

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Owen Clements et al to John Coale and Ken Carter re: Key Points of [Gun] Industry Reformation (4 pages)	06/02/99	P5
002. report	[Gun Industry and Public Housing] (2 pages)	08/05/99	P5

COLLECTION:

Clinton Presidential records
 Domestic Policy Council
 Bruce Reed (Crime)
 OA/Box Number: 21552

FOLDER TITLE:

Guns-Public Housing

rs22

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]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



LOUISE H. RENNE
City Attorney

OWEN J. CLEMENTS
Chief of Special Litigation

DIRECT DIAL: (415) 554-3944
E-MAIL: OWEN_Clements@ci.sf.ca.us

June 11, 1999

*Bruce/Ton -
This is from a
law school friend
of mine.
E.*

Elena Kagan
Domestic Policy Council
Executive Offices of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: California Local Government Suits Against the Gun Industry

Dear Elena:

We're back. As you may have heard, San Francisco, joined by the counties of Alameda and San Mateo and the cities of Berkeley and Sacramento, and Los Angeles, joined by the cities of Compton and West Hollywood, filed two suits against the gun industry on May 25, 1999. The suits allege that the gun industry has engaged in unlawful, unfair and deceptive business practices and has created a public nuisance. We feel that these claims are very promising under California law. I have enclosed a copy of the San Francisco complaint for your information.

On June 3, San Francisco City Attorney Louise Renne and I meet with John Coale, Ken Carter and Hugh Rodham to discuss the municipal gun litigation. They mentioned that you and others in the Administration were involved on the legislative side of these issues. I therefore thought I would take this opportunity to write and offer whatever assistance we can provide. Please let us know if there are particular members of the California House delegation that you think San Francisco and its co-plaintiffs should be targeting on these issues.

During our meeting with Mr. Coale, we discussed recent press accounts concerning the list of 17 proposals that had been prepared for the purposes of negotiations with representatives of the gun industry. We expressed our concern that this list was too narrowly focused on product design issues and did not contain enough specific proposals relating to the industry's marketing and distribution practices. We provided a broader list with some suggested proposals to Mr. Coale. I have enclosed a copy of this list for your information.

We look forward to working with the Administration on these issues. Please let me know if we can provide any further information or assistance.

Very truly yours,

LOUISE H. RENNE
City Attorney

Owen
Owen J. Clements
Chief of Special Litigation

Enclosures

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Owen Clements et al to John Coale and Ken Carter re: Key Points of [Gun] Industry Reformation (4 pages)	06/02/99	P5

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Clinton Presidential records
Domestic Policy Council
Bruce Reed (Crime)
OA/Box Number: 21552

FOLDER TITLE:

Guns-Public Housing

rs22

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]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

1 LOUISE H. RENNE, State Bar #36508
San Francisco City Attorney
2 PATRICK J. MAHONEY, State Bar #46264
Chief Trial Attorney
3 OWEN J. CLEMENTS, State Bar #141805
Chief of Special Litigation
4 D. CAMERON BAKER, State Bar #154432
INGRID M. EVANS, State Bar #179094
5 Deputy City Attorneys
1390 Market Street, 6th Floor
6 San Francisco, California 94102-5408
Telephone: (415) 554-3800
7 Facsimile: (415) 554-3837

8 PATRICK J. COUGHLIN, State Bar #111070
MICHAEL J. DOWD, State Bar #121355
9 MILBERG WEISS BERSHAD HYNES &
LERACH
10 600 West Broadway, Suite 1800
San Diego, CA 92101

11 RICHARD M. HEIMANN, State Bar #063607
12 ROBERT J. NELSON, State Bar #132797
LIEFF, CABRASER, HEIMANN &
13 BERNSTEIN, LLP
275 Battery Street, 30th Floor
14 San Francisco, California 94111-3999

15 Of Counsel: DAVID KAIRYS, Esq.

16 FULL ADDRESSES AND ADDITIONAL
17 COUNSEL LISTED AFTER SIGNATURE PAGE

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 CITY AND COUNTY OF SAN FRANCISCO

20 THE PEOPLE OF THE STATE OF CALIFORNIA, by
and through San Francisco City Attorney Louise H.
21 Renne, Berkeley City Attorney Manuela Albuquerque,
Sacramento City Attorney Samuel L. Jackson, and San
22 Mateo County Counsel Thomas F. Casey, III; JOE
SERNA, JR., Mayor of Sacramento, the CITY OF
23 BERKELEY, and the COUNTY OF ALAMEDA, on
behalf of the general public,

24 Plaintiffs,

25 v.

26 ARCADIA MACHINE & TOOL, INC., BRYCO
27 ARMS, INC., DAVIS INDUSTRIES, INC., EXCEL
INDUSTRIES, INC., LORCIN ENGINEERING CO.,
28 INC., CHINA NORTH INDUSTRIES, PHOENIX
ARMS, SUNDANCE INDUSTRIES, INC., BERETTA

9:00 A.M.
FILED
OCT 29 1999
STATUS CONFERENCE DATE
ENDORSED
FILED
San Francisco County Superior Court
MAY 25 1999
ALAN CARLSON, Clerk
BY: JUN P. PANELO
Deputy Clerk

SAMUEL L. JACKSON, State Bar #79081
Sacramento City Attorney
Prosecuting on Behalf of the City of
Sacramento and JOE SERNA, JR.

MANUELA ALBUQUERQUE, S.B. #67464
Berkeley City Attorney

THOMAS F. CASEY, III, State Bar #47562
San Mateo County Counsel

RICHARD E. WINNIE, State Bar #68048
Alameda County Counsel

DENNIS A. HENIGAN
JONATHAN E. LOWY
BRIAN J. SIEBEL
Center to Prevent Handgun Violence

Case No.

303753

COMPLAINT FOR
MAINTAINING A
PUBLIC NUISANCE AND
FOR UNFAIR, UNLAWFUL
AND DECEPTIVE TRADE
PRACTICES IN
VIOLATION OF BUSINESS
AND PROFESSIONS CODE
§§ 17200 AND 17500

1 U.S.A. CORP., PIETRO BERETTA Sp. A.,
2 BROWNING ARMS CO., CARL WALTHER GmbH,
3 CHARTER ARMS, INC., COLT'S
4 MANUFACTURING CO., INC., FORJAS TAURUS,
5 S.A., TAURUS INTERNATIONAL
6 MANUFACTURING, INC., GLOCK, INC., GLOCK
7 GmbH, H&R 1871 INC., HECKLER & KOCH, INC.,
8 KEL-TEC CNC INDUSTRIES, INC., MKS SUPPLY
9 INC., NAVEGAR, INC., NORTH AMERICAN ARMS,
10 INC., SIGARMS, INC., SMITH AND WESSON
11 CORP., S.W. DANIELS, INC., STURM RUGER &
12 COMPANY, INC., AMERICAN SHOOTING SPORTS
13 COUNCIL, INC., NATIONAL SHOOTING SPORTS
14 FOUNDATION, INC., SPORTING ARMS AND
15 AMMUNITION MANUFACTURERS' INSTITUTE,
16 INC., B.L. JENNINGS, INC., ELLETT BROTHERS
17 INC., INTERNATIONAL ARMAMENT CORP., RSR
18 WHOLESALE GUNS, INC., SOUTHERN OHIO GUN
19 DISTRIBUTORS, TRADERS SPORTS, INC.,
20 and DOES 1-200,

21 Defendants.

22 The People of the State of California allege as follows:

23 NATURE OF THE ACTION

24 1. This action is brought on behalf of the People of the State of California against
25 major manufacturers and distributors of handguns, and their trade associations. These
26 Defendants knowingly and recklessly market, distribute, promote, design and sell handguns –
27 a dangerous product that is the primary tool used to commit violent crime -- in a manner that
28 facilitates the use of handguns in crime, that fails to incorporate reasonable safety features, that
deceives the public about the dangers of possessing a firearm, and that circumvents federal, state
and local laws. Defendants' conduct constitutes a pattern of unlawful, unfair and deceptive
business acts and practices, and has created a public nuisance. Defendants have unjustifiably
enriched themselves through these practices, and have shifted the burden of the true costs of
defendants' products to the victims of gun violence and to the taxpayers. The resulting levels of
shooting deaths and injuries in California and the entire nation exceed those in almost every
other area of the world, impose enormous economic costs, and unreasonably interfere with the
safety, health, well-being and quality of life of the People of the State of California.

1 2. As a result of the unlawful, unfair and/or deceptive business practices of
2 Defendants, thousands of California residents have died, suffered serious bodily injury, or been
3 exposed to increased criminal activity involving handguns. In 1997 alone, there were 1,835
4 homicides committed with a firearm in California. In addition, firearms caused over 25,000
5 other serious injuries in California that year. The vast majority of these deaths and injuries are
6 attributable to handguns. Considered in the aggregate, these statistics demonstrate the magnitude
7 of the problem caused by handguns. Moreover, behind each statistic lies a personal tragedy.
8 The details of just a few of these tragedies demonstrate the terrible toll that Defendants' practices
9 have inflicted on the victims of handgun violence and their families:

10 • On July 1, 1993, Gian Luigi Ferri, armed with two TEC-DC9 9-mm assault
11 weapons manufactured by defendant Navegar and a pistol manufactured by defendant
12 Norinco, conducted a murderous attack on the San Francisco law firm of Pettit & Martin
13 and other occupants of 101 California Street. After California enacted a law that
14 expressly banned Navegar's TEC-9 model, Navegar continued to manufacture the
15 identical model under the name "TEC-DC9." Navegar later claimed that the model
16 labeled "TEC-DC9" was not covered by California's assault weapons ban. Ferri, a
17 California resident, had illegally purchased the TEC-DC9 assault weapons in Nevada.
18 Ferri's shooting spree killed eight, wounded six, and forever changed the lives of
19 countless others, especially those who had lost a spouse and the young children who lost
20 a parent.

21 • On June 23, 1996, a teenage couple was gunned down while sitting on the grass
22 of Precita Park in San Francisco. The perpetrator of this random shooting was later
23 determined to be incompetent to stand trial, yet he had three handguns in his possession
24 at the time of the murders.

25 • In June of 1997, a 23-year-old man with an extensive criminal history used a
26 9-mm semi-automatic pistol manufactured by defendant Browning to kill his mother, his
27 ex-girlfriend and her four-month-old daughter in his mother's San Francisco home.
28

1 • In December 1998, an unknown robber shot a 29-year-old San Francisco janitor,
2 as the victim walked home from the grocery store with his family's Christmas turkey.
3 As a result of the shooting, the victim is now paralyzed and unable to support his four
4 children, two of whom are under the age of four.

5 • On February 9, 1999, a veteran Sacramento Police Officer was gunned down after
6 making a routine traffic stop. The suspect, who was wanted for a parole violation, had
7 previously been convicted of drug and weapons charges and was legally prohibited from
8 possessing a firearm. The suspect was nevertheless able to obtain a 9-mm semiautomatic
9 pistol, manufactured by defendant Glock, which he used to murder the Officer.

10 • Two recent incidents in Sacramento demonstrate the ease with which youths can
11 gain unauthorized possession of firearms, and the tragic consequences that often result.
12 On February 21, 1999, a group of youths affiliated with a gang committed two separate
13 drive-by shootings, killing one man and wounding two teenagers. The victims were
14 apparently shot simply because they were in the wrong place at the wrong time, wearing
15 the wrong colors. The suspects had obtained their weapons, a 9-mm semiautomatic pistol
16 and a .38 caliber handgun, from one of the youth's home. In the second incident, a
17 woman was critically wounded while standing in the front hallway of her home on March
18 17, 1999. The victim was helping her two young grandchildren put on their coats, when
19 nine rounds of semiautomatic fire ripped through her front door. The suspects were on
20 parole from the California Youth Authority at the time of the shooting, and were
21 prohibited from possessing firearms.

22 • On October 23, 1998, a San Francisco teenager was accidentally shot by his best
23 friend, an eighteen-year-old male, with a Jennings .25 caliber pistol. The two boys were
24 sitting in a car when the victim pulled out a gun to show it to his friend. The eighteen-
25 year-old thought that the pistol was a toy gun. When the eighteen-year-old grabbed the
26 gun, he accidentally hit the trigger. The gun fired and the bullet struck the victim in the
27 right side of his chest, seriously injuring him.
28

1 ii. Defendant Bryco Arms, Inc. ("Bryco") is a corporation organized and
2 existing under the laws of the State of Nevada with its principal place of business in
3 California.

4 iii. Defendant Davis Industries, Inc. ("Davis") is a corporation organized and
5 existing under the laws of the State of California with its principal place of business in
6 California.

7 iv. Defendant Excel Industries Inc., (AKA "Accu-tek") is a corporation
8 organized and existing under the laws of the State of California with its principal place of
9 business in California.

10 v. Defendant Lorcin Engineering Co., Inc. ("Lorcin") is a corporation
11 organized and existing under the laws of the State of California with its principal place of
12 business in California.

13 vi. Defendant China North Industries (AKA "Norinco") is a corporation
14 organized and existing under the laws of the State of California with its principal place of
15 business in California.

16 vii. Defendant Phoenix Arms ("Phoenix") is a corporation organized and
17 existing under the laws of the State of California with its principal place of business in
18 California.

19 viii. Defendant Sundance Industries, Inc. ("Sundance") is a corporation
20 organized and existing under the laws of the State of California with its principal place of
21 business in California.

22 ix. Defendant Beretta U.S.A. Corp. ("Beretta U.S.A.") is a corporation
23 organized and existing under the laws of the State of Maryland with its principal place of
24 business in Maryland. Beretta U.S.A. is qualified to do business in California. Beretta
25 U.S.A. imports and distributes firearms manufactured by defendant Pietro Beretta Sp. A.

26 x. Defendant Pietro Beretta Sp. A. ("Pietro Beretta") is a corporation
27 organized and existing under the laws of Italy with its principal place of business in Italy.
28

1 xi. Defendant Browning Arms Co. ("Browning") is a corporation organized
2 and existing under the laws of the State of Utah with its principal place of business in
3 Utah.

4 xii. Defendant Carl Walther GmbH ("Carl Walther") is a corporation
5 organized and existing under the laws of the Federal Republic of Germany with its
6 principal place of business in the Federal Republic of Germany.

7 xiii. Defendant Charter Arms, Inc. ("Charter Arms") is a corporation organized
8 and existing under the laws of the State of Connecticut, with its principal place of
9 business in New Jersey.

10 xiv. Defendant Colt's Manufacturing Company, Inc. ("Colt") is a corporation
11 organized and existing under the laws of the State of Delaware with its principal place of
12 business in Connecticut.

13 xv. Defendant Forjas Taurus, S.A. ("Forjas Taurus") is a corporation
14 organized and existing under the laws of Brazil with its principal place of business in
15 Brazil.

16 xvi. Defendant Taurus International Manufacturing, Inc. ("Taurus") is a
17 corporation organized and existing under the laws of the State of Florida with its
18 principal place of business in Florida. Taurus manufactures firearms in Florida and
19 imports firearms manufactured by defendant Forjas Taurus.

20 xvii. Defendant Glock, Inc. ("Glock") is a corporation organized and existing
21 under the laws of the State of Georgia with its principal place of business in Georgia, and
22 is qualified to do business in California. Glock Inc. imports and distributes firearms
23 manufactured by defendant Glock GmbH.

24 xviii. Defendant Glock GmbH ("Glock GmbH") is a corporation organized and
25 existing under the laws of Austria with its principal place of business in Austria.

26 xix. Defendant H&R 1871, Inc. ("H&R") is a corporation organized and
27 existing under the laws of the State of Massachusetts with its principal place of business
28 in Massachusetts.

1 xx. Defendant Heckler & Koch, Inc. ("Heckler & Koch") is a corporation
2 organized and existing under the laws of the State of Virginia with its principal place of
3 business in Virginia. Heckler & Koch is the United States subsidiary of Heckler & Koch,
4 GmbH, a corporation organized in the Federal Republic of Germany...

5 xxi. Defendant Kel-Tec CNC Industries, Inc. ("Kel-Tec") is a corporation
6 organized and existing under the laws of the State of Florida with its principal place of
7 business in Florida.

8 xxii. Defendant MKS Supply Inc. d/b/a Hi-Point Firearms ("Hi-Point") is a
9 corporation organized and existing under the laws of the State of Ohio, with its principal
10 place of business in Ohio.

11 xxiii. Defendant Navegar, Inc. d/b/a Intratec U.S.A., Inc. ("Navegar") is a
12 corporation organized and existing under the laws of the State of Florida with its
13 principal place of business in Florida.

14 xxiv. Defendant North American Arms, Inc. is a corporation organized and
15 existing under the laws of the State of Utah with its principal place of business in Utah.

16 xxv. Defendant Sigarms, Inc. ("Sigarms") is a corporation organized in the
17 State of New Hampshire, with its principal place of business in New Hampshire.

18 xxvi. Defendant Smith & Wesson Corp. ("Smith & Wesson") is a corporation
19 organized and existing under the laws of the State of Delaware with its principal place of
20 business in Massachusetts, and is qualified to do business in California.

21 xxvii. Defendant S.W. Daniels, Inc. (AKA Cobray Firearms, Inc.) is a
22 corporation organized and existing under the laws of Georgia with its principal place of
23 business in Georgia.

24 xxviii. Defendant Sturm, Ruger & Company, Inc. ("Sturm Ruger") is a
25 corporation organized and existing under the laws of the State of Delaware with its
26 principal place of business in Connecticut.

27 8. At all times relevant herein, DOES 1-100, inclusive, were business entities, the
28 status of which are currently unknown. DOES 1-100 designed and/or manufactured firearms that

1 are or were distributed, marketed, and/or sold within the jurisdictional limits of California
2 (hereinafter referred to as among the "Defendant Manufacturers").

3 9. The following Defendants are industry trade associations (hereinafter referred to
4 as the "Defendant Trade Associations") that are composed of firearm manufacturers, distributors,
5 and sellers, including some or all of the Defendant Manufacturers:

6 i. Defendant American Shooting Sports Council, Inc. ("ASSC") is a tax
7 exempt business league under section 501(c)(6) of the Internal Revenue Code organized
8 and existing under the laws of the State of Georgia with its principal office in Georgia.

9 ii. Defendant National Shooting Sports Foundation, Inc. ("NSSF") is a tax
10 exempt business league under section 501(c)(6) of the Internal Revenue Code organized
11 and existing under the laws of the State of Connecticut with its principal office in
12 Connecticut.

13 iii. Defendant Sporting Arms and Ammunition Manufacturers' Institute, Inc.
14 ("SAAMI") is a tax exempt business league under section 501(c)(6) of the Internal
15 Revenue Code organized and existing under the laws of the State of Connecticut with its
16 principal office in Connecticut.

17 10. At all times relevant herein, DOES 101-125, inclusive, were business entities, the
18 status of which are currently unknown. DOES 101-125 are industry trade associations
19 (hereinafter referred to as among the "Defendant Trade Associations"), which are composed of
20 firearm manufacturers, distributors, and/or sellers, including some or all of the Defendant
21 Manufacturers.

22 11. The following Defendants, and each of them, import, distribute and/or market
23 firearms that are or were found within the jurisdictional limits of California, and/or make retail
24 sales of firearms in California (hereinafter referred to as the "Defendant Distributors"):

25 i. Defendant B.L. Jennings, Inc. is a corporation organized and existing
26 under the laws of the State of Nevada with its principal place of business in Nevada.

27 B.L. Jennings, Inc. distributes guns made by Defendant Bryco in California.
28

1 ii. Defendant Ellett Brothers, Inc. is a corporation organized and existing
2 under the laws of the State of South Carolina with its principal place of business in South
3 Carolina. Ellett Brothers telemarkets firearms nationwide, including in California.

4 iii. Defendant International Armament Corp. d/b/a Interarms Industries, Inc.
5 ("Interarms") is a corporation organized and existing under the laws of the State of
6 Delaware with its principal place of business in Virginia. Interarms imports and/or
7 distributes firearms made by several different manufacturers, including defendant Carl
8 Walther GmbH. Interarms distributes its products to at least 46 California dealers.

9 iv. Defendant RSR Wholesale Guns, Inc. is a corporation organized and
10 existing under the laws of the State of New York with its principal place of business in
11 New York. Based on information and belief, RSR Wholesale Guns, Inc. distributes
12 firearms in California, including guns manufactured by defendant Taurus International
13 Manufacturing, Inc.

14 v. Defendant Southern Ohio Gun Distributors is a corporation organized and
15 existing under the laws of the State of Ohio with its principal place of business in Ohio.
16 Based on information and belief, Southern Ohio Gun Distributors distributes firearms in
17 California.

18 vi. Defendant Traders Sports, Inc. ("Traders") is a corporation organized and
19 existing under the laws of the State of California with its principal place of business in
20 San Leandro, California. Traders distributes firearms in California and is one of the
21 largest retailers of firearms in Northern California.

22 12. At all times relevant herein, DOES 125-200, inclusive, were business entities, the
23 status of which are currently unknown. DOES 125-200 distribute, market and/or sell firearms
24 that are or were found within California (hereinafter referred to as among the "Defendant
25 Distributors").

26 13. Plaintiff is ignorant of the true names and capacities of Defendants referred to as
27 DOES 1-200. Plaintiff alleges that each of the fictitiously named Defendants is responsible in
28 some manner for the violations herein alleged. Plaintiff will seek leave to amend this complaint

1 to allege such names and capacities as soon as they are ascertained. All of the above-named
2 Defendants, DOES 1-200, and the agents and/or employees of those Defendants, were
3 responsible in some manner for the obligations, liabilities and violations herein mentioned,
4 which were legally caused by the aforementioned Defendants and DOES 1-200.

5 JURISDICTION AND VENUE

6 14. Defendants, and each of them, are subject to the jurisdiction of the Courts of the
7 State of California by virtue of their business dealings and transactions in California, by causing
8 an injurious effect in California through their acts or omissions, and/or by their violation of
9 California Business and Professions Code Sections §17200 and §17500.

10 15. Venue is proper in this court because the violations and the resulting injuries out
11 of which the causes of action arise occurred in part within the City and County of San Francisco.

12 GENERAL ALLEGATIONS

13 I. THE NUMBER AND SEVERITY OF FIREARM-RELATED CRIMES ARE A 14 NATIONAL PROBLEM

15 16. The widespread availability and misuse of firearms by minors, convicted
16 criminals, and other unauthorized users is one of the most serious problems facing this nation. In
17 1996, the most recent year for which final statistics are available, more than 34,000 people were
18 killed with firearms. Of these, more than 14,300 were homicides and about 18,100 were
19 suicides, with more than 1,100 deaths from unintentional shootings. In addition, based on 1992
20 data, approximately 99,000 individuals are treated annually in hospital emergency rooms for
21 non-fatal firearm injuries, with about one-fifth of these for accidental shootings. Handguns
22 cause most of these injuries and deaths. By comparison, in other industrialized nations, no more
23 than a few hundred people are killed each year by handguns.

24 17. Statewide statistics for California reveal similar patterns of firearm violence. In
25 1997 alone, there were 1,835 homicides committed with a firearm, generally a handgun. In
26 1997, firearms were the predominant means of committing homicide, constituting 72.3% of total
27 homicides. Handguns alone represented over 64% of the total homicides and 89% of firearm
28 homicides. The figures for California in each year during the five-year period 1992 through

1 1997 are similar: For each year, firearms were used in over 70% of the total homicides and
2 handguns were used in over 62% of the total homicides. In addition, firearms are a leading cause
3 of serious injuries. In 1997, there were over 25,000 incidents in California in which a victim
4 suffered serious injuries from a firearm.

5 18. These deaths and injuries are devastating for the individuals involved, for their
6 families and communities, and for the State of California. Moreover, the pervasive threat of gun
7 violence affects the tenor and quality of everyday life, even for those who are not direct victims.

8 19. A substantial percentage of the firearms used to inflict harm and injury on
9 California residents are obtained through an illegitimate secondary market, that caters to buyers
10 who include convicted criminals, minors, gang members and others precluded from lawfully
11 purchasing Defendants' firearms (hereinafter, the "secondary market"). This secondary market is
12 created and promoted by the conduct of Defendants. The existence of the secondary market, and
13 the fact that the secondary market is fed by Defendants' acts and practices, is a matter of common
14 knowledge to Defendants, as is demonstrated by the following sworn statement of Robert Haas,
15 the former Senior Vice-President of Marketing and Sales for Defendant Smith & Wesson:

16 The company [Smith & Wesson] and the industry as a whole are fully
17 aware of the extent of the criminal misuse of handguns. The company and
18 the industry are also aware that the black market in handguns is not simply
19 the result of stolen guns but is due to the seepage of guns into the illicit
20 market from multiple thousands of unsupervised federal handgun
21 licensees. In spite of their knowledge, however, the industry's position
22 has consistently been to take no independent action to insure responsible
23 distribution practices, to maintain that the present minimal federal
24 regulation of federal handgun licensees is adequate and to call for greater
25 criminal enforcement of those who commit crimes with guns as the
26 solution to the firearm crime problem. . . . I am familiar with the
27 distribution and marketing practices of the [sic] all of the principal U.S.
28 handgun manufacturers and wholesale distributors and none of them, to
my knowledge, take additional steps, beyond determining the possession
of a federal handgun license, to investigate, screen or supervise the
wholesale distributors and retail outlets that sell their products to insure
that their products are distributed responsibly.

25 20. National surveys demonstrate that minors and convicted criminals have easy
26 access to firearms through the secondary market. For example, a recent survey showed that
27 approximately 29% of 10th grade boys and 23% of 7th grade boys have at one time carried a
28 concealed handgun. Another survey showed that 70% of all prisoners felt that they could easily

1 obtain a firearm upon their release. Similarly, a recent study of 27 major urban centers by the
2 federal Bureau of Alcohol, Tobacco and Firearms ("ATF"), which analyzed more than 75,000
3 firearm trace requests, reported that more than 1.1% of firearms picked up in crime in major
4 urban centers throughout the United States were possessed by juveniles under age 18. The same
5 ATF study indicated that another 15% of crime guns were seized from persons 18-20 years old,
6 more than from any other three-year age group, adult or minor.

7 21. Despite these statistics, Defendants have not taken reasonable steps to keep
8 handguns out of the hands of minors. To the contrary, Defendants market their products in an
9 effort to appeal to minors. For example, one of the gun industry's leading trade associations,
10 Defendant National Shooting Sports Foundation Inc. (NSSF), announced in 1992 a "new focus
11 on women and youngsters." NSSF started a "Youth Education Program" in a search for new
12 customers and expansion of the gun market. The September/October 1992 issue of NSSF's
13 magazine S.H.O.T. Business carried a column by a noted celebrity in the industry, Grits
14 Gresham, in which he said:

15 There's a way to help insure that new faces and pocketbooks will continue
16 to patronize your business: Use the schools [I]t's time to make your
pitch for young minds, as well as for the adult ones.

17 22. ATF has also reported that more than 45% of the crime weapons that it traces
18 were illegally possessed by convicted criminals, and that more than 80% of the guns picked up in
19 crime are handguns. Large percentages of these handguns were used in assaults, robberies,
20 homicides, and other violent crimes. ATF tracing data also indicates that as many as 43% of
21 firearms traced to crime in urban centers across America had been bought from retail dealers less
22 than three years earlier, which is a strong indication that the firearm has been directly diverted
23 into the secondary market.

24 **II. DEFENDANTS' CONDUCT HAS CREATED AN ILLEGITIMATE SECONDARY 25 MARKET OF HANDGUNS TO UNAUTHORIZED USERS**

26 23. Defendants' marketing and distribution policies and practices facilitate, promote
27 and yield high volume sales, widespread availability and easy access to firearms, without any
28 meaningful attention to or concern for the foreseeable consequences.

1 24. Defendants know and have known for years that a substantial percentage of the
2 firearms they manufacture, distribute, market and sell are purchased by unauthorized persons,
3 including minors and convicted criminals. Many of the guns illegally sold in this secondary
4 market are subsequently used in the commission of crime. Defendants knew or should have
5 known that their conduct would facilitate and/or encourage their firearms to fall into the
6 secondary market and to be used by unauthorized persons. Defendants' business practices that
7 create and promote the secondary market include but are not limited to the following:

8 **A. Oversaturation of the Legitimate Market**

9 25. Defendants produce, market and distribute substantially more handguns than they
10 reasonably expect to sell to legal purchasers. There are about 65 million handguns in the United
11 States, and about 2.5 million more are added each year. This sales volume is well in excess of
12 the sales volume that can be supported by the legitimate market. A substantial percentage of
13 these sales is diverted to the secondary market. By their actions, defendants thus knowingly
14 participate in and facilitate the secondary market for handguns.

15 **B. Oversaturation of Weak Gun Control Jurisdictions**

16 26. Firearms move from jurisdictions with relatively weak gun control laws to
17 jurisdictions with stronger gun control laws. Defendants are aware of and profit from this illegal
18 trafficking movement, yet do nothing to control or monitor sales in weak gun control
19 jurisdictions to curb illegal trafficking of guns from those jurisdictions into more heavily
20 regulated jurisdictions. To the contrary, Defendants eagerly sell as many guns as are necessary
21 to feed the secondary market in weak gun control jurisdictions. As an example of this problem,
22 Arizona and Nevada both border California and have weaker gun control laws than this State.
23 According to ATF statistics, approximately 30% of the firearms traced in Southern California
24 were originally sold at retail locations outside of California, principally Nevada and Arizona.
25 Although this migration of firearms across state lines contravenes federal law as well as reduces
26 the efficacy of California and local law, Defendants continue to facilitate and encourage this
27 migration by oversupplying those jurisdictions with weak gun control laws.

1 **C. Distributing Handguns Without Exercising Adequate Control**

2 27. Defendants' unrestrained distribution practices maximize their sales without any
3 checks or precautions, and without placing effective controls on their distributors or dealers,
4 which include disreputable gun shops, pawnshops, gun shows, and telemarketers. Although
5 Defendants' distribution practices increase sales volumes and profits, they minimize contacts
6 between defendants and their distributors and/or dealers, and prevent any meaningful monitoring
7 of compliance with federal, state and local laws.

8 28. Defendants do not monitor or supervise their distributors or dealers, except in
9 ways that are aimed at maximizing profits. Some defendants have distribution agreements that
10 provide for the right of termination, and occasionally they have terminated or warned distributors
11 or dealers. However, engaging in a dangerous sales practice -- such as one that would make
12 guns easily available for potential criminal use -- has not been the basis for termination and is not
13 prohibited by the terms of defendants' distributorship agreements. The reasons contemplated for
14 termination are generally limited to the following: not maintaining minimum prices, advertising
15 the price that the distributor pays to the manufacturer, or selling into the wrong market (some
16 distributors are forbidden to sell to law enforcement or to make foreign sales). There is no
17 mention of termination for selling to or facilitating the secondary market.

18 29. Defendants distribute their firearms without requiring that their dealers be trained
19 or instructed: (a) to detect inappropriate purchasers; (b) to educate purchasers about the safe and
20 proper use and storage of handguns, or to require any training or instruction of the purchasers; or
21 (c) to inquire or investigate the purchasers' level of knowledge or skill or purposes for buying
22 handguns. Defendant Manufacturers do not provide their distributors and dealers with any
23 feedback, require their distributors to monitor or supervise their dealers, or train their distributors
24 and dealers regarding the dangers and practices alleged herein.

25 30. Defendants purposely avoid any connection to or vertical integration with the
26 distributors and dealers that sell their products. They offer high volume monetary incentives and
27 generally refuse to accept returns, and they contractually attempt to shift all liability and
28 responsibility for the harm done by their products to their distributors or dealers.

1 31. Defendants do not use available computerized inventory and sales tracking
2 systems to limit and screen customers. Such systems are commonly and inexpensively used
3 throughout American industry, particularly by companies that produce dangerous or harmful
4 products.

5 32. Other manufacturers of dangerous or harmful products, including manufacturers
6 of chemicals and paints, place restrictions and limits on the distribution, distributors, and dealers
7 of their products to avoid known detrimental consequences. In sharp contrast, defendants have
8 completely failed and refused to adopt any such limits or to engage in even minimal monitoring
9 or supervision of their distributors and dealers.

10 **D. Facilitating Straw Purchases and Multiple Sales**

11 33. Defendants do not limit, or require or encourage their distributors and dealers to
12 limit, the number, purpose or frequency of handgun purchases, nor do they monitor or supervise
13 their distributors or dealers to encourage practices or policies that limit access to handguns for
14 criminal purposes. As a direct, foreseeable and known result of defendants' conduct, a large
15 number of handguns are regularly diverted into the secondary market through "straw purchases."

16 34. A "straw purchase" occurs where the purchaser of the firearm as reflected in the
17 governmental application forms is a "dummy" purchaser for someone else, most often a person
18 who is not qualified to purchase the firearm under the applicable federal, state and local laws.
19 In some situations, the real purchaser will be present during the sale of the firearm. He or she
20 may select the firearm, handle it and even provide the cash for the purchase. In other situations,
21 for example in a straw purchase for a gang, the straw purchaser will purchase a number of
22 firearms within a short period of time. In this situation, a straw purchaser may engage in
23 repeated multiple firearm purchases.

24 35. Straw purchases account for a substantial percentage of firearms diverted into the
25 secondary market. According to a recent study, more than one-half of the firearms subject to
26 firearm trafficking investigations were initially acquired as part of a straw purchase. Another
27 study, this one involving firearms seized by law enforcement officials in Southern California,
28

1 revealed that more than 80% of the guns retrieved by law enforcement were in the possession of
2 a person other than the original purchaser.

3 36. Similarly, the level of multiple sales is quite large. One recent law enforcement
4 study of Southern California analyzed 5,743 instances of multiple sales over a nine-month period
5 involving the purchase of 13,181 firearms. A significant percentage of these transactions
6 involved the purchase of three or more guns at a time. The report concluded that "[m]ultiple
7 purchases seem relatively common in California, where there has been no set limit to the number
8 of guns that a private person can purchase." More recent data indicates that as many as 22% of
9 all guns purchased in California in 1998 were part of multiple sales.

10 37. Although straw purchases often occur under circumstances that indicate or should
11 indicate that a straw purchase is being made, Defendants take no steps to prevent these straw
12 purchases from occurring or to limit the number of straw purchases that occur. For example,
13 Defendants offer no training or guidance to enable the store clerk to recognize when a straw
14 purchase is occurring. Similarly, Defendants undertake no remedial actions to prevent a known
15 straw purchaser from continuing to make purchases. Defendant Manufacturers also fail to
16 adequately supervise and monitor both their distributors and dealers with respect to straw
17 purchases. Additionally, they do not investigate their distributors and dealers or review their
18 records to determine whether straw purchases are occurring or the extent to which they are.
19 Finally, Defendant Manufacturers fail to impose any sanctions, including possible termination of
20 the relationship, upon their distributors or dealers upon learning that a straw purchase or a series
21 of straw purchases has occurred.

22 **E. Allowing Sales to "Kitchen Table" Dealers**

23 38. "Kitchen table" dealers are firearm dealers who do not sell firearms from an
24 established retail store but rather sell firearms in informal settings, including but not limited to a
25 house, car, flea market, gun show, or even on the street. Many of these kitchen table dealers
26 operate illegally, in violation of state and local licensing and zoning laws. Many of these dealers
27 also engage in other corrupt practices, including but not limited to selling firearms without
28 completing the appropriate and necessary background checks on the purchaser, failing to report

1 sales, failing to keep records of sales, falsifying records of sales, obliterating serial numbers on
2 firearms, and/or falsely claiming that sold guns were stolen.

3 39. Defendants know or should know about the practices of kitchen table dealers set
4 forth herein. Defendants have nevertheless sold thousands of guns to kitchen table dealers,
5 without taking appropriate steps to reduce improper resale by such dealers. Such steps include
6 but are not limited to supervising and monitoring such dealers, tracking crime gun trace requests
7 relating to such dealers, reviewing dealer records for inaccuracies and falsified information,
8 requiring distributors to resell guns only to dealers with a permanent store location, and requiring
9 all dealers to maintain a permanent store location.

10 **F. Designing Weapons Without Features to Discourage Unauthorized Use**

11 40. Firearms trafficking depends upon the ability of unauthorized users to fire
12 weapons obtained from traffickers. Use of designs and features that preclude this ability, such as
13 designs and features that prevent unauthorized use or facilitate tracking of firearms, would
14 discourage trafficking and reduce the flow of weapons to the illegal market. Notwithstanding the
15 availability and feasibility of such designs and features, Defendants have continued to
16 manufacture, distribute and sell firearms that do not include a design or feature preventing
17 unauthorized use.

18 41. Thousands of handguns diverted to crime have had their serial numbers
19 obliterated to prevent tracing of the firearm by law enforcement. Such guns are more useful to
20 criminals who seek to eliminate the tracks of their crime. Defendants are aware of this problem,
21 and the ease with which numbers are obliterated, but have taken no initiative to make their serial
22 numbers tamper-proof. A recent ATF study of 27 major urban centers found, on average, that
23 more than 11% of the guns traced to crime had obliterated serial numbers.

24
25 **III. DEFENDANTS HAVE DESIGNED THEIR GUNS TO APPEAL TO CRIMINALS
26 AND HAVE INCREASED PRODUCTION TO MEET ILLEGAL DEMAND**

27 42. Over the last 20 years, Defendants have changed certain design features and the
28 production output of handguns. Previously, most handguns produced were revolvers, with six

1 bullets stored in a rotating cylinder that could not be reloaded quickly. Now most handguns are
2 semi-automatic pistols with bullets stored in magazines. These pistols fire at a faster rate, and
3 their magazines typically can be detached and replaced very quickly, allowing for sustained
4 firing against multiple targets.

5 43. Many of the pistols produced by Defendants (and many of the recent revolvers)
6 are increasingly smaller, easier to conceal, more powerful, and rapid-firing. Hence, these
7 weapons are ever more lethal. Many are also considerably cheaper than in the past.

8 44. The production of cheap handguns was especially prevalent among Defendants
9 Lorcin, Bryco, Davis, and Phoenix. This group of California manufacturers is owned by
10 members of an extended family, and has been dubbed by a well-known researcher as the "Ring
11 of Fire." The older, established companies, like Defendants Smith & Wesson, Sturm, Ruger &
12 Co., and Colt, have followed the lead of the "Ring of Fire" companies, producing similar
13 handguns (while also making more expensive models).

14 45. Defendants have increased the production of particular handguns that are popular
15 for use by criminals. For example, over the past decade, defendants increased their production of
16 9-millimeter handguns although their own market research showed that the market for
17 9-millimeters among law-abiding purchasers was already saturated. Nine-millimeter handguns
18 are popular in the illicit drug trade and, according to most national studies, are among the
19 firearms used most frequently in crime. A recent study in one state concluded that 9 millimeter
20 handguns are the weapons of choice for criminals, accounting for almost a third of all homicides.

21 46. Defendants know or should know that they manufacture and market weapons, the
22 design of which stresses concealability, lethality, or other design features, which make these
23 weapons unreasonably attractive to criminals. Defendants' emphasis on concealability is
24 particularly problematic in California, because state law bans possession of a concealed weapon
25 without a concealed carry permit. Very few such permits have been issued.

1 **IV. DEFENDANTS' CONDUCT IS CALCULATED TO AVOID THE**
2 **RESTRICTIONS OF LOCAL, STATE AND FEDERAL LAWS**

3 47. Federal, state and local firearm laws have been enacted in an effort to curb the
4 abuses of gun violence and to protect the general public's health and safety. Despite the fact that
5 governments have enacted laws to lessen the incidences of gun violence, Defendants have
6 manufactured, designed, distributed, marketed and sold firearms in ways that undermine and
7 frustrate the public policies embodied in federal, state and local law. The conduct and practices
8 of Defendants as set forth herein have permitted and/or are calculated to allow Defendants to
9 avoid the restrictions and/or prohibitions set forth in local, state and federal laws and regulations
10 including, but not limited to: Title 18, United States Code Sections 921 - 930 *et seq.* (Chapter
11 44 - Firearms); California Penal Code Sections 12020-12040 *et seq.* (Chap. 1, Article 2 -
12 Unlawful Carrying and Possession of Weapons); 12050 - 12054 *et seq.* (Chap. 1, Article 3-
13 Licenses to Carry Pistols and Revolvers); 12070 - 12085 *et seq.* (Chap. 1, Article 4 - Licenses to
14 Sell Firearms); 12200 -12250 *et seq.* (Chap. 2 - Machine Guns); 12270 -12290 *et seq.* (Roberti-
15 Roos Assault Weapons Control Act of 1989); 12100 *et seq.* (Chap.1, Article 7 - Juveniles - Sale
16 or Transfer of Concealable Firearm to Minor); 12500 -12520 *et seq.* (Chap. 5, Articles 1 and 2 -
17 Unlawful Possession of Firearm Silencers/Misc.); 12800 - 12809 *et seq.* (Chap. 6, Article 8 -
18 Basic Firearms Safety Instruction and Certificate); Alameda County Code section 9.12.010-090
19 (Regulating the Sale of Firearms); San Francisco Police Code sections 610, 613, 614, and 615 *et*
20 *seq.* (same); Sacramento City Code sections 28.05.501 (same) and San Mateo County Ordinance
21 Code, Chapter 3.52 *et seq.* (same).

22 48. For example, the California Roberti-Roos Assault Weapons Control Act of 1989,
23 California Penal Code sections 12275 -12290, and the United States 1968 Gun Control Act,
24 18 U.S.C. § 925 *et seq.*, ban the importation, manufacture and sale of "assault weapons." As the
25 California legislature found and declared, this ban is based on the conclusion that such assault
26 weapons "are particularly dangerous in the hands of criminals and serve no necessary hunting or
27 sporting purpose for honest citizens." The ban enacted by the California legislature explicitly
28 applies to both listed weapons and "any other models which are only variations of those weapons
with minor differences, regardless of manufacturer."

1 49. Despite this statute, certain Defendants have marketed and sold in California
2 firearms substantially similar to or identical to the firearms banned by the statutes. In fact,
3 certain Defendants have made only minor modifications to the banned assault weapons or
4 renamed the assault weapons enumerated in the above-referenced statutes in order to avoid these
5 laws.

6 50. For example, after the California legislature banned the TEC-9 firearm, defendant
7 Navegar continued to distribute and sell the identical firearm in California under the name "TEC-
8 DC9." Navegar later distributed and sold a firearm under the name "TEC-DC9" that was the
9 same design as the banned TEC-9, with only cosmetic modifications. Navegar's TEC-DC9 is a
10 semiautomatic assault weapon that can accept a 32-round detachable magazine, and can be
11 modified to be fully automatic. It has attachments that facilitate spraying bullets from the hip.
12 The TEC-DC9 also has a coating that provides, according to the manufacturer's brochure,
13 "excellent resistance to fingerprints." These features serve no legitimate sporting, hunting or
14 self-defense purpose and are designed to appeal to criminals.

15 51. At all relevant times, defendant Navegar has been on notice of the lethal
16 consequences of its practices. Navegar's assault weapons have frequently been used in multiple
17 homicides, including the 101 California Street massacre and the recent high school shootings in
18 Littleton, Colorado. Defendant Navegar's marketing and sales director has been quoted as
19 saying, "I'm kind of flattered [by condemnations of the TEC-9]. It just has that advertising
20 tingle to it. Hey, it's talked about, it's read about, the media write about it. That generates more
21 sales for me. It might sound cold and cruel, but I'm sales oriented." Larry Rohter, Pistol Packs
22 Glamour and Reputation as a Menace, New York Times, March 10, 1992, at A1.

23 52. Despite the ban in Penal Code section 12020.5 against the advertisement of
24 certain firearms, including but not limited to assault weapons, certain Defendants have advertised
25 and continue to advertise such firearms to consumers within the State of California.

26 53. Additionally, numerous local ordinances prohibit the sale of "junk guns" or
27 "Saturday Night Specials," including but not limited to San Francisco Police Code sections 610,
28 613, 614, 615, *et seq.*, Alameda County Code section 9.12.110, and Sacramento City Code

1 section 48.02.103. The "Saturday Night Special" ("SNS") ordinances enacted in jurisdictions
2 throughout California were designed to protect the public from poorly made, easily concealable
3 guns. These firearms have been and continue to be used frequently in the commission of crimes.
4 Defendants have continued to manufacture and/or distribute guns covered by SNS ordinances
5 without taking reasonable steps to prevent sales of such guns within jurisdictions banning such
6 sales. Examples of firearms falling within local SNS bans include but are not limited to: Bryco
7 Models 28 and 48; Davis Model P-380, Rimfire Derringers, D-Series and Long-Bore; Navegar
8 Models Intratec Protec-22, Protec-25 and Category 9; Jennings Models J-22 and J-25; Lorcin
9 Models L-22, L-25, LT-25, L-32, L-9MM and L-380; and Phoenix Models Raven 25, HP-22,
10 and HP-25.

11 **V. DEFENDANTS HAVE FAILED TO INCORPORATE FEASIBLE AND**
12 **EXISTING SAFETY TECHNOLOGY INTO THE DESIGN AND DISTRIBUTION**
13 **OF FIREARMS**

14 **A. Adequate Warning and Safety Features Would Prevent Many Unintentional**
15 **Shootings**

16 54. Defendants, and each of them, have designed, manufactured, made or sold
17 firearms that are defective because the firearms lack basic safety features and contain inadequate
18 warnings that result in unintentional shootings. Defendants continue to distribute their firearms
19 without adequate warnings and instructions that inform the users of the risks of guns, including
20 proper storage and use of the weapons, even though it is known or should be known by
21 Defendants that approximately half of California residents who keep a firearm at home store
22 their guns in an unsafe manner. Despite this knowledge, Defendants market and promote their
23 firearms in a manner that ignores or understates the risks that such firearms pose to their owners
24 and to other members of the household. Defendants also over-promote the purported self-
25 defense and home protection benefits of their guns, in a manner that undercuts any warnings or
26 instructions regarding safe storage of guns, and which results not only in irresponsible people
27 possessing guns, but also in the irresponsible storage and handling of guns.

28 55. Defendants also manufacture, distribute and sell firearms that are defective and/or
unreasonably dangerous in that their design lacks safety features or contains inadequate safety

1 features. For example, it was and continues to be reasonably foreseeable and known by
2 Defendants that users of semi-automatic handguns would not understand or appreciate that an
3 undetectable round of ammunition may be housed in the firing chamber of a semi-automatic gun
4 even though the ammunition magazine had been removed or emptied. Consequently, it was and
5 continues to be reasonably foreseeable that this hazardous design would result in preventable,
6 unintentional shootings. This hazardous design could be easily corrected through the use of a
7 "magazine-disconnect safety" that would prevent the gun from firing with the magazine
8 removed. These tragic, foreseeable shootings could also be prevented by use of an effective
9 "chamber loaded indicator" that would warn a user when a bullet was in the firing chamber.
10 Defendant Manufacturers have failed to incorporate such devices into their firearms.

11 56. The unsafe design of Defendants' guns results in 1,400-1,500 unintentional
12 shooting deaths and over 18,000 non-fatal injuries from unintentional shootings every year. The
13 General Accounting Office estimates that each year, 23% of the unintentional shooting deaths
14 occur because the user of the gun was not aware that a round of ammunition had been loaded
15 into the gun's firing chamber. This results in as many as 320 to 345 deaths nationwide each
16 year. For each of these deaths, there are countless other unintentional shooting injuries that are
17 not fatal.

18 57. Unintentional shootings with Defendants' unsafe firearms often involve
19 adolescents. Adolescents are foreseeably attracted to guns and typically do not understand all of
20 the risks associated with handling a firearm. According to the General Accounting Office,
21 approximately 35% of all unintentional shooting deaths involve users of guns who were between
22 the ages of 13 and 16. Many such shootings have occurred in the State of California.

23 58. Defendants have failed to take reasonable steps to guard against such foreseeable
24 unintentional shootings, such as designing their firearms to include basic safety features and/or
25 giving adequate warnings that would prevent or reduce such unintentional shootings.
26 Defendants were aware of, and/or had available to them, devices, features, warnings, and other
27 measures, which would prevent and/or decrease the dangers of their products. Defendants failed
28 to remedy the deficiencies in their guns, warnings, instructions, promotions and/or

1 advertisements of the firearms. Defendants further failed to adequately warn customers of these
2 dangers, failed to inform distributors, dealers and/or buyers of available devices and measures
3 that could prevent or decrease these dangers, failed to incorporate safety devices and features
4 into their guns and/or discouraged the development and implementation of safety devices and
5 features into their guns. Defendant Trade Associations failed to adopt adequate guidelines or
6 standards relating to the development and inclusion of such features in firearms. Defendants
7 knew or should have known that, as a consequence of their actions, California residents have
8 been and will continue to be killed or seriously injured.

9 **B. Personalized Safety Technology Would Prevent Access to Firearms by**
10 **Unauthorized Users**

11 59. The unsafe and defective design of Defendants' firearms results in thousands of
12 shootings each year by persons who are not authorized to possess a firearm by the firearm's
13 owner. Such shootings often occur when an adolescent or a criminal improperly obtains
14 possession of a firearm.

15 60. Adolescent homicides and suicides are usually committed with firearms that the
16 adolescent has taken from his or her home. In the United States, the rate at which youths aged
17 10-19 have committed suicide with a firearm has long averaged about once every six hours.
18 In California, millions of minors live in homes where firearms are present. Studies have
19 indicated that the odds that potentially suicidal minors will kill themselves double when a gun is
20 kept in the home. Firearms are used in 65% of male teen suicides and 47% of female teen
21 suicides. Among 15-19 year-olds, firearm-related suicides have been estimated to account for
22 81% of the increase in the overall rate of suicide from 1980-1992. A large number of such
23 firearm-related teen suicides occur each year in California.

24 61. At all pertinent times, it was reasonably foreseeable that Defendants' guns would
25 fall into the hands of unauthorized users. There are guns in approximately one-half of the homes
26 in this country. One survey reports that 30% of gun-owners who have minors in the home keep
27 their guns loaded. Another survey reports that 36% of gun owners with minors in the home keep
28 their guns unlocked. The Federal Centers for Disease Control and Prevention estimates that

1 1.2 million elementary-aged, latchkey children have access to guns in their homes. Moreover,
2 nearly 60% of juveniles between the ages of 10 and 19 have responded in surveys that they can
3 acquire a gun should they want one.

4 62. At all pertinent times, Defendants have also been aware, or should have been
5 aware, that when unauthorized users gained access to Defendants' guns, tragic and preventable
6 shootings would result. Many teen suicides and shootings by minors and other unauthorized
7 users could be prevented had Defendants cared to implement safer gun designs, including
8 personalized gun technology that would prevent an unauthorized user from being able to fire the
9 gun. The Defendants further knew that by failing to make and sell firearms with the means to
10 prevent their firing by unauthorized users, it was reasonably foreseeable that guns stolen from
11 private residences, gun stores and other locations could be employed by unauthorized users in
12 violent criminal acts.

13 63. A study by the Johns Hopkins University School of Hygiene and Public Health's
14 Center for Gun Policy and Research concluded that "[p]ersonalized handguns can eliminate
15 many deaths and injuries by preventing the unauthorized firing of the firearm . . . [and] can be
16 especially effective in preventing teenage [deaths], unintentional deaths and injuries of children,
17 and shootings of police officers."

18 64. Defendants' unreasonably dangerous and/or defective products have repeatedly
19 victimized California residents. At the time the Defendants manufactured, distributed, marketed,
20 designed, promoted and/or sold their firearms, Defendants knew or should have known of the
21 unreasonable dangers of their guns, including those described herein. Defendants were also
22 aware of, and/or had available to them, personalized safety features, warnings, and other
23 measures, which would prevent and/or decrease the dangers of their products. Defendant
24 Manufacturers nevertheless failed to remedy the deficiencies in their guns. Defendant
25 Manufacturers further failed to incorporate personalized safety features into their guns and/or
26 discouraged the development and implementation of personalized safety features. Defendant
27 Trade Associations similarly failed to adopt adequate guidelines or standards relating to the
28 development and inclusion of such personalized safety features in firearms. Defendants knew or

1 should have known that, as a consequence of their actions, California residents would be killed
2 or seriously injured.

3 **C. Defendants Have Failed to Compete to Develop Firearms with Personalized**
4 **Safety Technology**

5 65. A gun with personalized safety features sufficient to prevent or significantly
6 reduce the risk of unauthorized use would have obvious appeal to a large segment of the
7 legitimate handgun market. Despite this market appeal, Defendant Manufacturers have failed to
8 compete with each other to develop and market firearms with such safety features.

9 66. Defendant Trade Associations have likewise discouraged the development of such
10 safety features. For example, Defendant SAAMI holds itself out to the public as having been,
11 since 1926, "the principle organization in the United States actively engaging in the development
12 and promulgation of product standards for firearms and ammunition." Although SAAMI has
13 promulgated numerous product standards for the firearms industry, it has failed to develop any
14 standards relating to personalized safety devices.

15 67. Instead of encouraging the firearms industry to develop safer products and
16 distribution practices, defendant Trade Associations have in the past sought to discipline industry
17 members who attempted to address safety issues. For example, when Defendant Smith &
18 Wesson was faced in 1976 with a public outcry that might have resulted in a ban of most
19 handguns in Massachusetts, Smith & Wesson announced that, as an alternative, it would support
20 screening and registration of handgun owners. For this breach of industry policy, Smith &
21 Wesson faced censure or ouster from SAAMI. To avoid possible action by SAAMI, Smith &
22 Wesson for a time withdrew from SAAMI, then conformed its proposals and positions to
23 industry policies.

24 **VI. DEFENDANTS' UNFAIR, FALSE, DECEPTIVE AND/OR MISLEADING**
25 **STATEMENTS**

26 68. For years, and continuing to date, Defendants have knowingly, purposefully and
27 intentionally misled, deceived and confused members of the general public in California
28 regarding the safety of firearms and the need for firearms within the home. To increase sales and
profits, Defendants have falsely and deceptively claimed through advertising and promotion of

1 their firearms that the ownership and possession of firearms in the home increases one's security.
2 For example, handgun manufacturers have promoted firearms with slogans such as
3 "homeowner's insurance," "tip the odds in your favor," and "your safest choice for personal
4 protection." Research demonstrates that, to the contrary, possession of firearms actually
5 increases the risk and incidence of homicide, suicide and intentional and unintentional injuries to
6 gun owners and their families and friends. Defendants' over-promotional efforts have negated
7 and undercut any warnings they have provided regarding the risks of guns in the home.

8 69. Defendants have made these false and deceptive statements even though they
9 knew and/or should have known that studies and statistics demonstrate that the presence of
10 firearms in the home increase the risk of harm to firearm owners and their families, as set forth in
11 the following statistics:

- 12 a. One out of three handguns is kept loaded and unlocked in the home;
- 13 b. Studies that control for the relevant variables have demonstrated that the
14 homicide of a household member is almost three times more likely in homes with guns
15 than in homes without them, suicide is five times more likely; and for homes with
16 teenagers, suicide is ten times more likely;
- 17 c. Studies have also shown that a gun in the home is at least 22 times more
18 likely to kill or injure a household member than it is to kill or injure an intruder in self
19 defense;
- 20 d. A firearm is used for protection in fewer than two percent of home
21 invasion crimes; and
- 22 e. For every time a gun in the home was used for self-defense or a legally
23 justifiable shooting, there were four unintentional shootings, seven criminal assaults or
24 homicides, and eleven attempted or completed suicides.

25 70. Defendants' advertising and promotion deceptively conveys the message that
26 possession of a firearm and that the enhanced lethality of particular features and handguns will
27 increase the personal safety of the owner and owner's household. Defendants fail to include any
28 information or warning about the relative risk of keeping a firearm in the home. By failing to

1 disclose such risks, the advertisements and promotions fail to correct a material
2 misrepresentation in the minds of many consumers. Defendants' advertising and promotion is
3 therefore likely to deceive members of the general public.

4 71. The U.S. Commission on the Causes and Prevention of Violence in a 1968 article
5 entitled "Handguns and Violence in American Life," noted an increasing number of firearm
6 deaths and injuries and concluded:

7 [Americans] may seriously overrate the effectiveness of guns in protection
8 of their homes. In our urbanized society the gun is rarely an effective
9 means of protecting the home against either the burglar or the robber
10 [A gun in the home] provides a measure of comfort to a great many
11 Americans, but, for the homeowner, this comfort is largely an illusion
12 bought at the high price of increased accidents, homicides, and more
13 widespread illegal use of guns When the number of handguns
14 increases, gun violence increases. (Pages xiii, 139.)

15 72. In California, a substantial number of deaths and injuries have occurred each year
16 because firearms were purchased for home protection but were thereafter used in unintentional
17 shootings, teen suicides, domestic disputes and other acts of violence as set forth herein.
18 Defendants chose to disregard these well-known statistics and data in an effort to promote their
19 firearms as security or "insurance" for the home, and to increase their sales and profits.

20 73. Moreover, although Defendants state publicly that they seek to preclude minors
21 and criminals from possessing firearms, they in fact are engaging in practices that facilitate the
22 illegal possession of firearms by minors and criminals through the secondary market.
23 Defendants then utilize the threat posed by the criminal misuse of firearms -- a threat that their
24 own practices have helped to create -- to market and sell more firearms to the "home protection"
25 market.

26 **VII. DEFENDANTS HAVE PROFITED FROM THEIR UNFAIR, UNLAWFUL OR**
27 **FRAUDULENT BUSINESS PRACTICES AT THE EXPENSE OF CALIFORNIA**
28 **AND ITS RESIDENTS**

74. Defendants' practices have contributed to the overall success and profit for the
\$2-\$3 billion firearm industry. Defendants, and each of them, knew or should have known that
the thousands of firearms distributed through the illegitimate secondary market cause substantial
injury and harm to California residents. Defendants' actions and omissions set forth herein

1 unreasonably facilitate violations of federal, state and local laws, negate and undermine the
2 public policies established by those laws, contribute to physical harm, fear and inconvenience to
3 California residents, and are injurious to the public health, well-being and safety of California
4 residents. Defendants' conduct has directly and indirectly injured and harmed California
5 residents in the form of loss of life, injury, increased criminal activity involving firearms, law
6 enforcement costs, medical costs and emergency response costs. Defendants' conduct has
7 allowed Defendants to profit from their unfair, unlawful and/or fraudulent business practices
8 thereby contributing to Defendants' overall financial success and vitality at the expense of
9 California and its residents.

10 **FIRST CAUSE OF ACTION**

11 **PUBLIC NUISANCE**

12 **(AGAINST ALL DEFENDANTS AND DOES 1-200)**

13 75. Plaintiffs incorporate by reference paragraphs 1 through 74 as though fully set
14 forth herein.

15 76. The People of the State of California have a common right to be free from conduct
16 that creates an unreasonable jeopardy to the public health, welfare and safety and to be free from
17 conduct that creates a disturbance and reasonable apprehension of danger to person and property.

18 77. Defendants' ongoing conduct relating to their creation and supply of a crime market
19 for firearms has created and maintained a public nuisance throughout Northern California, as
20 thousands of firearms that Defendants directly or indirectly supply to the illegitimate firearms
21 market are thereafter used and possessed in connection with criminal activity in Northern
22 California. As a result of the continued use of many of these firearms after they enter the State,
23 California residents have been and will continue to be killed and injured by these firearms and
24 California residents will continue to fear for their health, safety and welfare and will be subjected to
25 conduct that creates a disturbance and reasonable apprehension of danger to their person and
26 property.

27 78. Defendants' conduct, as set forth above, constitutes a public nuisance in the City and
28 County of San Francisco, the Counties of Alameda and San Mateo, and the Cities of Berkeley and

1 Sacramento, because it is an unreasonable interference with common rights enjoyed by the general
2 public.

3 79. Defendants' conduct, as set forth above, is an unreasonable interference with
4 common rights enjoyed by the People of the State of California and by the general public in the City
5 and County of San Francisco, the Counties of Alameda and San Mateo, and the Cities of Berkeley
6 and Sacramento, because it significantly interferes with the public's health, safety, peace, comfort
7 and convenience.

8 80. Defendants' conduct, as set forth above, is an unreasonable interference with
9 common rights enjoyed by the People of the State of California and by the general public in the City
10 and County of San Francisco, the Counties of Alameda and San Mateo, and the Cities of Berkeley
11 and Sacramento, because Defendants knew or should have known that conduct to be of a
12 continuous and long-lasting nature that produces a permanent and long-lasting significant negative
13 effect on the rights of the public.

14 81. Defendants' ongoing conduct produces an ongoing nuisance, as thousands of
15 handguns that Defendants directly or indirectly supply to the crime market, which are thereafter
16 illegally used and possessed in California and in the City and County of San Francisco, the Counties
17 of Alameda and San Mateo, and the Cities of Berkeley and Sacramento, will remain in the hands of
18 persons who will continue to use and possess them illegally for many years. As a result of the
19 continued use and possession of many of these handguns, residents of the City and County of
20 San Francisco, the Counties of Alameda and San Mateo, and the Cities of Berkeley and Sacramento
21 will continue to be killed and injured by these handguns and the public will continue to fear for its
22 health, safety and welfare and will be subjected to conduct that creates a disturbance and reasonable
23 apprehension of danger to person and property. The People of the State of California, acting
24 through the prosecuting Cities and Counties, have a clearly ascertainable right to abate conduct that
25 perpetuates this nuisance.

26 82. The presence of illegitimately possessed and used handguns in the City and County
27 of San Francisco, the Counties of Alameda and San Mateo, and the Cities of Berkeley and
28 Sacramento, proximately results in significant costs to the public in order to enforce the law, arm the

1 police force and treat the victims of handgun crime. Stemming the flow of handguns into the
2 illegitimate firearms market will help to abate the nuisance, will save lives, prevent injuries and will
3 make California a safer place to live.

4 Wherefore, Plaintiffs pray for relief and judgment against the Defendants jointly and
5 severally, as is set forth below.

6 **SECOND CAUSE OF ACTION**

7 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS**
8 **CODE SECTION 17500 FOR UNFAIR, DECEPTIVE, UNTRUE OR**
9 **MISLEADING STATEMENTS AND ADVERTISING**

10 **(AGAINST ALL DEFENDANTS AND DOES 1-200)**

11 83. Plaintiffs incorporate by reference paragraphs 1 through 82 as though fully set
12 forth herein.

13 84. Defendants, acting individually and/or in concert, have made unfair, deceptive,
14 untrue or misleading statements and advertisements in connection with the marketing and sale of
15 firearms in violation of California Business and Professions Code §§ 17500 *et seq.* Defendants'
16 unfair, deceptive, untrue or misleading statements include, but are not limited to, engaging in a
17 campaign of deception and misrepresentation concerning the dangers of their firearms by
18 disseminating advertisements and other statements which falsely state or imply that ownership of
19 guns will increase home safety and security. Defendants knew or by the exercise of reasonable
20 care should have known that home ownership of guns increases the risk of homicides, suicides
21 and accidental injury or death in the home and that their advertisements and/or statements were
22 untrue and/or misleading. Defendants failed to disclose the true nature of the risks associated
23 with home ownership of guns or to correct their advertisements and/or statements despite their
24 knowledge that they were misleading or wrong.

25 85. Defendants' unfair and/or deceptive acts or practices in issuing false or
26 misleading statements and/or advertisements are and have been likely to deceive to members of
27 the general public in California.

28 Wherefore, Plaintiffs pray for relief and judgment against the Defendants jointly and
severally, as is set forth below.

1 f. Defendant Manufacturers and Distributors, and each of them, sell their
2 firearms without adequately screening, supervising, monitoring or regulating their
3 employees, distributors and dealers;

4 g. Defendant Manufacturers and Distributors, and each of them, sell their
5 firearms without adequately training, instructing, advising or setting standards for
6 distributors and/or dealers of firearms, regarding how to legally and responsibly sell
7 firearms;

8 h. Defendant Manufacturers and Distributors, and each of them, have
9 continued to make sales to distributors and/or dealers, even though they knew or should
10 have known that such distributors and/or dealers had distributed firearms to illegal
11 purchasers and/or the illegitimate secondary market;

12 i. Defendants, and each of them, knew or should have known that their
13 distribution practices were unreasonably unsafe but despite this knowledge defendants
14 have failed to change their practices or to adopt procedures to curb the flow of firearms to
15 the illegitimate secondary market;

16 j. Defendants, and each of them, knew or should have known that by
17 distributing firearms without adequate self-supervision and regulation that they were
18 creating, maintaining, or supplying the illegitimate secondary market in firearms;

19 k. Defendants, and each of them, have failed to conduct research, or review
20 existing research, which would allow them to monitor and control the distribution of
21 firearms and help to prevent the creation of an illegitimate secondary market;

22 l. Defendants, and each of them, have caused, permitted, and allowed their
23 hazardous firearms to be promoted, marketed, distributed, and disseminated to
24 unauthorized persons, including convicted criminals and minors, and have failed or
25 refused to take reasonable steps to ensure that their firearms were not acquired by
26 unauthorized persons;

27 m. Defendant Manufacturers and Distributors, and each of them, have
28 adopted distribution policies that allow and encourage distributors and dealers to make

1 sales to likely straw purchasers, including sales involving large numbers of firearms in a
2 single transaction;

3 n. Certain Defendant Manufacturers and Distributors have adopted
4 distribution policies that allow sales to dealers who do not maintain a retail place of
5 business for the resale of the firearms;

6 o. Defendant Manufacturers and Distributors, and each of them, have
7 distributed firearms to dealers without requiring their dealers to demonstrate compliance
8 with federal, state and local tax, zoning or licensing laws;

9 p. Defendant Manufacturers and Distributors, and each of them, have
10 distributed firearms to dealers without requiring dealers to maintain accurate records of
11 sales;

12 q. Defendant Manufacturers and Distributors, and each of them, have
13 distributed firearms to dealers without requiring dealers to ensure that purchasers'
14 identification, documentation and/or address is accurate;

15 r. Defendants, and each of them, do not monitor tracing data from the
16 Bureau of Alcohol, Tobacco and Firearms, in order to discover and prevent trafficking;

17 s. Defendant Manufacturers, and each of them, have designed and sold
18 firearms without incorporating feasible safety features and personalized gun technology
19 which would prevent unintentional shootings and/or unauthorized and/or unintended
20 users from gaining access to the firearms, have discouraged the development and
21 implementation of such features and devices, and have not competed with each other by
22 introducing firearms utilizing such technology;

23 t. Defendant Manufacturers, and each of them, have designed and sold
24 firearms without incorporating feasible technology that would prevent persons from
25 unlawfully obliterating the serial numbers required by law to be placed on those guns;

26 u. Defendants, and each of them, sell their firearms without providing
27 adequate warnings and/or instructions regarding the storage or use of their firearms;
28

1 v. Defendants, and each of them, have over-promoted the purported self-
2 defense and home-protection benefits of their guns in a manner that negates or undercuts
3 any warnings or instructions regarding the safe storage and use of guns;

4 w. Defendants, and each of them, have manufactured, modified, re-named,
5 marketed, distributed, and sold their firearms in manners that violate or are calculated to
6 evade local, state and federal laws; and

7 x. Defendants, and each of them, have designed, manufactured and/or
8 marketed their firearms in a manner that increases the demand for firearms by persons
9 who use or possess them illegally.

10 88. Defendants' acts, conduct and practices in the design, marketing, distribution
11 and/or sales of firearms have been and are unfair, unlawful and/or deceptive acts in violation of
12 public policy and California Business and Professions Code § 17200 *et seq.*

13 Wherefore, Plaintiffs pray for relief and judgment against the Defendants jointly and
14 severally, as follows:

15 **PRAYER FOR RELIEF**

16 1. On the First Cause of Action for public nuisance, for preliminary and permanent
17 injunctive relief, requiring Defendants and their respective successors, agents, servants, officers,
18 directors, employees and all person acting in concert with them to cease and desist from
19 engaging in practices that create a public nuisance;

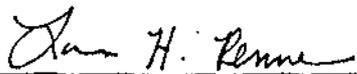
20 2. On the Second and Third Causes of Action, for injunctive and declaratory relief
21 pursuant to Business and Professions Code §§ 17203 and 17535:
22
23
24
25
26
27
28

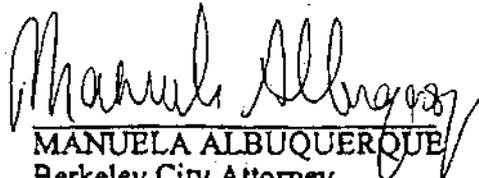
1 a. Declaring that Defendants have engaged in unlawful, unfair, and deceptive
2 business acts and practices in violation of Business and Professions Code Section §§17200 et
3 seq., and §§17500 et seq., and

4 b. Enjoining Defendants and their respective successors, agents, servants,
5 officers, directors, employees and all person acting in concert with them from engaging in
6 conduct in violation of Business and Professions Code §§17200 et seq., and §§17500 et seq.;

- 7 3. For pre-judgment and post-judgment interest as provided by law;
- 8 4. For civil penalties pursuant to Business and Professions Code §§ 17206, 17206.1,
9 17207, 17535.5 and 17536;
- 10 5. For restitution and/or disgorgement of wrongfully obtained monies pursuant to
11 Business and Professions Code §§ 17203 and 17535;
- 12 6. For costs of suit as provided by law;
- 13 7. For attorneys' fees as provided by law; and
- 14 8. For such further relief as the Court deems equitable and just.

15 Dated: May 25, 1999

16
17
18 
19 LOUISE H. RENNE
San Francisco City Attorney


MANUELA ALBUQUERQUE
Berkeley City Attorney

20
21 
22 SAMUEL E. JACKSON
Sacramento City Attorney

THOMAS F. CASEY, III
San Mateo County Counsel

23 Attorneys for the
24 PEOPLE OF THE STATE OF CALIFORNIA
25
26
27
28

1 a. Declaring that Defendants have engaged in unlawful, unfair, and deceptive
2 business acts and practices in violation of Business and Professions Code Section §§17200 et
3 seq., and §§17500 et seq., and

4 b. Enjoining Defendants and their respective successors, agents, servants,
5 officers, directors, employees and all person acting in concert with them from engaging in
6 conduct in violation of Business and Professions Code §§17200 et seq., and §§17500 et seq.;

- 7 3. For pre-judgment and post-judgment interest as provided by law;
- 8 4. For civil penalties pursuant to Business and Professions Code §§ 17206, 17206.1,
9 17207, 17535.5 and 17536;
- 10 5. For restitution and/or disgorgement of wrongfully obtained monies pursuant to
11 Business and Professions Code §§ 17203 and 17535;
- 12 6. For costs of suit as provided by law;
- 13 7. For attorneys' fees as provided by law; and
- 14 8. For such further relief as the Court deems equitable and just.

15 Dated: May 25, 1999

16
17
18
19 LOUISE H. RENNE
San Francisco City Attorney

MANUELA ALBUQUERQUE
Berkeley City Attorney

20
21
22
23 SAMUEL L. JACKSON
Sacramento City Attorney

Brenda B. Carlson deputy county counsel
THOMAS F. CASEY, III
San Mateo County Counsel

24
25 Attorneys for the
26 PEOPLE OF THE STATE OF CALIFORNIA
27
28

1 a. Declaring that Defendants have engaged in unlawful, unfair, and deceptive
2 business acts and practices in violation of Business and Professions Code Section §§17200 et
3 seq., and §§17500 et seq., and

4 b. Enjoining Defendants and their respective successors, agents, servants,
5 officers, directors, employees and all person acting in concert with them from engaging in
6 conduct in violation of Business and Professions Code §§17200 et seq., and §§17500 et seq.:

- 7 3. For pre-judgment and post-judgment interest as provided by law;
- 8 4. For civil penalties pursuant to Business and Professions Code §§ 17206, 17206.1,
- 9 17207, 17535.5 and 17536;
- 10 5. For restitution and/or disgorgement of wrongfully obtained monies pursuant to
- 11 Business and Professions Code §§ 17203 and 17535;
- 12 6. For costs of suit as provided by law;
- 13 7. For attorneys' fees as provided by law; and
- 14 8. For such further relief as the Court deems equitable and just.

15 Dated: May 25, 1999

18
19 LOUISE H. RENNE
San Francisco City Attorney

MANUELA ALBUQUERQUE
Berkeley City Attorney

22
23 SAMUEL L. JACKSON
Sacramento City Attorney

THOMAS F. CASEY, III
San Mateo County Counsel

25 Attorneys for the
26 PEOPLE OF THE STATE
OF CALIFORNIA


RICHARD E. WINNIE
Alameda County Counsel

COMPLETE LIST OF COUNSEL / FULL ADDRESSES

1
2 LOUISE H. RENNE, State Bar #36508
San Francisco City Attorney
3 PATRICK J. MAHONEY, State Bar #46264
Chief Trial Attorney
4 OWEN J. CLEMENTS, State Bar #141805
Chief of Special Litigation
5 D. CAMERON BAKER, State Bar #154432
INGRID M. EVANS, State Bar #179094
6 Deputy City Attorneys
Fox Plaza
7 1390 Market Street, 6th Floor
San Francisco, California 94102-5408
8 Telephone: (415) 554-3800
Facsimile: (415) 554-3837
9
10 PATRICK J. COUGHLIN, State Bar #111070
MICHAEL J. DOWD, State Bar #135628
MILBERG WEISS BERSHAD HYNES &
11 LERACH, LLP
600 West Broadway, Suite 1800
12 San Diego, CA 92101
Telephone: (619) 231-1058
13 Facsimile: (619) 231 7423
14 RICHARD M. HEIMANN, State Bar #063607
ROBERT J. NELSON, State Bar #132797
15 LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP
16 Embarcadero Center West
San Francisco, California 94111-3999
17 Telephone: (415) 956-1000
Facsimile: (415) 956-1008
18
19 ALAN M. CAPLAN, State Bar #49315
PHILIP NEUMARK, State Bar #45008
BUSHNELL, CAPLAN & FIELDING, LLP
20 221 Pine Street, Suite 600
San Francisco, CA 94104-2715
21 Telephone: (415) 217-3000
Facsimile: (415) 217-3820
22
23 McCUE & McCUE
600 West Broadway, Suite 930
San Diego, CA 92101
24 Telephone: (619) 338-8136
25 COHEN MILSTEIN HAUSFELD &
TOLL, P.L.L.C.
26 999 Third Street, Suite 3600
Seattle, WA 98104
27
28

SAMUEL L. JACKSON, State Bar #79081
Sacramento City Attorney
GLORIA ZARCO, State Bar #199702
Deputy City Attorney
980 9th St., 10th Floor
Sacramento, California 95814
Telephone: (916) 264-5346
Facsimile: (916) 264-7455
Prosecuting on Behalf of the
City of Sacramento and JOE SERNA, Jr.

MANUELA ALBUQUERQUE, State Bar #67464
Berkeley City Attorney
MATTHEW J. OREBIC, State Bar #124491
Deputy City Attorney
1947 Center St., 1st Floor
Berkeley, California 94704

THOMAS F. CASEY, III, State Bar #47562
San Mateo County Counsel
BRENDA B. CARLSON, State Bar # 121355
Deputy County Counsel
Office of the County Counsel
400 County Center
Redwood City, CA 94063
Telephone: (650) 363-4760
Facsimile: (650) 363-4034

RICHARD E. WINNIE, State Bar #68048
Alameda County Counsel
KRISTEN J. THORSNESS, State Bar #142181
Deputy County Counsel
Office of Alameda County Counsel
1221 Oak Street, Room 463
Oakland, CA 94612-4296
Telephone: (510) 272-6700
Facsimile: (510) 272-5020

DENNIS A. HENIGAN
JONATHAN E. LOWY
BRIAN J. SIEBEL
Center to Prevent Handgun Violence
1225 Eye Street, N.W., Suite 1100
Washington, D.C. 20005
Telephone: (202) 898-0059
Facsimile: (202) 408-1851

Of Counsel:
DAVID KAIRYS, Esq.
1719 North Broad Street
Philadelphia, PA 19122
Telephone: (215) 204-8959

House Government Reform and Oversight Committee
Hearing re: HUD's Role In Litigation Against Gun Manufacturers

Opening Statement of Gail Laster, HUD General Counsel

Chairman Mica, Ranking Member Mink, honorable members of the Committee, I am pleased to have the opportunity to address you today about the pressing problems created by gun violence in our nation's public housing projects. In order to fully understand the justification for HUD's concerns about gun violence, it's important to realize the terrible impact that gun violence exacts on our public housing programs. Every year, there are thousands of incidents of gun violence in and around public housing projects. Last year, in the 100 largest housing authorities, there were more than 500 murders. Many of these crimes are perpetrated by individuals who do not even live in public housing, but who exploit public housing spaces as opportune areas to engage in violent and criminal activity. Every day, innocent residents of public housing and their families are caught in deadly crossfires between people who have far too ready access to firearms of all types. Under such circumstances, simple acts of community-building, like visiting your neighbor, are all but impossible. The fear of violence can leave residents practically trapped inside their homes.

These conditions make it very hard for HUD to fulfill its statutory mandate to provide safe and sanitary housing to low-income households. In addition, this violence directly threatens the billions of taxpayer dollars we have invested in public housing over the years and imposes direct and continuing costs in terms of increased security and law enforcement costs. HUD spends approximately \$2.5 billion each year in Public Housing comprehensive grants and a significant portion of that money goes to addressing security problems. In Chiacago, for example, nearly 40% of its grant funding is spent on security costs.

In response to these conditions, HUD, in partnership with Congress, has aggressively responded in a variety of ways. Congress has authorized and local housing authorities have implemented a number of "one-strike and you're out" eviction policies which evict of households involved in drugs or violence. Last year, HUD awarded over \$200 million dollars worth of drug elimination grants to local housing authorities to help them combat the problem of drugs and crime in their projects. In many cases, that money has helped to fund additional police officers, security cameras, and innovative enforcement measures. Every year, in coordination with local and state police officers, we participate in operations that result in the confiscation of hundreds of weapons, including illegal firearms, in and around public housing projects. We are proud of our successes in these areas, but mindful that all of these monies could be better spent directly on more housing for the poor and services for our clients if gun violence were not such a pressing issue.

Despite ^A all of these efforts, ~~they~~ ^{the monies} are still not enough. The problem of gun violence obligates us to continue to examine ~~any and all~~ additional ideas for dealing with this problem. Recently, certain practices of the gun manufacturing industry have come under scrutiny for the possible role they play in exacerbating the problems of guns and gun violence.

*broader issues
involving a...*

Earlier this year, municipalities around the country, who know all too well the human and financial costs imposed by gun violence, gun deaths and accidental injuries, began filing lawsuits against gun manufacturers. Many people in the public housing community are interested in the possibility of filing similar suits. As has been reported last week in the press, HUD's search for solutions has led to discussions between HUD, local housing authorities, their representative organizations and prominent law firms about the viability of such an action. These contacts included discussions about the viability of particular theories, types of actions and types of plaintiffs. Our discussions with housing authorities have indicated that there is a broad interest in taking some kind of action against gun manufacturers. That possibility is still under active discussion inside of HUD and across the public housing community. There is nothing, however, fundamentally unusual about such discussions. HUD has traditionally worked closely with housing authorities, including consultations with law firms representing housing authorities, on a wide variety of issues. HUD does not, however, plan to bring any action against gun manufacturers on its own behalf.

*frank
plan
8651*

*Let me
know
this*

also

Our actions in exploring the possibility of these lawsuits is entirely consistent with our statutory mission. Congress has long recognized that HUD is not just about bricks and mortar, but about communities. In our enabling legislation, Congress charged HUD to "encourage the solution of problems of housing [and] urban development . . . through State, county, town, village or other local and private action, . . ." This is exactly what we have done through our discussions with law firms and housing authorities about a possible suit. Given the size of the threat posed to both our public investment and to the families who live in public housing, the lawsuits under discussion are an inevitable and necessary component of an effective anti-violence strategy designed to strengthen these neighborhoods.

Byline not here?

I stand ready to answer any questions you may have.

What is comment? OK?

388 793 2813

708 1731 x3926

DEPARTMENT OF HOUSING &
URBAN DEVELOPMENT
OFFICE OF GENERAL COUNSEL
451 7TH ST. SW
WASHINGTON, DC 20410
202-708-2236

To: BRUCE REID Fax: 202-456-5542

From: MAX STIER Date: August 4, 1999

Re: GLN CONTROL MATERIALS Pages: 1

CC: [Click here and type name]

Urgent For Review Please Comment Please Reply Please Recycle

Notes: [Click here and type any comments]





U.S. Department of Housing and Urban Development

GUN VIOLENCE IN PUBLIC HOUSING – A SMALL SAMPLE FROM 1998 AND 1999

Gun violence in public housing developments across the country has become an all-too-common tragedy. A search of newspaper articles over the years turns up thousands of stories about people who have been killed, people who have been wounded, and families living in fear. Here are brief summaries of just a small sample of news stories published in 1998 and 1999 about shootings in public housing in 15 states and the District of Columbia.

ALABAMA

MONTGOMERY – Police statistics show that 16 percent of the city's 32 homicides in 1998 occurred in public housing. In addition, about 12 percent of the city's aggravated assaults in 1998 were reported in public housing projects.

CALIFORNIA

RICHMOND -- July 22, 1999 -- Gaston Avila, 19, of Richmond was shot to death and three others – including a 15-year-old girl who was nine months pregnant – were shot during a birthday party at the Easter Hill public housing complex.

SAN FRANCISCO – March 31, 1998 -- A 27-year-old man was shot to death execution-style in the Sunnydale public housing development. The neighborhood has experienced gun violence in the past. In November, Charles Adams, a 60-year-old retiree, was killed by a stray bullet from a shoot-out between two young men.

SAN FRANCISCO – May 20, 1999 – Mayor Willie Brown wrote a letter to HUD Secretary Andrew Cuomo saying that the San Francisco Housing Authority is running out of money to pay for private guards and needs \$7 million from the federal government to keep crime, vandalism and gangs at bay. In a July 12 letter to HUD, Senators Feinstein and Boxer make the same plea.

CONNECTICUT

BRIDGEPORT -- February 1, 1999 -- The body of Delmar Epps, 23, was found lying in the road near the Green Homes public housing development, with multiple gunshot wounds.

-2-

DISTRICT OF COLUMBIA

WASHINGTON -- October 21, 1998 -- A 4-year-old girl named Javina Holmes, a resident of the Frederick Douglass Dwellings public housing development, was killed when her 8-year-old brother found a loaded shotgun inside their apartment and began shooting.

WASHINGTON -- June 21, 1999 -- A 55-year-old grandmother, Helen Foster-El, was gunned down by two stray bullets fired by a group of feuding young men as she tried to usher neighborhood children to safety. Parents in the East Capitol Dwellings public housing development said they give their children survival instructions on what to do when shooting erupts, because it happens so often.

FLORIDA

CLEARWATER -- May 20, 1999 -- LaShonda Denise Williams, 19, was accidentally shot in her Jasmine Court public housing apartment when a revolver that she and her boyfriend were looking at went off. The bullet passed through Williams' neck and came out her shoulder.

MIAMI -- July 15, 1999 -- A resident of the James E. Scott Homes, the largest public housing development in Florida, recounted the story of a boy who was shot by two men driving by in a car while the boy was buying ice cream. The man said that another time he was sitting on his porch when he saw a boy being chased and shot.

TAMPA -- April 1, 1998 -- One man was killed and two others were critically wounded during a shootout in the Riverview Terrace public housing development. The dead man was found on a sidewalk and two wounded men were in a car stopped near the scene. Police said the incident initially appeared to be a drug deal gone bad, since drugs and guns were found in the car. The slaying was the third homicide in three weeks and the second in two days at Riverview Terrace.

ILLINOIS

CHICAGO -- January 19, 1998 -- Parents and other residents will begin escorting children to school January 20 with the hope of protecting them from gang gunfire in the Cabrini-Green public housing development. The escorts attended a training session to prepare them on what to do if gunfire erupts.

CHICAGO -- September 7, 1998 -- Lavell Jones, 22, was shot and killed by a Chicago Housing Authority policeman after threatening the officer with a 9-mm. handgun. Police were responding to reports of a shooting at the Robert Taylor Homes public housing development when the incident occurred.

-3-

KENTUCKY

LOUISVILLE -- May 3, 1999 -- Suspected gang member Corey J. Bell, 25, was shot to death in an apparent drug dispute at the Clarksdale public housing development. The suspect in the shooting, Ricky LaSalle Glass, 22, shot in himself in the head on May 4, 1999, after a four-hour standoff with Louisville police. Glass died later in the day.

LOUISIANA

NEW ORLEANS -- May 3, 1998 -- A mother of seven children, Melissa Stone, was on her way to Jazzfest when she was abducted at gunpoint, raped, shot and left to die in an abandoned apartment in the Desire public housing development. Her body was found several days later. A New Orleans man with no adult criminal record was convicted of manslaughter.

NEW ORLEANS -- May 8, 1998 -- Theron Corey, 29, was gunned down in the Gusto public housing complex. One of two men who shot him was described by prosecutors as a "hit man," and was later convicted of second-degree murder and sentenced to life in prison.

NEW ORLEANS -- March 18, 1999 -- Sean Jackson, 24, has been charged with two murders that occurred in the C.J. Peete public housing development. Demetrice Harper, 19, was robbed and killed on December 19 in a driveway. Jeremy Nunnery, 23, was shot to death on January 5 after a fight.

MARYLAND

ANNAPOLIS -- April 12, 1999 -- Bryon Antoine Jones, 22, was fatally shot near the front stoop of his girlfriend's Annapolis Gardens duplex. The shooting at the public housing community was apparently the result of an earlier altercation at Club Hollywood, a nearby nightclub.

MASSACHUSETTS

WORCESTER -- March 27, 1998 -- Luis A. Torres, 24, was shot in both legs while walking along a street in the Great Brook Valley public housing project. After being treated at University of Massachusetts Hospital, Torres was arrested on criminal warrants. Police say the shooting by five assailants wearing ski masks coincides with the assumed arrival in the neighborhood of a cache of stolen handguns.

-4-

NEW JERSEY

NEWARK – January 9, 1999 – Newark Police Officer Frederick Johnson was shot and wounded and Douglas Lamont Parker was killed in a shootout during a routine drug arrest in the Stella Wright Homes public housing development. While the officer was preparing to arrest several men during a drug deal, police said Parker burst through a back door and began firing.

PATERSON – June 24, 1999 – Benjamin Reyes, 26, was shot in the back in his car by an unknown assailant at the Alexander Hamilton public housing complex. The shooter fired at least seven rounds into the vehicle, with four bullets piercing the rear window. Reyes and a companion in the car were later charged with possession and distribution of heroin.

NEW YORK

NEW YORK CITY – August 1, 1999 – Gerard Carter, a 28-year-old New York City police officer, died four days after being shot outside a building in the West Brighton Homes, a public housing development on Staten Island. The alleged gunman was Shatiek Johnson, 17. Carter and his partner were attempting to arrest Johnson on charges of shooting a 20-year-old man in July. Johnson was on parole for beating a homeless person to death two years earlier.

SCHENECTADY – June 20, 1999 – As children played nearby, 21-year-old Shawn Stevens was shot twice in the abdomen at a playground courtyard at the Steinmetz Homes public housing development.

NORTH CAROLINA

ASHEVILLE – June 2, 1999 – A 17-year-old youth died after he was shot at Deaverview Apartments, a public housing development. The suspect is a 16-year-old boy.

DURHAM – April 7, 1998 – While walking home from dinner with his mother, a five-year-old boy was hit by a stray bullet from a gunfight. The bullet severed his spine, and Taquan Mikell may never walk again. The bullet struck him more than a half block away from the gunfight, near a park where as many as 100 children play every day.

PENNSYLVANIA

BETHELEM – July 7, 1998 – Police said Julio Hernandez, 39, shot and killed William Lopez, 21, at the Pembroke Village public housing development. The killing took place shortly after Lopez shot and critically wounded Anthony Feliciano, 23, after an early-morning argument.

-5-

EASTON – June 16, 1998 – A New York City man was shot in the leg at the Delaware Terrace public housing project in Easton. The alleged assailant, Troy Alvin, 19, was also arrested in another shooting at a Stroudsburg restaurant and bar that injured two bystanders. At the time of the restaurant shooting, Alvin was awaiting trial for the shooting of the New York City man.

MOUNT PLEASANT – October 10, 1998 – A 46-year-old man broke into a neighbor's apartment at the Pleasant Manor public housing development. He shot and killed 9-year-old Jeremy Barnhart and critically wounded the boy's 14-year-old sister, Cori Barnhart. The gunman, Alan Waterhouse, then returned to his own apartment and, after barricading himself inside for 12 hours, killed himself. Waterhouse was the former boyfriend of the children's mother.

TENNESSEE

MEMPHIS – June, 1999 – Two recent shootings of children at Fowler Homes public housing have increased public pressure for better protection, including a proposal to hire private security guards. In the past year, four homicides, 62 assaults, 133 burglaries and other crimes have taken place at Memphis Housing Authority developments, according to the agency.

NASHVILLE – July 2, 1999 – Nashville teenager, Eric Harvey Hazelitt, was fatally shot in the chest when gunfire erupted at the John Henry Hale public housing complex in Nashville. Just 14-years-old, Hazelitt was often seen riding his bike, helping older neighbors shop or emptying the trash. Witnesses said Hazelitt got caught in the crossfire of two groups shooting at each other.

VIRGINIA

PORTSMOUTH – July 10, 1999 – Linwood Scott killed a 28-year-old woman and himself, ending a 13-hour standoff with police at the Jeffrey Wilson Homes public housing development. The woman, Rene Childers, was one of four hostages held by Scott.

RICHMOND – April 28, 1999 – A man was shot to death in the Creighton Court public housing development. A suspect was taken into custody shortly after the incident.

RICHMOND – July 23, 1999 – A woman was shot in the head and killed at the Gilpin Court public housing development while standing next to a pay telephone.

Other industries take action to make sure their products are distributed in a responsible manner. Voluntary Industry action to reduce risks of misuse of products include:

- All Terrain Vehicles – ATV manufacturers, by consent order, set age thresholds for sales of certain products. They also agreed to monitor that distributors comply with age recommendations and have terminated dealers for non-compliance.
- Paints and Coatings – National Paint and Coatings Association has standards on distribution requiring that retailers of spray paint must keep the product locked up and not sell to minors. Certain retail outlets such as drug stores and convenience stores no longer carry spray paints. The industry also operates a program to facilitate the safe disposal of unused paint.
- Chemicals – Makers of fertilizers and herbicides restrict distribution to ensure that their products are sold by well-trained personnel who can instruct purchasers on proper use.
- SCUBA diving equipment – Customers must show that they are certified divers and equipment is sold through specialty shops that can screen customers and provide technical information and instruction.

Only one gun company has taken any action on this front:

- Sturm, Ruger & Company since 1985 has limited distributors to selling to stocking gun dealers “to promote safety, to make sure the laws are complied with.” This company was not found guilty in the Hamilton case though many other gun manufacturers were.

The Gun industry has stopped efforts at voluntarily marketing guns in a safer manner. Robert Hass, former Senior Vice President of Marketing and Sales for Smith & Wesson said:

- “We, at Smith & Wesson, were reluctant to take positions contrary to those of firearms industry and the NRA after our proposal to license handgun owners ran afoul of the industry’s stance in 1976.”
- “After Smith & Wesson announced its proposal to license handgun purchasers, it was subjected to continual harassment by those inside the trade and consumers. Members of the firearms community advocated a boycott of Smith & Wesson products. And SAAMI threatened to censure Smith & Wesson. Smith & Wesson eventually withdrew its proposal.”
- “I am familiar with the distribution and marketing practices of the all of the principal U.S. firearms manufacturers and wholesale distributors and none of them, to my knowledge, take additional steps, beyond determining the possession a federal firearms license, to investigate, screen or supervise the wholesale distributors and retail outlets that sell their products to insure that their products are distributed responsibly.”

The primary source of crime guns is retail outlets:

- Joseph Vince, former Chief of the Crime Gun Analysis Branch of ATF testified:
In the studies that we performed both with us and with various academics in major universities in the United States, we have found that the majority of crime guns are not stolen firearms, crime guns being illegally trafficked to criminals.

in the research that we have done, we have not seen stolen firearms being employed by criminals. The majority of the time we are seeing them getting them from retail sources.
- A 1994 pamphlet from the Sporting Arms and Ammunition Manufacturers Institute refers to the “illegal trade in firearms” and notes membership support for “measures designed to keep firearms out of the hands of criminals and other individuals who could not be considered as responsible firearms owners” including “severe penalties for firearms dealers who knowingly sell to unqualified individuals or who knowingly participate in ‘straw man’ transactions.” There is no evidence that these measures were ever taken.

The Gun industry has failed to implement basic electronic inventory mechanisms to track products.

- According to David Stewart, professor of marketing at the Marshall School of Business at the University of Southern California, "Given the obvious economic advantages of such systems and the pervasiveness of the technology, it is especially odd that handgun manufacturers have not employed such systems. This behavior would be consistent with a desire to escape liability for the misuse and abuse of the industry's products, however. Further, any suggestion of ignorance of these systems, by managers or their representatives is, at best, disingenuous. Failure to implement such systems would be unambiguous evidence of managerial malfeasance in virtually every company with the level of sales of most handgun manufacturers."

Gun manufacturers can be held liable for foreseeable misuse of their products. Examples in other industries include: ?

- Car makers must make cars "crashworthy" because automobile accidents are foreseeable even though they may be the fault of negligent or criminal driving. Soule v. General Motors Corp., 8 Cal.4th 548, 560 (1994).
- Courts have held that makers of cigarette lighters must take precautions to prevent children from using them. Bean v. BIC Corp., 597 So.2d 1350 (Ala. 1992); Price v. BIC Corp., 702 A.2d 330 (N.H. 1997).
- Manufacturer of an oil pump can be liable for failing to include safety devices that would prevent injuries to children. Titus v. Bethlehem Steel Co., 91 Cal.App.3d 380 (1979).

Ernie -

The Time article on gun
training. (Atlanta shooting is the
cover story). They did not run
the Elaine Shannon article on
Ethel's prosecution in this caliber.

Leanne

THE ATLANTA MASSACRE

SQUEEZING OUT THE BAD GUYS

How ATF and local police have dramatically turned the tide in the battle against crime guns

By ERIK LARSON

ONCE I WAS A GUN GUY, OR AT least I tried to be. In 1992 and 1993, while researching a book on the forces that propelled guns into the hands of killers, I immersed myself in America's gun culture. I learned to shoot, haunted gun shows and went so far as to get myself a gun dealer's license just to see how easily such licenses could be obtained. The deeper I ventured into the culture, the more it seemed to me that the nation had bent over backward to ensure a brisk flow of guns to felons, wife killers and assorted other lunatics.

Things have changed mightily, although there are still inexplicable gaps in federal regulation. The law, for example, allows gun owners to sell firearms from their personal collection without subjecting the buyer to the kind of criminal background check that a licensed dealer would have to invoke if selling exactly the same gun. This

loophole has turned flea markets and gun shows—and the Internet—into Quick Marts for anyone needing an untraceable handgun. Guns remain exempt from consumer-product safety regulations, although those rules apply to toy guns. And penalties for crooked dealers still fail to recognize the societal costs of illegal gun sales. Says David M. Kennedy, a Harvard expert on gun commerce: "You can get more time for selling crack on a street corner than for putting thousands of guns on the street."

Over the past few years, however, as the public backlash against guns has grown louder and louder, police, federal agents and social scientists have together waged a quiet war against gun crime that has been dramatically successful, albeit in ways that tend to be obscured by such atrocities as last week's shootings in Atlanta. It has been a subtle, deeply nuanced campaign involving tactics as simple as knocking down walls—literally—in field offices of the Bureau of Alcohol, Tobacco and Firearms. Nonetheless, it has caused a tectonic

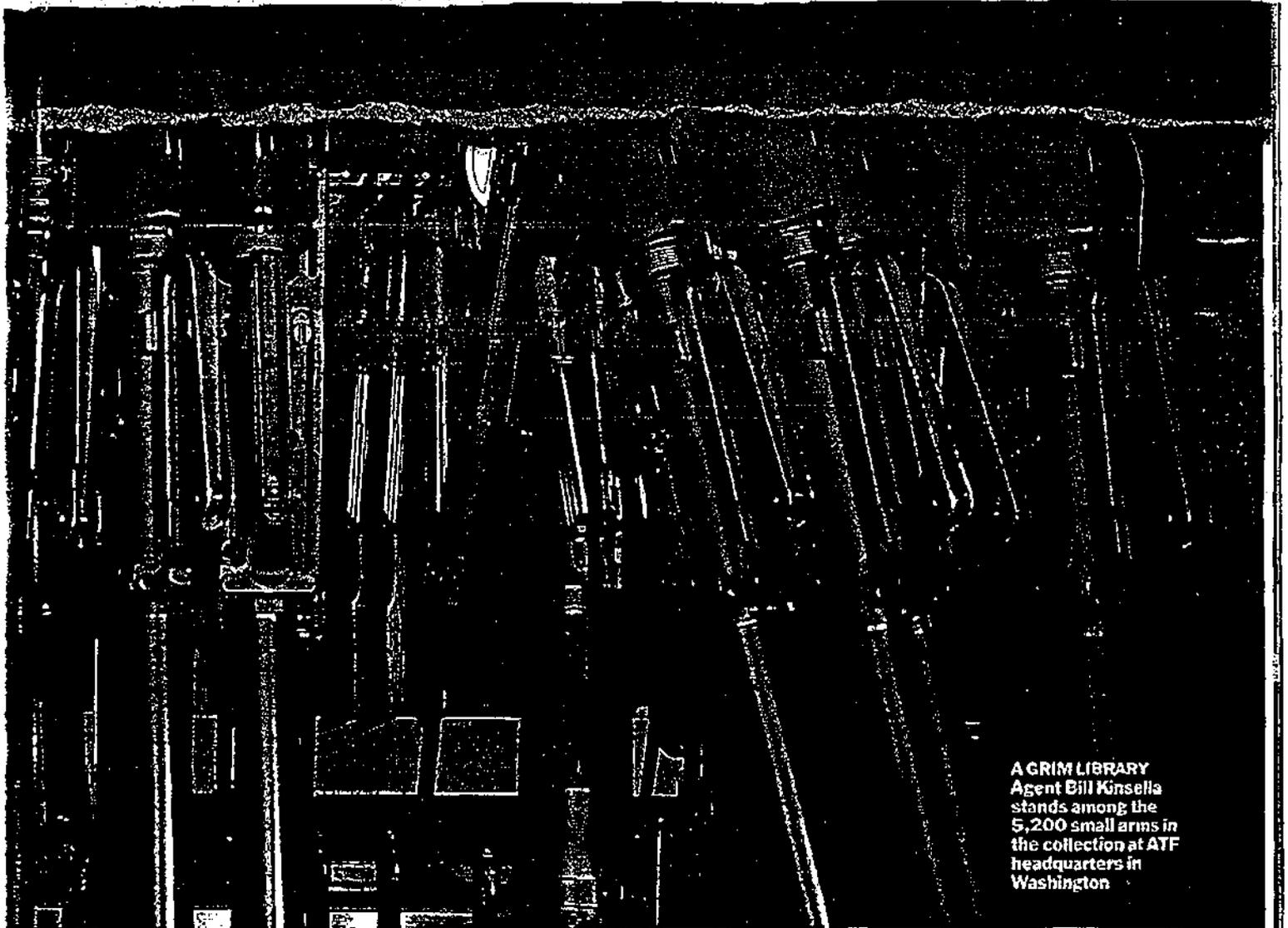
change in how police around the country view gun crime. Now police routinely ask a basic question that, contrary to popular belief, they used to ask only rarely: Where did the bad guys get their guns?

Consider:

► In 1994 America had 198,848 licensed gun dealers. Most were so-called kitchen-table dealers operating out of their homes with virtually no ATF oversight. By the end of last year, the number of licensed gun dealers had fallen to 74,220.

► The sudden decline in the number of dealers contributed to an equally dramatic decline in handgun production. That's significant because street cops and criminologists have long suspected that more guns on the street lead inevitably to more shootings. Between 1993 and 1997, production of pistols, the style of gun most preferred by youthful killers, fell more than 50%, from 2.3 million a year to just over 1 million. The steepest drops occurred in California's notorious "Ring of Fire," a handful of companies that make cheap Saturday night specials.

► Last November the Brady law's "permanent" provisions kicked in, requiring dealers to run the identity of every buyer through the FBI's National Instant Check



A GRIM LIBRARY
Agent Bill Kinsella
stands among the
5,200 small arms in
the collection at ATF
headquarters in
Washington

System or a comparable state system. As of July 14, the FBI's system alone had denied 50,416 attempted purchases.

► In a concerted effort to track the flow of guns, ATF and police in America's largest cities launched a campaign to trace every crime gun the police recovered, part of ATF's Youth Crime Gun Interdiction Initiative, nicknamed Yogi. The number of guns followed through the bureau's national tracing center increased more than 400%, to 197,537 last year, from 37,181 in 1990. Yogi fractured long-held myths and gave police a much clearer picture of how guns really migrate—so much clearer that at least 20 cities and counties felt empowered to file tobacco-style liability lawsuits targeting the firearms industry. Until lately, says Harvard's Kennedy, "we were blind men groping around in the dark."

Fundamental to these changes was a revolution in the way law-enforcement agencies saw the nation's gun crisis, a revolution born within ATF, the agency gun owners have always loved to hate.

IN THE EARLY 1990S POLICE TYPICALLY asked ATF to trace guns only in specific

cases, often homicides. Popular wisdom held that most crime guns were stolen guns and therefore untraceable. Within ATF, however, a core group of special agents began an effort to encourage police in cities with soaring homicide rates to trace guns more frequently. Despite the sporadic tracing ATF by the early '90s had accumulated a rich database, though it had the computers and savvy to conduct only the most basic kinds of analysis. In September 1994, the bureau offered researchers at Northeastern University access to its tracing data to see how computers could be used to identify sources of crime guns nationwide. The study came up with a surprising finding: a tiny percentage of dealers—one-half of 1%—accounted for 50% of all guns traced.

In 1995 Kennedy tapped the bureau's records as part of the Boston Gun Project, an experiment to reduce the number of homicides among the city's youth. He analyzed traces of guns recovered in Boston, which a few years earlier had become one of the few cities in the nation to request ATF to trace every single gun recovered by police. "The results were just astonishing," Kennedy says. He recalls

the first meeting when he presented his findings. "I don't think I had ever seen anyone's jaw really drop before," he said.

His study showed, first, that about a third of Boston's crime guns came from federally licensed gun dealers based in Massachusetts. He and his colleagues calculated the time that elapsed between the date a gun was acquired from a dealer and the date it was recovered by police, a measure known as "time-to-crime." Agents had told Kennedy that the faster a gun completed the journey from dealer to crime scene, the more likely it was sold by a trafficker or corrupt dealer. Kennedy's team discovered that about a quarter of the traced guns had a time-to-crime of less than two years, indicating that guns used by Boston's young killers tended to be new guns. This finding dovetailed with what project members had learned in conversations with gang members. They wanted guns, especially semiautomatic pistols, that were "literally still in the shrink wrap," Kennedy says.

When Kennedy's team members sharpened the focus to individual brands, they found that guns traced to one company—Lorcin Engineering, a member of the

Ring of Fire—had a short time-to-crime in 90% of traces.

These were important discoveries. A hopelessness about gun crime had risen, based partly on the belief that most crime guns were stolen, partly on estimates that so many millions of guns were already in the hands of Americans that nothing could stanch their flow to criminals. But the discovery that crime guns were new guns and that many came from in-state dealers suggested that the migration of guns to criminals could be interrupted. And the tracing data produced a road map for how to do it.

Kennedy's computer named names. The data showed, for example, that guns bought by a single customer sometimes turned up in the hands of rival gangs, suggesting that the customer had been a "straw purchaser" who bought guns for resale to felons, kids and others forbidden by law to acquire them directly. The analysis produced the names of licensed dealers to whom an inordinate number of weapons had been traced. "Once you had all the data in one place, this stuff just fell right out," Kennedy says. "It couldn't have been more obvious."

Meanwhile, passage of the Brady law radically changed the rules governing firearms commerce. Previously, anyone purchasing a gun from a licensed dealer had only to fill out ATF Form 4473, which asked a customer a series of questions, including whether he had been convicted of a felony. If he answered yes, he could not buy the gun. If no, the dealer could sell it with a clear conscience, even if the buyer was twitching from a methamphetamine rush. No one bothered to check the answers. The

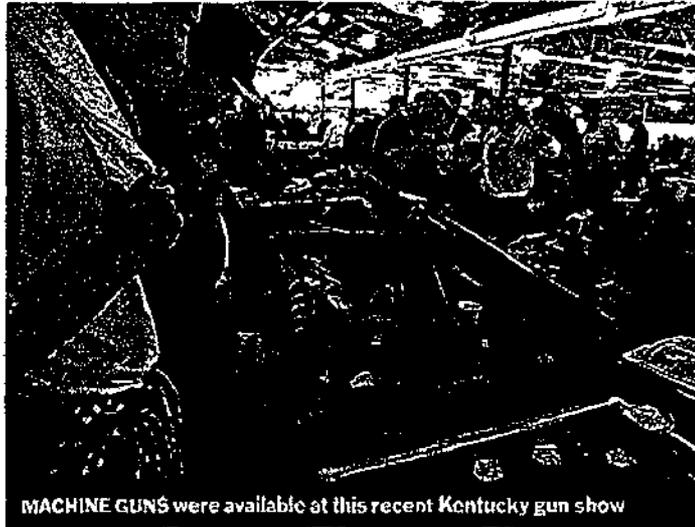
approach was absurd: the nation was asking felons to confess their ineligibility just at the point of purchase. The Brady law required for the first time that someone check the truthfulness of a customer's answers. In the process, police and dealers discovered that many gun-shop customers were convicted felons—which proved that over the years, crooks had come to see li-

three-year licensing fee to \$200. In 1994 additional legislation required, for the first time, that gun dealers had to operate in compliance with municipal and state laws, including zoning ordinances. It also required would-be dealers to notify local police of their intent to open a gun store and to cooperate with ATF investigators seeking to trace firearms. Incredibly, such cooperation had been largely voluntary.

In Boston, New York and other cities throughout the nation, pairs of ATF agents and local cops set out to visit every local dealer listed in bureau files to inform them of their new obligations. The great majority of license holders turned out to be the kitchen-table variety. Most seemed to be hobbyists who merely used their licenses to buy guns at wholesale prices. But across the nation, police and ATF, prodded by the press, discovered kitchen-table dealers who had become conduits to the bad guys, in some cases selling thousands of firearms.

In Boston as in other cities, the joint ATF-police teams took a low-key approach. They asked a few questions and explained the new laws. They did not openly threaten dealers with investigation or prosecution, but the message was there. Of the city's 99 dealers, 82 voluntarily turned over their license or did not renew their application. "I think that tells you that bottom line, maybe they weren't complying," says Paul Evans, Boston's police commissioner. "They couldn't withstand the scrutiny, so they're out of business."

Nationwide, equally dramatic declines occurred. In 1993 Berkeley, Calif., had 34 licensed dealers; in 1996 it had two. Across the Bay, San Francisco knocked its population of dealers from 155 down to 10. Three-



MACHINE GUNS were available at this recent Kentucky gun show

censed dealers as an easy source of guns.

Brady drew intense fire from America's Second Amendment fundamentalists. Meanwhile, in the background, a set of quieter regulations kicked in that further transformed the marketplace.

When I applied for a gun dealer's license in 1992, all I had to do was fill out a questionnaire and pay a \$30 fee. Tens of thousands of Americans did likewise—until 1993, when President Clinton directed ATF to toughen the application process, noting that a driver's license was a lot harder to acquire. In December 1993 the bureau promptly issued new rules that required applicants to submit fingerprints and photographs, and Congress passed legislation boosting the

New Tactics And Squads In the Drive Against Crime Guns

quarters of New York City's dealers gave up their licenses; so did 80% of Detroit's.

What effect this had on gun sales is unclear, but there is tantalizing evidence that the disappearance of these dealers contributed to a sharp reduction in handgun sales across America, particularly the cheap handguns sold by Lorcin and its peers in the Ring of Fire.

By law, manufacturers can sell guns only to licensed distributors, and they can sell them only to licensed dealers. Dealers, therefore, are the manufacturers' most important customers. Nationwide, 125,000 of those customers disappeared. Some dealers—like me—never bought or sold a single gun. Most of them probably sold only a few guns each year. Some sold hundreds, even thousands. The sudden shrinkage surely had an effect on sales and production. Says Andy Moichan, director of the National Association of Federally Licensed Firearms Dealers: "If you have 125,000 dealers who sell just four guns a year, how many guns is that?"

And the figures, though largely unreported by the mainstream press, are surprising. During the period of the sharpest decline in the number of dealers—between 1993 and 1996—overall U.S. pistol production fell nearly 60%, from 2.3 million to just under 1 million. Manufacturers of expensive, well-crafted guns reported only moderate decreases in production. Smith & Wesson, for example, actually saw its production of pistols rise more than 40% between 1993 and 1994, before its sales too began falling. Lorcin, by contrast, reported an immediate decline. In 1993 it produced 341,243 cheap pistols and became for that year the leading pistol producer in the U.S.

In 1996 it manufactured only 87,497, a 74% reduction. Davis Industries, another maker of cheap pistols, experienced an equally precipitous fall.

No one can say whether the decline in dealers and handgun production had an effect on gunshot crime in America. During the same period, however—1993 through 1996—the nationwide total of violent

ed by tracing data, Boston police and ATF attacked the illegal-firearms market. "We were able to shut down about five different traffickers right off the bat," says Jeff Roehm, an ATF official who at the time ran the bureau's Boston field office.

The bulk of the project was devoted to interrupting a street dynamic in which a relatively small core of young, violent gang members had produced a climate of fear that drove gun acquisition. A team of police officers, prosecutors, federal agents and others began meeting with gang members, putting them on notice that henceforth violence by any single member would bring down a concentrated local, state and federal assault on the entire gang. That month, Boston's youth homicide rate began to plummet. The average monthly rate from May through November 1996 was 70% lower than the monthly average before the project began. From June 1996 through June last year, the city had seven months when not a single youth homicide occurred.

But the Boston Gun Project had a more far-reaching effect.

IN 1995, AS THE RESEARCH PHASE OF THE project was just starting, ATF was in the early stages of a post-Waco reorganization under a new director, John Magaw, who set trafficking as the bureau's primary strategic target. At about this time, Harvard's Kennedy and a Treasury Department official, Susan Ginsburg, began an extended conversation that prompted Ginsburg to lobby within Treasury, ATF's parent, for a national program of comprehensive gun tracing. She and ATF's tracing advocates envisioned tracing every single gun recovered



IN MISSOURI Two years of ATF surveillance shut down this shop

crimes committed with firearms fell 20%, the total of handgun homicides 23%. And both rates have continued falling. In 1997, for the first time, the nation's homicide rate fell below that of 1968, the year that marked the initiation of America's three-decade dance with murder.

Other forces contributed. The nation's biggest cities, armed with new tracing data and new confidence that the flow of crime guns could be halted, launched campaigns to get guns off their streets. The Boston Gun Project quickly proved one of the most successful and became a source of hope for cities around the country.

With its initial studies completed, the project got under way in May 1996. Guid-



PATROL Interdiction confiscated goods



WASHINGTON At the field office, ATF agents review weapons during an intelligence briefing



FALLING WATERS, W. VA. The resources of cyberspace are at the fingertips of the National Tracing Center

by police in America's largest cities—a vision that resulted in Clinton's July 1996 launch of the Youth Crime Gun Interdiction Initiative—Yogi—which initially set out to trace every gun recovered in 17 major cities including Atlanta, St. Louis and New York.

The studies produced on a national level the same scale of revelation that Boston had experienced. ATF and city police gun units immediately launched investigations of gun purchasers and dealers whose names appeared repeatedly in ATF's fast-growing tracing database. Every new trace ordered by police enriched the database and enhanced the power of the bureau's Project Lead, a computer-aided system for analyzing traces to generate investigative targets. Most dealers were law-abiding businessmen, but invariably ATF agents using Project Lead uncovered licensed dealers peddling high volumes of guns to gangs and other potential crooks.

High last April might not have prompted a trace request, since the suspects and their guns were found at the scene. But ATF and local police made tracing the Columbine guns a top priority. Today even guns recovered during routine investigations are likely to be traced. By the time Benjamin Smith was identified last month as the likely gunman in a series of hate shootings in Illinois and Indiana, ATF had launched an investigation of the allegedly illegal dealer who sold Smith his guns. In fact, agents searched the suspect dealer's apartment the night before Smith allegedly began his spree.

The case provided an example of a subtle change within ATF. Until recently, direct communication between the bureau's inspectors and its law-enforcement agents was rare. Magaw, as part of his reform effort, placed both functions under the command of the law-enforcement agent who

that he had noticed a recurring newspaper advertisement announcing guns for sale and listing a telephone number. The agent checked with the phone company and found the number belonged to Fiessinger.

ATF launched a formal undercover investigation and on Thursday, July 1, executed a search warrant at Fiessinger's apartment, where agents found 27 guns and rudimentary sales records. Among the names of customers was Benjamin Smith. At the time, the name meant nothing.

The next day, Friday, shortly after 8 p.m., this customer allegedly drove into an Orthodox Jewish neighborhood in Chicago and began shooting. He wounded six men. Shortly afterward, he allegedly drove to Northbrook, Ill., and shot and killed Ricky Byrdsong, former head basketball coach at Northwestern University, as he walked with two of his children. By the time police cornered Smith, he had al-

Searching For Proof

In the firearms and toolmark section of the Washington police department, weapons are tested to determine whether they were used at crime scenes



CATALOGED Marks and measurements are recorded



TEST The water-recovery tank receives a sample shot



RETRIEVAL Bullets from the tank are then examined



COMPUTER IMAGING The system detects links to crime

"One dirty federal firearms licensee can put volumes of guns on the street," Kennedy says. "It's just a fire hose."

THE YOGI PROGRAM QUICKLY PRODUCED leads. Agents discovered, for example, that dozens of crime guns recovered from kids and gang members in Chicago, St. Louis and Washington had all come through a Cape Girardeau, Mo., man who until February 1996 was a licensed dealer. Investigators soon discovered that he had sold about 1,100 firearms to two buyers, who resold them "off paper" at gun shows. These two fingered a man from Nashville, Tenn., who regularly bought their guns and sold them on the streets of Washington. The Nashville man later admitted selling 110 guns. Thirty were recovered by Washington police investigating a wide array of crimes.

Other cases followed, but the Yogi studies had a broader, more subtle effect. Suddenly police throughout the country began asking how guns reached their towns. Five or 10 years ago, agents say, even a massacre like that at Columbine

ran each field office. He went so far as to direct that in some offices the walls dividing cops and inspectors be removed, and that both groups share the same kitchen. He also refocused the inspection mission. Until the past year or so, inspectors dutifully worked their way down the lists of licensed dealers, examining each in turn. Now their first priority is to inspect dealers who draw the most traces. Interestingly, an ATF pilot study found that even when no further investigation occurred, these targeted audits resulted in a 50% reduction of crime-gun traces to those dealers in the year following the inspection.

Last June an inspector auditing the books of a licensed dealer in Pekin, Ill., noticed that the dealer had sold 65 cheap handguns to a single customer named Donald Fiessinger. The inspector passed the tip to a special agent, who then ran the serial number of each gun through ATF's database. He found that one of the guns sold to Fiessinger had been recovered by Illinois state police from a different possessor during a traffic stop in May 1998. In requesting the formal police report on the incident, the agent talked to a state investigator, who mentioned

legedly killed two men and wounded eight.

Later Fiessinger told police that Smith had talked about using one of the guns, a .22-cal. pistol, for hunting.

LAST YEAR ATF EXPANDED THE YOGI TRACING studies to 27 cities. In February ATF added 10 more. Each Yogi city found unique patterns, but nearly all discovered the single biggest source of crime guns was the network of licensed dealers operating within their home states. The most important effect was to replace the hopelessness of the late '80s and early '90s with a confidence that the right measures aimed at the right targets could interrupt the flow of guns to the bad guys.

Suddenly the seemingly intractable debate over gun control became a debate over "crime-gun interdiction." The tracing studies had produced a new middle ground—the crime gun—a rhetorical species no one could love. "It really is a sea change," says Kennedy. "People are now asking the right questions. So when Ben Smith went crazy outside Chicago, they wanted to know where his guns came from. Guess what—they came from an illegal trafficker." ■

Roger Rosenblatt

Get Rid of the Damned Things

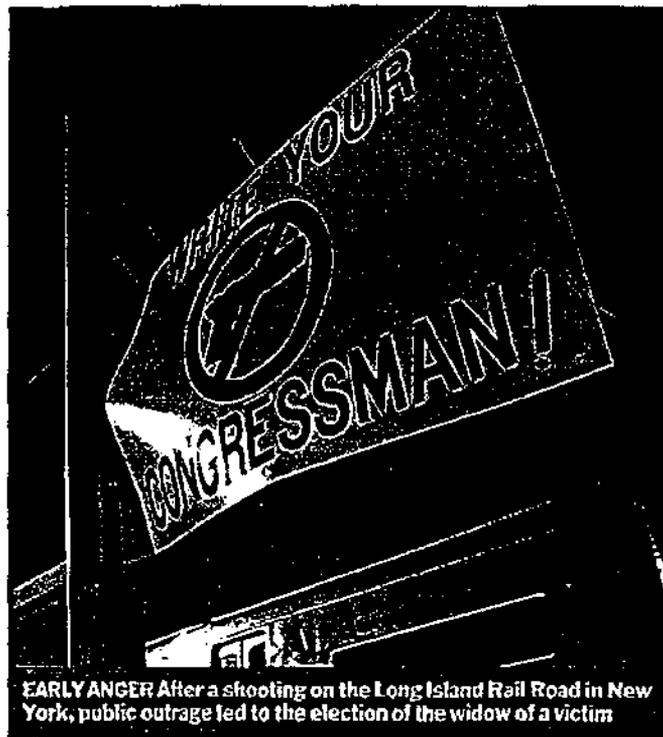
AS TERRIBLE AS LAST WEEK'S SHOOTING IN ATLANTA WAS, AS TERRIBLE AS ALL THE GUN KILLINGS OF the past few months have been, one has the almost satisfying feeling that the country is going through the literal death throes of a barbaric era and that mercifully soon, one of these monstrous episodes will be the last. High time. My guess, in fact, is that the hour has come and gone—that the great majority of Americans are saying they favor gun control when they really mean gun banishment. Trigger locks, waiting periods, purchase limitations, which may seem important corrections at the moment, will soon be seen as mere tinkering with a machine that is as good as obsolete. Marshall McLuhan said that by the time one notices a cultural phenomenon, it has already happened. I think the country

has long been ready to restrict the use of guns, except for hunting rifles and shotguns, and now I think we're prepared to get rid of the damned things entirely—the handguns, the semis and the automatics.

Those who claim otherwise tend to cite America's enduring love affair with guns, but there never was one. The image of shoot-'em-up America was mainly the invention of gun-maker Samuel Colt, who managed to convince a malleable 19th century public that no household was complete without a firearm—"an armed society is a peaceful society." This ludicrous aphorism, says historian Michael Bellesiles of Emory University, turned 200 years of Western tradition on its ear. Until 1850, fewer than 10% of U.S. citizens had guns. Only 15% of violent deaths between 1800 and 1845 were caused by guns. Reputedly wide-open

Western towns, such as Dodge City and Tombstone, had strict gun-control laws; guns were confiscated at the Dodge City limits.

If the myth of a gun-loving America is merely the product of gun salesmen, dime-store novels, movies and the National Rifle Association (NRA)—which, incidentally, was not opposed to gun control until the 1960s, when gun buying sharply increased—it would seem that creating a gun-free society would be fairly easy. But the culture itself has retarded such progress by creating and embellishing an absurd though appealing connection among guns, personal power, freedom and beauty. The old western novels established a cowboy corollary to the Declaration of Independence by depicting the cowboy as a moral loner who preserves the peace and his own honor by shooting faster and surer than the competition. The old gangster movies gave us opposite versions of the same character. Little Caesar is simply an illegal Lone Ranger, with the added element of success in the free market. In more recent movies, guns are displayed as art objects, people die in balletic slow motion, and right prevails if you own "the most powerful hand-



EARLY ANGER After a shooting on the Long Island Rail Road in New York, public outrage led to the election of the widow of a victim

gun in the world." I doubt that any of this nonsense causes violence, but after decades of repetition, it does invoke boredom. And while I can't prove it, I would bet that gun-violence entertainment will soon pass too, because people have had too much of it and because it is patently false.

Before one celebrates the prospect of disarmament, it should be acknowledged that gun control is one of those issues that are simultaneously both simpler and more complicated than it appears. Advocates usually point to Britain, Australia and Japan as their models, where guns are restricted and crime is reduced. They do not point to Switzerland, where there is a gun in every home and crime is practically nonexistent. Nor do they cite as sources criminology professor Gary Kleck of Florida State University, whose studies have shown that gun ownership

reduces crime when gun owners defend themselves, or Professor John R. Lott Jr. of the University of Chicago Law School, whose research has indicated that gun regulation actually encourages crime.

The constitutional questions raised by gun control are serious as well. In a way, the anti-gun movement mirrors the humanitarian movement in international politics. Bosnia, Kosovo and Rwanda have suggested that the West, the U.S. in particular, is heading toward a politics of human rights that supersedes the politics of established frontiers and, in some cases, laws. Substitute private property for frontiers and the Second Amendment for laws, and one begins to see that the politics of humanitarianism requires a trade-off involving the essential underpinnings of American life. To tell Americans what they can or cannot own and do in their homes is always a tricky business. As for the Second Amendment, it may pose an inconvenience for gun-control advocates, but no more an inconvenience than the First Amendment offers those who blame violence on movies and television.

Gun-control forces also ought not to make reform an implic-

it or explicit attack on people who like and own guns. Urban liberals ought to be especially alert to the cultural bigotry that categorizes such people as hicks, racists, psychotics and so forth. For one thing, a false moral superiority is impractical and incites a backlash among people otherwise sympathetic to sensible gun control, much like the backlash the pro-abortion rights forces incurred once their years of political suasion had ebbed. And the demonizing of gun owners or even the NRA is simply wrong. The majority of gun owners are as dutiful, responsible and sophisticated as most of their taunters.

That said, I am pleased to report that the likelihood of sweeping and lasting changes in the matter of America and guns has never been higher. There comes a time in every civilization when people have had enough of a bad thing, and the difference between this moment and previous spasms of reform is that it springs from the grass roots and is not driven by politicians or legal institutions. Gun-control sentiment is everywhere in the country these days—in the White House, the presidential campaigns, the legislatures, the law courts and the gun industry itself. But it seems nowhere more conspicuous than in the villages, the houses of worship and the consensus of the kitchen.

Not surprisingly, the national legislature has done the least to represent the nation on this issue. After the passage of the 1994 crime bill and its ban on assault weapons, the Republican Congress of 1994 nearly overturned the assault-weapons provision of the bill. Until Columbine the issue remained moribund, and after Columbine, moribund began to look good to the gun lobby. Thanks to an alliance of House Republicans and a prominent Democrat, Michigan's John Dingell, the most modest of gun-control measures, which had barely limped wounded into the House from the Senate, was killed. "Cuns have little or nothing to do with juvenile violence," said Tom Delay of Texas. Compared with his other assertions—that shootings are the product of day care, birth control and the teaching of evolution—that sounded almost persuasive.

A more representative representative of public feeling on this issue is New York's Carolyn McCarthy, whom gun violence brought into politics when her husband was killed and her son grievously wounded by a crazed shooter on a Long Island Rail Road train in 1993. McCarthy made an emotional, sensible and ultimately ineffectual speech in the House in an effort to get a stronger measure passed.

"When I gave that speech," she says, "I was talking more to the American people than to my colleagues. I could see that most of my colleagues had already made up their minds. I saw games being played. But this was not a game with me. I looked up in the balcony, and I saw people who had been with me all along on this issue. Victims and families of victims. We're the ones who know what it's like. We're the ones who know the pain."

Following upon Columbine, the most dramatic grass-roots effort has been the Bell Campaign. Modeled on Mothers Against Drunk Driving, the campaign plans to designate one day a year to toll bells all over the country for every victim of guns during the previous year. The aim of the Bell Campaign is to get guns off the streets and out of the hands of just about everyone except law officers and hunters. Andrew McGuire, executive director, whose cousin was killed by gunfire many years ago, wants gun owners to register and reregister every year. "I used to say that we'd get rid of most of the guns in 50 years," he tells me. "Now I say 25. And the reason for my optimism is that until now, we've had no grass-roots opposition to the NRA."

One must remember, however, that the NRA too is a grass-roots organization. A great deal of money and the face and voice of its president, Charlton Heston, may make it seem like something more grand and monumental, but its true effectiveness exists in small local communities where one or two thousand

votes can swing an election. People who own guns and who ordinarily might never vote at all become convinced that their freedoms, their very being, will be jeopardized if they do not vote Smith in and Jones out. Once convinced, these folks in effect become the NRA in the shadows. They are the defense-oriented "little guys" of the American people, beset by Big Government, big laws and rich liberals who want to take away the only power they have.

They are convinced, I believe, of something wholly untrue—that the possession of weapons gives them stature, makes them more American. This idea too was a Colt-manufactured myth, indeed, an ad slogan: "God may have made men, but Samuel Colt made them equal." The notion of guns as instruments of equality ought to seem self-evidently crazy, but for a long

time Hollywood—and thus we all—lived by it. Cultural historian Richard Slotkin of Wesleyan University debunks it forever in a recent essay, "Equalizer: The Cult of the Colt." "If we as individuals have to depend on our guns as equalizers," says Slotkin, "then what we will have is not a government of laws but a government of men—armed men."

Lasting social change usually occurs when people decide to do something they know they ought to have done long ago but have kept the knowledge private. This, I believe, is what happened with civil rights, and it is happening with guns. I doubt that it will be 25 years before we're rid of the things. In 10 years, even five, we could be looking back on the past three decades of gun violence in America the way one once looked back upon 18th century madhouses. I think we are already doing so but not saying so. Before Atlanta, before Columbine, at some quiet, unspecified moment in the past few years, America decided it was time to advance the civilization and do right by the ones who know what the killing and wounding are like, and who know the pain. ■



IN MEMORIAM Amid tears for the dead in the Barton rampage, reminders last week that it was the third set of shootings in Atlanta

DAVE MARTIN/AP

THE ATLANTA JOURNAL

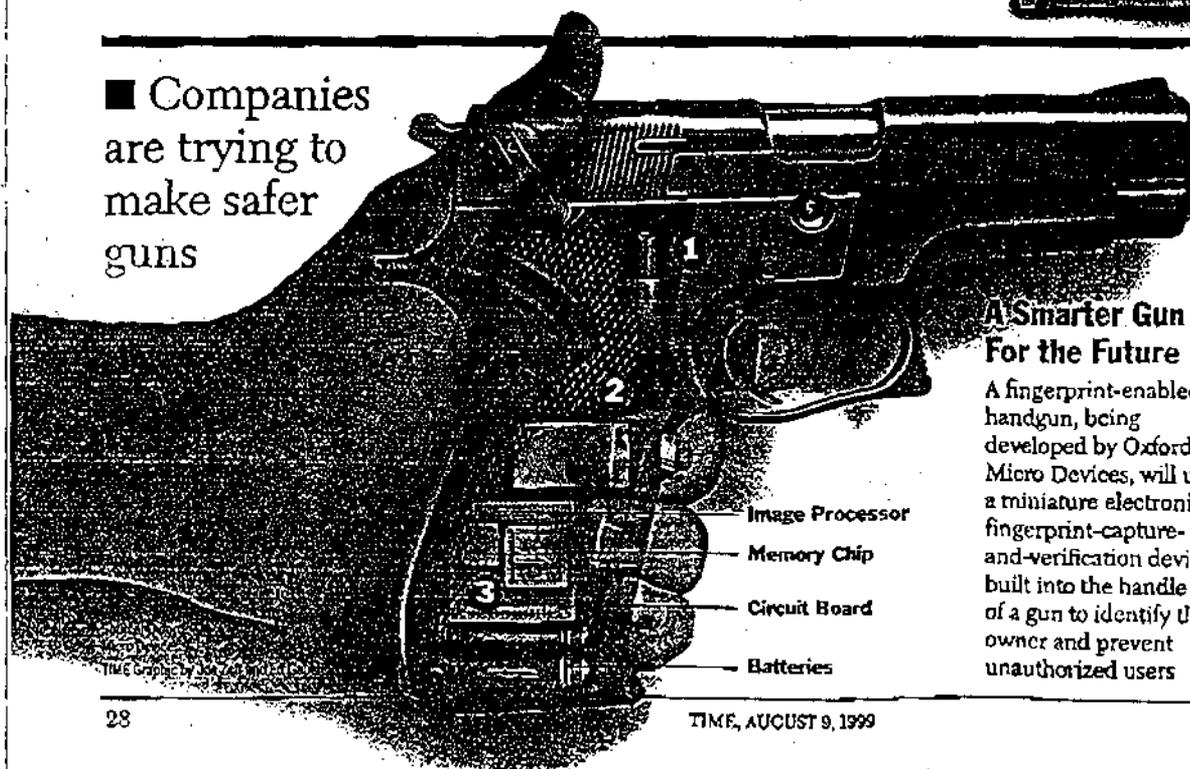
A NATIONWIDE BACKLASH

■ State and local governments are taking aim at the gun industry, either by enacting legislation or by filing lawsuits

- ① **ARIZONA** G.O.P. Governor Jane Dee Hull vetoes a bill that would have prevented cities and counties from enacting gun controls
- ② **CALIFORNIA** Gun purchases are limited to one a month; lawmakers tighten assault-weapon ban. Laws are among the toughest
- ③ **COLORADO** Legislators kill a bill making it easier to win concealed-guns permits; officials mulling new restrictions on the permits
- ④ **CONNECTICUT** A new law allows police to obtain a warrant to confiscate the guns of someone who might injure himself or others
- ⑤ **FLORIDA** Lawmakers withdraw a conceal-carry bill; Governor Jeb Bush hails law stiffening sentences of those who use guns in crimes
- ⑥ **ILLINOIS** New laws force gun owners to keep weapons secured from kids and increase penalties for those who buy guns for criminals
- ⑦ **MICHIGAN** Gun opponents plan a referendum on concealed weapons; lawmakers nix an N.R.A.-friendly conceal-carry bill
- ⑧ **NEVADA** After a longer than expected debate, legislators allow concealed guns in public buildings—but not in schools or airports
- ⑨ **NEW JERSEY** Governor Christine Todd Whitman seeks a law saying dealers can sell only "smart" handguns; the bill passes the senate
- ⑩ **OHIO** Republicans back away from a bill to ban suits against gunmakers, and the Governor says he opposes a conceal-carry law
- ⑪ **TENNESSEE** Legislators ax a bill that would have let faculty members arm themselves on campus but passes a bill to ban gun suits
- ⑫ **UTAH** Anti-gun forces are pushing a referendum on concealed weapons; poll says 80% think only police should have guns in schools



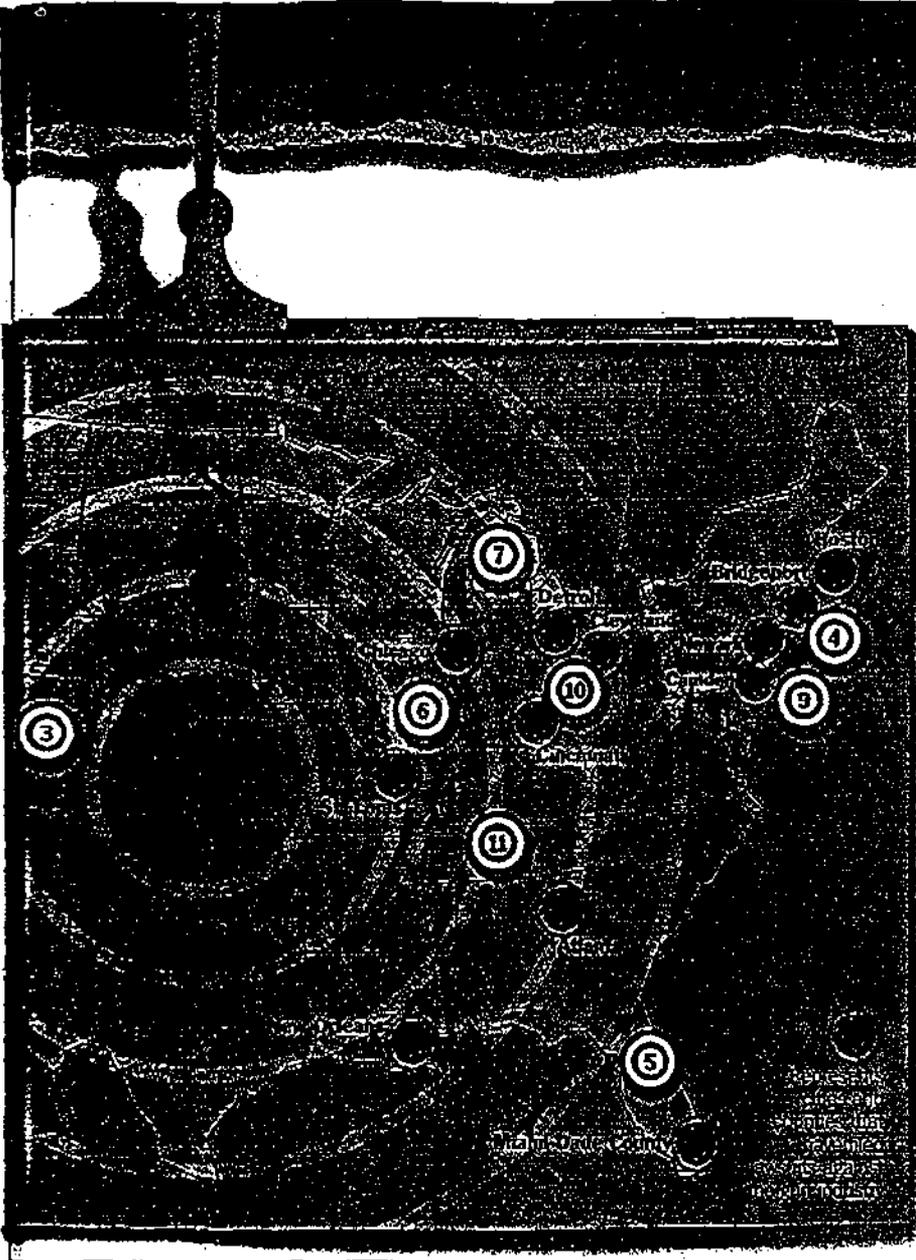
■ Companies are trying to make safer guns



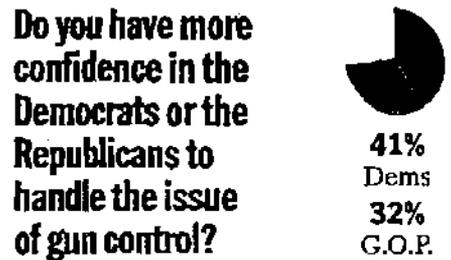
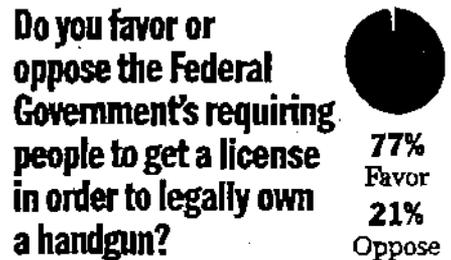
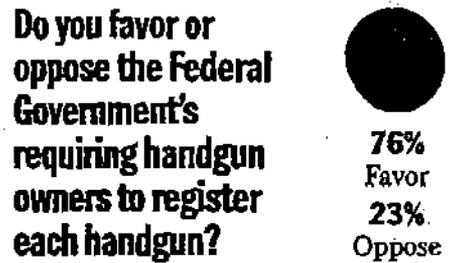
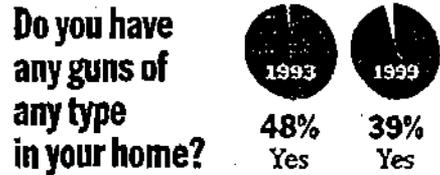
A Smarter Gun For the Future

A fingerprint-enabled handgun, being developed by Oxford Micro Devices, will use a miniature electronic fingerprint-capture-and-verification device built into the handle of a gun to identify the owner and prevent unauthorized users

- ① The "latching solenoid" locks the gun's hammer and trigger, preventing unauthorized use
- ② On picking up the gun, the owner's middle finger covers a tiny red button, activating the fingerprint unit on the side of the grip. The finger also wraps over the print sensor, which then scans the fingerprint
- ③ An image-processor chip captures the image from the sensor and, with the memory chip and circuit board, identifies the fingerprint and unlocks the gun

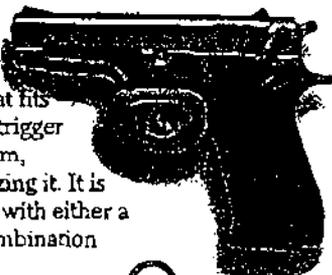


TIME/CNN Poll



Some Current Safety Devices

The trigger lock is a device that fits over the trigger mechanism, immobilizing it. It is unlocked with either a key or combination



The cable lock consists of a cable that loops through the slide at the top, threads down through the grip and is fastened at both ends by a padlock



Guns are becoming a major issue for 2000

BILL BRADLEY has taken the toughest position on guns of any major candidate in recent history. He wants a license-registration system for handguns

AL GORE would require licenses for buyers but not registration of the weapons themselves. Both want to ban "junk guns," but Gore doesn't attack the N.R.A.

GEORGE W. BUSH signed a law ending Texas' concealed-weapons ban. He supports background checks at gun shows but hasn't pushed for them in Texas

JOHN MCCAIN voted against the Senate bill that would have required background checks at gun shows. He also voted against the Brady bill in 1993

From a telephone poll of 1,017 adult Americans taken for TIME/CNN on July 14-15 by Kantakovich Partners Inc. Margin of error is ±3.2%. "Not sure" omitted.

→ why not sue a gang?

GUN LITIGATION CLAIMS

- I. **PRODUCT LIABILITY** – The first set of claims against gun manufacturers involves the application of product liability law to the gun industry. One such claim – design defect – asks the court to weigh the utility of guns against the dangers inherent in these products. Both the fact of widespread gun violence and the trends to design and market more powerful and dangerous guns would support this theory.

A second product liability claim asserts that gun manufacturers should incorporate safety devices into their products. This claim requires proof that guns present an inherent risk of injury and that they can be made safer without undue cost or interference with product performance. The technology to incorporate safety features into firearms has been available since the turn of the century. Some companies have successfully manufactured guns with child safety features, magazine disconnects and warnings that a round is in the chamber. The experience of companies that have used these safety features demonstrates that guns can be viable products even with such features.

Another product liability theory would hold gun manufacturers liable for failing to warn customers of the dangers inherent in their products. To succeed on this theory a plaintiff must show that guns present an inherent risk of injury and that either the warning given was inadequate or the lack of a warning was unreasonable.

Another possible legal claim is that the use of guns constitutes an ultrahazardous activity. This claim asks the court to engage in a risk utility analysis similar to that necessary to claim that there is a design defect.

A. Design Defect

1. Legal Standards

- a) Unreasonably dangerous condition existed in the product
- b) Condition existed at time it left the manufacturer's control
- c) Condition was a proximate cause of plaintiff's injury
- or
- d) Risk/utility analysis (product is defective if its risks exceed its overall utility)

2. Possible Supporting Facts

- a) 1996 – over 34,000 Americans killed by gunfire
- b) 1996 – over 4,500 under age 20 were killed
- c) It is estimated that for every death there are 2 to 3 nonfatal shooting injuries
- d) 1996 – 1,100 deaths from unintentional shootings
- e) 1993 – 526 accidental shooting deaths of children and teens
- f) 1992 – 99,000 individuals treated in emergency rooms for non-fatal firearm injuries
- g) 1994 – firearms were second leading cause of death of people ages 10 to 24

- h) Dangerous gun manufacturing trends
 - (1) Greater ammunition capacity
 - (2) Higher caliber or power
 - (3) Greater concealability
 - (4) Point and rapid fire capability (e.g., pistol grips, shoulder straps)
- B. Failure to Incorporate Safety Device
- 1. Legal Standards
 - a) Product presents inherent risk of injury
 - b) Product can be made safer without undue cost or interference with product performance.
 - 2. Possible Supporting Facts – reasonable safety measures include:
 - a) Magazine Disconnect
 - b) Warning that a round is in the chamber
 - c) Personalization
 - (1) Combination trigger lock
 - (2) Magnetic ring
 - (3) fingerprint recognition
 - d) Child proofing: Lemon Squeezer (1908 Sears, Roebuck catalog)
 - e) 1996 – 1,100 deaths from unintentional shootings
 - f) 1991 GAO report – 31% of accidental deaths might be prevented by child proofing guns and incorporating loading indicators
 - g) 500,000 guns stolen each year
- C. Failure to Warn
- 1. Legal Standards
 - a) Product presents inherent risk of injury
 - b) Warning (or failure to warn) was inadequate (unreasonable)
 - 2. Possible Supporting Facts
 - a) 1996 – over 34,000 Americans killed by gunfire
 - b) 1996 – over 4,500 under age 20 were killed
 - c) It is estimated that for every death there are 2 to 3 nonfatal shooting injuries
 - d) 1992 – 99,000 individuals treated in emergency rooms for non-fatal firearm injuries
 - e) 1996 – 1,100 deaths from unintentional shootings
 - f) 1993 – 526 accidental shooting deaths of children and teens
- D. Ultrahazardous Activity
- 1. Legal Standards
 - a) High risk of harm
 - b) likelihood that harm will be great
 - c) Inability to eliminate risk through exercise of care
 - d) Extent to which activity is uncommon
 - e) Inappropriateness of activity to place where it is carried out
 - f) Extent of the activity's value to the community
 - 2. Possible Supporting Facts

- a) 1996 – over 34,000 Americans killed by gunfire
- b) 1996 – over 4,500 under age 20 were killed
- c) It is estimated that for every death there are 2 to 3 nonfatal shooting injuries
- d) 1996 – 1,100 deaths from unintentional shootings
- e) 1993 – 526 accidental shooting deaths of children and teens
- f) 1992 – 99,000 individuals treated in emergency rooms for non-fatal firearm injuries
- g) 1994 – firearms were second leading cause of death of people ages 10 to 24
- h) Risks to urban and housing project population compared to that of nation as a whole

II. **DISTRIBUTION AND MARKETING** – A second general category of legal claims focuses on the distribution and marketing practices of the gun industry. One contention of plaintiffs in these cases is that gun manufacturers are negligent in the way that they market their products. Negligence arises because the manufacturers breach a duty of care to take precautions to prevent the sale of their guns to criminals. The fact that a small number of dealers account for most sales of crime guns goes directly to the failure of manufacturers to monitor or regulate the distribution of their products.

Another claim is that the way in which manufacturers market their products constitutes a public nuisance. In other words, the lax oversight of the distribution system makes it foreseeable that guns will end up in the hands of criminals and that deaths and injuries will result.

Housing authorities also could assert claims for private nuisance. Such a claim would require proof of an unreasonable interference with the use or enjoyment of land. Housing authorities own and operate public housing and can allege that the actions of gun manufacturers interfere with the safe use and enjoyment of these properties.

Plaintiffs may also have a claim against gun manufacturers for deceptive advertising. Plaintiffs must show that advertising claims are material, false and likely to mislead. Gun manufacturers often claim – explicitly or implicitly – that their products will protect their customers and make them safer. However, studies show that these claims are false. Having a gun in the home makes one far more likely to be injured or killed.

Civil conspiracy presents another possible legal claim. Such a claim asserts that gun manufacturers and dealers conspire together to sell guns in a way that circumvents the legal restrictions on such sales. This includes sales to straw purchasers with knowledge that the products will end up in the hands of unauthorized users – criminals.

- A. Negligence
 - 1. Legal Standards

- a) legal duty to take reasonable precautions to prevent acquisition of guns by unauthorized persons (possibly grounded in state laws against sales to unauthorized persons)
 - b) breach of legal duty
 - 2. Possible Supporting Facts – See II.E below
- B. Public Nuisance -- Unreasonable interference with a right common to the general public
 - 1. Legal Standards
 - a) Deaths and injuries are reasonably foreseeable results of manufacturers' conduct
 - b) Manufacturers' conduct is the direct and proximate cause of deaths and injuries
 - 2. Possible Supporting Facts
 - a) 1996 – over 34,000 Americans killed by gunfire
 - b) 1996 – over 4,500 under age 20 were killed
 - c) It is estimated that for every death there are 2 to 3 nonfatal shooting injuries
 - d) 1996 – 1,100 deaths from unintentional shootings
 - e) 1993 – 526 accidental shooting deaths of children and teens
 - f) 1992 – 99,000 individuals treated in emergency rooms for non-fatal firearm injuries
 - g) 1994 – firearms were second leading cause of death of people ages 10 to 24
 - h) See II.E below
- C. Private Nuisance
 - 1. Legal Standards
 - a) Defendants' actions interfere with the use or enjoyment of land
 - b) The interference is unreasonable.
 - 2. Possible Supporting Facts
 - a) 1996 – over 34,000 Americans killed by gunfire
 - b) 1996 – over 4,500 under age 20 were killed
 - c) It is estimated that for every death there are 2 to 3 nonfatal shooting injuries
 - d) 1996 – 1,100 deaths from unintentional shootings
 - e) 1993 – 526 accidental shooting deaths of children and teens
 - f) 1992 – 99,000 individuals treated in emergency rooms for non-fatal firearm injuries
 - g) 1994 – firearms were second leading cause of death of people ages 10 to 24
 - h) See II.E below
- D. Deceptive Advertising
 - 1. Legal Standards
 - a) Claims are material
 - b) Claims are false
 - c) Claims are likely to mislead

2. Possible Supporting Facts
 - a) Claims that guns in the home will make the family safer
 - (1) A gun in the home is 22 times more likely to harm the family than defend it.

E. Civil Conspiracy

1. Legal Standards
 - a) Combination by 2 or more persons/organizations
 - b) to take some concerted action to either
 - (1) accomplish an unlawful purpose, or
 - (2) accomplish a lawful purpose through unlawful means.
2. Possible Supporting Facts
 - a) Similarity of marketing actions among manufacturers
 - b) Any discovery material? – Educational Fund to End Handgun Violence

F. Marketing Claims -- Possible Supporting Facts

1. Dealers sell to persons they know or should know will illegally transfer firearms
 - a) Multiple sales
 - b) Schumer Report – 1% of dealers account for 50% of crime guns sold
2. Dealers sell to persons they know or should know will illegally possess the firearms
 - a) Sales to residents of jurisdictions with more restrictive laws
 - b) Schumer Report – 1% of dealers account for 50% of crime guns sold
3. Manufacturers' distribution practices -- The result is straw purchases, illegal purchases from "kitchen table" dealers, gun show purchases and thefts from gun stores.
 - a) Using dealers in or around high crime areas
 - b) Using dealers who will sell to people they know or should know will use or possess weapons illegally
 - c) Don't require dealers to have a retail place of business
 - d) Don't monitor ATF tracing data to determine who is selling to criminals
 - e) Don't warn dealer about products that have been the subject of ATF traces
 - f) Don't require that dealers keep accurate records of sales
 - g) Don't require that dealers examine documentation from each purchaser to ensure a proper firearm owner's ID card, valid address, etc.
 - h) Don't require dealers to find out the intended use for a product
 - i) Don't require dealers to provide instruction on the proper use of weapons
 - j) Don't provide dealers with instruction on how to comply with applicable firearms statutes

- k) Don't provide dealers with a protocol regarding how to minimize the risk of transfers to illegitimate purchasers
- l) Don't provide dealers with signs stating that juveniles and felons cannot purchase weapons and that dealers seek to spot straw purchasers
- m) Don't help dealers equip stores to prevent theft
- n) Don't educate public about dangers of gun possession and use.
- 4. Police Department figures showing the guns recovered by manufacturer
- 5. Market saturation in areas with less restrictive laws
- 6. Percentage of new guns used in crimes
- 7. Manufacturers' advertising practices
 - a) TEC-DC9 – Tec-Kote provides "resistance to fingerprints"
 - b) TEC-DC9 – advertised as "assault-type pistol" that "deliver(s) more gutsy performance and reliability than any other gun on the market."
 - c) Tec-Kote also provides lubricity to increase bullet velocities (Ceriale complaint)
 - d) Kel-Tec Sub 9 – "will deliver much higher muzzle energy and penetrating than the relatively short barreled pistol. Further, the Sub 9 has greatly extended range compared to a handgun or shotgun."
 - e) Walther TPH – advertised as "[c]onsidered the ultimate hideaway, undercover, backup gun available anywhere."
 - f) Kel-Tec Sub 9 – "will deliver much higher muzzle energy and penetrating than the relatively short barreled pistol. Further, the Sub 9 has greatly extended range compared to a handgun or shotgun."
- 8. Manufacturers design guns to stimulate demand by those who will use or possess them illegally
 - a) TEC-DC9 – sling swivel to allow shoulder strap to be attached (better mobility and ability to spray bullets)
 - b) TEC-DC9 – Tec-Kote "resistance to fingerprints"
 - c) Small concealable weapons (numerous, including Beretta, Browning, Bryco, Colt, Davis, Glock, H&R, Hi-Point, Rossi, Star, Walther, Lorein, Phoenix, Raven, Smith & Wesson, Sturm Ruger, Sundance, Taurus)
 - d) Bryco Jennings Model 48 – combat style trigger guard
 - e) Kel-Tec – Sub 9 automatic rifle can accept most double high capacity magazines, by rotating the barrel it can be reduced to a size of 7x16 inches

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. report	[Gun Industry and Public Housing] (2 pages)	08/05/99	P5

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Clinton Presidential records
Domestic Policy Council
Bruce Reed (Crime)
OA/Box Number: 21552

FOLDER TITLE:

Guns-Public Housing

rs22

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]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

GUN FACTS

Gun Violence in the U.S.

- ⇒ There are more than 600,000 gun crimes in the United States each year – Department of Justice, Bureau of Justice Statistics 1994
- ⇒ 38,505 firearm-related deaths in the U.S. in 1994 – Centers for Disease Control and Prevention, National Center for Injury Prevention and Control
- ⇒ Nearly 70% of all murders are committed with a gun – FBI, Uniform Crime Reports 1997
- ⇒ More than 40% of all robberies are committed with a gun – FBI, Uniform Crime Reports 1997
- ⇒ Approximately 1,300 unintentional deaths are caused by guns each year – Centers for Disease Control and Prevention, National Center for Injury Prevention and Control
- ⇒ For every death there are about 3 nonfatal gun injuries – Centers for Disease Control and Prevention, National Center for Injury Prevention and Control

Gun Violence Against Children

- ⇒ 4,643 children and teenagers were killed with firearms in 1996 – Centers for Disease Control, National Center for Health Statistics 1998
- ⇒ Gunshot wounds are the second leading cause of death for people aged 10-34 – Centers for Disease Control, National Center for Health Statistics 1998
- ⇒ Rate of firearm death of children aged 0 to 14 is almost *12 times higher in the U.S.* than in the 25 other industrialized countries *combined* – Centers for Disease Control 1997
- ⇒ In 1994, almost 90% of murders of children aged 15 to 19 were committed with a gun – Centers for Disease Control and Prevention, National Center for Injury Prevention and Control
- ⇒ In a 1995 survey, 1 in 12 students reported carrying a gun for fighting – Centers for Disease Control and Prevention, National Center for Injury Prevention and Control

Violence in Public Housing and Its Costs

- ⇒ In the 100 largest Housing Authorities there were more than 500 murders each year from 1994 to 1997. In fact, in 1995 there were 627 murders in those Housing Authorities. – Compiled by the Department of Housing and Urban Development
- ⇒ 454 murders were committed in New York public housing from 1994 - 1997 – Compiled by the Department of Housing and Urban Development
- ⇒ 177 murders were committed in Washington, D.C. public housing from 1995 - 1997 or one murder for every 61 homes over a three year period. – Compiled by the Department of Housing and Urban Development
- ⇒ 185 murders were committed in New Orleans public housing from 1994 - 1997 or one murder for every 70 homes over a four year period – Compiled by the Department of Housing and Urban Development

(per 20 homes
in 1990s?)

- ⇒ On July 21, 1999, one teenager was murdered and three others – including a 15 year old who was 9 months pregnant – were shot at a birthday party in the Easter Hill public housing complex in Richmond, CA – San Francisco Chronicle, “Richmond Teen Dies After Party Shooting” July 23, 1999
- ⇒ On July 10, 1999, Renee Childers, her 9 year old son and two others were held hostage for 13 ½ hours before the gunman killed Mrs. Childers and himself in the Lincoln Park public housing community in Portsmouth, VA – The Virginian-Pilot, “Police Wanted to Charge Man Months Before Fatal Standoff; In December, Portsmouth Prosecutors Decided the Case Wasn’t Strong Enough” July 22, 1999
- ⇒ On June 21, 1999, grandmother Helen Foster-El was shot to death as she tried to shepherd neighborhood children to safety in the East Capitol Dwellings public housing complex in Washington, DC – Washington Post, “Renovation Planned at Slaying Site; Agency to Rebuild East Capitol Units” July 1, 1999
- ⇒ On June 13, 1998, 17 year old Antonio Taliaferro was killed and two friends were wounded in a drive-by shooting on the steps of the New Hope Apostolic Temple across the street from the Southside Terrace public housing development in Omaha, Nebraska – Omaha World-Herald, “One Dead in Shooting at Church Two Others are Injured After Shots are Fired From a Passing Car Early Saturday Morning” July 14, 1998
- ⇒ In May 1998, Melissa Stone, a 29 year old mother of 7, was abducted at gunpoint, then raped and killed in the Desire public housing complex in New Orleans, LA – The Times-Picayune “Body of Woman ID’d by Family; Mother of 7 Last Seen on Sunday” July 7, 1998

The Economic Costs of Violence in Public Housing

- ⇒ HUD provides approximately \$2.5 billion each year in Public Housing Comprehensive Grants – Department of Housing and Urban Development
- ⇒ Chicago spent \$43,777,157 of its 1997 Comprehensive Grant on security – 38% of its Comprehensive Grant funding – Department of Housing and Urban Development
- ⇒ In 1998, HUD spent \$243,736,400 on the Public Housing Drug Elimination Program – about 46% of those funds went to security, law enforcement, investigators and tenant patrols – Department of Housing and Urban Development

Gun Industry’s Responsibility for the Problem

- ⇒ 1% of all gun dealers account for 50% of crime guns sold – “A Few Bad Apples: Small Number of Gun Dealers the Source of Thousands of Crimes” by Senator Charles Schumer
- ⇒ “The company and the industry as a whole are fully aware of the extent of the criminal misuse of handguns. The company and the industry are also aware that the black market in handguns is not simply the result of stolen handguns but is due to the seepage of handguns into the illicit market from multiple thousands of unsupervised federal handguns licensees.” -- Robert Hass, former Senior Vice President of Smith & Wesson

- ⇒ Gun maker Intra-Tec has advertised one of its weapons as an "assault-type pistol" that has "excellent resistance to fingerprints." In discussing the ad, Intra-Tec's sales director said, "Hey, it's talked about, it's read about, the media write about it. That generates more sales for me. It might sound cold and cruel, but I'm sales oriented." – U.S. Newswire April 23, 1999
- ⇒ The General Accounting Office, in a 1991 study, estimated that 31% of accidental shooting deaths could be prevented by child-proofing guns and including loading indicators that show whether a bullet is in the chamber
- ⇒ Childproofing guns would **prevent every accidental death** from shots fired by **children under age 6** – General Accounting Office 1991

PUBLIC HOUSING COMPREHENSIVE GRANT INFORMATIONTotal Public Housing Units

1,300,000

Total Public Housing Residents

3,250,000 (approximate)

Total Public Housing Authorities

3,191

Public Housing Comprehensive Grants (HAs with 250 or more units)

\$2,500,000,000 per year

Public Housing Comprehensive Improvement Grants (HAs with less than 250 units)

\$500,000,000 per year

One Example: Chicago 1997

Public Housing Comprehensive Grant Funds \$116,055,155

PHCG Funds Spent on Security: \$ 43,777,157 (38% of total)

DRUG ELIMINATION PROGRAMTotal Grants Awarded

1998	748 grants	\$243,736,400
1997(2)	185 grants	\$ 44,750,000
1997(1)	532 grants	\$205,630,000
1996	665 grants	\$259,000,000
1995	526 grants	\$250,340,000
1994	520 grants	\$228,880,000
1993	439 grants	\$145,530,000
1992	426 grants	\$140,550,000
1991	496 grants	\$140,780,000

Funds Used by Activity – Fiscal Year 1998

	Amount	% of total
Law Enforcement	\$68,876,692	28%
Security	\$31,234,680	13%
Investigators	\$ 6,295,935	3%
Tenant Patrols	\$ 4,151,885	2%
Improvements	\$ 6,885,084	3%
Intervention	\$15,222,602	6%
Prevention	\$92,034,620	37%
Treatment	\$ 3,669,780	2%

Funding to Selected Housing Authorities

	1995	1996	1997	1998
New York City HA	\$40,578,147	\$35,000,000	\$35,000,000	\$35,000,000
Chicago HA	\$10,008,250	\$ 7,754,038	\$ 9,050,270	\$ 8,679,970
Los Angeles HA	\$ 2,180,500	\$ 2,190,500	\$ 2,199,600	\$ 2,129,140
New Orleans HA	\$ 3,432,000	\$0	\$ 3,371,940	\$ 2,565,160
Camden HA	\$ 582,250	\$ 582,250	\$ 582,250	\$ 602,240
East St. Louis HA	\$ 583,750	\$ 570,250	\$ 581,100	\$ 572,260



Jose Cerda III

08/03/99 05:23:22 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP, Eric P. Liu/OPD/EOP@EOP, Leanne A. Shimabukuro/OPD/EOP@EOP
cc: Cathy R. Mays/OPD/EOP@EOP, Courtney O. Gregoire/OPD/EOP@EOP
Subject: HUD Testimony

BR, et.al.:

Shouldn't we narrow the last line of HUD's testimony? Sounds like a bit of leap to say that the lawsuits are an inevitable and necessary component of an anti-violence strategy for neighborhoods. How about something like...

"Given the size of the threat posed to both our public investment and to the families who live in public housing, it is entirely reasonable for HUD to discuss and consider the merits of the lawsuits under discussion as part of its overall effort to reduce violence in public housing neighborhoods."

Just a thought,

Jose'



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF DOMESTIC POLICY COUNCIL

FACSIMILE FROM: Kanne
OLD EXECUTIVE OFFICE BUILDING, ROOM 224
WASHINGTON, DC 20050

VOICE: (202)456- FAX: (202)456-

NUMBER OF PAGES (INCLUDING COVER): 5

DATE: B-3-99

TO: Bonnie Reed / Eric Lin

VOICE: _____

FAX: 62878

- FOR YOUR REVIEW
- PER MY E-MAIL OR VOICE-MAIL MESSAGE TO YOU
- PER YOUR REQUEST

COMMENTS: DRAFT HUD testimony
on gun litigation.

AUG-03-1999 14:05 TO:L SHIMABUKURO

FROM:HASKINS, M.

Total Pages: 5

LRM ID: MDH103

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Tuesday, August 3, 1999

URGENT

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: *Janet R. Foregren*
Janet R. Foregren (for) Assistant Director for Legislative Reference

OMB CONTACT: Oscar Gonzalez
E-Mail: Oscar_Gonzalez@omb.eop.gov
PHONE: (202)395-7754 FAX: (202)395-6148

SUBJECT: HOUSING & URBAN DEVELOPMENT Testimony on HUD's Role in
Litigation Against Gun Manufacturers

DEADLINE: 4:30 P.M. Tuesday, August 3, 1999

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: URGENT!

ACTION REQUIRED THIS AFTERNOON.

Attached is the HUD (Laster) testimony for tomorrow's House Government Reform Committee hearing on HUD's role in litigation against gun manufacturers.

THIS DEADLINE IS FIRM. IF WE DO NOT HEAR FROM YOU BY THE COMMENT DEADLINE, WE WILL ASSUME THAT YOU HAVE NO OBJECTION.

DISTRIBUTION LIST

AGENCIES:

- 61-JUSTICE - Jon P. Jennings - (202) 514-2141
- 118-TREASURY - Richard S. Carro - (202) 622-0650
- 89-Office of National Drug Control Policy - John Carnevale - (202) 395-6736

EOP:

- Michael Delch
- Douglas Pitkin
- Kenneth L. Schwartz
- David J. Haun
- James Boden
- Alan B. Rhinesmith

AUG-03-1999 14:05 TO:L SHIMABUKURO

FROM:HASKINS, M.

Francis S. Redburn
Mark J. Schwartz
Andrea E. Jacobson
Joanne Chow
Jennifer M. Baffi
Robert G. Damus
Charles E. Kieffer
Brian S. Mason
Sandra Yamin
Jose Cerda III
Leanne A. Shimabukuro
Paul J. Weinstein Jr.
Caroline R. Fredrickson
Broderick Johnson
Michelle Peterson
Fred DuVal
Edward H. Chase
Jill G. Crann
Ronald E. Jones
Janet R. Forsgren
James J. Jukes

AUG-03-1996 14:05 TO:L SHIMABUKURO

FROM:HASKINS, M.

P. 3/5

LRM ID: MDH103 SUBJECT: HOUSING & URBAN DEVELOPMENT Testimony on HUD's Role in Litigation Against Gun Manufacturers

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is short (e.g., concurring comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Oscar Gonzalez Phone: 395-7754 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: (Date)
(Name)
(Agency)
(Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
No Objection
No Comment
See proposed edits on pages
Other:
FAX RETURN of pages, attached to this response sheet

AUG-03-1999 14:05 TO:L SHIMABUKURO

FROM:HASKINS, M

005
P. 4/5

House Government Reform and Oversight Committee
Hearing re: HUD's Role In Litigation Against Gun Manufacturers

DRAFT

Opening Statement of Gail Laster, HUD General Counsel

Chairman Mica, Ranking Member Mink, honorable members of the Committee, I am pleased to have the opportunity to address you today about the pressing problems created by gun violence in our nation's public housing projects. In order to fully understand the justification for HUD's concerns about gun violence, it's important to realize the terrible impact that gun violence exacts on our public housing programs. Every year, there are thousands of incidents of gun violence in and around public housing projects. Last year, in the 100 largest housing authorities, there were more than 500 murders. Many of these crimes are perpetrated by individuals who do not even live in public housing, but who exploit public housing spaces as opportune areas to engage in violent and criminal activity. Every day, innocent residents of public housing and their families are caught in deadly crossfires between people who have far too ready access to firearms of all types. Under such circumstances, simple acts of community-building, like visiting your neighbor, are all but impossible. The fear of violence can leave residents practically trapped inside their homes.

These conditions make it very hard for HUD to fulfill its statutory mandate to provide safe and sanitary housing to low-income households. In addition, this violence directly threatens the billions of taxpayer dollars we have invested in public housing over the years and imposes direct and continuing costs in terms of increased security and law enforcement costs. HUD spends approximately \$2.5 billion each year in Public Housing comprehensive grants and a significant portion of that money goes to addressing security problems. In Chicago, for example, nearly 40% of its grant funding is spent on security costs.

In response to these conditions, HUD, in partnership with Congress, has aggressively responded in a variety of ways. Congress has authorized and local housing authorities have implemented a number of "one-strike and you're out" eviction policies which evict of households involved in drugs or violence. Last year, HUD awarded over \$200 million dollars worth of drug elimination grants to local housing authorities to help them combat the problem of drugs and crime in their projects. In many cases, that money has helped to fund additional police officers, security cameras, and innovative enforcement measures. Every year, in coordination with local and state police officers, we participate in operations that result in the confiscation of hundreds of weapons, including illegal firearms, in and around public housing projects. We are proud of our successes in these areas, but mindful that all of these monies could be better spent directly on more housing for the poor and services for our clients if gun violence were not such a pressing issue.

Despite all of these efforts, they are still not enough. The problem of gun violence obligates us to continue to examine any and all additional ideas for dealing with this problem. Recently, certain practices of the gun manufacturing industry have come under scrutiny for the possible role they play in exacerbating the problems of guns and gun violence.

UNAFI

Earlier this year, municipalities around the country, who know all too well the human and financial costs imposed by gun violence, gun deaths and accidental injuries, began filing lawsuits against gun manufacturers. Many people in the public housing community are interested in the possibility of filing similar suits. As has been reported last week in the press, HUD's search for solutions has led to discussions between HUD, local housing authorities, their representative organizations and prominent law firms about the viability of such an action. These contacts included discussions about the viability of particular theories, types of actions and types of plaintiffs. Our discussions with housing authorities have indicated that there is a broad interest in taking some kind of action against gun manufacturers. That possibility is still under active discussion inside of HUD and across the public housing community. There is nothing, however, fundamentally unusual about such discussions. HUD has traditionally worked closely with housing authorities, including consultations with law firms representing housing authorities, on a wide variety of issues. HUD does not, however, plan to bring any action against gun manufacturers on its own behalf.

Our actions in exploring the possibility of these lawsuits is entirely consistent with our statutory mission. Congress has long recognized that HUD is not just about bricks and mortar, but about communities. In our enabling legislation, Congress charged HUD to "encourage the solution of problems of housing [and] urban development . . . through State, county, town, village or other local and private action, . . ." This is exactly what we have done through our discussions with law firms and housing authorities about a possible suit. Given the size of the threat posed to both our public investment and to the families who live in public housing, the lawsuits under discussion are an inevitable and necessary component of an effective anti-violence strategy designed to strengthen these neighborhoods.

I stand ready to answer any questions you may have.

DEPARTMENT OF HOUSING &
URBAN DEVELOPMENT
OFFICE OF GENERAL COUNSEL
451 7TH ST. SW
WASHINGTON, DC 20410
202-708-2236

facsimile transmittal

To: Bruce Reid/Kathy Fax: 202-456-5542

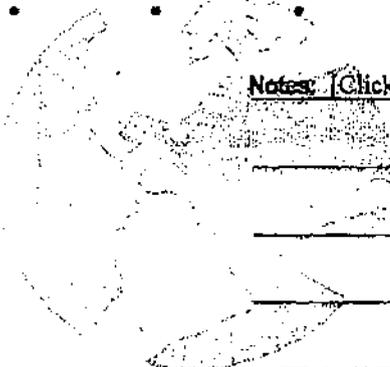
From: MAX STIER Date: August 3, 1999

Re: STATEMENT re: GUN CONTROL Pages: 3

CC: [Click here and type name]

Urgent For Review Please Comment Please Reply Please Recycle

Notes: [Click here and type any comments]



CONFIDENTIAL

**House Government Reform and Oversight Committee
Hearing re: HUD's Role In Litigation Against Gun Manufacturers**

Opening Statement of Gail Laster, HUD General Counsel

Chairman Mica, Ranking Member Mink, honorable members of the Committee, I am pleased to have the opportunity to address you today about the pressing problems created by gun violence in our nation's public housing projects. In order to fully understand the justification for HUD's concerns about gun violence, it's important to realize the terrible impact that gun violence exacts on our public housing programs. Every year, there are thousands of incidents of gun violence in and around public housing projects. Last year, in the 100 largest housing authorities, there were more than 500 murders. Many of these crimes are perpetrated by individuals who do not even live in public housing, but who exploit public housing spaces as opportune areas to engage in violent and criminal activity. Every day, innocent residents of public housing and their families are caught in deadly crossfires between people who have far too ready access to firearms of all types. Under such circumstances, simple acts of community-building, like visiting your neighbor, are all but impossible. The fear of violence can leave residents practically trapped inside their homes.

These conditions make it very hard for HUD to fulfill its statutory mandate to provide safe and sanitary housing to low-income households. In addition, this violence directly threatens the billions of taxpayer dollars we have invested in public housing over the years and imposes direct and continuing costs in terms of increased security and law enforcement costs. HUD spends approximately \$2.5 billion each year in Public Housing comprehensive grants and a significant portion of that money goes to addressing security problems. In Chicago, for example, nearly 40% of its grant funding is spent on security costs.

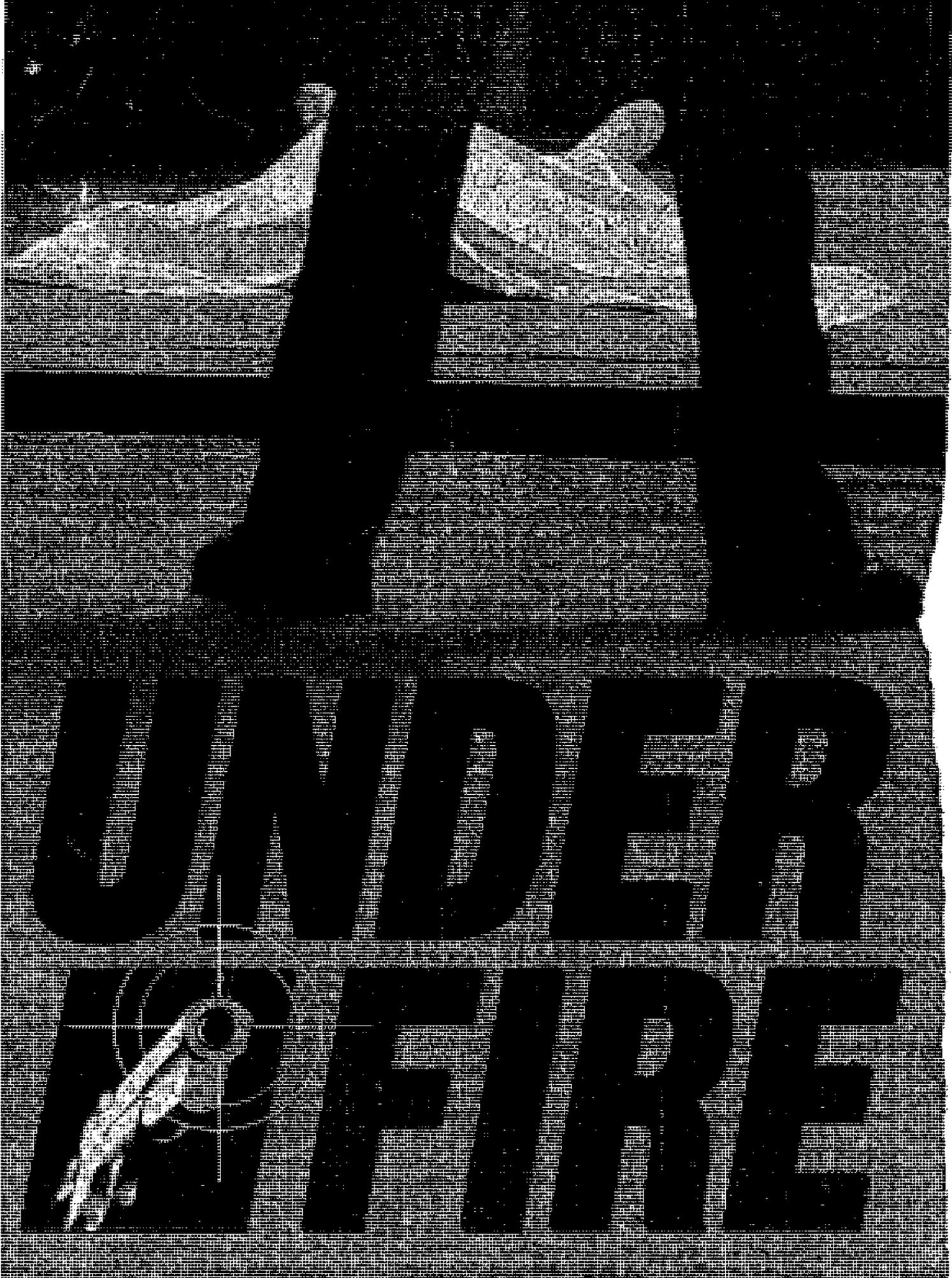
In response to these conditions, HUD, in partnership with Congress, has aggressively responded in a variety of ways. Congress has authorized and local housing authorities have implemented a number of "one-strike and you're out" eviction policies which evict of households involved in drugs or violence. Last year, HUD awarded over \$200 million dollars worth of drug elimination grants to local housing authorities to help them combat the problem of drugs and crime in their projects. In many cases, that money has helped to fund additional police officers, security cameras, and innovative enforcement measures. Every year, in coordination with local and state police officers, we participate in operations that result in the confiscation of hundreds of weapons, including illegal firearms, in and around public housing projects. We are proud of our successes in these areas, but mindful that all of these monies could be better spent directly on more housing for the poor and services for our clients if gun violence were not such a pressing issue.

Despite all of these efforts, they are still not enough. The problem of gun violence obligates us to continue to examine any and all additional ideas for dealing with this problem. Recently, certain practices of the gun manufacturing industry have come under scrutiny for the possible role they play in exacerbating the problems of guns and gun violence.

Earlier this year, municipalities around the country, who know all too well the human and financial costs imposed by gun violence, gun deaths and accidental injuries, began filing lawsuits against gun manufacturers. Many people in the public housing community are interested in the possibility of filing similar suits. As has been reported last week in the press, HUD's search for solutions has led to discussions between HUD, local housing authorities, their representative organizations and prominent law firms about the viability of such an action. These contacts included discussions about the viability of particular theories, types of actions and types of plaintiffs. Our discussions with housing authorities have indicated that there is a broad interest in taking some kind of action against gun manufacturers. That possibility is still under active discussion inside of HUD and across the public housing community. There is nothing, however, fundamentally unusual about such discussions. HUD has traditionally worked closely with housing authorities, including consultations with law firms representing housing authorities, on a wide variety of issues. HUD does not, however, plan to bring any action against gun manufacturers on its own behalf.

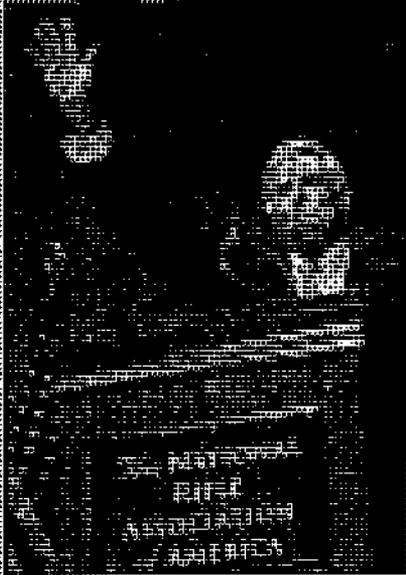
Our actions in exploring the possibility of these lawsuits is entirely consistent with our statutory mission. Congress has long recognized that HUD is not just about bricks and mortar, but about communities. In our enabling legislation, Congress charged HUD to "encourage the solution of problems of housing [and] urban development . . . through State, county, town, village or other local and private action, . . ." This is exactly what we have done through our discussions with law firms and housing authorities about a possible suit. Given the size of the threat posed to both our public investment and to the families who live in public housing, the lawsuits under discussion are an inevitable and necessary component of an effective anti-violence strategy designed to strengthen these neighborhoods.

I stand ready to answer any questions you may have.



A DIVIDED CAMP

THE STAFF



STAFF MEMBERS



STAFF MEMBERS

THE STAFF



STAFF MEMBERS

GOVT STUDY

STAFF MEMBERS

CLOCKWISE FROM TOP LEFT: PHOTOGRAPHS BY LES STONESYGA; PORTER SIFORD/GAMMA LIAISON; BOB CHILDAF/WIDE WORLD; PALM BEACH POST

COMMENTARY

GUNS ARE WOUNDING AMERICA'S IMAGE ABROAD

T



HUD denies it has plans to join in suit against gun makers

By Laura R. Vanderkam
THE WASHINGTON TIMES

The Department of Housing and Urban Development has "no current plans" to join a lawsuit against the nation's gun manufacturers, but HUD officials would not rule out an advisory role or future action.

"Discussions with [local] housing authorities have indicated that there is a broad interest in taking some kind of action to cut the costs of gun violence," HUD General Counsel Gail W. Laster told the House Government Reform subcommittee on criminal justice, human resources and drug policy yesterday. "HUD does not, however, plan to bring its own action against the gun industry."

Republicans on the subcommittee convened the hearing because of last week's Wall Street Journal article saying HUD had consulted outside lawyers about joining the lawsuit filed by 23 cities against the gun industry. The NAACP has already announced it will file suit as well.

The cities — including New Orleans, Chicago and others — hope to recoup costs of law enforcement. HUD is responsible for oversight of the nation's public housing projects, many of which have seen high numbers of crimes committed with guns in recent years.

Those filing the suit say the gun industry has purposefully allowed a black market in handguns to flourish in urban areas.

Ms. Laster said HUD officials had contacted outside lawyers, and that HUD funds had been used to pay for travel to New York for a meeting. The lawyers had not drafted any documents for litigation though, she said. She called the Wall Street Journal article "incorrect," but then, under questioning, backed away from that and called it "imprecise."

"Given these costs [of gun violence], it would not be right for the nation's housing authorities to refuse to examine every option in their efforts to protect residents," she said.

Ms. Laster repeated that the department had engaged in "discus-

sions and inquiries" with local housing authorities, but that HUD was not currently involved in any lawsuits. She would not, however, answer frequent questions from Rep. Bob Barr, Georgia Republican, on whether HUD would ever join such a suit.

In the often contentious hearing, subcommittee Democrats urged HUD, regardless of whether the department was currently involved in the lawsuit, to join as quickly as possible.

"One of HUD's core missions is to help authorities reduce problems and encourage solutions to problems of housing and urban development," said Rep. Henry A. Waxman, California Democrat. "It should be apparent that gun violence is a problem of public housing and stands in the way of HUD's goal of providing decent housing to all citizens. I think gun manufacturers need to be held responsible," he said.

Subcommittee Chairman John L. Mica, Florida Republican, said he was baffled by the idea that "makers of guns are somehow legally responsible for those who acquire and misuse them."

"The list of potential defendants could be endless," he said. Since public housing residents are also occasionally stabbing victims, he wondered if HUD would next "go after Swiss Army knives or Oneida silver." He called any potential lawsuit "part of the Clinton administration's blame-and-sue philosophy."

Rep. Patsy T. Mink, Hawaii Democrat, said HUD could find itself as the defendant in a lawsuit if it failed to attempt to protect public housing residents by aiding the suit against manufacturers of guns.

"It would be a dereliction of duty to be blind to the situation they're facing," she said. "HUD could be sued for their tenants not being safe."

Mr. Barr insisted HUD could not file suit, because the department has no statutory authority to do so.

Mr. Waxman accused subcommittee Republicans of convening the hearing before HUD had decided on any action.

U.S. firms ignore their own anti-boycott laws

By Jack Lucentini
JOURNAL OF COMMERCE

When Alaris Medical Systems Inc., a San Diego medical equipment maker, did business in Kuwait in the mid-1990s, authorities said the company made a costly mistake.

It failed to report that Kuwaiti entities asked it to participate in the Arab countries' boycott of Israel, authorities said. That led the Commerce Department to impose a \$35,000 civil penalty in June.

U.S. officials and trade experts say many companies are paying too little attention to U.S. "anti-boycott" regulations.

The rules, designed to undermine foreign boycotts of nations friendly to the United States, are usually applied in the context of the Arab League boycott of Israel.

Hefty Commerce Department fines await exporters

That boycott includes a "secondary boycott," which calls for Arab companies to stop dealing with companies that don't comply with the Israel boycott. U.S. companies are required to spurn any requests to join the boycott and report them to U.S. authorities.

U.S. exporters say they hope the regulations will be dropped soon because of the revival in recent weeks of the Arab-Israeli peace process.

But experts warn that exporters shouldn't let the hopeful stirrings lull them into thinking they can ignore the rules, because their enforcement is alive and well.

"It's very easy to become complacent in complying with the anti-

boycott regulations. It's important for companies to remain vigilant," said E.J. Prior, an international trade lawyer and managing director of MK Technology, a Washington trade consultant.

Some company officials say the rules are complicated and fuzzy. One audience member at the annual convention of the Commerce Department's Bureau of Export Administration in June told a panel of government officials that he didn't realize the rules still applied to Israel.

They do, officials say — although the 1994 launch of the Arab-Israeli peace process gave some people the wrong impression. Officials fear that idea may

spread again with the accession last month of Israeli Prime Minister Ehud Barak, who promises to restart the beleaguered peace process.

"There's a long way between warm and fuzzy conversation and peace," said Dexter M. Price, director of the office of anti-boycott compliance at the Commerce Department's export administration bureau. "The law is still on the books, and we're still enforcing it."

The Commerce Department has issued penalties ranging from \$2,000 to \$35,000 in seven anti-boycott cases this year. The pattern is approximately consistent with previous years, Mr. Price said.

The most frequent sources of boycott requests are the United Arab Emirates and Kuwait, said Mr. Price, probably because those are two of the most economically active Arab countries.

The rules are "extremely complex. But an export compliance manager in a company will understand them," Mr. Prior said.

"The trick is making the rest of the company understand them as well, and understand that not only do they need to not adhere to a boycott-related request, but also report it to the government."

Among the key provisions are that a company may not agree to join in an unsanctioned foreign boycott and must report any requests to do so or any requests for information about dealings with a boycotted company.

• Distributed by Scripps Howard

The Washington Times

THURSDAY, AUGUST 5, 1999

HUD May Join Assault on Gun Makers

Local Housing Authorities Could File Big Lawsuit, Bolster Efforts by Cities

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL
The Department of Housing and Urban Development is considering joining the legal assault against the gun industry, said people familiar with the situation.

Such a move would sharply escalate the antigun court fight already being waged by 23 cities and counties around the country. A HUD spokesman said only that the agency is monitoring the litigation and has "no plans" to file a suit.

But one possible approach that HUD is weighing is arranging for a lawsuit to be brought on behalf of some or all of the 3,400 public-housing authorities that receive federal funding, according to a person familiar with the situation. The theory of such a suit could be that the locally controlled housing authorities tend to be acutely affected by gun violence, and that the firearm industry should be forced to reimburse the authorities for spending on such things as security guards and alarm systems.

Threat to Industry's Legal Resources

As with the municipal suits, one filed on behalf of housing authorities would be groundbreaking and certainly not a sure bet to succeed in court. But a suit by a large group of housing authorities could further tax gun companies' resources in pretrial maneuvering and by making demands for documents concerning industry distribution practices in hundreds or thousands of localities.

The approach under consideration is seen as complementing suits by cities such

as Chicago, Los Angeles and San Francisco, which are seeking reimbursement for municipal spending related to gun violence, such as funds for police and emergency medical services. The gun industry denies any responsibility for the criminal use of its products and is vigorously contesting the lawsuits.

Although it isn't clear whether HUD itself would be a party to the potential suit, the department already has asked several outside law firms to consider drafting the legal action, according to the person familiar with the situation.

HUD Secretary Andrew Cuomo privately has expressed interest in finding a way to get involved in the antigun litigation since New Orleans filed the first municipal suit last October, according to an outside lawyer familiar with administration discussions of the issue. In private deliberations at the White House, however, aides to President Clinton have expressed caution about moving directly against the gun industry, according to people involved in these discussions.

Yesterday, David Egner, a HUD spokesman, issued a written statement, which said, in part: "For years we have been monitoring actions being taken around the country to reduce gun violence, such as proposed legislation, lawsuits and anti-crime programs. We have no plans beyond what we are already doing to take any further action."

Another potential source of resistance to an innovative housing-authority suit could be the Justice Department. That agency has been under pressure from the White House to figure out a way to sue the tobacco industry to try to recover some federal costs for treating sick smokers. But Justice Department attorneys are uncertain about whether the government can file a credible antitobacco suit. The current wave of antigun litigation was inspired by earlier suits brought by states against cigarette makers, and the Justice Department

may be just as reluctant to see the administration get involved in suing gun manufacturers.

A Justice Department spokeswoman said the department wasn't aware of any plans for a housing-authority lawsuit.

Gun-industry officials expressed frustration over the prospect of yet another lawsuit, but said they hadn't heard anything about consideration of a housing-authority suit.

'A Wonderful Development'

Gun foes said they hoped that HUD would move ahead on the legal front. "If an aggressive law firm is handling such a suit, it would be a wonderful development, adding momentum to what we are already doing," said Elisa Barnes, a private attorney in New York who is fighting an industry appeal of her breakthrough verdict in February on behalf of relatives of individual gunshot victims in Brooklyn, N.Y. Ms. Barnes, together with the New York firm of Weitz & Luxenberg, also recently filed a suit against the gun industry on behalf of the National Association for the Advancement of Colored People.

The NAACP suit, which argues that blacks are disproportionately harmed by gun violence, is also distinctive because it primarily seeks restrictions in the manufacturing and distribution of guns, rather than monetary damages. But most of the municipal officials who have brought suit have also said that their main goal is to have the courts impose curbs on gun marketing rather than exact large monetary awards.

Some gun-industry representatives have said they are willing to discuss moderate additional regulation and are voluntarily moving ahead with ideas such as greater manufacturer oversight of wholesalers and retail gun dealers. But so far, the industry has balked at making major concessions, saying that legislation, not lawsuits, is the proper tool for regulating business behavior.

Bush and Gore Find the Faith In Social Policy

PRESIDENTIAL campaigns, God bless 'em, are great for airing out the arguments over things that divide Americans.

What most of us fail to appreciate, though, is how much campaigns also serve the opposite purpose: They reveal, often quite by surprise, when Americans have stumbled into agreement on some issue.

So it was in watching Texas Gov. George W. Bush campaign for the Republican presidential nomination here a few days ago. He came to Indianapolis to call



for government and religious organizations to work far more closely to combat social ills, in part by having government agencies contract with church groups to provide social and welfare services.

In a speech to a racially diverse audience at a local church, Mr. Bush did an impressive job of laying out this case for "faith-based institutions" as government's partner in social change. But the Bush argument was less surprising than the fact that it roughly parallels a position Democratic Vice President Al Gore laid out back in May. Thus, a formerly radical idea that once engendered charges that the wall separating church and state was crumbling has somehow become mainstream.

To which there are two important reactions. First, this is a good thing. There is every reason to think that church-based programs work better than many ill-fated government antipoverty programs of the last half-century. Government's healthy separation from religion had grown into an unhealthy animosity, and this is a smart step back toward a better balance.

But the second point is equally important. This move toward "faith-based institutions," while promising, is no panacea. Its adherents know that John DiIulio, a social scientist who has been one of the intellectual driving forces in pushing greater reliance on faith-based institutions, warns in a forthcoming article: "It remains to be seen how, if at all, local faith-based efforts can be taken to scale in ways that predictably, reliably, and cost-effectively cut crime, reduce poverty, or yield other desirable social consequences." The danger is that politicians could come to view these enterprises as an excuse for government to avoid its own larger responsibilities.

STILL, TO WATCH Mr. Bush here was to see how much attitudes have changed on the mingling of government and religious social work. He came to Indianapolis to visit Metro Church, an inner-city parish that is part of Mayor Stephen Goldsmith's "Front Porch Alliance." That's a program in which the city tries to help churches, synagogues and mosques expand their own programs to fight crime, give child care or help those trying to get off welfare, in part through modest city grants.

Metro Church occupies a former elementary school to house its programs, including a summer camp for kids, a social center to keep teens off the streets, and job-training classes in computers and culinary skills for neighborhood adults, including some trying to escape the welfare rolls. In offering these services, Metro Church is part of a quiet nationwide effort that operates largely below the media radar line.

As Mr. Bush tours the church, he shows how dramatically the politician's attitude toward discussing personal religious faith has been transformed over the last decade, from reticence to readiness. At one point he listens to a group of ministers from the Ten Point Coalition, a program that cooperates with police to patrol neighborhood streets every Friday night to contain crime. After the ministers talk, Mr. Bush looks at them intently and declares without hesitation: "I believe in the power of faith. It can transform lives. It changed mine."

THEN, MR. BUSH gave his speech, in which he called for breaking down laws and regulations that now prevent government programs from contracting out to faith-based groups to provide social services. He also advocated \$8 billion in new tax credits to funnel private contributions into such programs.

In his own speech on the topic in May, Mr. Gore broke with Democratic Party orthodoxy by calling for expanding the "charitable choice" provision of the 1996 welfare-overhaul law, which already allows states to use faith-based institutions for some welfare programs. Mr. Gore called for using this approach for drug treatment, homelessness and youth-violence programs as well.

As they carry word of this movement to their respective parties, Mr. Gore and Mr. Bush face opposite but equal challenges. Mr. Gore comes from a party and an administration that initially resisted the charitable choice provision in the new welfare law. Can Mr. Gore show that he and Democrats now have their hearts in this approach?

And Mr. Bush comes from a Republican Party in which some would use private charity as an excuse for ending government social services. To them, Mr. Bush sent a simple message: "Government cannot be replaced by charities." Does he have the courage to keep delivering that message?

Firearm Firms, Amid Rising Litigation, Take Steps to Reduce Criminal Gun Use

By VANESSA O'CONNELL
And PAUL M. BARRETT

Staff Reporters of THE WALL STREET JOURNAL

Facing mounting antigun litigation, several firearm manufacturers are taking steps they hope will be seen as efforts to keep guns out of criminal hands and enable law-enforcement agencies to catch criminals more quickly.

The steps, although modest, are significant because they represent the first tacit acknowledgements within the gun industry that manufacturers can do more to control how guns are marketed and sold, and perhaps to reduce gun crime. Until now, gun makers have responded to lawsuits by arguing that there is little they can do to control what happens to firearms once they leave the factory.

Smith & Wesson Corp., Springfield, Mass., for example, is preparing to overhaul its relationship with gun retailers, creating a more restrictive contract with its authorized dealers, according to a gun-industry veteran familiar with the company's plans. The dealer contract is expected to include a prohibition on any sales at gun shows, which are events similar to flea markets that authorities say are an important source of weapons for criminals, according to the person familiar with Smith & Wesson's plans.

Ken Jorgensen, the company's spokesman, said he wasn't "aware of any specifics" but added that Smith & Wesson, a unit of Britain's Tomkins PLC, is "always looking at ways to enhance the relationship" with dealers.

Talks on Gun-Sale Supervision

Colt's Manufacturing Co., meanwhile, is discussing with the New York state attorney general's office ways that the company might be willing to supervise more aggressively the selling of its guns. Colt's is attempting to persuade New York to leave it out of a lawsuit that Attorney General Eliot Spitzer is considering filing against the industry.

Colt's, West Hartford, Conn., is also taking a closer look at its wholesalers. "We have thinned our ranks of distributors from over 100 to under 20 and are continuously refining our performance criteria for them," said Steven Sliwa, the company's chief executive. He added that, in an effort to be more responsive to police agencies, Colt's has begun using law-enforcement data to examine "trends" in the criminal use of its weapons—a step that until now gun makers have strongly resisted.

Beemiller Inc., the Mansfield, Ohio, maker of inexpensive Hi-Point guns that are said by police to be favored by criminals, will soon begin putting serial numbers inside its carbine rifles, rather than in plain view, making it more difficult for criminals to obliterate them. The company has also begun cutting back on the number of chrome-plated guns it produces, after recognizing by means of trace requests from the federal Bureau of Alcohol, Tobacco and Firearms, that criminals tend to prefer the shiny guns, said Tom Deeb, president of the company.

The changes, Mr. Deeb explained, are intended to "make me look good to law en-

forcement" and antigun groups. Lawsuits filed by gun foes on behalf of 23 cities and counties around the country are "forcing me to say, 'I am going to do more for safety,'" Mr. Deeb added.

Cities Plan Legal Strategy

These developments aren't likely to blunt the burgeoning litigation soon. Lawyers for a number of municipalities met on Monday in San Francisco to plot strategy for pretrial investigation of the industry, said Patrick Coughlin, an attorney representing San Francisco and several other California municipalities. Referring to the discussions between Colt's and New York, Mr. Coughlin said, "We don't know enough yet about this industry to talk about resolving suits."

For their part, some of the gun companies are also maintaining a bellicose stance. "My clients aren't going to talk to any government entity that is suing them or saying false things about them in the press," said Timothy Bumann, an attorney for Brazil's Forjas Taurus SA and its U.S. unit. Mr. Bumann added, however, that Taurus would be willing to discuss with officials that hadn't sued the company, such as New York's Mr. Spitzer, ways that gun makers could do more to assist the ATF trace crime guns.

Some of the ideas under discussion with Mr. Spitzer's office build on noncontroversial developments already under way. For example, the office has discussed with Colt's the company's possible participation in an ATF program, under which the federal agency is working with other gun companies to assemble a computerized database of the unique markings that guns leave on bullets. The still-unproven program involves the recording of these markings by firing all new guns at the factory so that the ATF eventually can use the database to identify guns used in crimes based on bullets left at shooting scenes.

Richard Esposito, a spokesman for Colt's, stressed the preliminary nature of his company's dealings with the New York attorney general's office. The company "was invited to and did attend one meeting with the attorney general of New York," the Colt's spokesman said. "But during that meeting, Colt pointed out that the meeting should take place with a [gun industry] trade group," rather than with Colt's individually. In fact, the attorney general's office has held discussions recently with Robert Delfay, head of the National Shooting Sports Foundation, an industry trade group. Those discussions are aimed at hammering out a code of conduct for the industry as a whole, according to people familiar with the talks. The talks were expected to continue last night.

Mr. Delfay said, "I can't confirm or deny" the discussions.

The involvement of the trade organization, with its broad constituency of companies, could slow, if not stall, talks on substantive concessions the industry might make. An official with the attorney general's office who is familiar with the discussions with the industry said the talks could be "in a holding pattern for several weeks."

Exxon Net Falls by 26% as Weakness In Refining Offsets Crude-Price Rise

By STEVE LIESMAN

Staff Reporter of THE WALL STREET JOURNAL

Exxon Corp. said net income fell 26% in the second quarter as lower refining and chemicals profits offset higher crude prices.

Exxon is the first of the major oil companies to report, and its results suggest that hopes for pleasant earnings surprises for the second quarter might not pan out. The oil giant met Wall Street's expectations, but some analysts had hoped the doubling of crude-oil prices this year to nearly \$20 a barrel would result in somewhat higher-than-predicted profits.

"The fact that they didn't surprise positively is a little discouraging," said James Clark, oil analyst at CS First Boston.

Exxon, Irving, Texas, said net income dropped to \$1.21 billion in the quarter, or 49 cents a diluted share, from \$1.62 billion, or 65 cents a share, one year ago. Revenue was virtually flat at \$29.42 billion, compared with \$29.37 billion last year.

Analysts said the major oil companies should do better in the third quarter as profit margins pick up across their oil, natural-gas, chemicals and refining businesses. "You have all four cylinders in an improving state," says Frederick Leuffer, an oil analyst at Bear Stearns in New York. "I think the numbers will be up pretty strongly."

Exxon's stock gained 18.75 cents in New York Stock Exchange composite trading yesterday to close at \$78.125.

Chemicals Profit Falls

Exxon's refining and marketing divisions registered a surprisingly weak performance. Refining earnings fell 75% to \$158 million in the quarter. Lee Raymond, Exxon's chairman and chief executive officer, said the decline reflected the inability of oil companies to raise prices for gasoline and other oil products as quickly as crude costs shot up.

Chemicals earnings fell 7%, to \$274 million as higher volumes failed to make up for lower prices and higher feedstock costs.

Average crude-oil prices were \$4 a barrel higher than in the first quarter and about \$2 a barrel higher than a year ago, but the boost on the exploration and production side wasn't enough to make up for the fall in refining margins. Upstream earnings grew just 12% to \$769 million from \$684 million in the year-ago quarter as a 16% drop in natural-gas prices in Europe and a lesser drop in the U.S. weighed on the results.

Possible Sign of Trouble

Mr. Clark, the CS First Boston analyst, noted that Exxon's oil and gas production growth has failed to keep up with management's forecasts. The company projected 4.5% growth for its international crude-oil production this year, but production year-to-date has declined 2.7% from a year ago.

Mr. Clark said that production numbers could be a sign of trouble if Exxon is underestimating the costs of increasing its production, particularly if the company will

have to spend more to produce more, and then cut costs to maintain margins. But he said actual volume doesn't matter if Exxon continues to show profits.

Exxon is now saying oil production will be about flat this year and that it missed its targets because of pipeline problems in Alaska, spending cutbacks in response to low first-quarter oil prices and production delays at two Norwegian projects.

Mr. Leuffer of Bear Stearns said the best performers in the second quarter would be oil companies that derive most of their revenue from crude oil and have West Coast refining operations, such as Atlantic Richfield Corp. He said the poorest results are expected to come from companies such as Exxon that have substantial refining assets on the Gulf Coast and in Europe.

Big Oil Opposes Complaint Against Foreign Producers

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON—Major oil companies are opposing a dumping petition that could impose steep tariffs on some foreign oil producers.

The U.S. Commerce Department is now considering the standing of several big oil companies in a complaint filed by mostly small independent producers known as Save Domestic Oil Inc. Last month, the group accused Mexico, Venezuela, Saudi Arabia and Iraq of selling oil below cost in the U.S. during the recent downturn in oil prices. The four countries deny the allegations and have geared up to fight them.

If the petition is successful, tariffs of 33% to 157% could be imposed on crude-oil imports from the four countries.

Since the complaint was filed, Exxon Corp., Chevron Corp., Texaco Inc. and other major oil companies have come out strongly against the dumping measure, saying it could substantially increase oil and gasoline prices in the U.S. An industry trade group, the American Petroleum Institute, yesterday weighed in with a letter to President Clinton, arguing that the case shouldn't proceed "due to a lack of adequate U.S. oil-industry support."

The independent oil producers that filed the complaint argue that Commerce should disregard the big oil companies because they are also importers of foreign oil and have joint ventures and other relations with the foreign countries.

THE WALL STREET JOURNAL

THURSDAY, JULY 22, 1999