relevant laws. For example, it's already illegal to sell a combo of parts to turn a firearm into a machinegun. By illegal gun do we mean NFA weapons? Semi-automatic assault rifles? It is important to remember that virtually any gun can be converted into an NFA weapon and that many lower capacity magazines can be altered to accept over 10 rounds.
Agree to retrofit existing guns w/ improved safeties as they become mandated	No corresponding provision	
<u>Sales and Distribution</u>		The proposals in the Cities Column are more specific, while the Administration column provides for greater flexibility for terms and conditions to be worked out in the agreement The Cities column does not refer to importers. It should apply to importers in all of the areas that it applies to manufacturers Need specific exception for wholesale and retail dealer sales to law enforcement and government agencies.
Manufacturers, wholesalers, and retailers commit to a standard of conduct to make every effort to eliminate suspect sales	Manf. and importers agree to a code of conduct that would apply to their practices, and those of the dealers and distributors to whom they sell.	ATF and NSSF have discussed encouraging the firearms industry to conduct business in compliance w/ federal law through training programs.
<u>CITIES</u>	<u>ADMINISTRATION</u>	<u>COMMENTS</u>
Manufacturers may sell only to authorized wholesale and retail dealers defined as those who	Manf. and importers will sell only to dealers and distributors that agree to the conditions set	

<p>possess a Certificate of Authorization, renewed annually by the manufacturer, subject to approval of the Monitor.</p>	<p>out below.</p>	
<p>Conditions for a Certificate include:</p> <p>Must be an FFL Operate only on premises Certify compliance w/ laws Insurance (min. \$1mil.) no <u>internet</u> or gunshow sales no <u>incentive sales</u> programs inventory tracking plan security plan for securing firearms and excluding minors no sales of high-capacity magazines or guns w/o safety locks provide all necessary documentation to manuf., law enf., gov. regulators, and Monitor comply w/ monitoring of distribution by manuf., ATF, law enf., Monitor maintain electronic record of trace requests initiated by ATF, and report those traces to manuf., monitor agree to by subject to jurisdiction of Monitor and the court all employees attend training by manf. all employees pass comprehensive exam provide sales data to the Monitor for use in Sales Data Clearinghouse.</p>	<p>Conditions dealers and distributors must comply w/ for manf. and importers to sell to them:</p> <p>operate only out of store front</p> <p>meet specific security standards</p> <p>subject to audits by and inventory checks by manf., importers, and monitor maintain records of all trace requests initiated by ATF</p> <p>All employees undergo continuous training</p>	<p>This needs <u>clarification</u>. Are we worried about gun shows or people dealing out of their own homes? Could broaden to ban all <u>indirect sales</u>, whether <u>internet</u>, <u>mail order</u>, <u>telemarketing</u>, etc. <i>Yes</i></p> <p>ATF and NSSF has discussed establishing tighter inventory controls and improved transaction records = (?)</p> <p>→ ATF/NSSF negot? (circled)</p> <p>■ <u>Additional provision</u> in this regard could be <u>mandatory background checks for all employees of manf., importer, dealer who come into contact w/ firearms.</u></p>
<p>No corresponding provisions</p>	<p>Provisions in Admin. Code not in Cities Code:</p>	

	<p>Computerize inventory, including all acquisition and disposition information (exception for low volume dealers)</p> <p>Postpone all gun transfers to non-licensees until completion of NICS check, regardless of whether 3 day waiting period as passed</p> <p>Agree not to sell semiautomatic assault rifles to youth under 21</p> <p>Refrain from selling large capacity magazines or weapons that facilitate criminal activity (e.g. easily obliterated serial numbers)</p> <p>Must verify validity of licenses against ATF data base before shipping guns to FFL</p> <p>Require ID for purchase of ammo</p> <p>Consent to up to 3 unnoticed ATF compliance inspections</p> <p>Complete annual inventories w/ reports of thefts</p>	<p>Subject of discussion between ATF and NSSF. ATF is seeking voluntary extension of waiting period to 20 days. NSSF has expressed support for <u>4 or 5</u> days. 7</p> <p>need to define the term "facilitate criminal activity"</p> <p>Subject of discussion between ATF and NSSF. 7</p>
<u>CITIES</u>	<u>ADMINISTRATION</u>	<u>COMMENTS</u>
<p>Failure to comply w/ provisions of Certificate result in suspension or revocation by manf. or Monitor</p>	<p>Manf. and importers would impose sanctions, including suspension and termination of supplies, on dealers and distributors that violate Code, or</p> <p>2. are substantially associated</p>	<p>-- Number of ATF traces does</p>

	w/ crime guns as determined by a measure based on ATF trace data.	not necessarily equate w/ bad dealer. <u>Must develop a better measure.</u> = (?)
Wholesalers sell only to FFLs or gov't	No corresponding provision	
Retailers must be a stocking gun store w/ minimum total inventory level and a majority of rev. derived from guns and/or sporting equip.	No corresponding provision	What about <u>K-Mart</u> and Walmart? Are we intending to ban them from firearm sales?
Retailers will not sell to FFLs not authorized under Code	No corresponding provision	
Retailers agree not to sell to straw purchasers	No corresponding provision. (though there is a provision requiring training to prevent straw purchasers)	
Retailers agree to one-gun-per-month	Manf. and importers will not sell to dealers who do not agree to one-gun-per-month limitation (included in code of conduct)	Do we mean all firearms or just handguns? Kmart?

<p>Other obligations on Manufacturers: Pay for dealer training provide quarterly reports of sales and downstream sales to Monitor Agree to fund Sales Data Clearinghouse administered by the Monitor</p> <p>Manf. shall fire gun before sale and retain 3 fired casings and bullets. Of these, one set along w/ the gun's serial number shall be provided to law enf.</p>	<p>Other obligations on Manufacturers: Develop training for employees and dealers Computerize inventory to facilitate linkage to ATF tracing system Establish security procedures for factories and shipping Verify validity of license before shipping to FFL</p> <p>Enter into partnership w/ ATF and/or FBI to create a database for identifying crime guns through ballistic data (test fire every gun before sold and records cast imprints and serial numbers in database) Consent to up to 3 unnoticed</p>	<p>Access 2000 is a preexisting ATF program in which several companies already participate. ATF has had discussions w/ NSSF regarding expanding <u>voluntary participation to all companies.</u></p> <p>ATF does not need the actual shell casing. ATF and NSSF have discussed expanding the Integrated Ballistics Identification System (IBIS) to record images from cartridge cases and projectiles fired from manufactured guns.</p>
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	ATF compliance inspections Establish compliance director	There currently is a voluntary pilot project w/ Glock.
ATF trace requests for guns recovered by law enforcement shall be rebuttable presumption of misconduct under Code.	No corresponding provision	Misconduct by whom -- the retailer or the manufacturer? The mere fact that a gun is traced to a dealer is not presumptively misconduct. It may be an indicator of a violation.
<u>CITIES</u>	<u>ADMINISTRATION</u>	<u>COMMENTS</u>
<u>Monitor</u>	Monitoring system subject to third party review and oversight and its findings would be available to federal law enforcement. Third party monitor would have broad oversight powers	The notion of the "oversight panel" in the Cities column is unclear. Will the monitor be inside the current regulatory scheme (i.e. Treasury or ATF) or outside the scheme? What are the implications -- for law enforcement or otherwise -- of a → ?

		private monitor? The proposals in the Cities Column are more specific, while the Administration column provides for greater flexibility for terms and conditions to be worked out in the agreement <u>NSSF has raised w/ ATF its strong desire that there be a single enforcement monitor, and that the federal government, through ATF, perform this role.</u>
Monitor is funded by manf.	Funded pursuant to terms of the agreement	
Monitor has full access to manf. and dealer records	Broad oversight	
Monitor may give info to law enforcement	Finding available to law enforcement	
Monitor has 20 yr. Term	No corresponding provision	
Monitor subject to removal only by Oversight Panel and for good cause	No corresponding provision	
Monitor has authority to conduct interviews, perform tests, and retain investigators to conduct undercover sting operations and unannounced investigations and audits	Broad oversight	<u>A monitor that retains investigators and conducts undercover sting operations could interfere with ongoing criminal investigations by federal, state, local law enf</u>
<u>CITIES</u>	<u>ADMINISTRATION</u>	COMMENTS
Monitor shall have line directly to manf. board of directors	No corresponding provision	
Monitor shall report violations of Agreement to Oversight Panel, and may levy fines and sanctions	Broad oversight	
Monitor shall issue public reports on manf. compliance on a quarterly basis	No corresponding provision	
Each manf. shall designate exec. Level manager as compliance	Each manf. and importer shall have a director of compliance	

officer and submit name to Monitor		
Each manf. shall cooperate w/ Monitor	No corresponding provision	
Prior to execution of agreement, Oversight Panel may review manf. documents regarding design, marketing, and distribution	Broad oversight	
<u>Cooperation w/ Law Enf.</u>		
Manf. shall disclose marketing, market research, development and production data and docs sought by law enf. and regulators	No corresponding provision	
<u>Cooperation w/ Litigation</u>		
Manf. shall agree to cooperate w/ pending and future lawsuits	No corresponding provision	
<u>Legislation</u>		
Manf. shall support pending and proposed legis efforts endorsed by Oversight Panel	No corresponding provision	
<u>Education Trust Fund</u>		
Manf. shall establish trust fund to implement a public service campaign	No corresponding provision	
<u>Enforcement</u>		
The Agreement will be entered and enforceable as a Court order and a contract	No corresponding provision	
<u>Advertising</u>		
No corresponding provision	The firearms industry could be restricted from advertising [on	May also consider banning product placement in TVs and

Yes

	cable TV], and to develop advertising standards that prohibit targeting juveniles or criminals. Also could <u>restrict advertising within vicinity of public housing, schools, high crime zones, etc.</u>	movies.
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ADDITIONAL PROVISIONS FOR INDUSTRY REFORM

I. DISTRIBUTION

- A. Code of Conduct should also include provisions prohibiting manufacturers and importers from doing business with dealers who do not comply with the following:
- a. Consent to up to three unannounced ATF inspections per year.
 - b. Refrain from selling semiautomatic assault rifles to youth under 21.
 - c. Require identification for ammunition purchases to ensure legal age for purchase, and to refuse to sell to any minor (or person under 21 for handgun ammunition).
 - d. Complete annual inventories with reports on thefts.
 - e. Postpone all gun sales/transfers to non-licensees until final background check approval is provided by NICS.
 - f. Agree to submit firearms identification information on all used guns, such as make, model and serial numbers, to the ATF National Tracing Center.
 - g. Sell firearms only to individuals who have demonstrated knowledge of safe handling and storage of firearms. [Consider pursuing industry agreement to create training programs on safe handling and storage of firearms.]
- B. Manufacturers and importers should also agree to the following:
- a. Computerize their inventory to facilitate linkage with the ATF tracing system through ACCESS 2000. (with a possible exception for manufacturers or importers that handle under a threshold volume.)
 - b. Establish security procedures for their factories and shipping.
 - c. Verify the validity of licenses against a database to be maintained by ATF -- before shipping firearms to any FFL.
 - d. Forego sales to dealers or distributors under indictment.

II. ADVERTISING/MARKETING

- A. Manufacturers shall agree to develop advertising standards that prohibit the targeting of juveniles or criminals. For example, firearms could not be advertised as "fingerprint proof." They could also agree not to advertise illegal or banned firearms such as assault weapons.
- B. Manufacturers may agree not to advertise within a certain vicinity of public housing authorities, schools, high crime zones or other areas vulnerable to violence.
- C. An industry-funded ad campaign may also be used to encourage gun owners to run background checks on prospective gun purchasers through licensed gun dealers.

III. INJURY SURVEILLANCE

- A. Manufacturers may also agree to help fund a national firearms death and injury surveillance reporting system.

PROPOSED REVISIONS TO INDUSTRY REFORM

REVISIONS AND QUESTIONS

A. DESIGN

- (1) **DUE DATES:** Due dates for design changes must be reworked to serve as milestones of the agreement.
- (2) **SERIAL NUMBERS:** Direction to manufacturers and importers on the elimination of easily obliterated serial numbers may not be necessary because ATF is issuing new regulations this year to address this problem. Treasury is currently evaluating the potential benefits of strengthening these new standards, and what would be helpful to law enforcement.
- (3) **POINT SYSTEM:** A safety point system, that also includes mandatory features, for domestic firearms can be created that is similar to the ATF "factoring test" to ensure the safety and quality of imported firearms. Through this system, inclusion of a number of proposed safety features can be assured without limiting manufacturers to specific products that might not work as effectively with specific firearms. It would also allow for greater flexibility to deal with the wide variety of firearms designs and new technological developments. This would include provisions such as: locking devices, magazine disconnect safeties, chamber-loaded indicators, prevention of accidental discharge, repeat firing or risks of explosion and overall material quality
- (4) **MATERIALS:** Gun manufacturers are moving toward the use of new materials, such as polymers, to construct firearms. Thus, overall material quality goals must be created instead of limiting this section to metal quality only. This may also be addressed through the factoring test.

B. DISTRIBUTION

- (1) **MONITOR:** This concept must be developed further. The third party monitor should be responsible for ensuring compliance with the terms of the agreement. The monitor would be independent of ATF, because some of its functions -- both in verifying compliance and punishing non-compliance -- are outside of ATF's statutory authority. At the same time, ATF has a role to play in helping ensure compliance, and the monitor should be set up to complement and enhance ATF's regular enforcement efforts rather than impede or duplicate them. We will need to develop an operational concept of how ATF and the monitor will work together. Cost considerations must also be taken into account.
- (2) **CRIME GUNS:** The current proposal to allow ATF crime gun traces to serve as a "rebuttable presumption of misconduct" would discourage cooperation with ATF trace requests and hinder investigations. However, crime gun trace data -- when appropriately balanced with sales volume and other indicators -- may serve as a trigger for certain inquiries or sanctions imposed by the monitor.
- (3) **CODE OF CONDUCT FOR CERTIFIED DEALERS:**
 - a. **INSURANCE:** The purposes for requiring insurance must be reviewed, and cost estimates must be provided to properly evaluate this provision.
 - b. **INTERNET SALES BAN:** Currently, licensed gun dealers are legally prohibited from completing firearms sales transactions over the Internet because there is already a ban on mail order firearm sales. Purchasers initiating Internet gun sales from licensees must pick up their purchase in person from the licensee or a licensee in their state. However, Internet advertising may leave open the increased possibility for unscrupulous licensees to illegally traffick weapons with little oversight from law enforcement. The benefits of including this provision must be evaluated further. We must also take into account the issue of treating Internet sales differently from newspaper ads -- since both require the same sales procedures.
 - c. **COMPUTERIZATION OF RECORDS:** Requiring gun dealers to computerize their records will provide a helpful enforcement tool. However, requiring smaller gun dealers with small inventories to finance the computerization of their records may prove to be unreasonably onerous.
 - d. **ACCESS TO DOCUMENTS:** In allowing more than one enforcement entity access to documents, care should be taken to ensure that original documents should never leave the premises of a licensee unless the ATF is using them in the course of an investigation.

- e. **TRACE REQUESTS:** A 24-hour time limit on forwarding trace requests to manufacturers or the monitor could impede open ATF investigations. Trace requests should not be forwarded to manufacturers or any other entity without ATF approval.
 - f. **STOCKING GUN DEALER:** Requiring retail dealers to be stocking gun stores with minimum inventory levels may have a negative impact on legitimate rural gun dealers, many of whom operate from their homes. Also, requiring that dealers derive the majority of their revenue from firearms sales or sporting equipment could eliminate sales through larger legitimate licensees, such as K-Mart. We can work on recrafting these requirements.
- (3) **ONE GUN PER MONTH:** As a negotiating tool, alternate proposals may include limiting this provision to only handguns and assault rifles, or creating create waiting periods for multiple sales should be developed and considered.

ADDITIONAL PROVISIONS FOR INDUSTRY REFORM

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- A. Code of Conduct should also include provisions prohibiting manufacturers and importers from doing business with dealers who do not comply with the following:
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 - d. Complete annual inventories with reports on thefts.
 - e. Postpone all gun sales/transfers to non-licensees until final background check approval is provided by NICS.
 - f. Agree to submit firearms identification information on all used guns, such as make, model and serial numbers, to the ATF National Tracing Center.
 - g. Sell firearms only to individuals who have demonstrated knowledge of safe handling and storage of firearms. [Consider pursuing industry agreement to create training programs on safe handling and storage of firearms.]
- B. Manufacturers and importers should also agree to the following:
- a. Computerize their inventory to facilitate linkage with the ATF tracing system through ACCESS 2000. (with a possible exception for manufacturers or importers that handle under a threshold volume.)
 - b. Establish security procedures for their factories and shipping.
 - c. Verify the validity of licenses against a database to be maintained by ATF -- before shipping firearms to any FFL.
 - d. Forego sales to dealers or distributors under indictment.

II. ADVERTISING/MARKETING

- A. Manufacturers shall agree to develop advertising standards that prohibit the targeting of juveniles or criminals. For example, firearms could not be advertised as "fingerprint proof." They could also agree not to advertise illegal or banned firearms such as assault weapons.
- B. Manufacturers may agree not to advertise within a certain vicinity of public housing authorities, schools, high crime zones or other areas vulnerable to violence.
- C. An industry-funded ad campaign may also be used to encourage gun owners to run background checks on prospective gun purchasers through licensed gun dealers.

III. INJURY SURVEILLANCE

- A. Manufacturers may also agree to help fund a national firearms death and injury surveillance reporting system.

PROPOSED REVISIONS TO INDUSTRY REFORM

REVISIONS AND QUESTIONS

A. DESIGN

- (1) **DUE DATES:** Due dates for design changes must be reworked to serve as milestones of the agreement.
- (2) **SERIAL NUMBERS:** Direction to manufacturers and importers on the elimination of easily obliterated serial numbers may not be necessary because ATF is issuing new regulations this year to address this problem. Treasury is currently evaluating the potential benefits of strengthening these new standards, and what would be helpful to law enforcement.
- (3) **POINT SYSTEM:** A safety point system, that also includes mandatory features, for domestic firearms can be created that is similar to the ATF "factoring test" to ensure the safety and quality of imported firearms. Through this system, inclusion of a number of proposed safety features can be assured without limiting manufacturers to specific products that might not work as effectively with specific firearms. It would also allow for greater flexibility to deal with the wide variety of firearms designs and new technological developments. This would include provisions such as: locking devices, magazine disconnect safeties, chamber-loaded indicators, prevention of accidental discharge, repeat firing or risks of explosion and overall material quality
- (4) **MATERIALS:** Gun manufacturers are moving toward the use of new materials, such as polymers, to construct firearms. Thus, overall material quality goals must be created instead of limiting this section to metal quality only. This may also be addressed through the factoring test.

B. DISTRIBUTION

- (1) **MONITOR:** This concept must be developed further. The third party monitor should be responsible for ensuring compliance with the terms of the agreement. The monitor would be independent of ATF, because some of its functions -- both in verifying compliance and punishing non-compliance -- are outside of ATF's statutory authority. At the same time, ATF has a role to play in helping ensure compliance, and the monitor should be set up to complement and enhance ATF's regular enforcement efforts rather than impede or duplicate them. We will need to develop an operational concept of how ATF and the monitor will work together. Cost considerations must also be taken into account.
- (2) **CRIME GUNS:** The current proposal to allow ATF crime gun traces to serve as a "rebuttable presumption of misconduct" would discourage cooperation with ATF trace requests and hinder investigations. However, crime gun trace data -- when appropriately balanced with sales volume and other indicators -- may serve as a trigger for certain inquiries or sanctions imposed by the monitor.
- (3) **CODE OF CONDUCT FOR CERTIFIED DEALERS:**
 - a. **INSURANCE:** The purposes for requiring insurance must be reviewed, and cost estimates must be provided to properly evaluate this provision.
 - b. **INTERNET SALES BAN:** Currently, licensed gun dealers are legally prohibited from completing firearms sales transactions over the Internet because there is already a ban on mail order firearm sales. Purchasers initiating Internet gun sales from licensees must pick up their purchase in person from the licensee or a licensee in their state. However, Internet advertising may leave open the increased possibility for unscrupulous licensees to illegally traffick weapons with little oversight from law enforcement. The benefits of including this provision must be evaluated further. We must also take into account the issue of treating Internet sales differently from newspaper ads -- since both require the same sales procedures.
 - c. **COMPUTERIZATION OF RECORDS:** Requiring gun dealers to computerize their records will provide a helpful enforcement tool. However, requiring smaller gun dealers with small inventories to finance the computerization of their records may prove to be unreasonably onerous.
 - d. **ACCESS TO DOCUMENTS:** In allowing more than one enforcement entity access to documents, care should be taken to ensure that original documents should never leave the premises of a licensee unless the ATF is using them in the course of an investigation.

- e. **TRACE REQUESTS:** A 24-hour time limit on forwarding trace requests to manufacturers or the monitor could impede open ATF investigations. Trace requests should not be forwarded to manufacturers or any other entity without ATF approval.
- f. **STOCKING GUN DEALER:** Requiring retail dealers to be stocking gun stores with minimum inventory levels may have a negative impact on legitimate rural gun dealers, many of whom operate from their homes. Also, requiring that dealers derive the majority of their revenue from firearms sales or sporting equipment could eliminate sales through larger legitimate licensees, such as K-Mart. We can work on recrafting these requirements.

(3) ONE GUN PER MONTH: As a negotiating tool, alternate proposals may include limiting this provision to only handguns and assault rifles, or creating create waiting periods for multiple sales should be developed and considered.

Conn. Subpoenas Firms In Gun Antitrust Probe

By PETER SLEVIN
and SHARON WALSH
Washington Post Staff Writers

Connecticut officials, suspecting collusion by the firearms industry to punish gunmaker Smith & Wesson for its promise to improve handgun safety, yesterday subpoenaed records of other companies in the weapons trade.

New York's attorney general said he would follow suit within days as part of a coordinated strategy to bolster Smith & Wesson against a backlash prompted by the company's unprecedented decision to supply gun locks and restrict gun sales.

"We knew and anticipated there would be criticism, some of it quite vehement. We didn't anticipate there would be apparently concerted activity to retaliate," Connecticut Attorney General Richard Blumenthal said. "We have issued subpoenas. We are conducting interviews."

Blumenthal would not name the targets of the civil antitrust investigation or identify the recipients of subpoenas, except to say they are "companies in the industry." His New York counterpart, Eliot Spitzer, said only, "We are intrigued by some of the things we have heard."

Maryland Attorney General J. Joseph Curran Jr. defined the theme of the investigation this way: "If a company is doing the right thing, don't block them. If you do, we're going to take you to task."

Executives of rival gun companies dismissed yesterday's action as unwarranted, at best.

"It's just another effort to put more burdens on us," said Glock Inc. general counsel Paul Jannuzzo. As for a conspiracy among gunmakers to punish Smith & Wesson, he added: "It doesn't exist."

In a settlement of numerous lawsuits, Smith & Wesson pledged March 17 to provide trigger-locking devices within 60 days and "smart gun" technology within three years on any new gun it develops. The

company also said it would supply products only to dealers who demand background checks and proof that customers have received firearms safety training.

Reaction to the agreement was swift and angry. The Gun Owners of America, for example, called it a "sellout." Smith & Wesson, the nation's largest gunmaker, soon began registering examples of the firearms industry trying to hurt its business, said company spokesman Ken Jorgensen.

Gun magazines have quoted advertisers as pledging to pull their ads if the magazines continue to accept advertising from Smith & Wesson. Organizations that sponsor competitive shooting matches have said they will pull out if Smith & Wesson is permitted to sponsor the events.

Jorgensen said Smith & Wesson met yesterday with some of its major distributors and dealers.

RSR Management Corp., a Winter Park, Fla., wholesaler and one of the largest distributors of Smith & Wesson weapons, has not decided whether to sign a new contract with the company, a spokesman said. RSR will fulfill its contract to distribute the company's firearms through Dec. 31.

Other gun companies blasted the threat of antitrust litigation as a tactic to force them to match Smith & Wesson's concessions.

"What they're alleging is hogwash," said Jeff Reh, a spokesman for Beretta U.S.A. Corp. "The gun industry hasn't done anything."

To investigators, a central challenge will be the search for collusion.

"If there's a private agreement among competitors of Smith & Wesson to take action that would injure the ability of Smith & Wesson to market its weapons competitively—such as by pulling advertisements in magazines that advertise Smith & Wesson—they could be very much subject to antitrust challenge," said James F. Rill, head of the Justice Department's antitrust division during the Bush administration.

Officials at Beretta and elsewhere point to anger at Smith & Wesson that is not orchestrated. Individual customers and gun dealers, these officials report, have sworn never to buy another Smith & Wesson gun because of what they call the company's capitulation to the anti-gun sentiments of the Clinton administration.

"There's a strong consumer backlash," said Robert Delfay, head of the National Shooting Sports Foundation, the largest firearms trade group. "That's not the industry and it's not antitrust."

To pressure the other gunmakers, the Clinton administration announced last week that 28 cities and counties will give preferences to firearms manufacturers that produce safer guns and endorse a code of conduct. The goal, said Spitzer, is to "squeeze manufacturers like a pincers."

"We want to stand with Smith & Wesson," Los Angeles City Attorney Jim Hahn said yesterday, noting that the city council there is considering a preference rule. "We want to deal with responsible manufacturers."

Something for Everyone to Criticize in Gun Bill

By DANIEL LEDUC
Washington Post Staff Writer

It began as a plan to require that only high-tech, personalized smart guns be sold in Maryland. But now, stripped of that proposal, Gov. Parris N. Glendening's gun control bill is being nibbled at the edges by both opponents and supporters as it faces a critical House committee vote today.

Some don't like the legislation because it includes mandatory sentences for gun violations. Others are critical of provisions they say could open juvenile criminal records now sealed by law. Still others say the proposal won't

do what Glendening (D) says it will: require built-in locks on all new handguns sold in Maryland beginning in 2003.

And the House vote was supposed to be the easy one.

The governor removed the personalized gun requirement from his proposal to win Senate approval, where the legislation was in jeopardy of being voted down.

House Speaker Casper R. Taylor Jr. (D-Allegany) asked the Senate to take up the legislation first, figuring that the House would approve whatever passed muster there. But now, even some gun control proponents want to

make changes to Glendening's bill. If they do, the legislation would go back to the Senate, where opponents would get another chance to filibuster or kill it as the General Assembly enters the final week of this year's session.

Del. Sharon Grosfeld (D-Montgomery), who serves on the House Judiciary Committee, which considers the bill today, will urge her colleagues not to amend the bill. "It will serve the greater good as it is drafted," she said. "Any amendments attempting to make the bill perfect would defeat the greater good."

GUN LOCKS. From B1

A major concern of some lawmakers on the committee is that the legislation requires a mandatory five-year sentence for possession of a firearm by someone who has previously been convicted of a violent crime or drug offense.

Several criminal defense lawyers on the committee, including Chairman Joseph F. Vallario Jr. (D-Prince George's), dislike mandatory sentences because they leave no room for judicial discretion.

Del. Kenneth C. Montague Jr. (D-Baltimore), who represents a district that is 60 percent African American, doesn't like mandatory sentences for another reason. "African Americans seem to always get the most severe penalties for offenses when compared to whites. Why should I add to that?" he said.

But Montague's deeper concern is a provision that would prevent anyone convicted of a violent crime as a juvenile from possessing a handgun until age 30. He questioned how authorities would know someone was a juvenile offender when those records are supposed to be sealed.

"If you only have one chance of passing a bill, you don't throw in a concept you don't know the ramifications of," said Montague, who otherwise favors gun control.

Glendening spokesman Michael Morrill said the records of most violent juvenile offenders targeted by the new restrictions already are open to inspection. Those include the records of youths charged as adults, as well as youths charged as adults whose cases are sent back to juvenile court. "This bill doesn't open any records that aren't open already," in the state's criminal jus-

tice computer system, Morrill said.

Del. Dana Dembrow (D-Montgomery) had more basic concerns: He said the language of the bill is so vague that a simple built-in, single-switch safety found on many handguns may be sufficient to meet the mandate.

Morrill said the language was intended to be broad so as not to exclude new types of locks that might be developed by 2003.

The administration has received an opinion from the state attorney general's office that the bill would mandate more sophisticated locks than the simple safeties found on today's firearms. But Dembrow remains dissatisfied.

Gun control opponents on the Judiciary Committee are looking for any change they can find for the bill, whether it would strengthen or weaken it, because the Senate would then have to vote again.

"I am going to vote for any amendment on that bill, good, bad or indifferent," said Del. Carmen Amedori (R-Carroll). "I want it to go back to the Senate because I think we'd have a shot at killing a bad, bad bill."

But at a news conference yesterday to denounce National Rifle Association television commercials opposing his proposal, Glendening said he was confident that the House would pass the Senate version of the legislation.

He also acknowledged that he had offered state money for projects in the districts of some wavering lawmakers to help gain their support. Glendening will soon offer a supplemental budget request filled with many of those projects. "I think it will be available right after the final vote on this bill," he said.

Gun Maker's Accord on Curbs Brings Pressure From Industry

Manufacturers' Actions Prompt Antitrust Inquiry

By FOX BUTTERFIELD and RAYMOND HERNANDEZ

Smith & Wesson, which recently agreed to restrictions on the way it makes and distributes handguns, has come under such fierce financial pressure from other firearms manufacturers and dealers opposed to the agreement that state officials have started antitrust investigations of the industry.

Federal, state and city officials are also trying to protect Smith & Wesson by persuading police agencies nationwide to buy its weapons.

The effort to help Smith & Wesson comes after the company agreed on March 17 to a wide array of restrictions. In exchange, many of the 30 lawsuits filed against it by cities and counties will be ended and the company will avert threatened suits by the States of New York and Connecticut and the federal Department of Housing and Urban Development.

Since then, one of the nation's largest gun wholesalers announced it would stop distributing Smith & Wesson handguns, many retail dealers have proclaimed they will not sell Smith & Wesson products and the National Rifle Association has denounced the company as a foreign-

owned business that has "run up the white flag of surrender" to the Clinton administration. Smith & Wesson, which experts say produces about one-fifth of the 2.5 million handguns sold nationwide each year, is based in Springfield, Mass., but is owned by Tomkins P.L.C. of London.

In addition, Ken Jorgensen, a spokesman for Smith & Wesson, said the Chicago law firm that had long jointly represented Smith & Wesson, Sturm Ruger & Company and the Colt's Manufacturing Company, three of the largest handgun makers, has said the firm will drop Smith & Wesson as a client.

And some shooting match organizers have told Smith & Wesson that the company is not welcome at their events.

The Chicago law firm that informed Smith & Wesson it would no longer represent the company is Wildman, Harrold, Allen & Dixon. Anne Kimball, a lawyer at the firm who has represented Smith & Wesson, did not return phone calls seeking comment.

Eliot Spitzer, the attorney general of New York who helped strike the deal with Smith & Wesson, said that officials were investigating whether there was a conspiracy against the gun maker.

"We are seeing behavior on the part of Smith & Wesson's competitors that raises the specter of illegal antitrust activity," Mr. Spitzer said in an interview today. "This is serious stuff."

Richard Blumenthal, the Connecticut attorney general who was also involved in the agreement and is helping coordinate the measures to protect the company, said, "Smith & Wesson is under absolutely unprecedented pressure, both financial and personal within the gun industry, with threats that are almost violent in nature, and I have heard the fear that it could be put out of business."

But Robert Delfay, president of the National Shooting Sports Foundation, the gun industry trade organization, said, "There is no conspiracy" against Smith & Wesson.

"I could not be more confident that these are just independent actions by businessmen," Mr. Delfay said.

The antitrust investigation is being conducted under state laws in New York, Connecticut and Maryland, with more states expected to join and subpoenas to be issued starting

Thursday, Mr. Blumenthal said.

Mr. Jorgensen, the Smith & Wesson spokesman, said it was too early to tell what the settlement's financial impact on the company would be. But, Mr. Jorgensen added, "we've been getting beat up pretty bad, and the whole idea seems to be a boycott of Smith & Wesson products."

Internet chat rooms devoted to guns have been filled with denunciations of Smith & Wesson, and Mr. Jorgensen said the company had been deluged with calls in opposition to its agreement. He said the company had also received some supportive calls.

The effort to get law-enforcement agencies to buy Smith & Wesson handguns could prove very helpful to the company, whose sales are primarily to civilians. Nationwide, police forces buy about 25 percent of the handguns sold each year. Only a very small part of the police handgun purchases are from Smith & Wesson.

But Mr. Blumenthal and other federal, state and city officials who met in Washington on Tuesday to try to find a way to help the company acknowledged there were difficult contractual and legal problems in getting police forces to make the change to Smith & Wesson.

Several cities and counties around the country, including Albany, Buffalo, Rochester, Atlanta, Detroit and Miami-Dade County, have recently agreed to buy only from Smith & Wesson. New York City, which buys Glock handguns for its police officers, has withheld a decision.

The effort to support Smith & Wesson is critical to regulating the firearms industry, government officials say, because the deal it struck splintered the powerful united front of gun makers and gun owners that has blocked tough gun laws for years. The company agreed to improve the safety of its handguns, for instance, by including trigger locks with all sales, and to allow its dealers to sell weapons at only those gun shows where all sales are subject to background checks on the buyer. It also requires, within three years, so-called smart-gun technology that will allow each of its new handguns to be fired only by authorized users.

Mr. Spitzer said that if Smith & Wesson was undermined financially, it would weaken the government's hand. "If one company signs on and is left out to dry," he said, "we can't credibly go to other companies and ask them to join this agreement."

The wholesaler that announced it would stop distributing Smith & Wesson guns is RSR Group Inc. of Winter Park, Fla., which called for Smith &

Wesson to reopen negotiations to "find a workable solution."

"Although RSR has been a leading distributor of Smith & Wesson products for more than 20 years we have come to the difficult conclusion that we cannot continue to do business with Smith & Wesson under the problematic terms of the current agreement," the company said.

Mr. Blumenthal said these were precisely the kind of actions that the investigation would examine to see whether "they are part of a concerted, illegal campaign to retaliate against Smith & Wesson, restraining trade and impeding the development of a safer product."

Andrew M. Cuomo, Secretary of Housing and Urban Development, who helped organize the meeting on Tuesday in Washington, said, "It seems like the industry is doing everything it can to make an example out of Smith & Wesson."

Almost overlooked in the dispute over what has happened to Smith & Wesson is the view of some gun control advocates, who said the settlement let the company off easy because it only accepted provisions it was already practicing.

Moreover, five cities and a county that did not take part in the agreement — Chicago, Cleveland, Cincinnati, New Orleans, Washington and Wayne County, Mich. — said they would continue with their lawsuits against Smith & Wesson as well as other gun makers.

John Komako, a lawyer for Cleveland, said he saw "no reason to sign onto the agreement" without seeing what documents Smith & Wesson would be forced to disclose in the discovery stage of the lawsuits. On March 14, just before Smith & Wesson reached its agreement, a United States District Court judge in Cleveland, Donald Nugent, rejected the gun companies' motion for summary dismissal and ordered that discovery in the case could proceed.

Lawyers advising the cities suing the gun industry have contended that if they could get into discovery of corporate documents they would find evidence that the firearms makers have long known how easily their guns are sold to criminals and juveniles, providing the kind of proof that led to expensive settlements by the tobacco companies.

Some of the cities are seeking to recover the cost of gun violence for extra hospital care and the hiring of additional police officers, while other cities say their main goal is to improve gun safety and change gun makers' marketing practices.

Castro and communism more than as returning a boy to his father, elected officials held a news conference to show solidarity not with the federal government but with the family here. Their message was that if federal officials want to take Elián away in what threatens to be a violent confrontation with demonstrators, they are on their own.

"It is not the responsibility of the Miami Police Department to snatch Elián González from his Miami family and be sent back to a Communist regime," said Joe Carollo, the mayor of Miami. "Local police should not be involved."

Mr. Penelas, of Miami-Dade County, said, "If their continued provocation, in the form of unjustified threats to revoke the boy's parole, leads to civil unrest and violence, we are holding the federal government responsible and, specifically, Janet Reno and the President of the United States."

Immigration experts said the mayors' comments were frightening, and amounted to what seemed to be defiance of a federal agency while presenting the possibility of a breakdown of law and order.

"This is very disturbing," said Max Castro, a senior research associate for the Dante B. Fascell North-South Center of the University of Miami, and an expert on Cuban issues.

"If federal officers backed by Janet Reno and federal court attempt to carry out a lawful order, the local authorities will not intervene?" asked Mr. Castro. "It borders on the irresponsible. It's a defiance of legal authority. It almost gives people more encouragement" to defy fed-

eral agents when they arrive here.

Immigration officials called the comments troubling.

President Clinton, speaking at a news conference, did not respond with strong language to the mayors' decision to side with the family, saying that "whatever the law is, whatever the decision that is ultimately made, the rest of us ought to obey it."

Mr. Penelas, after the mayors' comments had circulated on news wires and television, said he did not mean to say that the police here would not enforce the law if illegal demonstrations take place.

But immigration experts said the city's politicians were trying to have it both ways, and wondered what would happen if an illegal demonstration broke out at the house or elsewhere between federal officials and people who want to keep Elián here.

Mr. Penelas said the police would "keep public order."

But, he warned, that might not be possible.

"They are provoking this community to an extent that I nor anyone else can control," said Mr. Penelas, of the government's handling of the case. "If blood is shed on the streets," he said, "yes, I will hold them responsible."

In a day that brought many surprises in the Elián story, Mayor Carollo of Miami said he had information that federal officials were mobilizing in South Florida to take the boy home.

"For the last 48 hours the federal government has had federal agents in the area of the old Homestead Air Force Base," he said. "There were federal agents scouting and observing the area to see what would be the best way of bringing the father in and taking Elián out."

"They did not deny that this is being considered," he said of his discussions with federal officials. "I am strongly advising that this not be done. This is not going to be in the best interest of our government of Miami and against the best interests of Elián González."

The mayor said he had spoken with Jeffrey Weiss, director of the asylum division and international affairs for the immigration service.

A senior Pentagon official, speaking on condition of anonymity, said he knew of no plan by the Defense Department to provide a site for a reunion of Elián and his father.

In Miami, Cuban-Americans make up almost 800,000 of Miami-Dade County's 2.1 million people. As Elián's Miami relatives continued to negotiate with federal officials, leaders in the exile community practiced ways to prevent the boy's repatriation. Some drilled in the street, linking arms and marching to a cadence called by their leaders.

As darkness fell, demonstrators formed a human cross on Southwest Eighth Street, holding candles and flashlights aloft. The police blocked off traffic for them.

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