

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. report	Gun Industry Regulation (6 pages)	12/13/99	P5
002. draft agreement	[Gun Industry] Code of Conduct and Agreement (4 pages)	08/17/99	P5
003. talking points	Gun Industry Litigation Talking Points (16 pages)	12/6/99	P5
004. report	Background for Gun Meeting (1 page)	12/2/99	P5

COLLECTION:

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

FOLDER TITLE:

Guns-Smith and Wesson [1]

rs24

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]

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- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
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Guns - Smith & Wesson

And Clinton gave a long answer to a question about the Seattle trade talks, insisting the chaotic demonstrations over labor and environmental issues were not the reason for the talks' failure.

He told reporters, "It's very important that you understand that there were real differences that we thought we could bridge unrelated to labor and the environment which we couldn't and which I think would have been clearer but for the backdrop of the demonstrations in Seattle over these other issues."

Clinton says lawsuit against the firearms industry could lead to talks

By Todd Lighty and Naftali Bendavid
Chicago Tribune

WASHINGTON In a bit of presidential saber rattling, President Clinton on Wednesday said a threatened first-ever federal lawsuit against the firearms industry could force the industry into meaningful talks to curb gun violence.

Speaking at a news conference, Clinton said his administration is considering filing a suit on behalf of the 3 million Americans living in public housing.

Clinton said guns are involved in roughly 10,000 crimes every year in public housing, where the federal government spends \$1 billion on security. Stories abound of children sleeping in bathtubs and residents afraid to answer their doors because of their fears of being shot.

Public housing residents would not sue to bankrupt the gun companies, Clinton said. "They're trying to make their living spaces safer."

The president's threats to throw the federal government's weight behind legal action against the firearms industry by local governments was seen as a savvy political gesture by some and as a baffling move by lawyers for gun makers.

Anne Kimball, a Chicago lawyer for Smith & Wesson Corp. and several other gun makers, said gun manufacturers assist law-enforcement authorities, through gun traces, to solve crimes and catch criminals.

"This makes no public policy sense," Kimball said. "As a citizen, I'm shocked that the federal government would contemplate filing a lawsuit for conduct of hardened criminals and then blame the legitimate, legal manufacturers of guns."

By thrusting himself into the battle and threatening to sue, Clinton was making sure the administration had a chair at the table for any settlement talks, said Marshall Shapo, a Northwestern University law professor.

"He has opened a second front in the war against guns," Shapo said. "In a very loose sense, he is trying to make himself into an informal commander-in-chief of this overall war and at the same time become a great mediator to reaching a social goal."

The administration and the Department of Housing and Urban Development for months have quietly discussed filing an anti-gun lawsuit in U.S. District Court, and have talked with a number of housing authorities about the idea.

While they have not talked to Chicago Housing Authority officials, HUD administrators have received a copy of the city's \$433 million suit filed last year against 22 gun manufacturers and four dealers. The city's suit, filed in state court, claims that gun makers and dealers "saturate the market . . . knowing that persons will illegally bring them into" Chicago for their own use or for illegal resale.

The Clinton administration hopes the threat of a suit will force the firearms industry to pursue negotiations with governments to make guns safer and to better monitor illicit dealers.

Lawyers from several state and city governments met with representatives of the gun industry in October to consider an out-of-court settlement that might include limitations on gun sales and mandatory locking devices.

Chicago, however, declined to participate because Mayor Richard Daley wants more from the industry than his counterparts may be willing to settle for. The city is seeking to recover the costs of treating victims of gun violence.

Clinton, in arguing for a greater role by his administration, pointed to a recent study by Sen. Charles Schumer, D-N.Y., that said 1 percent of the gun dealers sell 50 percent of the guns involved in gun crimes. "If there's a way that the court could craft a resolution of that, that would be a good thing," Clinton said.

But Kimball said there already were laws on the books to

curb such gun dealers. "My suggestion to the federal government is that they crack down on that 1 percent, pull their licenses and put them out of business," she said.

John Lowy, senior attorney for the Center to Prevent Handgun Violence, said it was encouraging that the administration would be involved in the talks.

"It's clear from the administration statements that the industry is going to face a very large nationwide class-action lawsuit unless it agrees voluntarily to behave responsibly in distributing and designing its product," Lowy said.

Robert Spitzer, political science professor at State University of New York at Cortland, said administration involvement will push the sides to reach an agreement.

"It increases the pressure," Spitzer said. "Maybe the gun industry hopes it can hold off for 18 months and hope a Republican is elected president and the policy will change. But for now it's quite significant."

Human rights increasingly takes precedence over sovereignty in foreign affairs

By R.C. Longworth
Chicago Tribune

When NATO bombed Kosovo and the United Nations sent troops to East Timor, they invited accusations of hypocrisy. If the world can intervene in Yugoslavia or Indonesia, skeptics said, why not in Tibet? Or Chechnya?

At the time, the answer seemed obvious. China and Russia, unlike Yugoslavia or Indonesia, are too big to push around. The West seemed to agree that human rights may be important, but good relations with Moscow and Beijing are more important.

That doctrine may be slipping. No one is talking about sending troops to Chechnya to protect the Chechens from whatever doomsday attack Russia plans for Saturday. But by threatening financial repercussions, the United States and the European Union have already intervened in what was, until now, a no-go area for global diplomacy.

As the West said during the war for Kosovo, human rights trumps sovereignty. Of all the changes since the Cold War ended, this may be one of the most far-reaching.

In Chechnya, the outside world has decided that it has to step into what is indisputably a civil war taking place totally within Russia, a sovereign country.

This would not have happened anywhere 10 years ago. It would not have happened in Chechnya a month ago.

Thus is sovereignty being redefined, case by case, in a new global post-Cold War world. That the international community is making this up as it goes along does not make the redefinition any less real, or any less momentous for the 21st Century world.

For the last 300 years, nations enjoyed more or less absolute sovereignty. Governments let other governments do whatever they wanted within their own borders, even if they abused or even massacred their own citizens, as the Germans, Soviets and Chinese did just a few decades ago. Only when a nation attacked another nation did the world claim the right to fight back, as it did against Nazi aggression in World War II.

This principle of sovereignty reigned during the Cold War. Any Western criticism of Soviet human rights was rejected by Moscow as "impermissible interference in the internal affairs of a sovereign country." The West, not wanting to start World War III, accepted this.

All that changed since the Cold War ended. Bit by bit, much of the world has adopted a doctrine of "limited sovereignty," which holds that there are more important things than sovereignty, especially human rights.

The Persian Gulf war of 1991 was both an example of the old notion of sovereignty and a first glimpse of the new doctrine of limited sovereignty.

For years, Iraq strongman Saddam Hussein has abused his own people, especially the Kurds. But the American-led coalition went to war against him only when he attacked another nation, Kuwait.

In the wake of that war, though, U.N. forces imposed no-fly zones over parts of Iraq, to protect the Kurds. This step, responding to an internal problem, limited the ability of a government, led by Hussein, to run his own country.

Other cases followed. The U.N. intervened in Somalia, a sovereign country but one without a government, to squelch a civil war and feed starving Somalis. It intervened in the former Yugoslavia as it disintegrated, to try to enforce a peace.

All this took place as the growth of the global economy and the spread of global communications broke down barriers between nations and made it harder for governments to argue that their acts were nobody else's business.

The NATO attacks on Serbia during the Kosovo war were justified publicly by an appeal to human rights. The Kosovo crisis was and still is an internal Yugoslav affair: while the Kosovo Albanians want independence, nobody, including the Clinton administration and its allies, recognizes this independence. All nations involved still uphold Serbia's legal sovereignty over Kosovo.

But they argued that this sovereignty did not give Yugoslav President Slobodan Milosevic the right to persecute Kosovo Albanians. When Milosevic refused to stop, NATO attacked.

The attack won support from those who put human rights above absolute sovereignty and condemnation from those who felt that sovereignty, for all its shortcomings, had served the world for three centuries and should not be jettisoned without a debate.

It also was condemned by critics who said the world had not intervened in time to stop the massacre in Rwanda, nor to stop the Chinese misrule of Tibet and the Russian killing in Chechnya.

In other words, these critics said, human rights trumped sovereignty only in white, European countries that were not strong enough to fight back.

Embarrassed advocates of intervention generally concede that these criticisms are fair. They argue that this whole process limited sovereignty, humanitarian interventions, the responsibility of the world community is only beginning to take shape, with NATO and the U.N. gingerly testing the terrain as they go.

This has led to a new form of realpolitik, with humanitarian intervention taking place only when the world thinks it can get by with it.

So far, intervention takes place in countries where solid U.N. backing is possible, as in East Timor, or in the West's back yard, as in Kosovo, or where the major countries have a vital interest, as in Kuwait.

After Somalia, no major nations have been willing to get involved in Africa, even to stop the slaughter in Rwanda. Nor have they done more than frown at countries, like Russia or China, that can fight back with nuclear arms.

During the Cold War, the United States tried periodically to influence affairs in other countries, usually through legislation: the Jackson-Vanik Amendment tried, unsuccessfully, to speed up Jewish emigration from the Soviet Union. But similar efforts by a coalition of nations, as in Kosovo this spring or toward Chechnya now, are something new.

Voices are growing for a broader, more comprehensive, more reasoned policy of humanitarian intervention around the globe.

U.N. Secretary General Kofi Annan has written that the world must "reach consensus not only on the principle that massive and systematic violations of human rights must be checked, wherever they take place, but also on ways of deciding what action is necessary, and when, and by whom." Such intervention, he said, "must be and must be seen to be universal, irrespective of region or nation. Humanity, after all, is indivisible."

Critics such as author David Rieff have called this a recipe for "war without end."

British Prime Minister Tony Blair, in a speech in Chicago during the Kosovo conflict in April, argued that "acts of genocide can never be a purely internal matter" but added that intervention should not be automatic.

"If we wanted to right every wrong that we see in the modern world, then we would do little else than intervene in the affairs of other countries," Blair said.

Knight Ridder Newspapers

WASHINGTON With Congress dead set against enacting new gun-control laws and little prospect for change, the White House is turning to the courts to force changes in the way firearms manufacturers market and design their weapons.

Even as 24 cities and two state governments pursue lawsuits against gun-makers, President Clinton said Wednesday that the federal government would join the legal assault by charging that the industry's marketing and manufacturing methods spurred violent crime at the nation's 3,000 public-housing authorities.

Clinton said that the White House would be willing to negotiate a settlement, but also was prepared to engage in a round of lawsuits that could financially cripple the industry if it fails to take steps to keep guns out of the hands of criminals.

It is not clear what impact a federal lawsuit might have on the pending suits by local governments. Camden and Newark, along with Camden County, have filed actions in state courts seeking to recover costs associated with gun violence. While Mayor Rendell began preparing such a suit in 1997, he opted instead to seek voluntary concessions from the industry and Philadelphia has not taken legal action.

This week, the Pennsylvania legislature passed a mixed-bag gun-control bill that Gov. Ridge said he would sign. It bars Pennsylvania cities and counties from suing gun manufacturers. It also requires that guns be sold with trigger locks, though buyers would not be required to use them.

Now, with the possibility of action in federal court alongside state and city efforts, firearms manufacturers are taking notice.

Gun-makers so far have been largely successful in defending themselves against such lawsuits, but key industry representatives said Wednesday that they were looking for a way to avoid full-blown legal warfare.

"There are certain things that are no-brainers," that both sides can agree on, said Paul Jannuzzo, general counsel for Glock, a major handgun manufacturer.

The big incentive for manufacturers to settle, Jannuzzo said, is "if you make some changes, you know you won't be sued. One change gun manufacturers would be receptive to would be providing safety locks with firearms, he said.

Bob Delfay, president of the National Shooting Sports Council, a gun-industry trade group, said that manufacturers had been negotiating with cities and states in an effort to head off litigation. He said he expected those talks would expand to include the federal government.

One reason the gun-makers are at least willing to talk is the huge expense of defending themselves against state, federal and municipal lawsuits, as well as a growing number of individual lawsuits alleging that they are responsible for gun violence. Both Delfay and Jannuzzo say the manufacturers are carefully weighing those costs as they plot their response.

But another factor may be what some legal analysts say is an increasing willingness by courts to permit gun lawsuits to proceed. David Kairys, a Temple University law school professor, who is assisting cities in their suits, said that judges had shown an increasing willingness to hold gun-makers accountable for gun violence.

Although the Clinton administration offered few details of its planned lawsuit, it appeared Wednesday that the White House would closely follow the strategy mapped out by city governments in their legal attack on the industry. White House officials said the lawsuit, if it comes to fruition, would be filed by public-housing authorities alleging that gun-makers had negligently marketed handguns to weapons dealers that in turn had marketed their guns to criminals.

Like the cities, the federal government would contend that the gun-makers had created a public nuisance.

Clinton sought to underscore the point at a news conference Wednesday at which he contended that there were 10,000 gun-related crimes each year at the nation's largest public-housing projects, resulting, he said, in the expenditure of nearly \$1 billion on security.

Citing studies showing that a handful of gun dealers sell the bulk of weapons used by criminals, the President contended it was time for the industry to police itself.

"There ought to be something done about that," Clinton said. "And if there is a way that a court can craft a resolution, that

White House turning to courts to deal with firearms manufacturers

By Chris Mondics

would be a good thing."

After the shootings at Columbine High School in April, the White House succeeded in prodding the Senate to pass legislation banning the importation of high-capacity ammunition clips and requiring background checks for all sales at gun shows. But the effort fell apart in the House, where a coalition of pro-gun Republicans and Democrats effectively killed the measure.

White House officials said Wednesday that they were hoping to achieve more with the threat of a lawsuit than what they were supporting in the relatively modest legislation before Congress. They hope the threat alone will force gun-makers to stop marketing guns in high-crime areas.

One official said that while the details had not been worked out, the White House might insist that the industry agree to limit sales to one handgun per customer per month. Such a restriction has long been sought by gun-control advocates, who say it would halt the practice of illegal dealers buying large quantities of weapons from stores and quickly reselling them on the street.

But the industry made it clear Wednesday that it would not accept such a restriction. Jannuzzo said gun-makers believed such a measure would be a prelude to even tighter restrictions on purchases.

The legal initiative may also face political opposition. Republican presidential candidate Orrin G. Hatch, a Utah senator, voiced outrage Wednesday over the planned lawsuit.

"I will not condone the use of taxpayers' dollars to engage in politically motivated litigation," he said. "Having failed to work with Congress in a bipartisan manner to achieve its public-policy agenda, the Clinton administration has turned to the trial lawyers and the courts in a desperate attempt to use the judicial branch to create and enforce policy objectives."

Still, since the issue no longer is on Capitol Hill, what Hatch thinks might not count for all that much anymore. That, it appears, is exactly what the White House is counting on.

Clinton appeals that politics not intrude on the plight of Cuban boy By Carol Rosenberg and Jay Weaver Knight Ridder Newspapers

President Clinton appealed Wednesday that politics not intrude on the plight of 6-year-old Elian Gonzalez, even as Miami exiles unveiled a legal strategy to keep the boy in Miami on grounds that Cuba is no place to raise a child.

"The question is, and I think the most important thing is, what would be best for the child. And there is a legal process for determining that," Clinton told a news conference.

He urged that the process be allowed to run its course and that efforts be made "to try to take as much political steam out of it" as possible, for the sake of the boy.

Clinton repeatedly declined to say whether he favored Elian's return to Cuba. "Of course, I would rather grow up in the United States," the President said. "But there may be other considerations."

In Miami, meanwhile, lawyers for the boy's great-aunt, great-uncle and cousins said they would not challenge the fitness of the boy's father, Juan Miguel Gonzalez, 31, to raise his son.

Instead, they said they would petition a federal court to block Elian's return to Cuba on the grounds that the boy would live a better life under America's democratic system than under Castro's communist regime.

"Our position is not that the father is a bad guy. Our position is Elian should be granted the freedom for which his mother gave her life," said family law specialist Carmen Morales, one of five lawyers now working, pro bono, on the case for the Miami Gonzalez family.

Elian was found floating on an inner tube off Fort Lauderdale on Thanksgiving Day, one of three survivors of an ill-fated attempt to cross the Florida Straits that left the boy's mother, stepfather and nine others dead when their boat capsized and sank.

Since then Elian has become the focus of a U.S.-Cuban tug of war over custody, with his father and grandparents in Cuba demanding his return while his relatives here insist that he remain in the United States.

Spencer Eig, an immigration attorney who has been the family's chief legal adviser, said three courses of action would be pursued:

A routine political asylum plea will be filed with the Immigration and Naturalization Service.

As a first step toward seeking permanent custody, the relatives will petition a Miami-Dade family court to be declared the boy's official guardian, saying it would not be in the boy's best interest to grow up in a communist country.

An injunction blocking his return will be sought in U.S. District Court.

Legal experts unconnected to the case said the strategy is unlikely to succeed.

"I know local passions run high on this issue, and Castro's regime is the last remnant of the Cold War," said University of Miami law professor David Abraham. "But without the ability to show the boy would face persecution in Cuba, there is no asylum claim."

Abraham added: "Without showing the unfitness of the father, there is no guardianship claim."

The U.S. State Department announced Tuesday night that the immigration service would invite the father, formally, to present proof of his paternity and that U.S. law recognized parental rights in cases of this type.

U.S. government officials will follow strict legal guidelines on the custody questions, Clinton said. The President said he could not comment on the specific case, because he did not have an in-depth knowledge of the facts.

The President's remarks, in response to three separate questions at a nationally televised year-end news conference, reflected how much national attention Elian's case has received.

His comments also revealed how the focus of the child custody standoff has shifted: For days, acrimony between the United States and Cuba has been on display. Wednesday, Clinton and other officials were careful to say nothing critical of either side in the dispute.

State Department spokesman Jim Foley said Wednesday: "This case will be followed according to normal procedures. It has nothing to do with Cuba as such. There are no special procedures. It will be followed according to the book."

Because the Immigration and Naturalization Service has five workers permanently stationed in Havana, at the seaside U.S. Interests Section, Elian's father could meet with one of them at the offices of the U.S. Interests Section, or an INS representative could visit the father in his home in Cardenas, 85 miles east of Havana in Matanzas province.

Wednesday night, U.S. Interests Section mission chief Vicky Huddleston hand-delivered a diplomatic note to Cuban officials just after 8 p.m.

U.S. diplomatic sources said the letter explains to the child's father how to exercise his parental rights. It also invites him to meet a U.S. immigration service officer to present proof of fatherhood.

In Havana, the government was stonily silent on the development. As night fell, thousands of protesters gathered for a fourth straight night of protest outside the U.S. mission.

Aside from the lawyers' wranglings, Miami's response was mostly muted too. Exile activists said they decided against organizing street protests Wednesday morning to illustrate that they behave differently from crowds in Cuba.

There was one exception: Two dozen people hoisted flags and placards in a raucous protest at Plaza de la Cubanidad at Flagler Street and 17th Avenue Wednesday night, voicing their displeasure with the administration position.

"Fidel, Raul, the blame is yours," they chanted in unison, fixing responsibility for the death of the boy's mother and the other rafters.

Elian remained in the temporary custody of relatives in Little Havana a 24-hour police guard outside the home, placed there at the request of Miami City Commissioner Tomas Regalado.

With television news cameras documenting his move, the boy went to the home of other cousins to play.

Reflecting a far more moderate tone after days of bitter complaints about the United States, the Cuban government Wednesday also expressed satisfaction with a U.S. decision to repatriate six Cubans intercepted at sea by the U.S. Coast Guard after they allegedly commandeered a docked fishing boat northeast of Havana.

"The United States will have complied in this concrete case with the commitments laid down in the migration accords," the

Cuban Foreign Ministry said in a statement.

State Department spokesman Foley confirmed that the boat and the six had been turned over to the Cuban coast guard.

"I can certainly say, because we've had some heated rhetoric from Havana to the contrary, that the interdiction of the Cuban vessel on Monday indeed demonstrates that the United States remains committed to the full implementation of the migration accords and to facilitating migration to the U.S. in a safe, legal and orderly manner," Foley added.

(Miami Herald staff writers Ana Acle, Alfonso Chardy, Elaine de Valle, Manny Garcia and staff translator Renato Perez contributed to this report.)

Clinton highlights, defends his record at year-end news conference

By Jodi Enda

Knight Ridder Newspapers

WASHINGTON President Clinton said Wednesday that the political turmoil swirling around a Cuban boy plucked from the sea should not determine whether he is returned home or remains in the United States.

In his first public comments on the volatile issue, Clinton declined to side either with the boy's father, who wants him back in Cuba, or with other relatives and exiles in Miami, who say he is a political refugee who should stay there. But as pressure mounts in Cuba and the United States, Clinton cautioned that U.S. immigration officials should not be swayed by anything more than the interests of the boy, Elian Gonzalez.

"I don't think that politics or threats should have anything to do with it, and if I have my way, it won't," Clinton said at a press conference. "We should let the people who are responsible for this, who have the legal responsibility, try to do the right thing by the child."

As he heads into the final year of his presidency, Clinton used his year-end news conference to highlight and, in some cases, defend his record and to announce new hopes for peace in the Middle East.

But unlike many times before, Clinton did not lay out an extensive agenda for the coming year, perhaps in a tacit acknowledgement that he is a lame duck.

Clinton did say he hopes to make significant progress next year, including an economic initiative to help the poorest parts of the country reap the benefits of a strong economy.

"If we don't do something now to bring economic opportunity to the areas of this country which have been left behind, we will never forgive ourselves," he said.

While "almost nothing was accomplished in the Congress," Clinton said, he was pleased that lawmakers agreed to spend money for 100,000 teachers and 50,000 police officers and for 60,000 housing vouchers to help people move from welfare to work.

The president defended the administration's decision to join public housing authorities in litigation against gun manufacturers.

"There are 10,000 gun crimes every year in the largest public housing authorities," Clinton said. "And I think it's important that the American people know they are not asking for money from the gun manufacturers; they are seeking a remedy to try to help solve the problem."

Clinton said he was "very, very proud" of the successful air war fought over Kosovo, though he did not address the brutality that has continued in that region.

Looking to the future, Clinton spoke of his wife, his vice president and even a tad about his own plans after he leaves office in a little more than 13 months.

Clinton said he was happy that First Lady Hillary Rodham Clinton had decided to run for the Senate from New York, and felt certain they could manage a commuter marriage.

"She's got to spend a long time in New York. So she'll be there a lot," Clinton said. "She'll be here when she can; I'll go up there when I can. And we'll be together as much as we can."

"And, you know, we always make it a habit to talk at least once if not more every day," Clinton said. "It's not the best arrangement in the world, but it's something that we can live with for a year."

As he has done in the past, Clinton skirted a question about the primary battle between Vice President Gore and former Sen. Bill Bradley. But he said that although Gore is spending more

time on the campaign than on the job, he remains an integral part of the administration.

"We don't have lunch every week, and I miss that terribly," Clinton said, adding that Gore still performs "his critical functions."

As for his own future, Clinton said he intends to remain involved following his presidency with issues concerning racial, religious and ethnic relations.

"The biggest problem the world faces today is the conflict people have over their racial and ethnic and their related religious differences," he said. "And I plan to be heavily involved in it at home and around the world for the rest of my life."

Clinton said he still hopes to release a book on race, which was due out last spring, but added, "I've got a day job."

Clinton, who held the press conference in the ample auditorium of the State Department, fielded several questions about the dispute with Cuba over the Gonzalez boy.

On Thanksgiving Day, fisherman rescued Elian Gonzalez from an inner tube that was floating off the Florida coast. His mother, stepfather and 10 other Cubans died trying to traverse the Florida Straits to reach the United States.

The administration released Elian to the temporary custody of his great-aunt and great-uncle in Miami, but Cuban President Fidel Castro has argued that the boy is a victim of "kidnapping." And thousands have marched in the streets of Cuba, demanding that Elian, 6, be returned to his father, Juan Miguel Gonzalez.

Asked whether, as a father, he sympathized with Gonzalez, Clinton responded:

"Well, of course, I think all fathers would be sympathetic. The question is, and I think the most important thing is, what would be best for the child, and there is a legal process for determining that."

Syria, Israel to resume peace talks in Washington next week

By Christopher Marquis, Nomi Morris and Barbara Demick

Knight Ridder Newspapers

WASHINGTON President Clinton announced Wednesday that Syria, the elusive linchpin to a comprehensive Middle East peace, has agreed to resume peace talks with Israel in Washington next week.

The momentous decision by Syrian President Hafez Assad to launch a new round of talks, without public preconditions, is a major boost to the Clinton administration's efforts to broker peace among Israel, the Palestinians and their Arab neighbors.

"We have a truly historic opportunity now," Clinton said in a White House press conference. "With a comprehensive peace, Israel will live in a safe, secure and recognized border for the first time in its history."

Peace between Israel and Syria would transform the political landscape of the Middle East, representing a change as dramatic as Egypt's recognition of Israel in 1979.

U.S. officials and Middle East analysts cautioned that the talks, the first between Israel and Syria since 1996, would inevitably become strained over the Golan Heights, a strategic plateau that was captured by Israel in the Six-Day War in 1967.

But they hailed the step as critical to a peaceful withdrawal of Israeli forces from southern Lebanon and to the suppression of violent attacks from Islamic extremists based there. Without Syria's support, radical Iranian-backed groups such as Hezbollah would wither, most analysts say.

Anthony Cordesman, Middle East director at the Center for Strategic and International Studies, a Washington think-tank, said the Syria-Israel talks eclipsed the Israeli-Palestinian talks in importance.

"It's the breakthrough that really matters," Cordesman said. "Peace with Syria determines Israel's future with Lebanon, which (if resolved) places limits on Iranian hard-liners' ability to act."

Syria has long led the rejectionist front in the Arab world and sponsored anti-Israel terrorism. Although the border between Israel and Syria has been quiet for nearly 20 years, Syria maintains 35,000 troops in Lebanon and wages a proxy war against Israel through Hezbollah.

Clinton said the talks would begin next week in Washington between Israeli Prime Minister Ehud Barak and Syrian Foreign Minister Farouk al-Sharaa. Although Assad has dispatched

NAACP Suit Puts Race on Table in Gun Debate

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL

By suing the gun industry, the NAACP has brought race to the surface of the firearms debate.

Late last month, the National Association for the Advancement of Colored People filed a complaint in federal court alleging that African-Americans have been "disproportionately injured" by the gun industry's "negligent marketing." The purported negligence: Manufacturers and wholesalers pour weapons into jurisdictions with lax gun laws, thereby making it easier for traffickers to siphon firearms into the inner city, where gun laws are typically stricter.

The industry vehemently denies the allegation, insisting that it legitimately responds to consumer demand for a legal product.

With its suit, the civil-rights group joined 26 cities and counties that have taken gun makers and distributors to court. But the municipalities have couched their action in terms of protecting children and recouping the costs of police and emergency medical services. The NAACP, which has 500,000 members and says it represents other blacks' interests as well, focuses on who is being hurt most severely by gun violence.

NAACP President Kweisi Mfume predicts that in the absence of tougher legislative gun control, the group's gun suit will galvanize social reform by means of the courts. He compares the suit to the group's earlier legal battles to desegregate schools and enforce blacks' right to vote.

Yet the parallels may not be so clear-cut. Black victims of official segregation faced off against unsavory white opponents blocking the doors to schools and polling places. These days, black murder victims are slain 94% of the time by black offenders, according to the Federal Bureau of Investigation. In addition, some African-Americans argue that their race and the neighborhoods they live in make it necessary for them to protect themselves—with guns.

Meanwhile, the gun industry appears to be happy to have the NAACP put race on the table. Gun foes have long accused the firearms industry of playing on white fears of black criminals when they market handguns for home defense. But since the municipal gun suits began being filed in October, firearms-company executives and lawyers have been muttering privately that the litigation is a ploy by big-city mayors to distract their constituents from the plague of black-on-black violence.

"I love it!" Paul Jannuzzo, vice president and general counsel of the U.S. unit of Austria's Glock GmbH, says of the NAACP suit. Pointing out that the municipalities and the civil-rights group share some of the same outside lawyers, Mr. Jannuzzo disparages all of the industry's courtroom opposition as "racist." "That's what they are," he says, "blaming the inner-city problems on white gun manufacturers."

Mr. Mfume acknowledges that there are "pathologies in any society that contribute to violence," including, in the case of the black urban underclass, teenage pregnancy, lack of education and drug and alcohol abuse. But he says the NAACP is "prepared to deal with these pathologies, and we are doing so," and he cites as an example an NAACP program that offers prison inmates counseling and helps them find jobs upon release. At the same time, he argues, "the gun industry must be willing to deal with its business practices that are oversaturating our streets with guns."

Lately, black gun violence has been obscured some-

what by shootings in predominantly white settings. Episodes such as this week's in Los Angeles and the one in April in Littleton, Colo., draw massive media attention. But "there is a distinct, disproportionate crisis" of gun death and injury in black urban communities that has been overshadowed by anomalous suburban bloodshed, says Elisa Barnes, an antigun attorney in New York who is helping to represent the NAACP.

Even as the overall homicide rate drops nationwide, young black men are continuing to die from gun injuries at a rate that is nearly nine times that of their white counterparts. A study by the U.S. Centers for Disease Control and Prevention reports that the gun homicide rate in 1997 among 15- to 24-year-old black males was 104 per 100,000 people in that age group, compared with 11 for whites.

Unlike the municipal suits, which demand hundreds of millions of dollars in damages, the NAACP suit seeks an elaborate court order changing the way guns are made and sold. Among the changes sought are a limit of one gun sale a month per customer, greater oversight of retail gun dealers and a curtailment of supplies to dealers who sell at flea-market-like gun shows. Law-enforcement officials say gun shows are often a source of the weapons used in crimes because they're less thoroughly

regulated than retail stores.

Legal expenses for the NAACP suit are being paid by a nearly \$300,000 joint grant from two New York foundations: the Irene Diamond Fund and the Center on Crime, Communities and Culture, an affiliate of financier George Soros's Open Society Institute. The NAACP's suit, which was filed in federal district court in Brooklyn, N.Y., will soon be augmented by a parallel action on behalf of people, regardless of ethnicity, who have suffered spinal-chord injuries from gunshots, says Perry Weitz, another New York lawyer for the NAACP. The goal, he says, is to prevent "another generation of victims."

Some blacks disagree with the NAACP's approach. Instead of trying to restrict access to guns, the group "should be the strongest proponent of self-reliance and self-defense," because African-Americans have always been threatened by white society, argues Kenneth Blanchard, a black gun owner in Washington, D.C. Six years ago, he started the Tenth Cavalry Gun Club, a predominantly black recre-

ational shooting group named for a storied all-black 19th-century military unit. He says the group has about 100 members in the Washington area.

Mr. Blanchard traces his own interest in firearms, in part, to his grandparents, who lived in rural Virginia and "needed the shotguns, rifle and pistols they owned to protect themselves from rogue hunters, the Klan and thieves."

Mr. Blanchard, a private security consultant, acknowledges that his gun hobby is frowned upon in most black circles. Polls consistently find lower levels of gun ownership among blacks, compared with whites, and greater support for legislative gun control.

But those figures are skewed by the fact that blacks primarily live in big cities, where legal gun ownership rates are lower than in more sparsely populated areas, according to Gary Kleck, a criminologist at Florida State University. Gun ownership levels in rural areas are roughly the same for blacks and whites. Even in urban areas, there are a lot of "closet gun owners," Mr.

Blanchard says.

Robert Cottrol, a professor at George Washington University Law School, says that many African-Americans, including himself, share a connection to "a hidden history of blacks and guns." That history includes the enactment in the late 19th and early 20th centuries of state gun-control laws that were aimed specifically at keeping guns out of the hands of ex-slaves, other blacks and recent immigrants. And, says Prof. Cottrol, it includes still-vivid family memories of relatives who had to fend for themselves against groups like the Ku Klux Klan.

He keeps his firearms for occasional target shooting and in case of an emergency. After all, he says, "I don't want the only thing standing between [White Aryan Resistance leader] Tom Metzger and my family to be Mark Fuhrman," the former Los Angeles policeman whose racist remarks became an issue in the O.J. Simpson murder case.

—Philip Connors
contributed to this article.

Guns -
Smith & Wesson

Boeing, Union Are Scrapping Over Pensions

By JEFF COLE

Staff Reporter of THE WALL STREET JOURNAL

A standoff between Boeing Co. and the machinists union over control of about \$15 billion in pension funds has cropped up as a pivotal issue in labor contract talks now entering their final phase, according to officials on both sides.

The dispute, in which the leadership of the International Association of Machinists and Aerospace Workers union wants to take control of the funds managed by the aerospace company, tops a list of difficult issues facing negotiators preparing to begin round-the-clock talks on Monday.

The company's current labor agreement with the union, which represents 44,000 Boeing workers, expires just after midnight Sept. 2.

Preliminary discussions during the past year have been notably upbeat. Boeing President Harry Stonecipher has been among the company leaders continuing to promote the notion that workable solutions are available to every matter on a volatile slate of issues ranging from pensions and job security to flexible work schedules and health-care costs.

But union leaders' emphasis on cooperation now is giving way to tougher public rhetoric, and some company officials have begun sending cautionary signals about the prospects for smooth progress.

The Seattle-based company's last effort to negotiate a machinists contract ended with a 69-day strike in 1995. Investors fear a strike this year could set back Boeing's nascent effort to recover from a run of poor

performance in its huge commercial-jet division.

Dick Schneider, lead negotiator for the machinists, said that despite the atmosphere of goodwill in talks so far, "right now we are just oceans and oceans and oceans apart" on a slate of major issues. In the case of the pension dispute, he said, "I guarantee you, it's a strike issue."

Close observers have noted that the pension matter is dear to the interests of the union's top leaders, who have played an important role in maintaining a cooperative tone between the company and the powerful union districts and locals in Washington state, Oregon and Kansas. Even within the union, activists in the Seattle area have pressed a particularly aggressive "take-it-back" campaign that calls for major Boeing concessions on every issue.

The giant pension fund at Boeing is significantly overfunded, with about \$11 billion in liabilities, enabling the company to meet its commitments to retirees without contributing funds annually.

Please Turn to Page A6, Column 3

Continued From Page A3

lion in liabilities, enabling the company to meet its commitments to retirees without contributing funds annually.

Retirement Benefits

Union leaders said the retirement benefit available to workers would increase significantly if the union took control. They also charge that the surplus funds are at risk of being raided should another company one day seek to buy Boeing.

Boeing officials maintain that placing the funds with the union wouldn't result in any increased retiree benefit and would dilute the interests of Boeing employees because the funds would be pooled with those for other employee groups. In one recent internal memo, Boeing Vice President and lead negotiator Jerry Calhoun also said the switch to union control would add to company costs for funding a plan.

People with expertise in the pension matter have suggested Boeing could be forced to spend \$45 million or more annually for years to meet its contract commitments, if fund control changes.

Issue of Jobs Creation

Mr. Stonecipher said recently that the company doesn't consider any of the issues "as a strike issue, and the union shouldn't consider them as such either." For example, he said Boeing's call for new language allowing the company greater flexibility in scheduling workers has been widely misunderstood. Boeing wants to be able to run certain parts of its operations all day every day without paying overtime.

Mr. Stonecipher said Boeing hasn't suggested that it should be able to impose weekend work on employees who are unwilling, and he said hundreds of new jobs could be created for union members by such a change.

The union's Mr. Schneider expressed skepticism over Mr. Stonecipher's view of compromise on any issue. He said union members believe any change in rules calling for overtime pay for weekend work would set a dangerous precedent.

Bill Johnson, president of the largest union district in Seattle, said he continues to see job-security issues as among the most difficult. He said the union believes it is suffering as many as 7,000 job losses from outsourcing and that members were duped by the company's failure to live up to language over a shared role in subcontracting decisions that was included in the 1995 agreement.

With 620 jetliners to deliver this year, Boeing can't afford a strike, Mr. Johnson said, adding that "we're going to cram subcontracting language down their throat."

THE WALL STREET JOURNAL

FRIDAY, AUGUST 13, 1999

Giuliani Will Join the Legal Battle Against Handgun Makers

By ERIC LIPTON

Mayor Rudolph W. Giuliani, following the lead of many of the nation's other large cities, announced yesterday that his administration would file its own lawsuit against handgun manufacturers, seeking tens of millions of dollars to compensate New York City for injuries and other damage caused by illegal gun use.

The lawsuit, to be filed today in Federal District Court in Brooklyn, comes after more than a year of questions from Mr. Giuliani's political rivals and gun control advocates about why New York City has hesitated to use its influence to try to force safety-related changes in the way handguns are designed and sold.

Some Giuliani critics said that the mayor's departure from the Senate race last month might have been a factor in his decision to take on the industry, suggesting that he is now more willing to risk alienating prospective conservative donors around the United States.

But Michael D. Hess, the corporation counsel in the Giuliani administration, said yesterday that politics had played no role. The city had merely been studying some of the more than two dozen other lawsuits, three of which have been thrown out of court, before moving ahead, he said.

"This has nothing to do with the mayor running, not running," Mr. Hess said, instead citing the "many,

many unfortunately thousands of injuries and deaths that occur throughout the country from the illegal distribution of these guns."

The city will argue that as a result of deceptive industry marketing, irresponsible supervision of gun sales and flaws in gun design, city residents are being killed and injured, and the city government has often had to pay medical bills and law enforcement costs, Mr. Hess said.

Lawrence G. Keane, general counsel for National Shooting Sports Foundation, a gun manufacturing trade group, called the effort pointless.

"The mayor's lawsuit will not save a single life or prevent a single crime from occurring," he said. "Short-term political needs have prevailed over the exercise of sound legal judgment on the part of the city."

The Giuliani administration decided to include the nation's largest handgun maker, Smith & Wesson of Springfield, Mass., among the approximately 30 defendants, even though the company signed an agreement four months ago with the federal government and more than a dozen local governments to adopt some of the safety changes New York City is now pursuing.

The Smith & Wesson accord, heralded in March as a landmark in the gun control effort, has already shown signs of faltering. Fewer cities than expected agreed to drop lawsuits against the company, and no other

An aide says the gun suit has nothing to do with dropping out of the Senate race.

manufacturers have yet agreed to the conditions. Some companies have indicated that they intend to wait until after the presidential election, hopeful that George W. Bush, who is considered gun-friendly, will win.

New York State Attorney General Eliot L. Spitzer, while praising Mr. Giuliani for pursuing the matter, said yesterday that with Smith & Wesson included in the lawsuit, other manufacturers might now be even less willing to accept the accord.

"It certainly does not create the appropriate incentive for other manufacturers to step forward," said Mr. Spitzer, who took part in the Smith & Wesson negotiations.

Mr. Hess implied that the city was not entirely satisfied with the Smith & Wesson settlement, which included an agreement to install additional trigger locks on new handguns and to put a second, hidden set of serial numbers on all its new guns to make it harder for criminals to remove identification marks. But he added that the city was prepared to work quickly to try to settle the suit with

that company or any other manufacturer.

"I don't think it is a complete answer," Mr. Hess said of the Smith & Wesson deal. "All of the manufacturers are guilty of these charges, and if Smith & Wesson or anybody else wants to come in and try to settle the case early on by reforming their practices, we are available to do that."

The case would be pursued in the same Federal District Court where a jury last year found nine gun makers liable for shootings with illegally obtained handguns because their marketing practices fostered gun trafficking. Three of the companies were ordered to pay more than \$520,000 in damages to the family of a Queens teenager who was shot and severely wounded with an illegally obtained handgun.

Yesterday, several Democrats on the City Council, while praising the mayor for joining 31 other local governments — including Chicago, Detroit, San Francisco, Los Angeles, Boston and Philadelphia — that have filed suits, asked why it had taken New York City so long. New Orleans filed the first lawsuit in October 1998.

"He clearly would have lost a lot of Republican support around the country if he had done this before," said Councilman Sheldon S. Leffler of Queens, a Democrat who is chairman of the public safety committee. "That is no excuse. But it is better late than never."

Guns
Smith & Wesson

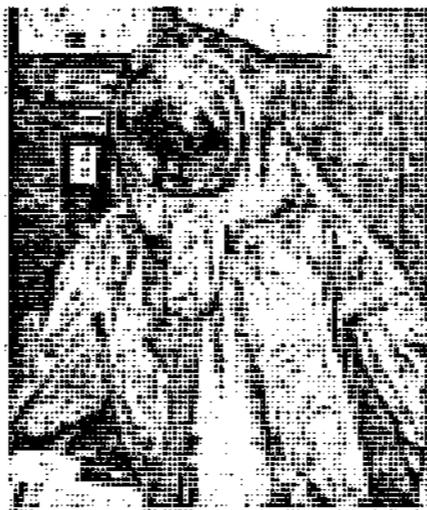
In a Gamble, U.S. Supports Russian Germ Warfare Scientists

By JUDITH MILLER

OBOLENSK, Russia — At this sprawling, rundown research complex where Soviet scientists once secretly worked to turn plague, tularemia, glanders and anthrax into weapons, the Clinton administration is taking what many consider a perilous gamble.

The administration has been financing research here and at other institutes throughout the former Soviet Union by scientists who only a decade ago manipulated genes to make deadly viruses and bacteria even harder and resistant to vaccines and antibiotics.

Since 1994, the United States government has spent \$20 million helping some 2,200 scientists at 30 institutes in the former Soviet Union turn their deadly skills to public health and other peaceful research. Administration officials say this money — which, according to the General Accounting Office



Safety suits like this one protect workers in Russia's research labs.

may increase to \$270 million by 2005 — is also intended to prevent the Soviet scientists from selling their expertise to Iran, Iraq, and other "rogue" states or terrorist groups trying to acquire germ weapons.

Until recently, most of the support came from the Departments of State, Defense, and Energy. But prompted by the threats of bioterrorism and naturally emerging diseases to American health and the nation's food supply, the Departments of Agriculture, Health and Human Services, and others have now joined the campaign.

Among the most intriguing newcomers is the Defense Advanced Research Projects Agency, or Darpa, the military group that helped invent the Internet and which is known for supporting avant-garde research. Darpa has cautiously and quietly allocated more than \$3 million since 1998 for work, including some here at Obolensk, that in many ways resembles research that was once the source of America's greatest fears.

The administration knows that this assistance could help Russia continue developing

germ weapons, if, as some suspect, research continues at its four still-closed military labs. Can the Russians, who doubled the size of their vast covert germ warfare program after signing the 1972 treaty banning such weapons, now be trusted?

"No one really knows," Wendy Orent, an expert on the former Soviet program, concluded last month in *American Prospect*, a liberal magazine.

But in a report to Congress in January, the Pentagon concluded that the access gained to Obolensk through such assistance gave it "high confidence" that neither Obolensk nor Vector, the former Soviet viral weapons complex in Siberia, was now engaged in activities related to germ warfare.

In fact, the administration maintains that the risk of not helping Russian scientists far outweighs the risk of doing so. Darpa argues that tapping the knowledge of the Russian scientists, who continued making ever deadlier germ weapons two decades

Continued on Page 4

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Guns -
Smith - Wesson

Talks to Settle Gun Lawsuits Produce Little

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL
The first widely attended meeting aimed at settling litigation against the gun industry produced little substantive agreement, as dissension broke out within anti-gun ranks.

In a two-hour session in Washington, D.C., industry representatives for the first time met lawyers and public officials from a broad array of the 27 municipalities—including Chicago, Los Angeles and San Francisco—that have sued firearms companies. Also in attendance were the attorneys general of New York and Connecticut, which have threatened to become the first states to join the legal assault on the industry.

Previous efforts to start settlement discussions have involved much smaller, less representative groups from either side. People on both sides said after yesterday's session that there had been an agreement to continue talking and a generally "positive" tone. But no specific consensus emerged on how the litigation could be resolved.

What's more, a contingent of lawyers who were excluded from yesterday's meeting threatened to step up the court clashes. "We're taking our five cases and pushing forward," said John Coale, a member of the excluded group, a New Orleans-based attorney consortium that has filed suit on behalf of that city as well as of Atlanta, Cincinnati, Cleveland and Newark, N.J. The gun industry, Mr. Coale added, "needs maximum pressure before they will talk about anything meaningful."

Mr. Coale's group apparently was left out of yesterday's meeting out of concern that it wouldn't cooperate with other seg-

ments of the antigun side. The attorney group, which is headed by New Orleans plaintiffs' lawyer Wendell Gauthier, is particularly sensitive to being cut out of the action, because that is essentially what happened to it in connection with the national litigation against the tobacco industry. After investing huge amounts of time and energy in fighting the cigarette companies, the group saw its legal strategy fail, while another cadre of attorneys stepped in to forge a series of massive settlements on behalf of the states.

The municipal suits seek reimbursement for the public costs of gun violence but have evolved into an effort to force the industry to accept new restrictions on how it makes and sells firearms.

Even attorneys who participated in yesterday's peace talks said that lawsuits will proceed without delay. "Nothing that happened today would affect the pace of our lawsuit," said Los Angeles City Attorney Jim Hahn.

By coincidence, just after yesterday's meeting concluded in Washington, a state-court judge in Cincinnati heard the gun industry's argument that that city's suit ought to be dismissed. A ruling in that case is expected in coming weeks. Over the next five weeks, similar industry motions will be heard by judges in Atlanta, New Orleans, Bridgeport, Conn., and Detroit. If one side wins all or most of these preliminary court encounters, it may back away from further settlement talks.

Yesterday, however, the industry sounded conciliatory. "There was agreement on common objectives which are to reduce the criminal and accidental misuse of firearms," said Robert Delfay, president of the National Shooting Sports Foundation, the industry's main trade group. "We will move forward," he added, "with each side working independently" on proposals to end the litigation.

The industry has said that it won't agree to any sort of money settlement and has balked at some of the more commonly discussed marketing curbs, such as limit-

ing the number of guns that a person can purchase each month.

Connecticut Attorney General Richard Blumenthal confirmed that the discussions will continue but declined to elaborate. He did say that Connecticut would continue to consider filing its own lawsuit against the industry.

THE WALL STREET JOURNAL

TUESDAY, SEPTEMBER 28, 1999

SanDisk, Kaneb Collar Contract On Digital Dog Tag

By SCOTT THURN

Staff Reporter of THE WALL STREET JOURNAL

The Pentagon is preparing to issue the first "digital dog tags," matchbook-size cards that store thousands of pages of medical records that can be retrieved by a computer at a battlefield aid station.

The so-called personal information carriers are similar to the tiny disks that store images in a digital camera or sound in an MP3 player. They will be worn around the neck along with traditional dog tags and are intended to make it easier to treat soldiers in combat, and to track treatments and exposures to wartime chemicals.

The initial version will hold only textual information on things such as allergies, immunizations and treatments. But later versions may also include images, such as X-rays and MRIs, said Air Force Lt. Col. Bradley Dawkins, the project manager.

The Pentagon began work on the project after the Persian Gulf War, when soldiers' medical records weren't always available on the battlefield, and incomplete medical records complicated investigations into possible war-related illnesses. Traditional dog tags, used by the Army since 1906, list only name, Social Security number, religion and blood type. Other medical records are kept on paper, which can be incomplete or misplaced.

The Pentagon has awarded contracts valued at as much as \$34 million to SanDisk Corp. of Sunnyvale, Calif., and the Informatech Inc. subsidiary of Kaneb Services Inc. in Dallas to deliver as many as 2.5 million digital dog tags during the next five years, beginning this fall. The companies plan to announce the contracts today. Col. Dawkins said the Pentagon also is testing "smart cards" that can hold less medical information, but will be issued anyway for security reasons.

SanDisk, which produces the flash-memory cards, and Kaneb beat out 11 other competitors for the contract. Kaneb's Informatech unit has contracts with the military for telemedicine services, allowing the remote reading of X-rays, for example.

In Nasdaq Stock Market trading, SanDisk rose \$1.875 to \$70.625. Kaneb rose 18.75 cents to \$4.625 in New York Stock Exchange composite trading.

Teamsters Still Talk Of Strike Possibility At Union Pacific Unit

A WALL STREET JOURNAL NEWS ROUNDUP

OMAHA, Neb.—The Teamsters union and Union Pacific Corp.'s Overnite Transportation Co. remained apart on reaching a contract yesterday, as the union continued to make strike threats against the trucking company.

Talks between Overnite, Richmond, Va., and the union broke off Sept. 17. Additional negotiations haven't been scheduled. Although the Teamsters have organized some Overnite terminals in recent years, the union has failed to reach a contract at any Overnite location.

"I don't think they have the muscle to pull off a nationwide walkout against Overnite," said Overnite spokesman Ira Rosenfeld. "They have threatened six times in the last two months, and nothing has happened." He added that the strike threats have led to some customer defections but declined to say how much business has been lost.

David Cameron, the Teamsters' Overnite campaign coordinator, says the union's strike threat remains real and its volunteers remain on high alert, though he refused to discuss a timetable. "We want Overnite to be in this position," he said. "We are just going to sit on the rope and let them spend their energy."

The company and union disagree on many issues. The company is opposed to the Teamsters taking control of Overnite pension money for the Teamsters' own fund and imposing work rules that Overnite said would make it noncompetitive.

THE WALL STREET JOURNAL

TUESDAY, SEPTEMBER 28, 1999

Guns -
Smith-Wesson

Smith & Wesson Misfires

Smith & Wesson, the gun manufacturer, tried to do a deal with Bill Clinton. The rest is history.

Smith & Wesson famously agreed last month to restrictions the Administration proposed on how it manufactures and distributes guns. The Clinton Administration could hardly contain its glee. The same tactics that had been so effective in the tobacco wars—threats to litigate into submission a politically incorrect industry rather than waste time with an elected legislature—appeared to have worked on gun manufacturers. Another notch for the legacy.

Smith & Wesson, for its part, would receive some much-desired respite from litigation. Its British owner, Tomkins PLC, has been looking to sell the unit. But a major turn-off for suitors has been the potential liability of pending lawsuits. Under this new agreement the federal government not only would drop its own threat of litigation, but also bring on board the numerous settlement-hungry cities that had filed lawsuits against Smith & Wesson and other gun makers. Dream on.

Turns out Housing and Urban Development Secretary Andrew Cuomo, a chief broker of the settlement, overestimated his powers of persuasion. Chicago, Cleveland, Washington, New Orleans and Philadelphia didn't sign the agreement and are proceeding with their cases. Hey, billions are at stake. Further, Mr. Cuomo expected other gun makers to follow Smith & Wesson's lead. This hasn't happened.

Instead, the other manufacturers overwhelmingly rejected the company's actions. Furious gun consumers have vowed to take their business elsewhere. And dealers—most upset because much of the agreement consisted of Smith & Wesson making promises on their behalf—stopped selling Smith & Wesson products.

As if it hadn't by this point done enough, the government offered to

help. Mr. Cuomo next urged police departments around the country to steer business to his most-favored gun maker. Problem is, many municipalities use competitive-bidding laws to purchase weapons, a process that could take years to change. Moreover, most police departments prefer another brand, Glock, and aren't willing to switch guns to spring Mr. Cuomo from his jam.

Some state attorneys general have been saying something about antitrust actions against the resisting manufacturers, but even gun-control advocates think that's a stretch. "My gut feeling from watching the gun industry for many years is that there's no merit to it," says Kristen Rand of the Violence Policy Center.

In desperation, Smith & Wesson has returned to square one—the original deal with the Administration. Posted on its Web site is what it's calling a "clarification." Most of the terms involved are relatively harmless. They merely codify Smith & Wesson's current practices. Other provisions, however, are more contentious.

For example, as the government sees it, Smith & Wesson dealers are now compelled to impose background checks and other sales restrictions, not just on buyers of Smith & Wesson products, but also on buyers of any other brands the dealer sells. The company disagrees. Under its interpretation, the deal applies only to Smith & Wesson products and doesn't force dealers to treat all of the products they offer under restrictions outlined in the agreement.

The Clinton Administration, true to form, is now threatening to sue poor Smith & Wesson again—this time over interpretation of the agreement. "This outcome was entirely predictable," says Ms. Rand. "They're fighting for their survival." Smith & Wesson may enter the next round of talks a little punch-drunk, but at least it will be a bit wiser to what it's dealing with.

2/2

LATE SPORT



He plays in Jordan's shadow
Vince Carter, you've led the Raptors to the playoffs. Win six rings and 10 scoring titles and you're there. 1C

USA TODAY

NO. 1 IN THE USA

Montel rides life's 'roller coaster'

Williams, 44, stays positive amid tabloid scandal, his battle with MS and the breakup of his marriage. 2D



Sabres survive Flyers 3-2 in OT
Buffalo avoids sweep; Devils go up 3-0. NHL, 1,3,12C

New antibiotic fights 'super bugs'
FDA gives approval in war on drug-resistant infections. 4A

Wednesday, April 19, 2000

Newsline



In New York, trading Tuesday at stock exchange.

Dow, Nasdaq continue rebound

Dow Jones industrial average soars 184.91 points to 10,767.42; Nasdaq index jumps 254.41 to 3,793.57; 30-year Treasury bond yield drops to 5.91%, 1.4B.
▶ USA TODAY Internet 100 rises 11.72 to 156.41, 4B.
▶ Japan's Nikkei average is down 100 points to 18,870 Monday; yen is 104.75 per dollar. Hong Kong's Hang Seng index is up 317 points to 15,595 early today.

Chicago rooftop clubs not above the law

Residents across the street from labled Whigley Field used to sit up on their roofs, have a few friends over and watch the Cubs play. Maybe haul up some seats and a cooler of beer. Now, they're packing hundreds up there, having waiters serving food and drinks and charging memberships. The city is regulating them in an effort to keep them safe in business. 3A.

Judges' death-penalty power limited

The Supreme Court clears the way to quicker executions of convicted killers by placing new limits on federal judges' powers. Decisions to overturn two Virginia death-penalty cases suggest the high court is still fine-tuning its interpretation of a law to rein in federal habeas corpus appeals. 3A.

McCain to clarify Confederate flag stance

Despite pledging "straight talk" in his presidential campaign, Aliz. Sen. John McCain upset many with his murky stance on the issue of flying the Confederate flag above South Carolina's Capitol. Today, he's expected to say it should be removed. 13A.

Custom appeals for Internet equality

At high-tech trade show in Chicago, President Clinton calls on more companies to help him in his quest to give Internet access to the poor. 13A.

Today's debate: Columbine's legacy

In USA TODAY's opinion, "in a smaller school, the tragedy might have been averted." 26A.
▶ "While I support the idea of creating smaller schools, school reform is a process fraught with political, philosophical and personal tensions." Patrick McQuillan says. 26A.

Money: E-mail coming to jet near you

Airlines are working to soon allow laptop-toting passengers to e-mail, a service that is highly requested by business travelers. What's next? Probably surfing the Internet at 30,000 feet. 1B.

Sports: Rocker returns to hero's welcome

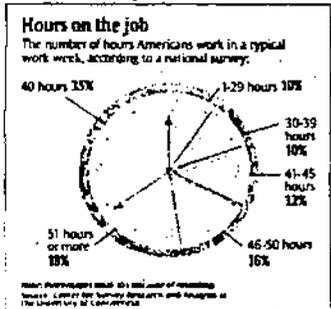
Atlanta fans cheer the return of suspended ace John Rocker. His controversial remarks haven't been forgotten, but said one, "Our pitching stinks." Baseball. 1C.

Life: High school grads go on the record

Pop singer Vitamin C's song Graduation, featuring dialogue from high school students offering their thoughts about the rite of passage, is catching on. Even adults can identify, says one radio station worker. 1D.

By John O. Buckley

USA TODAY Snapshots®



By Deborah Solomon and Greg Tait, USA TODAY

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Feds crack down on Ecstasy



'Everything feels good': Teenagers at this New Jersey club say the drug is easily available at this dance party and other raves.

Health fears, organized crime put drug on map

By Donna Leinwand and Gary Fields
USA TODAY

NORTH BERGEN, N.J. — In a suburban bathroom, music without melody pounds from speakers fixed almost to the ceiling. At this nine-hour rave party, only the rickety-rattling bass matters. About 2,000 teenagers, most wearing nylon UFO brand parachute pants, writhe and hop on a packed dance floor. Alcohol is conspicuously absent, but Ecstasy is everywhere.

The aspirin-size pill provides the high of choice among these pencil-thin girls and hyperactive boys. They say it heightens their sensitivity to the vibrating bass, tickling the skin and sending chills up the spine.

"Everything feels good," says Tricia Kaz, 18, a freshman at Seton Hall University in South Orange, N.J. She spent three weeks at a drug rehabilitation center after her mother found out about her Ecstasy habit, but she still doesn't see the harm of a drug that produces no hangover or physical craving. Kaz and the other youths might be mistaken. New studies show that users of Ecstasy risk the possibility of brain damage from prolonged use. Law enforcement is intensifying its efforts to stop the growing demand for Ecstasy and to halt organized crime's penetration of the market.

The pill, at \$20 or so a pop, acts a little like stimulant such as meth-

See COVER STORY next page ▶

▶ Customs seizes drug at airports, 4A

Jet crashes in Philippines

From staff and wire reports

An Air Philippines jet with 130 people aboard crashed early today near the southern city of Davao. Officials feared all aboard were killed. The 737-200, which was on a local flight between Manila and Davao, went down into a coconut grove on Samal Island, a short distance from its destination.

Defense Secretary Orlando Mercado said 124 passengers and six crew members were aboard.

Authorities said the Boeing jetliner reportedly crashed Davao before the crash. Air Transportation Office



with more than 3,600 produced since 1985, has had fewer accidents per hour flown than other jetliners in its class.

The 737 has come under criticism because of two widely publicized crashes in which the jet's rudder apparently jammed.

The most serious of the two 737 accidents killed 132 people near Pittsburgh in 1994.

A scientific panel reviewing the mechanism has reached a preliminary conclusion that the rudder should be adapted to limit the chance of a failure, federal officials said Sunday.

Microsoft faces wireless test with Pocket PC

By Deborah Solomon
USA TODAY

PALO ALTO, Calif. — After two failed attempts to get its hand-held computer line off the ground, Microsoft launches its Pocket PC today.

Analysts hail it as the biggest threat yet to the Palm Computing devices, which account for 70% of the worldwide hand-held market. But Pocket PC is also crucial to Microsoft's success in a world dominated less by personal computers and more by mobile devices.

Pocket PC actually is the name for the latest, souped-up

version of Microsoft's Windows CE software, its operating system for small devices. Hewlett-Packard, Casio and Compaq make the hardware.

Like the most advanced Palm devices, users can get e-mail, manage their calendars and keep track of tasks. But unlike Palm, Pocket PC also can be used to read electronic books, play music, view video clips, access the Web and download street maps directly into the organizer. The Pocket PC will cost \$300 to \$500, which is about the same as the newest Palm devices.

Microsoft's two previous

versions of hand-held computers used Windows CE and were criticized as too bulky. They also were incompatible with desktop computers. Many manufacturers stopped making Windows CE devices, citing poor sales.

"This is kind of their last shot," says Rob Enderle of technology research firm Giga Information Group. He warns that if Pocket PC isn't a hit, manufacturers might decide not to support the software.

This could be devastating for Microsoft, which analysts say will see revenue from its traditional Windows operating sys-

tem for desktops fall as people begin to use devices other than the PC for everyday tasks.

Phil Holden, Microsoft's group product manager for Windows CE, agrees. "To be honest, we haven't done things so well before." The new version, Holden says, "is radically easier to use, is a lot sleeker and extremely fast."

Over the next two years, research firm Gartner Group expects the Pocket PC to control a third of the hand-held market. That market is expected to grow from \$764 million in 1999 to \$2 billion by 2003, according to research firm IDC.



▶ How the Pocket PC compares, 3D



Gunfire shatters seniors complex

A gunman storms a complex outside Detroit after a tenants' dispute and kills two women, including a former councilwoman who was delivering bread and cookies. The suspect is arrested after a standoff. 4A

Teen arrested in attacks on e-commerce

Breakthrough in case that paralyzed Web

By Kevin Johnson and M.J. Zuckerman
USA TODAY

WASHINGTON — Authorities investigating the attacks in February on some of the world's most popular Internet sites say they have made a major breakthrough with the arrest of a juvenile in Canada.

Canadian law enforcement officials are expected to announce the arrest of the suspect today at a news conference in Montreal.

"The investigation has given authorities the opportunity to bring light on Internet attacks that have strongly shaken the heart of electronic commerce worldwide, causing losses that were valued at many hundreds of millions of U.S. dollars," the Royal Canadian Mounted Police said in a written statement late Tuesday.

The undermanned juvenile's arrest comes more than two months after the assaults disabled the sites of several electronic commerce giants, including Yahoo, eBay and Amazon.com.

Millions of customers were denied access to more than a half-dozen popular Internet sites during several days in early February. Yahoo, one of the busiest gateways to the Internet, was disabled for more than three hours, preventing users from getting to e-mail, news pages and other activities.

The attacks led to an international manhunt for the culprit and exposed technological vulnerabilities among some of the new economy's leading players.

The shutdowns came after hackers flooded the Web sites with tens of thousands of service requests, which overloaded the sites' processing systems and caused electronic paralysis.

The hackers were able to route their transmissions through third-party computer systems, making it

difficult for law enforcement agencies to track the attacks.

The third-party computers included large-capacity systems at the University of California at Los Angeles, at Santa Barbara and at Stanford.

University officials have been cooperating with authorities since

Online stalking

- ▶ One teen's tale of sexual abuse, 1D
- ▶ Protecting your children, 3,7D
- ▶ How the Net traps pedophiles, 7D

the breaches were discovered in February. Authorities say the software that caused the problems could have been planned in the third-party systems weeks before the assaults.

Canadian authorities declined to comment about details of the case late Tuesday.

The apparent break in the investigation comes after the FBI and international law enforcement officials began what they called the most extensive criminal investigation of Internet sabotage.

At one point in the investigation, the FBI said all the bureau's 56 domestic field offices were involved, either chasing leads or interviewing witnesses in the case. The investigators in the United States were joined by authorities in at least four other countries.

Much of the investigation focused on young, computer-savvy hackers whose electronic abuses were posted in Internet chat rooms and commonly exchanged through electronic mail.

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Tomkins to Sell Smith & Wesson In Plan to Shed Its Noncore Units

By WADE LAMBERT
AND RICHARD B. SCHMITT
Staff Reporters of THE WALL STREET JOURNAL
Smith & Wesson Corp., the largest U.S. handgun maker, is being put up for sale by its British parent.

London-based Tomkins PLC, long derided as an unfocused "guns-to-buns" conglomerate, is in the process of selling off noncore operations to focus on automobile parts and home-building materials.

That streamlining will include a sale of Smith & Wesson, Tomkins Chief Executive Gregory Hutchings said Friday. Though Smith & Wesson is Tomkins's best-known brand in the U.S., it accounts for only about 1% of the company's total sales. Mr. Hutchings said Tomkins hasn't yet held talks with potential buyers for the gun unit.

As expected, Tomkins also announced on Friday an agreement to sell its food business, Ranks Hovis McDougall, to private equity firm Doughty Hanson & Co. of London, for \$1.14 billion (\$1.72 billion). The food business, which was put on the block a year ago, accounted for nearly a third of Tomkins's total sales of \$5.61 billion for the fiscal year ended April 30.

The prospect that Tomkins might unload S&W raised concerns among regulators that the company's recent role as an industry peacemaker in the gun debate might be jeopardized.

In March, the company reached a landmark agreement with the Clinton administration and a number of state and local governments to adopt restrictions on the way it makes and markets handguns. In exchange, many of the local governments that have sued the gun industry as a whole agreed to drop the company from those court actions. The Clinton administration also agreed not to name S&W in any suit it may file against the gun industry.

The terms of that agreement would "attach ... just like any obligation or liability," said Richard Blumenthal, Connecticut's attorney general, who helped strike the accord.

Mr. Blumenthal added, however, that a sale could nonetheless create major uncertainties, and that a new owner might still attempt to undermine the spirit, if not the letter, of the pact. "Whether [a new

owner] would continue to be as steadfast and courageous as the present management has been, whether it would seek to reinterpret the agreement, whether it would redesign the business plans to produce different kinds of firearms are all among the big questions," he said.

A sale would also likely touch off a battle over who would cover S&W's potential liability in any remaining government suits against the company or in private suits on behalf of gun victims. Typically, purchasers of companies involved in litigation don't assume any of the liabilities of the seller, absent specific agreement. On the other hand, courts have carved out exceptions, such as cases in which a former parent has tried to defraud injury victims by leaving itself with little money to satisfy claims.

"If the traditional rules are followed, in the absence of fraud or agreement, the successor is not liable," said Victor Schwartz, a Washington product-liability specialist and defense lawyer. But, he says, he expects that plaintiffs' lawyers will "do everything possible" to try to follow the money.

It is hard to predict who might emerge as a buyer for S&W. While its March peace agreement may limit its litigation exposure in a way that an acquirer may find attractive, the deal also made S&W an industry pariah. That could lead other gun makers to shy away from any transaction.

Likely buyers may also want to see how developments unfold on the litigation front, to get a better sense of potential liability. They may also delay any move until after the presidential election, in the hopes that a Bush administration would be less hostile to the industry.

Mr. Hutchings's statement that S&W will be sold marks a shift. Tomkins had explored selling the company within the past several years, according to gun-industry executives familiar with the situation, but last year said it had put that effort on hold.

A spokesman for S&W, based in Springfield, Mass., said the unit wasn't aware of any discussions with suitors or specific plans for the sale. "We anticipate at some point we will be sold so they can focus on their core companies," the spokesman said.

FBI Is Pressured To Disclose Codes For Carnivore

By TED BRIDIS
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—The Federal Bureau of Investigation is under increasing pressure to disclose the secret blueprints for its Carnivore surveillance system so independent technical experts can verify that the software monitors only the Internet communications of criminal suspects.

Despite mounting calls to permit such reviews, FBI officials maintain that disclosing the software's source code would allow hackers to find ways to defeat the system. The officials also argue that such a disclosure could violate copyright protections because Carnivore includes portions of software code from a product licensed to the government by an unidentified vendor.

Congress is expected to press senior FBI officials on the subject at a hearing today before a House Judiciary Committee panel led by Florida Republican Rep. Charles T. Canady. Lawmakers have indicated that they would seek assurances from the bureau that e-mails from innocent citizens aren't gobbled up whenever a federal judge agrees that the FBI can plug Carnivore into an Internet service provider's network.

One scheduled witness for the hearing, Matthew Blaze, an AT&T Corp. researcher, says the FBI's failure to fully disclose how Carnivore works has contributed to an "atmosphere of mistrust and confusion."

In an essay published on the Internet last week, Mr. Blaze wrote that releasing the system's source code "is a critical first step in assuring the public that Carnivore can at least be configured to do what it is supposed to do." Mr. Blaze questioned Carnivore's effectiveness, suggesting that even modest electronic forgery or data-scrambling techniques could foil it, and described conditions under which it could mistakenly capture e-mails and other communications intended for innocent users.

While the FBI is resisting calls for broad disclosure of the source code—already the target of at least two requests under the Freedom of Information Act—the bureau has sought to assuage fears by describing in remarkable detail how the system works. On Friday, dozens of reporters crowded a conference room at FBI headquarters to watch a demonstration.

The bureau has also proposed a compromise, tentatively agreeing to an examination of Carnivore by university researchers who would promise not to disclose its blueprints.

The American Civil Liberties Union, one of the groups that has requested the source code, said it might agree to such an offer, if the FBI gives the blueprints to the ACLU and lets it select the experts.

Guns -
Smith & Wesson

Groups Urge FTC To Boost Warnings On Tobacco Tins

By GORDON FAIRCLOUGH
Staff Reporter of THE WALL STREET JOURNAL

Public-health groups are urging the Federal Trade Commission to increase the size of health warnings printed on tins and pouches of chewing tobacco and make them easier to read.

The FTC is in the process of weighing whether to make changes to the current labeling rules, which require makers of chewing tobacco to display one of three different warning messages on packaging and advertisements for their products.

"The current warning labels blend into the background so much and are so small that they're virtually never seen," said Matthew L. Myers, president of the Campaign for Tobacco-Free Kids, which is calling for bigger, more visible warnings.

A spokeswoman for UST Inc., the largest maker of chewing tobacco in the U.S., declined to comment.

The Massachusetts state health department is recommending that the FTC require warnings on packaging similar to those used in Canada, which are black and white and cover about 25% of the top of a can or the front of a pouch of tobacco. The agency also suggests that the size of the warnings used in ads be increased to cover between 13% and 20% of the ad.

To support its position, the Massachusetts health department is citing a recent study it commissioned comparing the effectiveness of the warnings now used on chewing-tobacco packages in the U.S. with those used in Canada. The study found that 34% of the participants could recall the U.S. warning on a tin without prompting, while 59% could recall the larger Canadian warning.

Qwest Agrees to Pay \$1.5 Million in Pact With FCC to Settle Slamming Complaint

By REBECCA BLUMENSTEIN
Staff Reporter of THE WALL STREET JOURNAL

NEW YORK — Qwest Communications International Inc. will pay \$1.5 million in an agreement reached with the Federal Communications Commission to settle complaints that it switched customers to its service without their permission.

The Denver-based Qwest said the settlement resolves all prior complaints about slamming, as the unauthorized practice of switching a user's telephone service is known.

The settlement is the latest attempt by regulators to crack down on the problem. In June, WorldCom Inc. agreed to a \$3.5 million fine, considered the largest fine ever paid in a slamming violation. Qwest, the nation's fourth-largest long-distance company, is much smaller than WorldCom, so some observers said the penalty isn't insignificant.

But consumer groups have consistently argued that the fines don't go far enough, especially in changing the aggressive behavior companies sometimes use to sign up new customers. Consumer groups and regulators have backed a set of rules opposed by some long-distance companies that would make them liable for damages.

Advocates point out that the problem of slamming hasn't gone away despite a series of such fines, which amount to a very small portion of revenue for long-distance companies.

Qwest officials said that they have taken steps internally to halt slamming within the company. Since enacting an anti-slamming policy in 1999, Qwest said it has terminated the employment of more than 25 sales agents or telemarketing agencies that filed false orders. Qwest said that slamming incidents have now dropped to levels in line with the industry's average.

Through its agreement, the FCC has endorsed Qwest's anti-slamming efforts. Though the FCC made no finding of wrongdoing by Qwest, the settlement resolves all prior slamming complaints, which were logged more than a year ago.

"This agreement with the FCC allows us to put this unfortunate situation behind us and look forward to continuing to serve our customers nationwide," Mark Pitchford, senior vice president of consumer markets for Qwest, said in a statement. "The FCC now understands that we take this issue very seriously and have successfully decreased the incidents of slamming nationwide."

FCC Requires TV Broadcasters to Offer Video Description for Visually Impaired

By JILL CARROLL
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — Descriptions of television shows will finally reach the masses of visually impaired people, 19 years after technology to deliver them was created, but broadcasters are unhappy and say the process will cause technical problems.

The Federal Communications Commission, on a 3-2 vote, required broadcasters affiliated with the four major networks in the top 25 television markets to offer so-called video-description services by April 2002. Cable and satellite providers with 50,000 subscribers or more would have to carry video descriptions for any of the networks rated in the top five that they carry.

The services provide spoken descriptions of scenery, costumes or key actions during television shows. The descriptions are delivered during natural pauses in the program's soundtrack.

FCC commissioners Harold Furchtgott-Roth and Michael Powell opposed the measure, saying they did not believe the agency had the authority to impose it.

The National Association of Broadcasters and the National Cable Television Association have also opposed the measure, citing technical difficulties and a lack of FCC authority. The NAB pointed out in an FCC filing that the plan would require expensive engineering upgrades of "soon-to-be-obsolete" analog systems that are being phased out and replaced with digital technology.

Under the new rules, video description

would be provided for about four hours a week during prime time or children's programming. To receive video descriptions, a television has to be tuned to its secondary-audio-programming channel. Most stereo TVs are already equipped to receive the SAP channel.

The agency would also require the sounding of a tone when emergency information scrolls across the screen, though a visually impaired person would have to get the information from another source. That rule goes into effect in about two months.

Margaret Pfanstiehl, the founder of video description, said that 12 million to 14 million people would benefit from the services, and even more as the population ages.

In other FCC action, the United Way gained approval to use the 211 telephone prefix for community services, such as offering housing assistance and counseling. The FCC also approved the Department of Transportation's request to designate 511 for traffic information.

dealers accounted for most of the guns used in crimes or seized illegally. Other studies have found that many of the guns were recovered from crime scenes relatively soon after being sold at a gun store and that some buyers had bought several handguns at once.

The 1995 report noted that the data did not mean the stores were doing anything wrong. But it recommended that the bureau conduct "more frequent compliance inspections" of dealers whose sales exhibited such patterns.

That did not happen. This April, Senator Charles E. Schumer, Democrat of New York, released a report based on bureau data that listed the sites of stores nationwide with the

highest number of guns traced to them. One of them, in Riverdale, Ill., a Chicago suburb, ranked second, having sold 1,176 guns sent to the bureau for tracing 1996 to 1998.

The bureau does not publicly disclose dealers' names because the agency believes that doing so could compromise its criminal investigations and jeopardize agent safety. But John Riggio Jr., the president of Chuck's Gun Shop and Pistol Range in Riverdale, said his store was the dealership in question.

Before last summer, bureau inspectors had not thoroughly checked the records of Chuck's Gun Shop for four years, said Ms. Kiernan, the chief firearms agent in Chicago. But agency officials said Mr. Riggio's store, which is a defendant in the Chicago lawsuit, passed a recent inspection and Mr. Riggio said he had done nothing wrong.

Mr. Riggio said that anyone who bought a gun from his store must have a state-issued license and pass a background check. When asked about the results of the Chicago sting, he said it was not up to him to discriminate against any approved buyer based on what the buyer looked like.

"When someone walks in the door and they have a heartbeat," he said, "it's show time. It's time to sell."

(The store that sold more seized guns than any other in the three-year period was Badger Guns and Ammo in West Milwaukee. The Milwaukee Journal Sentinel, reported. The number was 1,195.)

Ms. Barnes, the lawyer who filed the successful New York suit, says she learned about the bureau's gun-tracing records through a chance conversation in 1995 with an outside contractor of the agency. She said the contractor told her that he could sell her three computer tapes of bureau gun-tracing data from 1989 to 1994 for \$750.

"For \$750, it sounded like a bargain," Ms. Barnes said. "I figured that at the worst, I could use it for foot rests."

In her civil suit, which she brought in Federal District Court in Brooklyn on behalf of the families of seven New Yorkers killed in shootings, she used the data to argue that gun manufacturers acted negligently by oversupplying dealers in Southern states that have weaker gun laws, knowing the guns would wind up in the hands of criminals in New York. Industry lawyers disputed the argument, but it persuaded the Federal judge to let a jury hear the case. The jury's verdict in favor of the families is being appealed.

Cities like Chicago followed in the footsteps of Ms. Barnes, and bureau officials quickly found themselves in a new and awkward position: caught between the industry it regulated and cities suing gun companies.

The situation in Chicago highlighted the agency's unease. Initially, bureau officials refused to give lawyers for the cities the names of local dealers with the highest number of guns traced to them, citing legal restrictions on such disclosures, agency documents show.

As a result, the lawyers for Chicago, in preparing the sting operation, drew up their own list of dealers to target by going through long-neglected bureau gun-tracing reports themselves.

In recent years, the Chicago police had annually sent thousands of individual requests to the bureau to trace seized weapons, but they had reviewed only the results for guns involved in high-profile crimes like murders, said Sgt. Ken Barnas. Thousands of other reports, each showing a gun dealer's name, remained at the bureau's offices here, gathering dust.

Soon, Sergeant Barnas and other officers were sorting the records by hand. "It was like you were going through the traces and it was 'Boom, Chuck's — Boom, Chuck's — Boom, Chuck's,'" said Sergeant Barnas, referring to the Riverdale store.

Mr. Roehm, the bureau spokesman, said that names were not released to Chicago officials when they sought them under the Freedom of Information Act because the agency did not want to set a precedent that could make those names publicly available.

But in February, four months after Chicago filed its suit, the bureau released the dealers' names after Chicago officials requested them under the Gun Control Act of 1968, the Federal law that created firearms tracing and encourages cooperation between Federal and local officials.

Officials in Detroit and Wayne County also used bureau data to select some targets for their sting operation.

The Outlook

From New Records, The Winners

Lawsuits filed by cities like Chicago and Detroit must overcome significant legal hurdles before they come to trial, and the rifle association and gun makers have been lobbying state legislatures to pass laws barring such actions.

In addition, some industry lawyers like Ms. Kimball in Chicago believe that the cities' legal efforts will eventually be undercut by the same information they are using to mount their offensive: the bureau's gun-tracing data.

For example, plaintiffs' lawyers like Ms. Barnes argue that gun makers know their guns end up in criminal hands quickly because bureau data show that about one out of every three guns seized is relatively new. But some former bureau employees dispute that data.

Gerald R. Crispino, who worked until recently at the bureau tracing center, said in a 1998 report prepared for the defendants in Ms. Barnes's case that newer guns were over-represented in the data because they were easier to trace than older guns and so there tended to be more requests for tracing them.

Ms. Kimball says that she believes that as the A.T.F. database grows it will show that most crime guns are used or stolen, rather than new.

"I hope that A.T.F. will get the universal traces it wants," she said, "because then people will get the truth and it will be very hard for other people to distort it as they are doing now."

But more bureau data might only confirm the emerging patterns, leaving gun makers unable to claim they are unaware of such information. For example, Ms. Kiernan, the bureau agent in Chicago, said that of 10,000 guns recovered in the city in recent years, only 97 had been reported stolen.

Mr. Jannuzzo, the lawyer for Glock, the handgun producer, said his company had asked distributors to follow up with retailers who are publicly identified as having a large

number of guns traced back to them, to see if they have any problems that might account for the traces. He said that even though the bureau begins its traces with the manufacturer, to identify the distributor that took the gun, manufacturers often do not know why the agency is asking about a gun or where the trace leads.

"I have no idea who the stores are," he said.

In pretrial testimony in the Brooklyn case, several gun makers said they did not compile the A.T.F.'s gun-tracing requests but threw them out soon after supplying the agency with the name of the distributor to whom they had shipped a gun that the police had recovered.

But in an interview on Wednesday, Robert Delfay, president of the National Shooting Sports Foundation, a trade group in Newtown, Conn., said that he believed it could be helpful if the bureau released the names of dealers and distributors with high numbers of guns traced to them. Gun makers could then see where problems might exist, he said. "There needs to be a system in place where they could be this free exchange of information," Mr. Delfay said.

2/2

FRIDAY, JULY 23, 1999

C.I.A. Says Chinese Embassy Bombing Resulted From Its Sole Attempt to Pick Targets

By ERIC SCHMITT

WASHINGTON, July 22 — The Director of Central Intelligence disclosed today that the agency had selected just one target in the 11-week air war over Yugoslavia, and its decision led to the accidental bombing of the Chinese Embassy in May.

"It was the only target we nominated," the Director, George J. Tenet, said at a rare public hearing of the House Intelligence Committee.

After the strike on May 7, which killed three Chinese and wounded at least 20 others, the C.I.A. decided that it should go back to its usual business of spying, an American official said today. Reeling from its error, the agency almost immediately suspended other preparations it was making to forward additional targets to help NATO.

Mr. Tenet also acknowledged publicly that the C.I.A. had employees and maps that could have told military planners the correct location of the embassy. But they were not consulted, he said.

While Mr. Tenet and the Deputy Secretary of Defense, John J. Hamre, recapped a now-familiar litany of bureaucratic errors that the Administration says caused the accident — including outdated maps, faulty computer databases and a lack of safeguards — it was the director's remarks on the agency's selection of targets that offered new insights into an accident that has dealt a stinging setback to relations with China.

From battle tanks to electrical power plants, deciding what to hit in the air war was left largely to military experts in Washington and Europe. But as the air campaign failed to achieve quick success and dragged on longer than expected, the Pentagon feared that it would run out of top-notch targets and sought suggestions from the C.I.A. "We were very much looking for additional targets," Mr. Hamre said.

At the C.I.A., analysts had long suspected that the headquarters of a Yugoslav arms agency was financing the Yugoslav military

*The agency's experts
with the correct data
were never consulted.*

by selling advanced technology to rogue nations, and jumped at the chance to destroy a stubborn nemesis.

"This episode is unusual because the C.I.A. does not normally assemble, on its own, target nomination packages containing the coordinates of specific installations or buildings," Mr. Tenet said.

The inexperience was clear from the start. The C.I.A. team used a flawed technique for locating the arms agency headquarters, Mr. Tenet said. It had the correct street address for the arms agency, No. 2 Bulevar Umetnosti. But to pinpoint that location, the analysts used a technique of

comparing the number sequence on parallel streets. Mr. Tenet said this practice offered only "an approximate location" and was "inappropriate" for selecting aerial targets.

The analysts compounded that mistake by using three maps to locate the arms agency: two Yugoslav commercial maps from 1989 and 1996, and a United States Government map produced in 1997. None showed the current location of the Chinese Embassy, which was built in 1996.

Only after the disaster did the C.I.A. turn up in its files two maps that accurately placed the embassy: one was a map handed out by a Belgrade bank that showed a branch office near the embassy; the other listed the embassy and its grid coordinates in its index but did not mark the building on the map itself, an American official said.

Since this was the agency's first time developing a "target package," there was no procedure in place for senior officials to review the work, Mr. Tenet said. "This initial misidentification took on the mantle

of fact," he said. "There was no cautionary language associated with it."

Military planners never caught the mistake, partly because they assumed the location had already been verified, Mr. Hamre said.

A final backup also failed when several computerized databases of sites that were off-limits to bombing, including embassies, hospital and churches, did not have the current location of the Chinese Embassy.

"Database maintenance is one of the basic elements of our intelligence effort, but it is also one that has suffered in recent years as our work force has been spread thin," Mr. Tenet said.

The Administration has taken steps to avoid a recurrence, including a system to update the databases. When bombing cities, Mr. Tenet said, a new policy requires that Government officials familiar with the location be consulted and "sign off on what a satellite picture says a site is or isn't."

Cities Turn to U.S. Gun-Tracing Data for Legal Assault on Industry

By BARRY MEJER

In an undercover operation last year, Chicago police officers posed as local gang members and went shopping for firearms. Their targets: the suburban gun stores that had sold the largest number of guns recovered from city crime scenes or seized by the police from people carrying them illegally.

In store after store, clerks sold guns to the undercover officers, even as the latter boasted that they were taking the guns back to Chicago, where possessing a new handgun is illegal, or that they needed new guns because they had lost theirs in running from the police. In many cases, the clerks gave the undercover officers advice on how to get around Federal and state gun laws.

Soon afterward, based on the sting evidence, the City of Chicago filed a \$433 million lawsuit charging 12 suburban stores, along with several gun makers and wholesaler gun dealers, with creating a public nuisance by selling thousands of guns a year to people who illegally took them into Chicago.

While Congress debates the fine-tuning of laws governing who can buy guns, Chicago and at least 20 other cities and counties have begun a broad legal assault on the gun industry similar to the one started by states five years ago against cigarette makers.

In lawsuits challenging the gun industry's marketing practices, the cities are seeking to make the manufacturers responsible for gun control, charging that they and the distributors and dealers do too little to keep guns out of the hands of criminals in their eagerness to make sales.

The cities say they are taking steps against an industry that Federal officials have been unwilling or unable to challenge. One example: Chicago got the names of the dealers it chose as targets for its undercover investigation from the records of the Bureau of Alcohol, Tobacco and Firearms, the Federal agency that regulates gun sales.

In an interview, Mayor Richard M. Daley of Chicago said of his decision to sue the firearms industry, "It was out of frustration with the Federal Government."

The alcohol, tobacco and firearms agency has long pursued those who buy weapons to resell them illegally. But the bureau's stance toward gun makers, distributors and legitimate dealers is that of a partner dependent on their cooperation for its criminal investigations, even as the bureau's own system of tracing guns used in crimes or seized by the police shows that tens of thousands of the firearms are sold by licensed retailers.

Officials of the bureau, an arm of the Treasury Department, say that large numbers of guns traced to one dealer may reveal nothing more than a store with high volume. Though bureau consultants recommended in 1995 that the agency closely monitor the relatively small number of dealers with high numbers of guns traced to them, its Chicago office began doing so only in 1998.

But Chicago mounted its sting operation against gun dealers on the basis of gun-tracing data collected in recent years. That investigation, as well as a sting operation in Detroit, have taken undercover officers in those cities inside the sometimes murky world of the firearms industry, where A.T.F. agents rarely venture without first announcing their presence.

When bureau inspections of gun dealers are conducted, the agents check gun-sale forms and inventory records to make sure they are complete. But the sting operations point to troubling practices by dealers, some possibly illegal, which paper records might never suggest.

Last spring, for example, the authorities in Detroit and surrounding Wayne County conducted an undercover operation against 10 stores and gun-show dealers. In each case, two undercover officers went together to a dealer, one of them acting the part of someone barred by law from buying a gun, for example, a felon, or someone under age. Nine of the 10 dealers sold a gun to the other undercover officer, standing in as a straw purchaser for the prohibited buyer, according to a lawsuit filed this year by the city and county against the dealers as well as against manufacturers and distributors.

In one videotaped transaction, a dealer at a gun show told one officer that if he wanted to buy a gun for his friend, he had to sign a required Federal form and take the risk if the firearms bureau discovered the ruse.

"You want to tell me you are buying the gun and you want to lie on the sheet, I don't care," the dealer said. "This question here says, 'Are you buying this gun for yourself?' All of us know you are not."

All of the dealers and companies sued by Chicago and Detroit denied wrongdoing. One dealer from the Chicago area, Robert Taborden, settled with the city in April without acknowledging fault and agreed to testify against gun producers and sellers.

The other sites that have sued the gun industry include Boston; Bridgeport, Conn.; Newark; Camden, N.J.; Atlanta; Miami-Dade County; New Orleans; Cincinnati; Cleveland; St. Louis; San Francisco; Sacramento, Calif.; Berkeley, Calif.; Compton, Calif.; West Hollywood, Calif.; Alameda County, Calif., and San Mateo, Calif.

Attorney General Eliot L. Spitzer of New York says he will soon file suit against the gun industry.

The Discord

Common Goals, Different Routes

One aim of the cities' lawsuits is to establish a line of responsibility for guns used in crimes from dealers up through distributors to gun makers. Manufacturers, they argue, should know that some dealers are selling far more guns than a local population warrants. By assisting the firearms agency in tracing guns, they say, makers and distributors alike should become aware of dealers with large numbers of guns traced to them.

Gun makers respond that the firearms bureau does not reveal the names of such dealers to them, and lawyers for the manufacturers say they are not liable for the actions of those dealers.

"This is a highly regulated market and the Bureau of Alcohol, Tobacco and Firearms has said very clearly who can buy guns and who can't," said Anne Kimball, a Chicago lawyer who represents gun makers.

Bureau officials point out that the vast majority of gun dealers are honest and provide essential cooperation in tracing guns.

But the agency also works within severe legal constraints, especially the provisions of the Firearms Owners Protection Act of 1986, a law championed by the National Rifle Association. It limited the bureau's inspections of gun dealers, reduced penalties for keeping false records of gun sales and raised the burden of proof for violations by dealers.

In addition, as early as the 1970's, court decisions limited sting operations by ruling that a dealer could not be convicted of selling to a prohibited buyer, a felon, for example, unless the undercover agent buying the gun was in fact a felon. The bureau has also adopted its own limits. The bureau's head agent in Chicago, Kathleen L. Kiernan, said it was highly unlikely that the agency would conduct a sting operation to test whether gun stores were bending the rules.

"It would not be a natural strategy to employ unless there was information to suggest an investigation" of crimes like gun trafficking, Ms. Kiernan said.

Cities like Detroit and Chicago are using evidence of lax or illegal gun-sale practices as the basis for their civil lawsuits, rather than prosecuting the dealers in criminal court.

At the Sports Authority gun store in Dearborn, Mich., for example, a clerk was secretly videotaped telling two undercover agents posing as buyers not to alert the outlet's manager that one was buying a gun for the other, who had told the clerk he had a criminal record.

"This is called a straw purchase," the clerk explained. "It's highly illegal."

In a statement issued in April, the Sports Authority said it had dismissed the clerk involved, saying he had violated company policy. Lawyers for Detroit said that other clerks at the same store had rejected the efforts of two other straw buyers to make purchases.

The Chicago authorities said gun dealers allowed stings to proceed, told officers posing as gang members they could buy several guns a year without the store notifying them, and they waited a week before claiming a gun.

Jeffrey Roehm, a bureau spokesman, said that for a store clerk to explain the rule did not violate the law. But at least one gun producer says that such store practices defeat the purpose of the reports, which is to help the bureau identify people who buy numerous guns for illegal resale.

"They should be arrested and put in jail," said Paul Jannuzzo, vice president and general counsel for the gun maker, Glock Inc.

Others believe the agency's stance shows it is out of touch.

"You can merrily go along in this fantasy that you have secured voluntary compliance with the firearms industry," said Julius Wachtel, a bureau agent for 23 years until he recently retired, "when in fact you've got no idea what you have."

The Discovery

Going to Records For Lawsuit Data

A.T.F. agents have long known from tracing guns seized in crimes that people bent on mayhem often obtain weapons where it is easiest: from places with lax firearm laws or at venues such as gun shows where buyers can legally avoid a background check.

But in recent years, lawyers for gunshot victims and those working on behalf of cities have discovered the bureau's gun-tracing data and have begun using it in lawsuits to accuse gun makers of oversupplying dealers in areas with lax rules. The suits charge that the defendants know that the guns end up in the hands of criminals in cities like New York and Chicago where handguns are tightly controlled.

This year a Manhattan lawyer, Eliza Barnes, won the first judgment in a lawsuit that charged gun producers with negligently distributing firearms, using the bureau's gun-tracing data as "the structural foundation for everything that followed in our case," Ms. Barnes said.

Industry lawyers say that lawyers like Ms. Barnes are misusing the data, which is collected to help solve crimes, to make sweeping generalizations about firearms distribution. But the lawsuits by Ms. Barnes and cities like Chicago might not have been filed but for recent changes in how the bureau collects and analyzes data on tracing guns.

The history of tracing gun used in crime: and seized by the police from people carrying them illegally has been a tortured one. In 1978, the bureau proposed requiring that gun dealers report all firearm sales directly to the bureau. But the National Rifle Association, which opposes any step toward toward gun registration, successfully backed legislation blocking the bureau from "consolidating, or centralizing" any data on gun sales.

As a result, the bureau did not computerize any data for nearly 15 years. As recently as 1991, law-enforcement agencies sent the serial numbers of only 42,000 guns to the bureau for tracing, with the average trace taking 3 to 45 days. Only about 50 percent of the traces were successful, as many of the guns were too old to be traced.

But in the mid-90's, as a result of Clinton Administration initiatives to fight juvenile crime, the number of seized guns tracked by the bureau's National Tracing Center in Fairfax Waters, W. Va., soared.

Previously, the bureau mainly traced guns to help the police solve crimes. But to gather information about juveniles' use of guns, the firearms bureau enlisted a growing number of cities to send the tracing center the serial numbers of all guns seized in crimes. In 1995 the bureau was sent the serial numbers 200,000 firearms for tracing, with the success rate remaining at about 50 percent.

The bureau also hired researchers at Northeastern University and Harvard University to analyze the growing data. Some of their initial findings were striking.

In a 1995 report, Northeastern researchers found that less than 1 percent of the nation's

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Clinton Aides Seek Alternatives To an I.M.F. Sale of Some Gold

By DAVID E. SANGER

WASHINGTON, July 22 — Faced with mounting opposition in Congress, the Clinton Administration began backing away today from plans to have the International Monetary Fund sell a portion of its gold reserves to finance debt relief for some of the world's poorest nations.

The Administration's plan, a legacy of former Treasury Secretary Robert E. Rubin, calls for the I.M.F. to sell up to 10 million ounces of gold on the open market. But gold prices have been falling, in part because of the I.M.F. plan and a sale by the Bank of England, and mining companies and gold-producing countries have lobbied to kill the plan.

A senior Treasury official, briefing reporters today, gave the first public acknowledgment that Congress was unlikely to approve the plan.

"We are exploring whether there are alternative ways of mobilizing I.M.F. gold reserves that would avoid any impact on the gold market and would be acceptable to the I.M.F.'s membership — would command the support of Congress," he said. But the official declined to specify what kinds of alternatives the Treasury

was considering.

On Wednesday, the chairman of the House Banking Committee, Representative Jim Leach, Republican of Iowa, said he opposed the plan to sell the gold. He said he feared that the sale would hurt many of the same countries that the United States was trying to help, including nations like South Africa that rely heavily on gold sales.

The initial logic of the sale was to turn a nonproductive I.M.F. asset, a portion of the gold that the international lending agency was given after it was created more than 50 years ago, into an income-producing asset. The money from the sale would be invested, with the proceeds used to help pay off the debts of the most indebted countries. Leaders of the Group of Seven industrial nations approved the plan in June.

But under the rules of the I.M.F., sale of the gold requires the approval of 85 percent of the monetary fund's members. Washington controls an 18 percent share of the fund, and Congress determines how the United States' vote is cast. Approval by the banking committee would be necessary, and Mr. Leach said today that he had determined that would not happen.

The New York Times

FRIDAY, JULY 23, 1999

NAACP to Sue Gunmakers, Seeking Stricter Controls

By MICHAEL A. FLETCHER
Washington Post Staff Writer

NEW YORK, July 12—The NAACP announced plans today to expand the wave of litigation targeting gunmakers by filing a federal lawsuit alleging that the industry recklessly distributes its product and asking the court to place broad controls on the sale of handguns.

NAACP attorneys said the suit will follow the legal strategy used in many of the more than two dozen lawsuits brought recently by cities and individuals who argue that gunmakers foster the underground market in firearms through negligent distribution practices and deliberate oversupply. But rather than seeking monetary damages, this suit hopes to break new ground by asking the court to impose strict gun controls that in the past have been rejected by Congress and many state legislatures.

Among the remedies the NAACP plans to seek in the suit are the elimination of sales at gun shows, a limit on the number of guns that can be sold in one transaction and unprecedented restrictions on who can sell guns.

The planned lawsuit builds on the landmark verdict reached by a Brooklyn jury that in February found the gun industry legally at fault for not doing more to prevent criminals from buying guns. The jury in that case, brought by the survivors of homicide victims, found nine gun manufacturers negligent. Attorneys for the NAACP said at least 85 handgun manufacturers, distributors and importers will be named as defendants in the case, which they said would be filed in U.S. District Court in Brooklyn by Friday.

"This is the logical next step," said Denise M. Dunleavy, a New York lawyer who is lead attorney for the NAACP. "We want the court to order changes in the gun industry."

Gun industry officials called the NAACP's proposed lawsuit a misguided step that, even if successful, would have little effect on crime.

NAACP President Kweisi Mfume announced the civil rights group's intention to file suit during a speech at the group's 90th annual convention here. In his remarks, Mfume blasted the gun industry for playing a part in turning many communities into "war zones."

"The fact that the illegal trafficking of firearms disproportionately affects minority communities in this country is indisputable," he said. "Too many of us have sadly become so accustomed to the prevalence of firearms in our neighborhoods that we are no longer shocked at the sound of gunfire outside our front doors. This is simply unacceptable."

Federal statistics show that African American males between the ages of 15 and 24 are almost five times more likely to be injured by guns than young white males. And firearm homicides have been among the top two causes of death for young African American males for the past three decades.

NAACP officials believe those facts give the NAACP standing to bring its lawsuit.

"The gun industry has refused to take even basic measures to keep criminals and prohibited persons from obtaining firearms," Mfume said.

Wayne LaPierre, executive vice president of the National Rifle Association, said the NAACP wants "the manufacturer of a lawful product held responsible for the third-party criminal misuse of their product."

"If that theory of law is upheld in America, they'll never manufacture another car, the pharmaceutical industry would be on the chopping block, as would the maker of any product misused to commit a crime," LaPierre said.

NAACP officials, however, said their lawsuit is one way to bring control to a gun industry that is largely unregulated.

There are an estimated 250 million guns in America, and an additional 4.5 million new ones added to the supply each year. Under federal law, the nation's 100,000 licensed gun dealers are subject to strict regulation. They must be fingerprinted, register with the local police and have legitimate premises. Their customers are subject to criminal background checks and records must be kept of the sale.

For the most part, this system keeps most dealers from putting guns directly into the hands of criminals. A study of federal firearms data released last month found that just 1 percent of the nation's 100,000 federally licensed gun dealers sold nearly half of the guns used in crimes last year.

But 4.5 million guns change hands each year through sales at flea markets, in private homes, through classified ads and over the Internet. This portion of the gun market is largely unregulated, as few states require unlicensed dealers to keep records or conduct background checks on their customers.

Guns used in some of the country's most highly publicized killings moved through this so-called secondary market. Benjamin Nathaniel Smith, the white supremacist who killed two men and wounded nine others before killing himself in a rampage earlier this month, bought his two guns from an unlicensed dealer after being turned away by a licensed gun store. The person who sold Smith his guns had purchased 65 guns from a licensed dealer.

Also, the girlfriend of one of the teenage killers in the Columbine High School massacre in Colorado bought three of the guns used in the attack at a gun show.

A 1994 national survey of gun owners done by the Police Foundation found that 40 percent of gun owners had obtained a gun through some source other than a regulated gun store or pawnshop. The suit, being brought by the NAACP seeks to use the courts to force gunmakers to do more to regulate the flow of those weapons.

In addition to seeking new restrictions on the sale of guns, the lawsuit aims to force manufacturers to sell guns complete with gun locks and other safety devices. The group also wants manufacturers to be prohibited from supplying retailers who sell to people who become involved in more than a certain number of criminal investigations.

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The Corps Of His Ambition

*New Marine Leader,
Well Known on Hill,
Lays Out Priorities*

By BRADLEY GRAHAM
Washington Post Staff Writer

It is not every general who gets asked by the secretary of defense what his final dream assignment would be.

But that's what happened to Gen. James L. Jones, who took over this month as commandant of the Marine Corps. The question was popped months ago, during Jones's 2½-year stint as senior military aide to Defense Secretary William S. Cohen.

"When I was asked awhile back what I'd like to do at the end of my career—did I want to be a [regional commander] or a service chief, how did I look at things—my answer was that at the end of the day, if somebody would ask, I'd like to finish my days with the service I started with," Jones recalled during a recent lunch.

Cohen and Jones have known each other for 20 years. They met when Cohen was a Republican senator from Maine on the Senate Armed Services Committee, and Jones, a major, was just beginning a five-year stint representing Marine Corps interests on Capitol Hill. Jones was introduced to Cohen by John McCain, then a Navy captain, now a Republican senator from Arizona and a candidate for president.

Jones has many good friends on Capitol Hill. In fact, such longstanding political ties have given him a reputation as one of the best-connected officers in the Pentagon. It's a reputation that hasn't hurt in a Marine Corps so dependent on congressional support for keeping it from being stomped on by the Army, Navy or Air Force, all much larger services.

"We know that staying close with Congress is our traditional bread and butter," said Col. Gary Anderson, chief of staff of the Marine Corps Warfighting Lab. "One thing I think everybody likes about the general is that he has excellent relations on the Hill."

Still, in laying out his agenda as commandant, Jones focused not on his politicking but on the high priority he said he intends to give the "operating forces"—those Marines who actually hit the beach and fight. He is worried about budgeting trends that, he said, have bled these combat units to pay for expansion elsewhere—in larger headquarters structures, for instance.

"If people want to call me a political general, they can do that," Jones said. "But my heart is in the operating forces. I grew up there, I commanded there, I fought there, I've always believed that operating forces should not be the bill-payer for everyone else's good ideas."

This kind of let's-put-the-warfighter-first talk goes over well

among Marines, even if no one can tell yet what non-operating units stand to lose.

"He's stuck his neck out on this one; this is not an idle comment," said Arnold Punaro, a two-star general in the Marine Corps reserves and a former Senate Armed Services Committee staff director. "Somebody is going to have to move from somewhere else."

Jones, 55, knows something about combat as well as politics. A Vietnam combat veteran with silver and bronze stars, he has held a string of command positions, from company up to division level.

Providing some glimpse of how he intends to lead, Jones has issued a 15-page "Commandant's Guidance," introducing his vision to the Corps. It is largely philosophical, with long passages on the importance of trust and cohesion and what it means to be a Marine. Missing is the kind of checklist of problems and specific timetable for taking action that his predecessor, Gen. Charles C. Krulak, drafted immediately after he took command four years ago.

But the tall, soft-spoken Jones is about as different from the diminutive, kinetic Krulak as two commandants could be. Krulak was rarely shy about speaking his mind, whether opposing mixed-gender training, blocking a loosening of rules against adultery prosecutions, or questioning NATO's air war against Yugoslavia. Jones is less likely to find himself publicly out of step with his fellow chiefs or at odds with the White House.

"He's not flamboyant; he's kind of almost a Gary Cooper type—strong, powerful, silent," said retired lieutenant general Bernard E. "Mick" Trainor. "Krulak tended to be hyperactive. This guy is much steadier, and I think he's going to be more cautious and more sensi-

tive to the larger political and military environment outside the Marine Corps."

While he credits Krulak with strong leadership—including giving the Marine Corps a renewed sense of post-Cold War mission by stressing its role as a crisis-response force—Jones has quickly begun to signal a more flexible, participatory style of management. He wants to do away, for instance, with what he considers a tendency toward excessive rule-making, saying Marines can be trusted to do the right thing.

"Implicit in this philosophy is the conviction that we do not always need regulations that 'spell it out' for us in agonizing detail," he wrote in his new guidance.

He also invited greater initiative from the bottom up.

"In the past we relied excessively on top-to-bottom instruction, the old 'if the Marine Corps wanted you to . . . they would have . . . way of life,' Jones wrote. "We cannot continue to operate with that mindset." Orders, he added, must "stop short of telling Marines exactly 'how' to accomplish the mission, step by excruciating step."

As a sign of how new approaches may be applied even to some of the oldest traditions, he declared an end to announced inspections.

"Instead," he asserted, "they should become no-notice operational readiness inspections that provide a candid—and thereby more accurate—assessment of a unit's performance, and also eliminate tedious inspection preparations that are costly in time and effort."

He also indicated changes are in store for the way Marines train.

"Regrettably, it appears that we often conduct training as we do because that is the way it has always been done," he wrote. "We cannot afford to continue in this manner."

Focus of Gun-Control Fight Shifts to Cities and States

By PAUL M. BARRETT and JEFFREY TAYLOR
Staff Reporters of THE WALL STREET JOURNAL
WASHINGTON—The drive for gun-control legislation is running out of steam on Capitol Hill, but the growing municipal litigation against the firearm industry presents a separate opportunity for restricting how guns are made and sold.

The gun industry, to be sure, has projected a hard line in defending against the municipal legal assault. But executives at some gun companies privately leave open the possibility that a settlement of the lawsuits could include regulation that would never stand a chance in Congress.

"I don't know where the litigation is going, but that's where the real action could be," says Robert Spitzer, a political scientist at the State University of New York and author of the book "The Politics of Gun Control."

Another arena worth watching is state politics. California, Massachusetts and New Jersey, for example, are stepping up efforts to curb how guns are marketed within their borders.

The shift from the national stage comes less than three months after the school massacre in Littleton, Colo., seemed to inject new urgency into the gun debate. But the campaign for strengthened national gun-control laws already is dwindling. "To be honest, the momentum is gone," concedes Kristen Rand, a lawyer and lobbyist for the Violence Policy Center, an antigun group in Washington.

Gun politics in Washington continue to be "dominated by one giant player, the NRA," Prof. Spitzer says. The National Rifle Association again last month demonstrated its vaunted ability to mobilize a vocal membership to pressure House members, many of whom count on the gun owners' lobby for campaign contributions, and block gun-control legislation.

But because the NRA isn't a direct participant in the litigation process, Prof. Spitzer says, there is some potential for regulation to come from the courtroom. Suits filed on behalf of 23 cities and counties—a number that is expected to grow—demand hundreds of millions of dollars to reimburse the public costs of gun violence. However, a number of big-city officials have indicated their real goal is to pressure the industry into producing safer handguns and policing their distribution more vigilantly.

A vivid illustration of the litigation's real goal is a proposal for settlement drawn up by attorneys representing Atlanta, Cincinnati, Cleveland, New Orleans and Newark, N.J. Circulated to gun-industry representatives in May, the proposal makes no reference to cash payments to the cities. Instead, it lists 17 "remedies," such as limiting consumers to one gun purchase a month and requiring manufacturers to invest 1% of their gross revenue on research and production of "smart gun" technology that would enable firearms to be discharged only by authorized users. (Under federal law, individuals who pass a background check may buy as many guns as they wish.)

The proposal became the basis of pre-

liminary settlement discussions between a lawyer for the cities, John Coale, and a gun-industry lobbyist, Robert Ricker. Those discussions and conciliatory public statements by Mr. Ricker led to a hard-line backlash from some gun executives. The trade group Mr. Ricker ran, the American Shooting Sports Council, was folded, and he is leaving the industry to set up a lobbying business in Sacramento, Calif.

But the truce talks aren't dead, according to Robert Delfay, the head of a rival trade group, the National Shooting Sports Foundation. "Industry is interested in discussing some of the issues raised by the municipal lawsuits," Mr. Delfay says. "We're just going to do it in a more structured fashion, with more people involved." Specifically, he says that depending on the details, gun companies are prepared to agree to ship all handguns with locks and to accept background checks for all gun-show transactions.

Another possible compromise position that has at least some support in the industry is intended as a counteroffer to the one-gun-a-month idea. Paul Jannuzzo, vice president and general counsel of the U.S. unit of Austria's Glock GmbH, a major handgun maker, has circulated a plan that would allow a purchaser who wanted multiple guns to leave the store immediately with only one. The buyer would have to wait a period—Mr. Jannuzzo has suggested 72 hours, but says perhaps it should be shorter—before the other guns were made available. The dealer would alert local and federal law-enforcement officials, who would then have enough time to decide whether to investigate.

"There are undoubtedly other common sense solutions that take a crime-fighting approach without affecting law-abiding citizens," Mr. Jannuzzo says. Combatants on both sides of the gun issue agree, however, that legislation introducing a new waiting period of this sort would be dead on arrival on Capitol Hill.

As the municipal lawsuits proliferate,

states are also taking action. The California Senate last week approved a one-gun-a-month limit and sent it to Democratic Gov. Gray Davis, a strong gun-control advocate. Also last week, the New Jersey Senate passed legislation mandating sale of only smart guns in the state, although not until the technology is available from at least two manufacturers.

And the top court in Massachusetts ruled last week that the state's attorney general has authority to regulate guns as consumer products, a power that no such state official now exercises. Already, some gun wholesalers are curbing sales in Massachusetts out of concern about tougher regulation of handguns, according to industry officials.

Still more gun-control efforts are expected at both the state and local levels.

"There is a rumbling discontent that nothing is happening in Congress," says Ms. Rand of the Violence Policy Center, "and that's why you see all of this other activity."

In Congress, a Senate-passed juvenile-justice bill containing modest gun-control proposals has been unilaterally stalled by conservative Republican Sen. Robert Smith of New Hampshire. Under Senate rules, any senator can put a "hold" on a bill for about any reason; Sen. Smith, a long-shot presidential hopeful, says he is holding up the bill because he objects to its gun-control provisions.

The four provisions are: a requirement of background checks for all buyers at gun shows; a ban on imports of high-capacity ammunition clips; a requirement that all handguns be sold with trigger locks; and a ban on gun sales to people convicted of gun crimes as juveniles.

In theory, the Senate bill is to be merged with a separate teen-crime bill approved by the House. But the maneuverings of pro-gun House members and the NRA resulted in a House version of the bill that lacks any gun-control measures. Pro-gun lawmakers "are going to throttle this bill any way they can," predicts House Democratic Leader Richard Gephardt of Missouri.

John Czwartacki, a spokesman for Senate Majority Leader Trent Lott of Mississippi, counters that there is "time to work things out" and get Sen. Smith to lift his hold on the legislation before the August congressional recess. But gun-control opponents doubt that any deal to which Sen. Smith might agree would pave the way for substantial new curbs on guns.

"No matter who controls Congress after the 2000 elections," Prof. Spitzer adds, "I don't think you'll see any significant steps toward meaningful national controls on the flow and availability of guns."

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THE WALL STREET JOURNAL

THURSDAY, JULY 8, 1999

Archer Proposes Cut in Capital-Gains Tax

Top Rate for Individuals Would Decrease to 15% On Stocks, Other Assets

By GREG HITT

Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON — Rep. Bill Archer, chairman of the tax-writing Ways and Means Committee, is proposing to lower the top capital-gains tax for individuals to 15% from 20%.

The new rate would apply to stocks, bonds and other assets held at least one year and would be effective retroactively to July 1. For taxpayers in the lowest income-tax bracket, capital gains would be taxed at a 7.5% rate, down from 10%, under the Texas Republican's proposal.

"Studies show that lower capital-gains taxes keep our economy strong and help create jobs," Mr. Archer said in a statement released yesterday.

The Ways and Means Committee is scheduled to begin action next week on a broad tax-cut package, and Mr. Archer has been dribbling out details for more than a week in an effort to build momentum for the legislation.

Earlier, the chairman announced his bill would include proposals designed to ease the cost of long-term health care. Among other things, Mr. Archer wants to make long-term health-insurance costs fully deductible from personal-income taxes. Premiums for such insurance policies range from \$250 to almost \$4,000 a year, depending on the age of the insured. Mr. Archer also would create a new personal exemption for taxpayers caring for elderly family members in their homes.

Mr. Archer's capital-gains plan would make obsolete a measure enacted in 1997 that created a special 18% tax rate on gains from assets held at least five years. The new proposal wouldn't change the short-term capital-gains tax rate. Under current law, gains on assets held less than a year are taxed as ordinary income, and are potentially subject to much higher rates than assets held longer.

Trent Duffy, a spokesman for the Ways and Means Committee, said Mr. Archer is still studying whether to propose additional changes in capital-gains tax law. Among the issues under consideration is whether to lower the top 25% capital-gains

tax on depreciable real estate and the top 28% capital-gains tax on collectibles, as well as the 35% capital-gains tax rate paid by corporations.

White House spokesman Barry Toiv promptly blasted Mr. Archer's proposal, calling it a "risky, costly scheme" in which "the benefits would be skewed away from the average taxpayer and toward the wealthiest in our society." Still, President Clinton has repeatedly suggested in recent days that he is willing to entertain a GOP-crafted tax cut as part of a broad budget compromise that gives him some of his main spending priorities. Indeed, two years ago, Mr. Clinton worked with the Republican-led Congress to lower capital-gains taxes.

In the Senate, Finance Chairman William Roth (R., Del.) favors lowering the capital-gains tax and is expected to work closely with Mr. Archer to accomplish the goal.

Meanwhile, the White House yesterday invited top congressional leaders in both parties to meet with Mr. Clinton next week to discuss issues raised by the ballooning budget surplus. Mr. Toiv said the main focus of the meeting would be Medicare, but added that "that will undoubtedly lead to a discussion of other budget issues." Mr. Clinton "feels that we're halfway through the year and . . . we need to make real progress on this issue—he wants to kick-start that," Mr. Toiv added.

White House aides and top GOP leaders have spoken of the need to work together to avoid a year-end budget impasse, but have yet to establish any framework for doing so.

THE WALL STREET JOURNAL

THURSDAY, JULY 8, 1999

Gunmakers Up in Arms Over HUD Plan to Sue Them

Industry Points to Concessions Made on Safety, Blames U.S. for Poor Enforcement

By SHARON WALSH
Washington Post Staff Writer

The gun industry, already facing dozens of lawsuits filed by cities and public-interest groups, yesterday expressed frustration and bewilderment at the Clinton administration's plan to join those suits on behalf of the country's public housing authorities.

Just a year ago, when New Orleans became the first city to ask for reparations for gun violence, the industry scoffed, dismissing the suit as the work of the same money-hungry lawyers who had attacked the tobacco business. Any changes in gun regulations, they said, should be made in Congress, not in the courts.

Since then, as litigation against the industry has gathered steam, firearms makers say they have agreed to concessions that would have been unimaginable a few

years ago—such as voluntarily shipping safety locks with their guns and agreeing to fund programs to help gun dealers recognize buyers who are "straw purchasers"—buyers acting on behalf of someone who could not legally own a gun.

"The industry is meeting with the ATF and going above and beyond the law to help get the bad guys," said Robert Delfay, head of the National Shooting Sports Foundation, an industry association. "To find out that the very government you're trying to help is going to sue you. . . . You just don't know where to turn."

On Tuesday, Housing and Urban Development Secretary Andrew M. Cuomo said that his agency would file a massive lawsuit on behalf of the nation's 3,191 public housing authorities, which spend \$1 billion a year trying to keep their 3.25 million residents safe

from gun violence.

At his regular press briefing yesterday, President Clinton supported the idea, saying that he was disappointed that his administration had not been able to pass "common-sense gun legislation," particularly after numerous school shootings, and that he thought it was appropriate to use executive authority to press the issue. He noted that the suit is not intended to get money from gun manufacturers, but rather to pressure them to change "irresponsible marketing practices" and add safety features to their products.

Gun control advocates said they believed the administration's entry into the fray and the public outcry regarding recent school shootings have turned the momentum against the industry.

"It's a pretty sad statement when you can get action faster through litigation than through legislation," said Richard S. Order, an attorney representing Bridgeport, Conn., in its lawsuit against gun companies. "Congress has too many roadblocks."

Most gun industry representatives continued to say that they would meet with representatives of the White House to see if they could agree to settle the various lawsuits and prevent yet another one. Several smaller manufacturers have already filed for bankruptcy. And the insurers of many of the larger companies have said they

will not pay to defend them in the lawsuits.

But others in the industry were adamant that they will continue to fight.

"Such misguided efforts are legally and factually wrong," said Stephen L. Sanetti, general counsel of Sturm, Ruger & Co., the nation's largest maker of firearms. "We will fight them with all of our resolve."

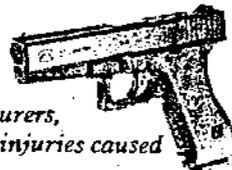
"I don't know anybody who thinks these lawsuits will succeed," said Jeff Reh, a spokesman for Beretta USA. "It's tantamount to harassment."

Firearms makers have emphasized that they are a heavily regulated industry and that when crimes are committed with their products, it is the responsibility of the federal government to prosecute those crimes. That hasn't happened, they said, citing a Syracuse University study this year that showed prosecutions of federal gun crimes were down by more than 40 percent. The Bureau of Alcohol, Tobacco and Firearms said that was in part because of cutbacks in manpower at the agency and a shift in prosecuting gun traffickers.

Congressional reaction to the HUD announcement was muted because lawmakers were scattered throughout the country on recess. But House Republicans were quick to point out that HUD general counsel Gail Laster told a subcommittee on Aug. 4 that "HUD

Triggering Lawsuits

Numerous lawsuits have been filed recently years against gun manufacturers, saying they are liable for deaths and injuries caused by their products. Among the cases:



■ **A landmark Brooklyn case, *Hamilton v. Accu-Tek***, found some gun companies liable for their distribution practices, but the verdict was appealed to the 2nd Circuit Court of Appeals and will be argued early next year.

■ **NAACP and the National Spinal Cord Injury Association** have filed suit in New York against gun manufacturers, seeking injunctive relief for some gun distribution practices.

■ **Numerous cities and counties** have filed suit, including:

New Orleans	San Francisco (includes Berkeley, Sacramento, San Mateo County, Alameda County, Oakland and East Palo Alto)
Chicago	
Miami	
Bridgeport, Conn.	Los Angeles (includes Compton, West Hollywood and Inglewood)
Atlanta	
Cleveland	Camden County, N.J.
Wayne County, Mich.	Los Angeles County
Detroit	Gary, Ind.
Cincinnati (Thrown out)	Wilmington, Del.
St. Louis	

SOURCE: Center to Prevent Handgun Violence

THE WASHINGTON POST

does not plan to bring any action on its own against the gun industry" and "HUD has no authority on its own to bring litigation."

Rep. Robert L. Barr Jr. (R-Ga.), a vocal opponent of gun control, wrote Cuomo yesterday questioning why Laster would make such statements if the department was

in fact contemplating a suit. Barr wrote that he has asked the panel's chairman "to consider taking action against [Laster] for misleading, if not lying to, the subcommittee."

Staff writer Juliet Eilperin contributed to this report.

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'Moderate to Strong' Growth Cited by Fed

By JOHN M. BERRY
Washington Post Staff Writer

Economic growth was "moderate to strong" in most parts of the country during October and November, with only scattered signs of bigger wage increases and mostly steady prices, the Federal Reserve said yesterday in a summary of its latest survey of economic conditions.

Retail sales slowed somewhat last month but then "picked up significantly . . . over the Thanksgiving weekend, and retailers expressed confidence that the brisker pace of sales will continue throughout the holiday shopping period," according to the report, which is based on information from the Fed's 12 regional reserve banks.

Except for the housing sector, in which both sales and construction were falling modestly in several Fed districts, there was little evidence of the slowing of growth Fed officials have been hoping to see. The policymakers have raised their target for overnight interest rates in three quarter-percentage-point steps since the middle of the year to produce such a slowing and thereby keep inflation from increasing.

The report—known as the "beige book," for the color of its cover—was prepared for use by the policymakers at their next meeting, on Dec. 21. Even with scant evidence of any slowing from the 5.5 percent growth rate of the third quarter, there is a nearly unanimous expectation among financial analysts that the officials will not raise rates again at the upcoming session for two reasons.

First, and most important, the meeting falls only 10 days before the end of the year, and what within the Fed is called the "century date change," a reference to potential year 2000 problems. Fed officials expect little if any disruption as the clocks in computers click over to 2000, even if some unaltered older ones treat the new year as 1900. But in the absence of any economic or financial development requiring an immediate rate increase—and there was no hint of one in the beige book—most of the officials would prefer not to roil financial markets with such an action so close to the end of the year.

The second reason is that some of the policymakers would prefer to wait longer to see whether their earlier moves are beginning to slow growth to a more sustainable level. With the Fed's credibility as an inflation fighter quite high, these officials believe they can wait for more information without the risk of a sudden burst of inflation. That's particularly true since the nation's current inflation picture remains relatively benign except for price increases related to this year's sharp run-up in world oil prices.

On the other hand, Fed Chairman Alan Greenspan and some other policymakers have expressed serious concern that growth must slow to prevent tight U.S. labor markets from becoming even tighter and eventually generating inflationary wage increases. Thus, many analysts believe that if there aren't clearer signs of slower growth in the next two or three months, the Fed will raise rates

again, either at a policymaking session at the beginning of February or at one in March.

Yesterday's survey summary said the reserve banks found that "labor markets remain tight in all districts. The pace of wage and salary increases did not appear to be accelerating generally, although there were some reports of larger recent salary increases in some industries and some regions."

Employers in the Richmond district, which includes the Washington-Baltimore area, "noted substantial wage increases recently." In addition, the use of signing bonuses has spread as firms seek to attract needed workers at a time when unemployment nationally is at only 4.1 percent, the lowest in nearly 30 years.

The summary also said manufacturing activity increased in most of the Fed districts, as did commercial construction, though office vacancy rates have increased in a few areas. "Residential construction activity was mixed around the nation, with more regions experiencing slowdowns than increases," a pattern that included a sharp drop in the New York Federal Reserve district, it said.

Banks across the country told the Fed that demand was down for new-home mortgages and for refinancing old ones, but other consumer lending was rising. "Lending to businesses has risen in some districts but declined in others," it added.

Gun-Industry Leader Backs Clinton Bid for Pact

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL

The leader of the gun industry's main trade group voiced striking receptivity to the Clinton administration's desire to forge a settlement of municipal litigation against firearms makers and distributors.

But some individual gun-company executives, as well as the National Rifle Association, condemned the White House for threatening to file a federal class-action lawsuit on behalf of 3,200 public-housing authorities.

During a broad-ranging news conference yesterday in Washington, President Clinton reiterated his decision to use the threat of a massive federal suit to pressure the gun industry to accept marketing and manufacturing restrictions demanded by 28 cities and counties that have already sued the industry.

Mr. Clinton said his goal wasn't to "bankrupt" gun companies, but to reform them. Still, a threat of additional litigation also entails the possibility of more legal expenses, as well as possible court judgments down the line. Industry representatives have held tentative talks with the municipalities that are suing, but there hasn't been any substantive agreement.

Robert Delfay, head of the National Shooting Sports Foundation, the main industry trade group, said in an interview that Mr. Clinton's threat "probably turns the heat up a little bit, puts a little more of a spotlight nationally on our [settlement] discussions, and might even play a role in accelerating the discussions."

Mr. Delfay, who has been coordinating the industry's discussions with various municipal and state officials, quickly added that his comments applied only "if the [federal] lawsuit isn't filed, but is used to spur discussion. If it is filed, it would be

a very burdensome and unwelcome addition to the equation."

Some firearms-industry executives reacted much more vehemently. Stephen Sanetti, vice president and general counsel of Sturm, Ruger & Co., Southport, Conn., the largest U.S. gun maker, said his company wouldn't negotiate with the administration. Mr. Sanetti said in a faxed response to written questions: "We will fight this and other factually and legally baseless lawsuits. It is absurd that one portion of the administration is seeking to sue us for transparently political ends, while we work closely with [the Bureau of Alcohol, Tobacco and Firearms] and other law enforcement agencies, and have seen both the firearms accident rate and violent crime rate plummet."

Other companies named in the municipal suits that have exhibited a more conciliatory approach include Smith & Wesson Corp., a unit of Britain's Tomkins PLC, and the U.S. unit of Austria's Glock GmbH. Paul Jannuzzo, Glock's vice president and general counsel, said in an interview yesterday that his company is willing to talk to the administration. Smith & Wesson didn't respond to requests for comment.

The National Rifle Association, which officially represents gun owners but in effect lobbies on behalf of the interests of the industry as well, castigated the administration. "This is a frightening holiday greeting from Bill Clinton and Al Gore," NRA chief lobbyist James Baker said in a written statement. "Hard-working Americans don't want their tax dollars spent to harass a lawful industry."

Gun companies pay attention to the NRA at least partly because of the group's influence with gun consumers. The NRA has discouraged settlement of the litigation, warning that the rights of gun owners

would be curtailed in the process.

The White House made it clear yesterday that it issued the lawsuit threat at least partly in response to the success of the NRA and its congressional allies in thwarting passage of any national gun-control legislation this year. Presidential spokesman Joe Lockhart, in a briefing before Mr. Clinton's press conference, said: "The legislative branch certainly has enough authority [to pass laws]. Should they choose not to exercise that, we have other ways of doing it."

Mr. Delfay said that he expected the next round of face-to-face settlement talks—presumably with administration officials at the table—to take place later this month or in January.

THE WALL STREET JOURNAL
THURSDAY, DECEMBER 9, 1999

Guns -
Smith + Wesson

AARP Report To Fuel Debate On Health Costs

By LAURIE MCGINLEY

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—Elderly Americans will spend, on average, more than \$2,400—19% of annual income—on health care this year, with prescription-drug costs being a major factor, a report by the AARP says.

The \$2,400 includes out-of-pocket expenses—money spent on goods and services such as drugs, eyeglasses and dental care—not covered by Medicare. It also includes Medicare premiums, deductibles and co-payments paid by beneficiaries.

The study is likely to add fuel to the debate over whether Medicare, the federal health program for the elderly and the disabled, should offer a prescription-drug benefit. Democrats plan to use the issue to woo older voters in next year's presidential and congressional races.

As if to drive home the need for political action on the issue, AARP released the report at a news conference in Des Moines, Iowa, the state where the presidential nominating process kicks off next month.

"Although Medicare provides critically important health insurance for older Americans, its coverage is not comprehensive," said David Gross, lead author of the report. The AARP, the nation's largest advocacy group for the elderly, formerly known as the American Association of Retired Persons, supports adding drug coverage to Medicare.

The report also found that:

- While Medicare beneficiaries will pay, on average, \$2,430 for health care this year, one-quarter of them will spend more than \$3,000. The out-of-pocket spending figures don't include the costs of home health care and long-term nursing care.

- Prescription-drug spending represents 17% of the elderly's out-of-pocket spending for health care, the single largest component after premium payments. Beneficiaries are expected to spend as much on drugs as on physician care, vision services and medical supplies combined.

- People with Medicare supplemental insurance, known as Medigap, will spend an average of \$3,250 on out-of-pocket health costs, in part because of the cost of Medigap premiums. Those who are enrolled in Medicare HMOs are expected to spend much less—\$1,630—because they generally don't buy Medigap.

In a similar report for 1997, the AARP found beneficiaries' out-of-pocket spending on health totaled about \$2,100. But the researchers said the studies were done dif-

ferently and can't be compared.

Democratic presidential candidates Al Gore and Bill Bradley used the report to renew calls to add prescription drugs to Medicare and to take swipes at their competing proposals for such a benefit.

Mr. Bradley, a former senator from New Jersey, said the study "underscores why my health-care plan is bolder than Al Gore's." He noted that his plan, unlike the Gore proposal, offers catastrophic drug coverage for seniors with high pharmaceutical expenses.

But Gore-campaign spokesman Chris Lehane said many beneficiaries wouldn't be helped by Mr. Bradley's plan because of its \$500 deductible. The Gore plan doesn't have a deductible. Mr. Lehane also criticized the Bradley plan for not including any money dedicated to preserving the solvency of the Medicare trust fund.

Fed Rules on Stockholding Are Eased for Employees

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON—The Federal Reserve Board, amending ethical conduct rules for its employees, eliminated for most employees a general prohibition on ownership of stock in primary dealers.

Also, Fed employees can obtain waivers letting them hold bank stock acquired prior to joining the Fed if the stock does not present a conflict of interest with their duties. Primary dealers, currently 30 in number, are the government securities dealers with which the Fed deals directly in executing monetary policy.

Under the changes, only Fed employees who have ongoing access to "highly sensitive information" collected in connection with the FOMC deliberations will be barred from owning stock in primary dealers.

Reno Is Expected to Decide On Charges in Lab Case

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON—Attorney General Janet Reno is expected to decide within the next several days on bringing criminal charges against former government weapons scientist Wen Ho Lee for mishandling classified nuclear data, according to a law-enforcement official.

Senior U.S. officials decided at a meeting last weekend, reported by the New York Times, to permit disclosure of highly classified nuclear-weapons secrets during a trial if Ms. Reno decides to seek an indictment. Mr. Lee was fired from the Los Alamos National Laboratory in March for security violations. The weapons formulas would have to be explained to jurors to demonstrate the seriousness of Mr. Lee's alleged security violations, the official said.

Ms. Reno is weighing charges under the rarely used criminal provisions of the 1954 Atomic Energy Act, which outlaws both intentional and negligent handling of weapons data. The possible penalties include life in prison, the official said.

Prosecutors have been investigating whether Mr. Lee transferred computer files, which contained nuclear-weapons design information and detonation models, to the laboratory's unclassified computer network. Among the files put on the network server, which may be accessed by outsiders using passwords, were top-secret dimensions and shapes of U.S. warheads, the official said.

Mr. Lee's lawyer, Mark Holscher, who didn't return calls seeking comment, has denied wrongdoing by his client.

A Justice Department spokeswoman had no comment.

Lawsuits Aimed at Guns Probably Won't Hit Crime

By RICHARD A. EPSTEIN

It is a disturbing sign of the times that when federal litigators roar, everyone else listens. Just yesterday Secretary of Housing and Urban Development Andrew Cuomo, threatened to help some 3,200 public housing authorities file a gigantic class-action lawsuit against gun manufacturers unless they yielded in their settlement talks with state and local governments, who have charged them with creating a public nuisance by the reckless distribution of firearms.

Those suits ostensibly seek billions of dollars in damages for the various additional expenses that state and local officials claim follow from an epidemic of gun violence. Yet the ultimate remedy they seek is not damages, but a quasilegislativ settlement that would require manufacturers to alter marketing practices (by excluding certain dealers, who target criminals or minors), or require them to incorporate devices such as personalized safety locks.

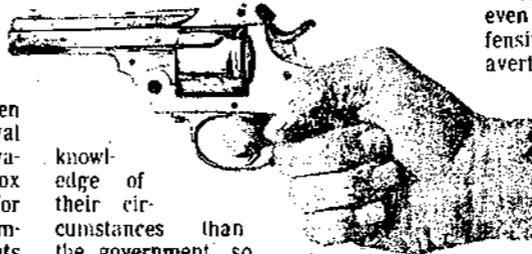
These suits are misguided on both process and substance. First, they make a parody of the democratic process. In the past generation, Congress, states and local governments have passed thousands of statutes and ordinances designed to clamp down on gun distribution. By all means enforce them. Unfortunately, these champions of the legislative process are at least as eager to enforce the laws that were not passed. Two bites at the apple has become the norm for public officials, who think they hold a sacred license to litigate or legislate at will. No judge should ever sign off on any settlement that seeks to smuggle into law multiple restrictions on gun sales

or gun use. Given their bottomless purse, government litigators should be doubly sure of the soundness of their position before threatening suit.

What this threatened suit manifestly lacks is intellectual credibility. First, any HUD-inspired suit would isolate a single variable—guns—to explain the lamentable state of violence in public housing projects. Overlooked in the process is the wretched set of decisions in planning and execution that have made such projects the scourge of their communities. The gun industry does not determine the siting of these projects, does not screen or select tenants, does not run renewal and eviction policies, does not fix elevators, does not provide policing. Orthodox tort theory offers lots of precedent for suits against housing projects themselves for their failure to protect tenants from violent crime. The real question is: Why isn't the proper role of HUD and local authorities as *defendants* in lawsuits? They shouldn't be able to dump their failings on others.

Next, the federal government acts as though the relationship between the number of guns and the level of gun violence were completely nonproblematic. Mr. Cuomo's one-liner for this occasion: "You have safety caps on aspirin bottles, but not on guns? What's the logic?" Here's the logic. Mr. Cuomo is wrong to assume that safety caps on aspirin bottles make sense. Like so many doctrinaire public officials, he assumes that the only consequences of legislation are those intended by the legislators. Put safety caps on aspirin bottles

and fewer children will die of accidental overdose, because the government wishes it so. But he never considers how private responses could negate government initiatives. Some older people find it hard to open these bottles with arthritic fingers, so they transfer them into some unmarked container without safety locks, where they could become more dangerous. Individual users have better



knowledge of their circumstances than the government, so patients, not government, should decide what kinds of containers are used for their pills.

The wrong target: Lawful gun use prevents crime.

Guns, however, differ from aspirin tablets in that they pose dangers to both users and third parties. But as with all security devices, the consequences of regulation are multiple, not singular. There are about a quarter-billion guns in circulation in the U.S., roughly one for every person in the land. If we could eliminate all use of all guns, then we could eliminate all gun deaths, perhaps at the cost of some increase in knife deaths. But it hardly follows that eliminating 10% of the guns would reduce the

level of gun fatalities by 10%.

Everything turns on the mix of lawful and unlawful users. Fewer guns in the population could lead to higher rates of gun fatalities if a larger percentage of weapons remain in the hands of criminals. Dreaded mass shootings, such as Columbine, could well increase if potential assailants know that everyone inside a school, restaurant or housing project is unarmed. But if thugs and kids know that even one person possesses a gun for defensive purposes, some tragedies could be averted. Mr. Cuomo's one-liner thus misses the indirect benefits that the lawful ownership of guns provides to those who choose not to own guns.

In truth, designing an optimal gun policy requires a sophisticated response to hard trade-offs to which our official crusaders pay no attention. Direct sanctions against criminal users of guns have the great virtue of separating the lawful from the unlawful use of weapons. The more successful these direct sanctions, the less the need for any kind of legislative ban or restriction on use. But when direct action against gun users falls short, some legislative ban or program might keep guns out of the hands of destructive individuals, without undermining the capacity of lawful citizens to resist gun violence.

A prophylactic rule that keeps known criminals from purchasing weapons *might* do some good, even if it is easily evaded. But what is fundamentally wrong with the crusading mindset of our antigun crusaders is their misplaced certitude. They spend so much time congratulating themselves in public and private for their high-minded positions that they are blind to the mischief that their proposals too often create. And it is all no accident. Good political results require sound political processes. It should come as no surprise that improper resort to the judicial process leads to dubious and one-sided public policy.

Mr. Epstein is a professor at the University of Chicago Law School.

Guns -
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Man Must Conquer the Heavens

By WILLIAM E. BURROWS

This week's apparent failure of the Mars Polar Lander, following the destruction of the Mars Climate Orbiter in September, has led to new recriminations against the Jet Propulsion Laboratory, which was responsible for the missions, and the National Aeronautics and Space Administration, its parent agency. That is grossly unfair.

JPL remains the world leader in solar-system exploration. It has given people everywhere a priceless, mind-expanding encyclopedia of knowledge about other planets, their moons, plus asteroids, comets and a great deal more. The Viking missions to Mars in 1976 went flawlessly and sent back far more information about our neighbor than everything that came before. Voyager 2's 12-year odyssey to Jupiter, Saturn, Uranus and Neptune ranks as the greatest feat of exploration in history. Other missions, including Magellan's radar mapping of Venus and Galileo's detailed study of Jupiter and its moons, have helped change forever the way humanity sees itself as part of a larger universe.

Small Setback

Now we have had a small setback on Mars, and the best space scientists and engineers on this planet are being made to look like buffoons by the political system that has betrayed them. NASA, knowing how the game is played in Washington, will now appear suitably contrite and launch an investigation that will pin the blame on sloppy procedure and result in stern reprimands. But it is the government itself that ought to be reprimanded, not the space agency and its contractors.

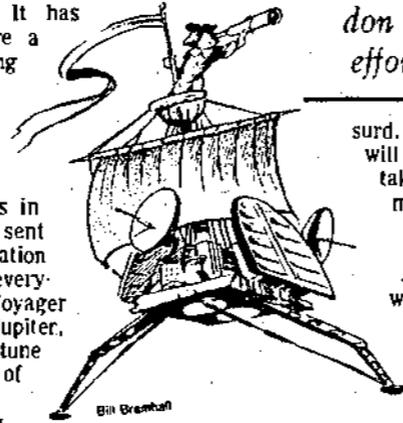
Certainly NASA and JPL made mistakes on the failed missions. An internal NASA report last month noted a spate of problems with the Climate Orbiter, including the complexity of the spacecraft's en-

gines and a lack of communication between JPL and Lockheed Martin Astronautics in Denver, which built it and the Polar Lander to JPL's design specifications. But to suggest that JPL has somehow dumbed down after its string of successes—the last notable one being Mars Pathfinder and Sojourner's wonderful romp on Mars—is ab-

if we do decide to head for the moon, Mars and beyond, let's suck it up and end the whining and hand-wringing every time there's a failure, even when people are involved.

- Failures will decrease when Congress stops treating the space program as a minor entitlement for aerospace companies,

NASA's setbacks on Mars shouldn't lead us to abandon space exploration. We should redouble our efforts instead.



surd. As in the past, JPL will learn from its mistakes so that it can make future missions successful. The first six of JPL's Rangers, which were supposed to televise possible Apollo landing sites on the moon in the mid-1960s,

failed, partly because they were overengineered. With that problem solved, the remaining Rangers did what they were supposed to do.

Instead of turning NASA and JPL into whipping boys, the country should ask if it is really committed to exploring and eventually colonizing other worlds, or whether it prefers to abandon the dream and instead stay home to "tend the cabbage patch," as Margaret Mead once put it. She added emphatically that we would "despise ourselves" if we abandoned the greatest adventure since "The Odyssey" for lack of resolve.

If we really want to spread the seed, as opposed to ending it here without a whimper during some distant catastrophe, then we need to develop a long-range policy based on these principles:

- Going to space is inherently complicated and dangerous. The same was true of aviation in its early days. The more we flew, the safer it became, though there always will be risk and occasional failure. So

a halfhearted symbol of international prestige and a mere indulgence for thousands of scientists and engineers who have higher aspirations than going public with companies that make scented birdcage liners, kelp burgers and machines that wash dogs.

- The singular triumphs of solar-system exploration during the Cold War happened not only because there was adequate funding (unlike today), but also because competition for leadership in space made us focus on the objective. We need to focus on it again because of the inherent worthiness of the mission.

- Congress and the rest of the establishment needs to grasp that exploration is inherently an elite undertaking and that the rest of society inevitably is preoccupied with more earthly challenges. But statesmen understand that everyone else will follow the trailblazers. Most Spaniards did not turn out to wish Columbus well and most 19th-century Americans stayed back East rather than risk the dangers of migrating across a dangerous frontier. But ultimately the risks paid off and benefited everyone. Build moon and Mars bases and they will come.

- We need a clearly focused and reliably funded space program that will be carried out without political disruption. Sticking to the plan and providing adequate resources is more important than doing it quickly. NASA and the rest of the international space establishment needs to articulate why space is important for every inhabitant of this planet and lay out a co-

herent plan for colonizing the moon and then Mars. The moon—unlike the Tinkertoy now being put together in low Earth orbit—is a space station that should be used not only to mine elements like helium-3, a safe fusion fuel, but should become the repository for our civilization's record: a constantly updated backup of who we are and what we've accomplished. That's insurance against calamity, against our disappearing with no trace that we ever existed.

The Tinkertoy, by the way, is drawing ridicule from scientists who dismiss its science potential as trivial. It is being built primarily because NASA believes that there is virtually no public interest in sending people back to the moon, so it is better to at least get a foothold out there (while proving the shuttle's worth) than packing it in altogether. Additionally, the money we are sending to the Russians to launder for their own space-station hardware keeps them productively engaged with the West.

Private-Sector Investment

While leading-edge exploration must be done by government, there are ample opportunities for private-sector investment. The bonanza in communication satellites is well known. But sending people to space could be highly profitable as well, not only for mining the moon, but by taking tourists to orbit and beyond. That in turn would whet the appetite of new generations of people who are as comfortable in space as the passengers who have replaced daredevils on airplanes.

Bruce Murray, a Caltech scientist and former director of JPL, once made the point that staving off death is necessary, but not noble. A civilization's nobility, he maintained, rests not on what it has to do, but on what it wants to do. We turn-of-the-century Americans should aspire to be remembered for more than day trading.

Mr. Burrows directs New York University's Science and Environmental Reporting Program and is author of "This New Ocean: The Story of the First Space Age" (Random House, 1998).

U.S. to join suits against gunmakers

By Martin Kasindorf
USA TODAY

A defiant gun lobby on Wednesday denounced as "reckless harassment" the Clinton administration's decision to ally itself with municipalities suing handgun makers. City and state officials welcomed the federal intervention, saying it was likely to speed a nationwide settlement of litigation aimed at keeping guns from criminals and children.

Since October 1998, 29 cities and counties have sued gunmakers, claiming negligence in making and marketing firearms. President Clinton confirmed Wednesday that the Department of Housing and Urban Development (HUD) is organizing a separate class-action lawsuit that the nation's 3,200 public housing authorities would bring unless gunmakers

agree in current settlement talks to change the way they design and sell weapons.

Housing officials are "not trying to bankrupt any company," Clinton said at a State Department news conference. "They're trying to make their living spaces safer, and I think it's a legitimate thing." The 100 largest public housing authorities report a total of 10,000 gun crimes every year and are forced to spend \$1 billion on security, Clinton said.

The National Rifle Association, whose political clout persuaded Congress not to pass sales restrictions this year, said the administration's threat to go to court was "reckless harassment" and risked setting a dangerous legal precedent. "No lawful industry is safe," the NRA said. "If some deviant person misuses your lawful product, this administration will sue

you, rather than hold the criminal responsible."

Stephen Sanetti, vice president and general counsel of firearms maker Sturm, Ruger & Co., said the government's plan is "legally and factually wrong, and we will fight them with all of our resolve."

The government's goal is to step up pressure on the gun industry to reach a settlement, HUD Secretary Andrew Cuomo said. "We don't want to go to court, but we do want a resolution," he said.

The cities want manufacturers to equip guns with state-of-the-art safety devices. Under the cities' settlement proposals, gunmakers would blackball retailers who consistently sell to criminals and would tone down advertising that might attract criminals.

"You all remember that one company advertised an assault

weapon by saying that it was hard to get fingerprints from," Clinton said, referring to Miami-based Navegar Inc., maker of the Tec-9 assault pistol. "You don't have to be all broke out with brilliance to figure out what the message is there."

Los Angeles City Attorney James Hahn, who filed suit in May, said negotiations have been moving at a glacial pace and that the weight of federal lawyers would make a difference. "It's like the U.S. Coast Guard sending in an icebreaker," Hahn said. "That's what we need. The industry has yet to take these lawsuits seriously."

Plaintiff cities include Los Angeles, Chicago, Boston, Atlanta, Cleveland, Detroit, San Francisco and New Orleans. The attorneys general of Connecticut and New York say they'll file the first suits by states if negotiations fail.

"The intervention of the feds strengthens our side," New York Attorney General Eliot Spitzer said. "It makes it more likely that we'll get to our objective: safer schools and safer streets. This is not about money. This case is about changing behavior."

White House press secretary Joe Lockhart said the administration also wants to send a message that it will act on its own despite congressional defeat of gun-control and anti-smoking legislation.

"I think we have enormously important public policy goals, and if the Republican-controlled Congress wants to block sensible gun control and if they want to block tobacco policy that the American public supports, we're going to find a way to do it," Lockhart said.

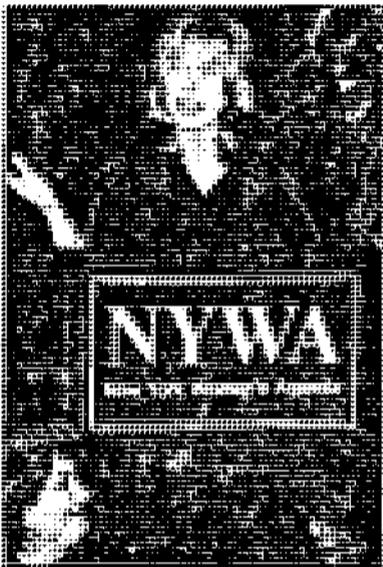
Contributing: Gary Fields

Cons-
Smith + Wesson

WASHINGTON

New exposure limit designed to protect nuclear workers

The Energy Department finalized a rule Wednesday to improve health safety for nuclear workers by reducing the allowable exposure to beryllium. The lightweight but strong metal, used for more than 50 years in making nuclear weapons, can cause chronic lung disease that is sometimes fatal. The new rule requires protective measures such as respirators at 0.2 micrograms of beryllium per cubic meter of air. The old limit was 10 times higher. The government estimates that 1,634 workers at 14 nuclear weapons facilities might be exposed to beryllium. The department also has plans, subject to congressional approval, to compensate nuclear workers who got sick through exposure to beryllium and other radioactive materials. As many as 26,000 former workers might have been exposed over the past half-century, although only a small percentage would have developed related illnesses.



By Richard Drew, AP

Hanover: New York Mayor Rudy Giuliani's wife speaks at breakfast Wednesday.

two were scheduled to appear at a documentary screening, but Hanover said a scheduling conflict prevented her from attending.

An anchor on the Food Network and an actress, Hanover said she has been "breaking new ground by showing that the first lady of this city can hold down a job or two and still be committed to serving those New Yorkers in need."

CONGRESSMAN FAINTS: Rep. John Dingell, 73, the longest-serving House member, was released from a hospital a day after fainting at a gala Tuesday night. Aides blamed dehydration after vigorous exercise and donating a pint of blood without drinking enough fluids. Dingell, D-Mich., was first elected in 1955.

ELECTION PRIMER: Republican presidential candidate George W. Bush's top adviser said the election won't necessarily be decided on the basis of whether the economy is good. Karl Rove indicated that workers and entrepreneurs increasingly think they are responsible for the economy rather than the government. In a dig at Vice President Gore, Rove also said that people won't necessarily support a candidate who says "elect me because I'm responsible for the economy" — not to mention the Internet or Love Canal or Love Story," which Gore has claimed, respectively, to have invented, uncovered and inspired.



Rove: Election not linked to economy

BUCHANAN MONEY: Pat Buchanan's entry into the Reform Party presidential contest might disqualify him from taxpayer funds that he was entitled to as a Republican contender. The Federal Election Commission is studying the issue. Buchanan, as a GOP candidate, qualified for federal matching funds after he raised \$5,000 in 20 different states in contributions of no more than \$250. However, he quit the Republican race and has been campaigning for the Reform Party's nomination. Buchanan's sister, co-chairwoman and treasurer, Bay Buchanan, said the campaign expects to get the money. "The key is the matching funds all go to the candidate, not to the party," she said.

SMITH TO RUN AGAIN: Sen. Bob Smith of New Hampshire, who quit the Republican Party for a short-lived presidential campaign as an independent, then switched back to the GOP, says he will seek re-election in 2002. "I've done an outstanding job," said the new chairman of the Senate Environment and Public Works Committee.

Written by Paul Leavitt with staff and wire reports

Clinton
Smith & Wesson

Clinton defends circumventing Hill on plan to sue gun makers

By Andrew Cain
THE WASHINGTON TIMES

President Clinton is perfecting the end run as the clock ticks on his presidency.

In September, the Justice Department sued cigarette manufacturers, a year after the U.S. Senate rejected the \$568 billion tobacco bill President Clinton backed.

Now the White House is organizing a class-action suit against gun manufacturers after Congress refused to enact Mr. Clinton's proposals for child-safety locks and gun-show crackdowns.

The class-action lawsuit by 3,200 public housing authorities is patterned after lawsuits 29 cities and counties have filed against gun makers to recoup costs of gun violence.

"I'm continuing to work with Congress, and I will do so vigorously," Mr. Clinton said yesterday during a news conference at the State Department. "But I think this was an appropriate thing to do on the merits."

Earlier yesterday, White House spokesman Joe Lockhart said Mr. Clinton has no compunction about circumventing Congress.

"I think we have enormously important public policy goals and if the Republican-controlled Congress wants to block sensible gun control and if — and if they want to block tobacco policy that the American public supports, we're going to find a way to do it," Mr. Lockhart said.

But critics of Mr. Clinton's policies say he is suing legitimate industries instead of holding people responsible for their behavior.

"Who will they sue next?" said James J. Baker, executive director of the National Rifle Association's Institute for Legislative Action.

"Automobile makers? The distiller industry? Manufacturers of baseball bats and kitchen knives?"

"If some deviant person misuses your lawful product, this administration will sue you, rather than hold the criminal responsible," he said.

Todd F. Gaziano, a senior fellow in legal studies at the Heritage Foundation, said the class-action suit "has nothing to do with justice and everything to do with political posturing and sucking up to the trial lawyers who fund [Vice President] Al Gore's campaign.

"When will citizens understand

that if the administration can demagogue and pick off legal businesses one at a time, then none of us are safe from manipulation of the law for political purposes."

The White House is trying to heighten pressure on gun manufacturers to settle lawsuits filed by cities and counties.

Mr. Clinton said the housing authorities are not "trying to hankrupt any companies."

"They're trying to make their living spaces safer, and I think it's a legitimate thing," he said.

Mr. Clinton said housing authorities want gun makers to scrutinize

the dealers with whom they do business, to "stop irresponsible marketing practices," and to make "some safety-design changes."

"I think if you go back over the whole reach of our tenure here, I've always tried to use the executive authority in areas where I thought it was important," Mr. Clinton said.

But Rep. Bob Barr, Georgia Republican, wrote to Andrew M. Cuomo, secretary of Housing and Urban Development, that such a lawsuit is "the worst kind of legal quackery."

Clinton hits Gore rivals' plans; will cope in Hillary's absence

By Andrew Cain
THE WASHINGTON TIMES

President Clinton, who has pledged to stay out of next year's presidential campaign, got in digs yesterday at Vice President Al Gore's rivals in both parties.

Mr. Clinton also sounded wistful about first lady Hillary Rodham Clinton's impending move to New York and the end of his weekly lunches with Mr. Gore.

"I'm not going to get in the middle of the Gore-Bradley campaign," Mr. Clinton told reporters during a news conference at the State Department.

But Mr. Clinton leveled criticism at both Democrat Bill Bradley's health care plan and the \$483 billion tax cut proposed by Texas Gov. George W. Bush, the Republican front-runner.

"There is no perfect plan. Let's start with that," Mr. Clinton said of health-care proposals issued by Mr. Gore and Mr. Bradley.

But Mr. Clinton added: "Whatever the choice is, I think it's important that we be as honest as possible about what it costs."

Mr. Gore has hammered at the projected cost of Mr. Bradley's health care proposal. Mr. Bradley says his plan would cost up to \$650 billion over 10 years. Mr. Gore charges that it would cost \$1.2 trillion over that span, and would end projected budget surpluses.

Mr. Clinton also took aim at Mr. Bush's tax-cut proposal.

"As near as I can see, there's no [health care] debate going on in the other party," he said.

"And if they pass the size tax-cut plan they're talking about, they not only won't have any money to help more people get health care, they'll either have to get into the Social Security surplus or they won't have any more money for education or the environment or anything else."

Mrs. Clinton has said she will move to the Clintons' new home in Chappaqua, N.Y., after Christmas to focus on her Senate campaign.

"It's not the best arrangement in the world, but it's something that we can live with for a year," Mr. Clinton said.

"I've got a job to do and she now has a campaign to run, and so we'll have to be apart more than I wish we were. But it's not a big problem.

"She'll be here quite a lot and I'll go up there when I can, and we'll manage it and I think it will come out just fine."

Mr. Clinton said he still consults with Mr. Gore on major decisions and Mr. Gore performs the "critical functions" as vice president,

but "we don't have lunch every week, and I miss that terribly."

Mr. Clinton also reflected on a tumultuous year that began with his Senate impeachment acquittal and ended with the collapse of World Trade Organization talks in Seattle.

The president said it was "a very productive year."

Among other successes, he said, Congress had committed to hiring 100,000 teachers and 50,000 police officers, passed a financial-system modernization bill and doubled after-school funding.

He said the administration's foreign-policy achievements included the war that drove the Serb military from Kosovo, an agreement that could prompt China's admission to the WTO and the Northern Ireland peace agreement.

But he said he is "terribly disappointed" that Congress did not pass the so-called "patients' bill of

rights," raise the minimum wage or pass hate-crimes legislation and did not approve what he called "common-sense gun legislation," which he said "was crying out for action" after the shootings at Columbine High School in Colorado.

Mr. Clinton also said he is "profoundly disappointed" that Congress did not approve his plans on Social Security and Medicare.

Mr. Clinton also indicated that the administration's much-anticipated book on race in America might be shelved indefinitely.

"I don't want to put it out unless I think, you know, it could make a difference," he said.

Mr. Clinton also took a terse parting shot at former independent counsel Kenneth W. Starr. A reporter asked how much of his pain from the Monica Lewinsky scandal was self-inflicted.

"The mistake I made was self-inflicted," Mr. Clinton said. "The misconduct of others was not."

Guns -
Sam Aronson

Living in Projects Doubles the Risk of Being Shot

By MICHAEL JANOFFSKY

A new study by the federal government has found that despite falling levels of crime over all in public housing projects around the country, residents there are more than twice as likely to be shot as Americans generally.

The findings, included in a report on violent crime in public housing that was compiled by the Department of Housing and Urban Development and is to be made public today by President Clinton, coincide with the administration's expanded efforts on a variety of fronts to deal with gun violence.

In addition to supporting proposals that would require all firearms to be registered at the time of sale, Mr. Clinton has called on Congress to close the so-called gun-show loophole by requiring private dealers to conduct the same background checks on prospective buyers that are routinely performed by licensed dealers.

In addition, his budget proposal seeks \$280 million to beef up enforce-

ment of gun laws by adding 1,000 federal, state and local prosecutors and 500 agents at the Bureau of Alcohol, Tobacco and Firearms. He is also asking Congress for \$345 million, an increase of \$35 million, for the HUD program combating illegal drug activity in public housing.

Further, the housing department is threatening to sue gun makers as a way to force them to settle more than two dozen lawsuits filed against them by municipal governments seeking compensation for the costs of gun violence.

The new HUD report is based on crime data from 55 public housing authorities that receive money from the antidrug program. Its crucial finding, said Housing Secretary Andrew M. Cuomo, is that each year, 1 percent of the 2.6 million people living in public housing are subjected to gun-related violence, compared with 0.4 percent of the general population.

"What that says is that those who can afford it the least pay the highest cost of gun violence," Mr. Cuomo

said in an interview, adding that this disparity between public housing residents and other Americans was about the same whether the housing projects were in big cities or small.

Nearly all of Mr. Clinton's gun-related initiatives are meeting strong opposition, especially those involving the gun-show loophole and registration. Led by the National Rifle Association, gun rights proponents adamantly oppose any efforts that would lead to additional record-keeping by the federal government.

Some states have tried to enact similar measures in recent years, mostly with no success.

The administration might have a smoother path toward resolution with the gun makers, Mr. Cuomo said negotiations with them would continue "as long as we believe they are productive."

"When they are no longer productive," he added, "we'll go to Plan B, our litigation strategy."

U.S. Judge Approves \$8 Million Attica Settlement

By DAVID W. CHEN

ROCHESTER, Feb. 15 — A federal judge approved a settlement today in which New York State is to pay \$8 million to the inmates who were tortured after the 1971 Attica prison uprising, paving the way for the end of one of the longest and messiest chapters in criminal justice history.

The decision by Judge Michael A. Telesca of Federal District Court did not come as a surprise. Last month, the judge unveiled a settlement proposal that would allot \$8 million for inmates and \$4 million in lawyers' fees, without requiring that the state admit any wrongdoing or liability. And Monday, all but 1 of the 16 former inmates and inmates' relatives who attended an unusual hearing here said that they supported the settlement.

Still, the absence of any last-minute snags was a great relief to all parties, given all the legal delay and legerdemain that has dogged the case for almost 30 years.

"Upon consideration of all the relevant factors as discussed in this decision," Judge Telesca wrote, "I find that the amount of the proposed settlement is fair, adequate and reasonable under all of the prevailing —

and compelling — circumstances."

Eleven guards and 32 prisoners were killed during the September 1971 uprising, which lasted four days and ended catastrophically when state troopers stormed the Attica Correctional Facility in western New York. Eighty people were wounded, making it the bloodiest prison incident in American history.

The inmates had originally seized control of one yard to protest poor living conditions inside the prison, taking 49 guards as hostages. But after the unexpected assault by state troopers, law enforcement officials and prison guards engaged in what a federal court later described as an "orgy of brutality" against the inmates, forcing many to crawl naked over broken glass while beating them with nightsticks.

Three years later, lawyers representing the more than 1,200 prisoners who were in the yard during the reprisals filed a class-action suit against prison and state officials. The case stalled for years, but by this year, when many of the inmates are ailing or already dead, all parties decided to settle at the behest of Judge Telesca.

In the next day or two, the judge

plans to release a questionnaire of about four or five pages that will seek to determine the nature and extent of each inmate's injuries. The inmates will have until July 7 to complete the questionnaire, which will be available at the federal courthouses in Rochester and Buffalo, as well as the offices of the lawyers.

The allocation of the \$8 million is to be based on the severity of those injuries. And each inmate — or survivor of a deceased inmate — will have the opportunity to be interviewed by the judge. When all the claims have been identified and determined, the judge will issue a final order.

All told, the inmates' lawyers expect that perhaps 500 former and current inmates will file claims, and that the money will be divided up by year's end.

"We are extremely gratified and relieved that the last chapter is going to start," said Ellen Yacknin, one of the inmates' lawyers, who is also associated with the Greater Upstate Law Project here. "It's going to be a lot of work, but we are committed to meeting every person and making sure that each claim is considered by the judge as thoroughly as possible."

Lawyers for a Mother and Son Accused of Murder Cite a 'Rush to Judgment'

By JULIAN E. BARNES

Lawyers for the mother and son accused of killing an Upper East Side woman opened their defense yesterday by describing the case as a miscarriage of justice comparable to the cases of the boxer Rubin Carter and of Richard Jewell, who was wrongly accused of planting a bomb at the 1996 Olympics in Atlanta.

The rhetorical flourishes comparing the defendants, Sante and Kenneth Kimes, to Mr. Carter, who spent nearly 20 years in prison for a triple murder before his conviction was overturned, Mr. Jewell and others drew angry retorts from Justice Rena K. Uviller of State Supreme Court in Manhattan.

"This case was a rush to judgment," said Mel A. Sachs, the lawyer representing Mr. Kimes. "The evidence will show this case is akin to Richard Jewell and Hurricane Carter."

Justice Uviller, who interrupted Mr. Sachs's opening statement 19 times, said: "Mr. Sachs, your time is up. We are not talking about Hurricane Carter, we are not talking about Sacco and Vanzetti, and we are not talking about Abraham Lincoln."

In their opening statements, the lawyers argued that the Kimeses had been wrongly caught up by the public's demand that the police quickly discover what happened to the woman, Irene Silverman, who was 82 when she disappeared on July 5, 1998.

Ms. Silverman's body has never been found, and prosecutors have been forced to build a complex circumstantial case against Mr. Kimes, 24, and Mrs. Kimes, 65. The prosecutors say the Kimeses killed Ms. Silverman as part of an elaborate scheme to seize control of her \$10 million town house on East 65th Street.

Prosecutors began laying the foundation of that case yesterday afternoon with a witness, Mengistu Mellesse, 32, who worked as a caretaker for Ms. Silverman for eight years.

Mr. Mellesse described how Ms. Silverman never let anyone use her house keys, which were found in Mr. Kimes's possession when he was arrested, according to prosecutors. Mr. Kimes was renting a \$6,000-a-month apartment in Ms. Silverman's town house.

Mr. Mellesse also testified that Ms. Silverman kept \$10,000 in crisp bills neatly arranged in envelopes in her closet; the prosecution had noted on Monday that \$10,000 in new bills was in Mrs. Kimes's handbag when she was arrested.

In his opening statement, Michael Hardy, the lawyer representing Mrs. Kimes, said the circumstantial case being presented by the prosecution would not prove that the Kimeses

murdered Ms. Silverman.

"Theory is like mist on glass," he said. "We, ladies and gentlemen, through our cross-examination and witnesses will clear that mist so you can see the facts."

Mr. Hardy's opening drew some admonishment from the judge — she interrupted him three times, including in one instance when he said that some of the prosecution's evidence was based on hearsay. The judge told the jurors that she would decide what was hearsay.

But most of the judge's ire was directed toward Mr. Sachs. Every time he said the prosecution's case was weak because it lacked forensic evidence like blood, DNA or hair, Justice Uviller rolled her eyes toward the clock, frowned and stopped him.

"The evidence will show there is no DNA," Mr. Sachs said. "DNA is like the finger of God."

Justice Uviller said, "Let's keep the finger of God out of it."

During the course of her interruptions, Justice Uviller accused Mr. Sachs of impermissibly characterizing evidence as weak, exceeding his role as a lawyer, wrongly referencing other cases and discussing optical illusions.

The interruptions had at least two jurors struggling to hide their laughter. One lowered her head as a broad smile crossed her face, and another held his hand over his face, chuckling visibly when the Justice Uviller called Mr. Sachs to the bench to berate him privately.

Mr. Sachs was planning an hour-long opening, but after 45 minutes, Justice Uviller sent the jurors to lunch.

"Thank you, Mr. Sachs," she said. "I believe your opening is concluded."

House Honors O'Connor

WASHINGTON, Feb 15 (AP) — The House of Representatives voted today to award the Congressional Gold Medal to Cardinal John O'Connor.

The House voted 413 to 1 to give the award, its highest civilian honor, to Cardinal O'Connor. Representative Ron Paul, a Texas Republican, was the lone opponent.

He said he had great respect for the cardinal but opposed the \$30,000 it would cost to mint him a gold medal. He said it went against Cardinal O'Connor's lifetime commitment to charitable works.

Senator Charles E. Schumer is sponsoring the bill to honor the cardinal in the Senate, which is expected to act on it in March.

Lawmakers extolled Cardinal's O'Connor's work for the needy, inner-city children and AIDS patients. They also spoke of his leadership in establishing diplomatic ties between the Vatican and Israel and his years of service as military chaplain.

Woman Freed After Pleading In Border Case No Link Is Found To Bomb Materials

By NEIL MACFARQUHAR

A Canadian woman whom Federal investigators initially linked to a murky, cross-border terrorism plot involving smuggled explosives and illegal aliens, was freed from a Vermont jail yesterday after prosecutors announced that she had not knowingly aided any planned violence.

The woman, Lucia Garofalo, 35, pleaded guilty to two immigration charges stemming from her role in running an Algerian national illegally across the border from Canada last December.

Federal prosecutors said Ms. Garofalo, a mother of three from Montreal, had cooperated with F.B.I. investigators and should be allowed to return to Canada until her sentencing on May 8. She faces up to 10 years in prison and \$250,000 in fines, but prosecutors said they expected to push for a more lenient sentence of some six months to a year in jail.

"The government had thought it was more than an ordinary alien smuggling case," Tristan Coffin, an assistant United States attorney, told Judge William Sessions in Federal District Court in Burlington before conceding that there was nothing to warrant holding Ms. Garofalo further. She agreed to surrender her passport, stay in the Montreal area and check in daily by telephone with American officials.

Ms. Garofalo was arrested on Dec. 19 when she was caught trying to enter the United States from Canada with an Algerian man, Bouabide Chamchi, at a remote border crossing in Beecher Falls, Vt. The man had a stolen French passport in his coat, and Ms. Garofalo later conceded she had given it to him. He is scheduled to be tried in April.

Her December arrest caused a flurry of anxiety among law-enforcement agencies because it came just five days after another Algerian, Ahmed Ressam, was detained near Seattle. Customs officials had discovered that the trunk of his car was bristling with hidden explosives and other bomb-making equipment.

Federal prosecutors thought the two might be linked through several roundabout connections, including a chain of telephone calls and the fact that Ms. Garofalo was acquainted with one of Mr. Ressam's former roommates in Montreal. But the government now says that the telephone call had to do with alien smuggling.

Ms. Garofalo's lawyer in Vermont, Maryann E. Kampman, criticized the government for holding her client for so long based simply on the fact that she had vague associations with suspects in the terrorism case, calling it a case of "ethnic profiling." Ms. Garofalo often wore the headscarf of a devout Muslim during her trips through border crossings.

Ms. Garofalo still faces a detention hearing by the Immigration and Naturalization Service, which took her into custody yesterday after federal prosecutors released her.

In a separate development in Seattle, prosecutors said they believed that Mr. Ressam had burned himself with the kind of explosive chemicals he later tried to sneak across the border.

A report yesterday in The Seattle Times, quoting court documents filed there, said tests on a pair of pants and tennis shoes seized from Mr. Ressam's apartment show that holes and other burn marks in them were caused by a chemical reaction that is one step of the process to connect explosive material.

GOP Fights Favors for Smith & Wesson

By JIM VANDEHEI
And PAUL M. BARRETT

Staff Reporters of THE WALL STREET JOURNAL
WASHINGTON—House Republicans, part of an effort to undermine President Clinton's weapons pact with Smith & Wesson Corp., are trying to prevent the government from favoring the company with new gun contracts.

Rep. John Hostettler, a pro-gun conservative from Indiana, inserted language into the Defense Department authorization bill forbidding the administration from requiring the department to buy Smith & Wesson guns.

With the blessing of GOP leaders, Mr. Hostettler and his pro-gun allies now want to stamp similar restrictions on three more federal agencies: the departments of Treasury, Justice and Housing and Urban Development.

They are also working to suspend funding for a federal commission Mr. Clinton created to implement his landmark agreement with the gun maker.

"We don't want agencies playing politics more than they already are," says Oklahoma Rep. J.C. Watts, the fourth-ranking GOP leader. "This should be a fair and open competition."

"This is the gun lobby flexing its muscle on Capitol Hill," says Dennis Henigan, the top lawyer with Handgun Control Inc., a Washington advocacy group.

Smith & Wesson, a unit of Britain's Tomkins PLC, has agreed to go far beyond existing law in requiring new restrictions on how retailers sell its guns and to develop a high-tech "smart" weapon that can only be fired by its owner, among other steps. In return, the Clinton administration and some states and municipalities

have agreed to drop Smith & Wesson from threatened or pending lawsuits.

The Clinton administration is also trying to organize a drive by government at all levels to give Smith & Wesson favorable treatment when deciding which company will supply handguns to police and other agencies.

While Mr. Clinton hopes this carrot will entice other gun manufacturers to impose new safety measures voluntarily, at the federal level, it isn't clear whether existing contracting rules would allow the administration to force agencies to favor Smith & Wesson.

The federal government spends millions of dollars a year on new handguns—a tiny fraction of the federal budget, but a significant amount to gun manufacturers, which are all relatively small companies. The vast bulk of handgun purchasing is done by local police departments across the country.

The concessions by Smith & Wesson provoked an outcry from the National Rifle Association and gun retailers, some of whom vowed to quit selling the company's products. Republican leaders believe the deal will "unravel" if the federal government is prevented from favoring Smith & Wesson with contracts, according to a top GOP aide.

A Smith & Wesson official says the Republican campaign will do nothing to discourage the company from moving ahead with the pact. Talk of preferential treatment is "mostly rhetoric," company spokesman Ken Jorgensen says. "It is not something we asked for, it is nothing we anticipated, and it has not happened."

But two gun lobbyists said the Republicans' campaign will dissuade other gun

manufacturers from joining Mr. Clinton's program. "This eliminates the incentive," says a pro-gun lobbyist close to several manufacturers.

Mr. Hostettler persuaded two-thirds of Armed Services Committee lawmakers to vote for his amendment, which doesn't mention Smith & Wesson by name but clearly targets the company. Gun Owners of America, an aggressive branch of the pro-gun movement, urged its members to lobby lawmakers to apply the restriction to other departments. "It's abhorrent that our tax dollars are being used to push Clinton's antigun agenda," says John Velleco, the group's spokesman.

Rep. Carolyn McCarthy, an antigun Democrat from New York whose husband was killed by gunfire, is leading a counter-attack against attempts to gut the pact. "I think they are trying to destroy Smith & Wesson for coming out with a good code of conduct," she says.

A greater potential threat to the gun industry than the attempt to manipulate government gun-buying practices are lawsuits filed against the industry by 30 cities and counties around the country.

In the latest development in the litigation, a Michigan state-court judge allowed parts of lawsuits filed against the industry by Detroit and Wayne County, Mich., to proceed toward trial.

Wayne County Circuit Court Judge Jeanne Stempien said in a ruling Tuesday that the municipalities' could move forward with the allegation that "willful blindness" by handgun manufacturers, wholesalers and retailers contributes to the diversion of guns to criminals, creating a "public nuisance." The judge threw out the municipalities' claim that industry actions constitute "negligence."

Bigger Print for Rates In Credit-Card Data May Be on the Way

Fed Is Likely to Approve Rules
Defining Size of the Type
In Key Part of Solicitations

By MICHAEL SCHROEDER
Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON—If the Federal Reserve has its way, reading glasses and a calculator will no longer be needed to decipher the fine print in credit-card solicitations.

The Fed is expected to approve a proposed rule that for the first time defines requirements for card companies to "clearly and conspicuously" display key interest-rate information and contract terms in their solicitations and applications.

Most notably, the Fed wants the long-term interest rates that consumers must pay to be specifically printed in 18-point type, or about one-quarter of an inch, and the remaining terms and conditions in 12-point type.

Since last federal law has required credit-card companies to prominently display in solicitations and applications a box disclosing the interest rate and other conditions for using the card. The idea was for consumers to understand exactly what rate they would have to pay on purchases over the long term—after low introductory rates expired. The legislation refers to this disclosure as the "Schumer Box," named for then-Rep. Charles Schumer, the New York Democrat who was a chief sponsor.

Monitoring the box disclosures was left to the Fed, which over the years has allowed card companies to comply with the law's vague directive to conspicuously print credit-card terms in their own fashion. The Fed has the authority to impose fines and penalties for violation of the disclosures.

The debate over proper disclosure has intensified in the past few years as credit-card companies increasingly have used microscopic print and muddled disclosures with special introductory offers, often obscuring true card costs.

Last year, Mr. Schumer, now a senator, tried to attach an amendment to bankruptcy-overhaul legislation, much of which is identical to the Fed's proposal. Opposition to the Schumer proposal was led by Republican Sen. Phil Gramm of Texas, who objected to the government's dictating such minutiae as the type size in disclosures.

"For 10 years, we were not specific about what 'clear and conspicuous' means," Mr. Schumer said. "Disclosures have gotten worse, and the concept of the box was ignored."

He said he told the Fed that it had been "derelict" in enforcing the law. In a meeting with Chairman Alan Greenspan, Governor Edward Gramlich and General Counsel Virgil Mattingly, he presented several of what he called deceptive solicitations that showed how disclosures were being ignored.

"You shouldn't have to hire a lawyer to figure out what the terms of buying on the credit card were," Mr. Schumer said.

The Fed, in cooperation with its consumer-advisory counsel, quietly drafted the proposal with little input from Capitol Hill. The Fed is expecting strong response during a 60-day comment period, particularly from the credit-card industry, which has long opposed such specific requirements.

Under the proposed rule, the box must contain the key long-term rate, also known as the annual percentage rate (APR), in 18-point type, and other terms—including the method for calculating finance charges on the outstanding balance, minimum finance charges for each billing cycle, and fees—in 12-point type.

"The table provides consumers with key cost information, grouped together in one place to facilitate consumers' use of the information for comparison shopping," the Fed explains in the proposed rule.

Mr. Schumer came up with the type sizes last year after discussions with the industry and consumer groups.

*Guns
Smith-Wesson*

Bipartisan Thinkers Look Past Traditional Arms Control

By CARLA ANNE ROBBINS

Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON—When President Clinton goes to Moscow next month, he will try to sell Russian President Vladimir Putin a new arms-control "grand bargain."

For years, the prospect of any agreement would have been greeted with cheers and sighs of relief. This deal, in which Washington trades somewhat deeper cuts in both sides' arsenals for Moscow's grudging acquiescence to a limited U.S. missile-defense program, is supposed to break a seven-year stalemate in nuclear-arms reductions.

But a decade after the Cold War's end, a group of American thinkers from both parties is raising a more radical idea: Traditional arms control simply might not work anymore.

With the world vastly changed, they are calling for the old rule book to be jettisoned. In this bold new order, there would be deep, even unilateral cuts in U.S. nuclear forces. Russia, and perhaps China, would join the U.S. and Europe in building missile-defense systems. Finally, there would be a global campaign, championed by Washington and its allies, along with Moscow and Beijing, to control the spread of terror weapons.

Overturning Cold War Logic

Stephen Hadley, a top aide in the Bush Pentagon, says he can imagine a day when the U.S. and Russia simply "advise" each other of their nuclear plans. "It's a perverse outcome of Cold War arms control [that] both sides have kept an inventory of strategic weapons far above what they need or want," he says. Jan M. Lodal, a former top official in the Clinton Pentagon, warns that the U.S. is "making a huge diplomatic effort to preserve treaties that don't have any effect on the real problems" of fighting proliferation.

It is hard to overstate what a sweeping change this would mean. For 30 years, mankind's survival was thought to rest on the successful negotiation and implementation of arms-control treaties. Only arms control could walk the world back from the nuclear brink.

So why would anyone dare to try a different way? Consider some current problems:

- The U.S. and Russia agreed in 1993 to slash their arsenals to 3,000 to 3,500 long-range weapons, but domestic and international wrangling has blocked the cuts. Even if Mr. Clinton and Mr. Putin make a deal, the GOP-led Senate is threatening to reject it, while the Pentagon is already planning a larger antimissile program. The next president will likely have to start renegotiating the grand bargain a few months after taking office.

- The nuclear-driven India-Pakistan conflict is today's most dangerous clash. But since neither country is recognized as a "nuclear state" under the nonproliferation treaty, the U.S. can't give them technology or know-how to help prevent accidental launches or wars of misuses.

- Chemical weapons have been outlawed by an international treaty championed by the U.S. But the organization negotiated to monitor the ban has been hobbled by its member states' lowest-common-denominator restrictions. The country setting the lowest denominator: the U.S.

With such a grim record, there may be little choice but to start over. Nobody can be sure how well a new arms-control order would work. But here's how it might look:

Step one: The U.S. must begin, the new thinkers say, by shrinking its own arsenal to reflect a world where nuclear war with Russia is far less of a risk than the risk of Russia losing or selling off its weapons to rogue states or terrorists.

Moscow—which spent only about \$5 billion on all its defenses last year, or less than 2% of the Pentagon's budget—already is calling for both sides to go down to 1,500 long-range weapons. U.S. military planners are insisting on keeping 2,000 to 2,500 weapons.

'Survivable' Weapons

Mr. Lodal says the U.S. can cut back to 1,000 "survivable" weapons, mainly on hard-to-find submarines, and still deter all potential enemies. For the sake of speed, he says the U.S. should make those cuts unilaterally and expect the Russians to follow suit. Future agreements with Russia would focus on "transparency" to calm suspicions of a secret buildup by either side.

There is a precedent for this "arms control by example." In 1991, President Bush broke all of the rules, unilaterally taking all U.S. strategic bombers off alert and pulling all American short-range nuclear weapons out of Europe and Asia. A week later, Soviet leader Mikhail Gorbachev pulled all of his short-range nuclear weapons back to Russia and pledged to slash another 1,000 long-range weapons from the Soviet arsenal. The shocking moves and countermoves had analysts heralding a new "arms race in reverse."

Step two: The U.S. has to figure out how to build missile defenses without creating a permanent international crisis.

There are serious doubts about whether the technology is ready or the rogue-state threat imminent. Nevertheless, national missile defense may be a political inevitability.

The prohibition against building defenses, enshrined in the 1972 ABM treaty, is the most passionately held arms-control taboo. During the Cold War, stability was supposed to be based on mutual vulnerability to devastating nuclear retaliation.

That high-risk equation may no longer be necessary, says Barry Blechman, a longtime critic of President Reagan's Star Wars concept who now embraces the need for limited defenses. The threat today, he argues, comes from a few rogue states or terrorists, making defenses an easier technological problem to solve. But the challenge is still so daunting that it will be years before the U.S. can build anything that can defeat Russia's force.

"I've always been of the mind that deterrence is what you do if you can't defend," says Mr. Blechman, chairman of the Stimson Center, a Washington international security think tank.

The biggest challenge may be to calm Russia's fears of a multibillion-dollar missile defense race. And missile defense would be costly. A recent Congressional Budget Office study puts the price of the Pentagon's program at \$60 billion over the next 15 years. Republicans are already calling for a more ambitious program.

Russia is unlikely to launch a major nuclear buildup if the U.S. pulls out of the ABM treaty. But a spurned Moscow could still make real trouble: slowing further arms reductions, cutting off cooperative nuclear security programs or even selling technology to foil missile defenses to North Korea or Iraq. Provoking a crisis with Russia would also seriously damage the U.S.'s already strained credibility as a crusader against global proliferation.

Mr. Hadley, who now advises the presidential campaign of Texas Gov. George W. Bush but says his ideas are his alone, believes the best hope is to revive a Bush administration proposal to bring the Russians and perhaps the Chinese into a "Global Protection System."

The U.S., he says, could start by sharing early-warning data with Moscow. Russian and U.S. defense companies could collaborate on building and selling smaller theater missile-defense systems to countries that otherwise might be tempted to acquire their own missiles. Most ambitiously, the U.S., Russia and Europe could work together to develop a national missile-defense system that all could deploy.

The West would likely have to foot a good part of Russia's cost, while Moscow would have to implement far tougher technology-transfer controls. If China also wanted in, it "would have to show a real commitment to the effort against proliferation that so far it hasn't shown," says Mr.

Hadley. Even then, China, which has about 20 long-range missiles capable of hitting the U.S., is almost certain to increase its nuclear forces to be sure of being able to overwhelm the U.S. system.

Some of the fiercest opponents to Mr. Hadley's plan could be members of his own party, who increasingly argue that the U.S. can ignore a weakened Russia's objections. And while Mr. Gorbachev once expressed interest, it isn't certain whether Russia's new leaders would want to join.

Fighting Proliferation

Step three: Really fight weapons proliferation.

Nuclear tests by India and Pakistan showed how few tools there are to punish countries determined to flout international treaties. The U.S. is still hoping to dissuade the two rivals from mating nuclear warheads to missiles. If that fails, it may have little choice but to rewrite or defy the nonproliferation treaty, providing both countries with the technology and know-how to prevent accidental wars.

"Arms-control treaties are only good when they reflect the underlying realities," Mr. Blechman says.

Ferretting out secret cheaters is even harder. Politics is part of the problem. To win Senate ratification of the Chemical Weapons Convention, the Clinton adminis-

tration reserved the right to block challenge inspections on national security grounds and barred monitors from taking chemical samples abroad for analysis. Now "other countries will have the ability to block the inspectors the same way," warns Amy Smithson of the Stimson Center. The Indian parliament is considering the same restrictions.

Technology may be a bigger obstacle, especially when chemical and biological weapons can be cooked up in a garage or a bathroom.

So what to do? The new thinkers suggest the U.S. will have to move beyond treaties. It will need to enlist Russia and China, the biggest potential sources of illicit weapons, as well as its European allies, in a global antiproliferation campaign: Sharing intelligence, policing their defense industries and scientists, and joining in diplomatic initiatives to isolate offenders.

Sen. Richard Lugar, a longtime arms-control proponent, says that even with their weaknesses, these multilateral treaties can still provide useful "norms" for rallying international pressure or justifying unilateral punishments, as in the U.S. bombing of Iraq. "It may be the only real sanction in the world is the U.S. armed forces," the Indiana Republican says.

New York's Spitzer Seeks to Resolve Municipal Suits Against Gun Industry

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL
New York Attorney General Eliot Spitzer has restarted a stalled effort to settle the wave of municipal lawsuits against the gun industry, according to people familiar with the situation.

Without actually having filed a suit himself, Mr. Spitzer has been trying recently to take a leading role in resolving litigation that seeks reimbursement for the public costs of gun violence, as well as changes in how firearms are made and sold.

His latest move has been to pay personal visits in recent days to some of the mayors whose cities have filed suits, trying to persuade these officials to join a settlement that he wants to broker, according to the people familiar with the situation. The settlement, as currently under discussion, would involve "some but not all" of the major gun manufacturers, including Colt's Manufacturing Co., West Hartford, Conn., according to people familiar with the situation.

The aggressive New York prosecutor has told major gun companies that they can forestall a suit by his state—and possibly settle suits filed by 26 cities and counties around the country—if the industry will agree to a "code of conduct" drafted by his office.

People familiar with the proposal say it calls for gun makers and wholesalers to take far more responsibility than they now do for overseeing how firearms are sold. One approach would involve greater gun-maker supervision of retail dealers, over whom gun companies now exercise little if

any control. The code would also require greater industry cooperation with the federal Bureau of Alcohol, Tobacco and Firearms, a direction in which the industry professes to be moving on its own.

New York, if it does opt to sue the gun industry, would be the first state to do so, and other states are thought more likely to join the antigun campaign if New York goes first.

Nevertheless, it is far from certain that Mr. Spitzer will succeed in forging a deal. Last month, gun-industry representatives rebuffed his settlement proposal, saying that it reflected "a complete lack of understanding of how the industry works." It couldn't be determined whether Mr. Spitzer has revised his proposal in connection with his most recent meetings with various mayors.

Another potential obstacle to a quick settlement is the desire of lawyers for some of the cities that have sued, including San Francisco and Los Angeles, to review gun-company documents and debrief industry officials before agreeing to any sort of compromise. One scenario that has been discussed is an attempt to settle with one company, such as Colt's, in exchange for that company's opening all of its files to the municipalities' lawyers. Colt's has signaled a willingness to consider a settlement as part of a corporate strategy that includes more emphasis on military contracts and development of a high-tech "smart gun" that can be fired only by an authorized user.

Other manufacturers that have communicated with Mr. Spitzer's office, either directly or through intermediaries, include Smith & Wesson Corp., Springfield, Mass., a unit of Britain's Tomkins PLC; and Sturm, Ruger & Co., Southport, Conn.

A spokesman for Mr. Spitzer said the prosecutor wouldn't comment yesterday. Colt's spokesman for litigation matters didn't return telephone messages. Robert Delfay, head of the National Shooting Sports Foundation, a trade group that has represented the industry in talks with Mr. Spitzer, also didn't return phone messages.

David Kairys, an outside lawyer helping to represent Chicago, San Francisco and other cities in their lawsuits, also declined to comment.

Guns -
Smith-Wesson

FCC Encourages Court to Stop Portland From Making AT&T Open Cable Lines

By BRYAN GRULEY

Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON—The Federal Communications Commission nudged a federal appeals court toward stopping Portland, Ore., from requiring AT&T Corp. to open its high-speed wires to rival internet service providers.

In a friend-of-the-court brief filed yesterday, the FCC stopped short of specifically asking the U.S. Court of Appeals for the Ninth Circuit in San Francisco to overturn Portland's effort to force AT&T to make its cable-television pipelines available to competitors such as America Online Inc.

But the brief reflected FCC Chairman William Kennard's belief that federal regulators—not local officials—should decide the matter and that it is too early to impose Portland-like requirements on AT&T or others that control "broadband" Internet access.

"While we continue to monitor closely this market's dynamics, I believe it is far too early for any government regulator to move in," Mr. Kennard said, echoing arguments by AT&T and other cable operators.

The broadband issue has assumed national importance since Portland regulators in December imposed their requirement as a condition for local approval of AT&T's acquisition of cable giant Tele-Communications Inc. AT&T sued to have the condition thrown out. A federal judge ruled in Portland's favor, and AT&T appealed.

Since then, Broward County, Fla., has decided to require open access, and other communities are likely to consider the question as they decide whether to grant approvals for AT&T's pending acquisition of cable-TV company MediaOne Group Inc. Regulators imposing the broadband conditions fear that without them, AT&T could command a monopoly on Internet access.

While the FCC isn't a principal in the Portland case, courts consider the agency an expert in telecommunications, and its opinion is likely to be taken seriously. Mr. Kennard has said he wants to ensure a national no-regulation policy for the Internet, rather than let local governments impose rules that could differ from community to

community.

Inconsistent regulation "could undermine the development of intermodal competition" among cable operators, phone companies, wireless carriers and satellite carriers, the FCC's brief said. The FCC referred to a recent report in which its staff found that "different companies are using different technologies to bring broadband to residential customers," and "multiple methods" soon will be available.

David Olson, Portland's top cable regulator, said the FCC should have stayed out of the case. "The FCC has no docket on the pros or cons of local government" considering the broadband issue, "so the notion that they would come to the Ninth Circuit on the side of the cable industry, having never publicly addressed this issue, violates any notion of fairness we can think of," Mr. Olson said.

In a statement, AT&T said it was pleased with the commission's filing and that the FCC agreed with its position that forced cable-access requirements will slow delivery of new telecommunications services. "We look forward to making oral arguments on this case in the fall and are confident that the Ninth Circuit will overturn the lower-court ruling sometime later this year or early next year," said Jim McGann, a company spokesman.

The company has committed more than \$120 billion to buying cable companies. But it says these investments won't be worthwhile if it must open its cable lines to competitors. AT&T has vowed to work with rivals, but has said it doesn't want regulation to force its hand.

AT&T's deals have brought complaints from AOL and others that cable operators should be required to provide access to their networks, much as local phone companies must give rivals access to the Bell networks. AOL and others have launched intense local lobbying campaigns.

Separately, several consumer groups are expected today to file formal papers with the Justice Department and the FCC urging the agencies to block the AT&T-MediaOne deal. The deal isn't expected to meet with strong resistance from either agency.

THE WALL STREET JOURNAL

TUESDAY, AUGUST 17, 1999

Treasurys' Trading Volume Is Down Sharply Amid Budget Surplus, Weak Market for Bonds

By JOHN MONTGOMERY
Dow Jones Newswires

NEW YORK—It has been a dismal year so far for trading in Treasurys, thanks to the U.S. budget surplus and a struggling market.

Trading volume in the cash Treasuries market is down 20% on a dollar-value basis, compared with the same period last year, according to GovPx, a price- and volume-dissemination service owned by a consortium of dealers and brokers.

Yesterday, as investors marked time ahead of the Labor Department's July consumer-price report, trading volume in Treasuries fell 42% below the average Monday in the third quarter of 1998, according to GovPx. The newly issued benchmark 30-year Treasury bond rose 6/32 to 100 14/32. Its yield fell to 6.084% from 6.098% late Friday, as bond yields move inversely to prices.

In fact, concerns about trading activity in the government-debt market have contributed to the Treasury Department's decision to pursue a program that would allow it to buy back old Treasury issues. That would allow the Treasury to keep issuing a large supply of new debt.

Evidence of the slowdown in Treasuries trading is widespread. GovPx captures about 70% of the trading among dealers in the Treasuries market and is generally considered the benchmark for cash-market volume. But other data show a similar trend.

Federal Reserve statistics show that primary dealers' daily average trading volume in the second quarter was the lowest since the third quarter of 1993, according to Ray Stone of Stone & McCarthy Research Associates.

In futures, volume in the Chicago Board of Trade's 30-year bond contract through the first seven months of 1999 is down nearly 17% from the same period last year, according to exchange data. Two-year-note futures volume is off by about the same amount, while five-year and 10-year-note volume is up slightly.

Various factors are responsible for the decline in Treasuries trading, but the biggest is probably the U.S. budget surplus, which has caused the government to cut back on its borrowing by auctioning fewer securities.

"It starts with cutbacks in auctions, and from there it goes to the shrinking role of Treasuries in the fixed-income universe," said Lee Cohen, managing director and co-manager of the primary dealership at CIBC World Markets in New York.

With fewer new Treasuries to go around, supply-and-demand issues have taken a larger role in the market, eroding established yield relationships that provided trading opportunities, Mr. Cohen said. Government debt's role as a hedge against other fixed-income positions has also been eroded.

At the same time, private-debt offerings have ballooned. In 1993, Treasury securities accounted for about one-third of a \$9.1 trillion fixed-income marketplace, according to Bond Market Association estimates. Currently, Treasuries represent about 25% of a \$13.3 trillion fixed-income market.

Government debt's reduced role and mergers in the banking industry have combined to cut the number of primary dealers in the Treasury market to 29 from a peak of 45 in 1988.

Meanwhile, trading activity has increased in other fixed-income products, thanks to the burgeoning supply of corpo-

them more easily. Treasury yields would have to move higher to attract buyers.

That is what has the Treasury Department concerned.

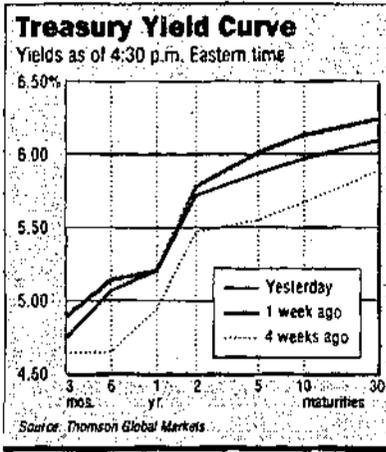
Buying back old Treasuries would allow the government to continue reducing its outstanding debt without further cuts in its issuance of new debt. Without such a measure, the trend of smaller Treasury auctions and slower trading would continue, Mr. Greenlaw said.

Here are the details of yesterday's auction by the Treasury of 13-week and 26-week bills:

All bids are awarded at a single price at the market-clearing yield. Rates are determined by the difference between that price and the face value.

	13-Week	26-Week
Applications	\$27,050,007,000	\$22,780,158,000
Accepted bids	\$8,001,207,000	\$8,006,058,000
Accepted noncompetitive	\$1,367,038,000	\$1,234,290,000
Auction price (rate)	98.817 (4.686%)	97.523 (4.900%)
Coupon equivalent	4.815%	5.168%
Bids at market yield	94%	79%
Cusip number	912795CV1	912795DH1

Both issues are dated Aug. 19. The 13-week bills mature Nov. 18, 1999, and the 26-week bills mature Feb. 17, 2000.



YIELD COMPARISONS

Based on Merrill Lynch Bond Indexes, priced as of mid-afternoon Eastern time.

	8/16	8/13	-31 Week-	
	8.30%	8.30%	High	Low
Corp.-Govt. Master	5.87	5.88	5.98	4.19
Treasury 1-10yr	6.43	6.42	6.51	4.86
Agencies 1-10yr	6.30	6.34	6.49	4.71
10+ yr	6.76	6.79	6.85	5.22
Corporate				
1-10 yr High Qity	6.79	6.80	6.93	5.08
Med Qity	7.29	7.29	7.43	5.59
10+ yr High Qity	7.39	7.42	7.50	5.91
Med Qity	7.87	7.89	7.96	6.46
Yankee bonds (1)	7.43	7.45	7.56	5.87
Current-coupon mortgages (2)				
GNMA 7.50%	7.64	7.69	7.93	5.79
FNMA 7.50%	7.58	7.64	7.91	5.87
FHL/MC7.50%	7.61	7.68	7.94	5.89
High-yield corporates	10.43	10.43	10.81	8.98
Tax-Exempt Bonds				
7-12 yr G.O. (AA)	5.02	4.99	5.02	4.05
12-22 yr G.O. (AA)	5.33	5.48	5.53	4.50
22+ yr revenue (A)	5.81	5.77	5.81	4.67

Note: High quality rated AAA-AA; medium quality A-BBB/Baa; high yield, BB/Ba-C.
(1) Dollar-denominated, SEC-registered bonds of foreign issuers sold in the U.S. (2) Reflects the 52-week high and low of mortgage-backed securities indexes rather than the individual securities shown.

rate, agency and mortgage-backed debt. Fed data show "a measurable pickup in agency activity and the same thing in mortgage-backed securities," Stone & McCarthy's Mr. Stone said.

Primary-dealer transactions in agency debt averaged \$52.9 billion a day in the second quarter of this year, up 17% from the same quarter last year, according to Mr. Stone. Dealer transactions in mortgage-backed securities are up nearly threefold in the past five years. The Fed doesn't track dealer trading in corporate debt, but Mr. Stone is confident the trend is the same.

Nongovernment debt tends to be concentrated in intermediate maturities, which likely explains the increased trading activity in five-year- and 10-year-note futures, used by traders to hedge positions in corporates and other issues.

A bear market has also taken a toll on Treasuries trading, according to CIBC's Mr. Cohen. The 30-year-bond yield, which moves counter to the price, has jumped above 6% from around 5.10% at the start of the year. Bull markets tend to attract more interest, since investors are generally more inclined to trade from the long side.

The slowdown in Treasuries trading could become a problem over the long term if it threatens the U.S. government debt's status as the world benchmark. The U.S. is able to borrow more cheaply than other governments because investors are willing to accept a lower yield to purchase the most actively traded fixed-income instrument in the world.

"If the benchmark status of the Treasury market is at risk, it could be somewhat costly for taxpayers," David Greenlaw, chief U.S. fixed-income economist at Morgan Stanley Dean Witter, said.

In other words, if Japanese government bonds become the world's benchmark because traders are able to get in and out of

Corporate Bonds

Investors eagerly awaited Dainler-Chrysler AG's \$3.75 billion three-part global bond offering, which is scheduled to come to the market today via Credit Suisse Group's Credit Suisse First Boston Corp.

and Citigroup Inc.'s Salomon Smith Barney Inc.

Traders said the hefty offering hasn't put pressure on the market, indicating that few investors are selling outstanding securities to make room for the new issue.

A \$750 million, three-year floating-rate portion is expected to yield 0.28 percentage point over the three-month London interbank offered rate. In addition, a \$1 billion five-year part is expected to yield 1.17 percentage points over Treasuries, and a \$2 billion 10-year piece 1.36 percentage points over Treasuries.

Traders said those levels were in line with where outstanding Ford Motor Co. debt was trading. Ford Motor Credit's 5.8% notes due 2009 were quoted at around 1.38 percentage points over Treasuries, while the company's recently issued 6.7% notes due 2004 were quoted at about 1.18 percentage points over Treasuries.

Municipal Bonds

Terms for institutional investors will be set today for \$630.7 million in insured New Jersey Development Authority bonds, the week's largest tax-exempt issue. PaineWebber Group Inc.'s PaineWebber Inc. is lead underwriter for the securities, which will have a maximum maturity of 2018. Proceeds will fund light projects.

Many investors have been sidelined recently, and the issue's pricing will have to take into account the cautious market tone, some people said.

Meanwhile, a two-day retail-order period will start today for \$283 million New Jersey Housing and Mortgage Finance Agency revenue bonds, according to lead underwriter Goldman Sachs Group Inc.'s Goldman, Sachs & Co.

In trading, municipal-bond prices were off 1/4 to 1/2, traders said.

—Catherine Valentini and Linda Tavano
contributed to this article.

Raw-Steel Production In U.S. Declines 0.2%

By G WALL STREET JOURNAL Staff Reporter
WASHINGTON—Raw-steel production by the nation's mills decreased 0.2% in the week ended Saturday to 2,009,000 tons compared with the 2,014,000 tons produced the previous week, the American Iron and Steel Institute said.

The week's output was down 4.8% from the 2,111,000 tons produced during the year-earlier period.

The industry used 82% of its capacity during the week, compared with 82.2% the previous week and 87.9% a year earlier.

Guns -
Smith &
Wesson

Tom Cannon

Why I Won't Buy Smith & Wesson

If you follow the gun issue at all, you're aware that last month Smith & Wesson, one of the oldest American gun manufacturers, signed a deal with several government entities at all levels. The primary purpose of this deal was to release Smith & Wesson from the lawsuits being filed against gun manufacturers seeking to hold them responsible for the criminal misuse of their products by unrelated third parties.

Among other things, this agreement is a legally binding contract not just between Smith & Wesson and the government but also between the manufacturer and every wholesaler, retailer and private customer of Smith & Wesson products—even though these parties were not consulted, advised or asked for their consent. Any wholesaler or retailer who wishes to continue carrying Smith & Wesson products will be required to agree to the terms of this contract, and force its customers to do likewise. My primary objection is that the last time I checked, I had not granted Smith & Wesson power of attorney.

In immediate response to this "unholy alliance" between a once-respected company and the government, gun owners from all over the country, myself included, contacted their local gun stores and begged them to discontinue carrying Smith & Wesson products. The Michigan Coalition for Responsible Gun Owners sent a letter to every S&W dealer in Michigan, asking on behalf of our thousands of members that they drop the line. Across the country, thousands if not millions of us pledged not to patronize a business that sold Smith & Wesson products under the terms of this new agreement.

Whether because of this market pressure or because of the onerous terms of the agreement itself, many dealers have decided to drop the Smith & Wesson line. As a free market economy, it seemed our work was done; our dollars had spoken for themselves. We would provide a harsh object lesson for other manufacturers about the attitudes of the market.

But shortly after the Smith & Wesson agreement was announced, several of the same government entities that signed the deal announced investigations of S&W's competitors for alleged violations of

antitrust laws. In short, the message seems to be: "You *will* buy Smith & Wesson." Personally, I find this even more insidious than the original lawsuits that brought on this foolishness. In gangster movies this would be called a "protection racket." It brings to mind the bus boycott in Montgomery, Ala., during the civil rights movement, and the local government's reaction to it.

There is nothing to prevent Smith & Wesson from opening its own retail stores in every gun-buying market or from franchising its retail licenses, unless of course you count the fact that they won't sell many firearms to the traditional gun-buying public. A friend of mine, a collector whose passion is Smith & Wesson revolvers and who reportedly has "more Smiths than Smith," says he is done buying new Smith & Wesson products. Their days in this market are probably numbered.

Can Smith & Wesson survive? Sure, it could limp along on government contracts, or get some other kind of help from its new best friends. After all, our government has propped up thousands of businesses over the years long after they should have succumbed to market pressure and closed up shop.

Or anti-gun groups such as Handgun Control Inc., with their incessant claims of support from suburban "soccer moms," could create a new market by encouraging these moms to buy Smith & Wesson in support of their so-called "dedication to safety." Handgun Control Inc. has already posted articles on its web site praising Smith & Wesson for its actions, so it's really only a half-step farther to promote Smith & Wesson's products to its audience.

And that could just be the icing on the cake. More people would own guns, thus being able to defend themselves against crime, and traditional gun owners like me would split our sides laughing at the ironic spectacle of HCI shilling for S&W.

If the soccer moms want guns whose purchase requires the voluntary surrender of the rights of choice, association and privacy, then let the soccer moms buy them.

The writer is on the board of directors of the Michigan Coalition for Responsible Gun Owners.

Richard Cohen

In Whose 'Best Interest'?

"The best interest of the child."

If I had a euro for every time I heard that phrase in the last month, I'd be sunning myself in Rome by now. It has been invoked promiscuously in reference to Elian Gonzalez but it comes up so often elsewhere, and always with an air of dead certainty, that it is worth considering all by itself. It should be stricken from the English language.

In the first place, no one ever knows for sure what precisely are the best interests of a child. Psychologists and other experts will chime in, but while their manner is confident, their knowledge ain't all that great.

In the case of Elian, experts have been employed by everyone to suit their own purposes. ABC had one on hand when it interviewed the boy. The U.S. government chose its own panel of mental health experts, and even Fidel Castro wanted to send a psychologist to accompany Elian's father, Juan Miguel Gonzalez, to this country. No doubt he would have found that the best interest of the child lay in Cuba.

Not only don't the experts often know what's in the best interest of the child, the con-

cept itself is a dangerous and slippery one. Of course, Elian's own interest may be best served by staying in America. He would grow up in a free, affluent society, reaping all its benefits. When it's looked at that way, Cuba would be the absolute worst choice.

But by applying the best interest of the child in that way you absolutely trample on the rights of the parents. Why stop at Elian? Go into the ghetto, find some hapless single mother and take her kid from her. It would be in the child's best interest, after all. Take the children of the Amish who are deprived of creature comforts, and of Christian Scientists before they get sick. The pious would add atheists to the list, homophobes would suggest homosexuals and, by acclamation, Woody Allen would be childless forever.

When we use the phrase "the best interest of the child" we are really referring to interests that coincide with our own. Middle-class people think a middle-class lifestyle is preferable to one steeped in poverty. Poorer people, however, might quibble, saying there is more to life than material goods. Americans think

their democracy and free enterprise system provide the perfect environment in which to raise a child. But here too some people might quibble: Who are you to say that socialism is not in the best interest of a child?

To see the ultimate danger in this approach we need only recall the case of Edgardo Mortara, a Jewish child from Bologna, Italy. In 1858, he was seized from his parents and taken to the Vatican. The reason? Five years earlier, a servant girl had surreptitiously baptized him. The parents pleaded for the child's return, but Pope Pius IX was implacable. In the eyes of the church, Edgardo was a Catholic and for the good of the child he had to be raised as one. Ultimately, Edgardo became a priest.

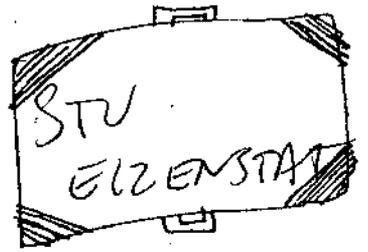
That sort of thing is not likely to happen today. But extreme examples are useful, not just because they indicate where things could wind up but because they isolate the principles involved. The term "best interest of the child" can sometimes be nothing more than an expression of arrogance: My way is the best way. My country is the best country. My religion is the true religion.

Those sentiments are exactly what is being expressed in the Elian case. From the psychologists who think they know the kid after a very short time with him, to the zealots in the Cuban American community, to American politicians, everyone is so sure of the best interest of the child they concluded the father's interest did not matter at all. He could be brushed aside, not because he was a bad father but because he lived in the wrong country under the wrong political system.

In their newspaper column, Cokie and Steven V. Roberts concluded, after having spoken with ABC in-house shrink Dr. Gunther Perdigao, that Elian should stay in this country. Perdigao noticed that when Elian "got a little anxious" he would reach out to his cousin, Marisleysis. How telling! If the kid reached out to his teddy bear would he be sent to the zoo?

A little humility is in order, a bit of deference to the institution of the family. It has served us long and well and leads me, for one, to conclude that Elian belongs with his father. That, I think, is in *everyone's* best interest.

Smilla Wesson



Barnes

Agmt:

- Transcript
- Meet at 12 noon
- no Pre-ceremony
- clean up, fax
- if critical mass of
- 10 cities

- composition = powers
- 1 gm / 14 days
- smart gun
- 2% RD
- 36 mos + new models

- Andrew will do conf call w/cities tomorrow afternoon

- Fri, joint press briefing

small issue DATES

CITIES	ADMINISTRATION	COMMENTS
<i>Design</i>		The proposals in the Cities Column are more specific, while the Administration column provides for greater flexibility for terms and conditions to be worked out in the agreement
Compliance w/ performance design standards set forth in 18 USC 925 and strongest existing state law or regulation (1/1/01)	Manf. And importers could be required to make or import guns that conform to safety standards set forth in the agreement, including the sporting purposes test, tests that screen out poor quality guns, or drop and jam tests.	Need to define "design standards": 18 USC 925 does not set forth design standards.
✓ Serial number visible only with infrared dectector or similar device (6/1/00)	Manf. and importers could be prohibited from including features that facilitate criminal activity or make it difficult to apprehend and prosecute criminals, such as easily obliterated serial numbers or ability to accept large capacity magazines.	<ul style="list-style-type: none"> ■ ATF has proposed regulations requiring minimum height and depth for scrial numbers and other info required to be marked on firearms. The comment period for the proposed rulemaking was on 9/21/99. ATF is currently reviewing comments. ■ May also consider requiring unique serial number
✓ Magazine safeties: Introduced (6/1/00); Sold (1/1/01)	Manufacturers and importers could be required to ensure that guns sold in the U.S. have existing safety features such as internal trigger locks, magazine disconnect safeties, chamber-load indicators.	What is the distinction between "introduced" and "sold"?
no? Sale of guns with warning on risk of guns in the home and proper home storage (6/1/00)	No corresponding provision	Probably already done in the warranty booklets by many manufacturers.
✓ Chamber load indicator (1/1/01)	Manf, importers required to ensure guns sold in the U.S. have existing safety features such as internal trigger locks, magazine disconnect safeties, chamber-load indicators.	<i>no date</i>

CITIES	ADMINISTRATION	COMMENTS
Prevention of operation by children 5 or younger	Manf. and importers could be required to develop and employ safety features, such as smart gun technology, within a particular timeframe. (A more modest alternative would be to provide for research and development)	<i>don't list details - trigger response</i>
Prevention of accidental discharge, repeat firing, or risks of explosion (1/1/01) <i>Lo</i>	Manufacturers and importers could be required to ensure that guns sold in the U.S. have existing safety features such as internal trigger locks, magazine disconnect safeties, chamber-load indicators.	<i>Lacking details - suggest diff</i>
Authorized user technology (1/1/04)	Manf. and importers could be required to develop and employ safety features, such as smart gun technology, within a particular timeframe. (A more modest alternative would be to provide for research and development)	<i>no date</i>
Agreement only to use materials in the gun's frame, barrel, cylinder that have a melting point above 900 degrees, have an ultimate tensile strength above 55,000 per sq. inch, and powdered metal with a density of more than 7.5 grams per cubic centimeter	Manf. And importers could be required to make or import guns that conform to safety standards set forth in the agreement, including the sporting purposes test, tests that screen out poor quality guns, or drop and jam tests.	Where does this come from? ?

CITIES	ADMINISTRATION	COMMENTS
<p>Agreement not to sell gun kits, guns that can be converted to an illegal firearm, guns with fingerprint resistance, or guns that accept magazines with greater than 10 round capacity.</p> <p><i>d2mp2</i></p>	<p>No corresponding provision</p> <p><i>→ we had rules for dealers</i> <i>→ fingerprint resist.</i></p>	<ul style="list-style-type: none"> Need to define terms such as "gun kits." Already are some relevant laws. For example, it's already illegal to sell a combo of parts to turn a firearm into a machinegun. By illegal gun do we mean NFA weapons? Semi-automatic assault rifles? It is important to remember that virtually any gun can be converted into an NFA weapon and that many lower capacity magazines can be altered to accept over 10 rounds.
<p>Agree to retrofit existing guns w/ improved safeties as they become mandated</p> <p><i>#</i> <i>23</i></p>	<p>No corresponding provision</p>	<p>no</p>
<p><u>Sales and Distribution</u></p>		<ul style="list-style-type: none"> The proposals in the Cities Column are more specific, while the Administration column provides for greater flexibility for terms and conditions to be worked out in the agreement The Cities column does not refer to importers. It should apply to importers in all of the areas that it applies to manufacturers Need specific exception for wholesale and retail dealer sales to law enforcement and government agencies.
<p>Manufacturers, wholesalers, and retailers commit to a standard of conduct to make every effort to eliminate suspect sales</p>	<p>Manf. and importers agree to a code of conduct that would apply to their practices, and those of the dealers and distributors to whom they sell.</p>	<p>* ATF and NSSF have discussed encouraging the firearms industry to conduct business in compliance w/ federal law through training programs.</p>

CITIES	ADMINISTRATION	COMMENTS
<p>Manufacturers may sell only to authorized wholesale and retail dealers defined as those who possess a Certificate of Authorization, renewed annually by the manufacturer, subject to approval of the Monitor.</p>	<p>Manf. and importers will sell only to dealers and distributors that agree to the conditions set out below. <i>"code of conduct"</i></p>	<p><i>certificates? who issues?</i></p>
<p>Conditions for a Certificate include:</p> <ul style="list-style-type: none"> a. Must be an FFL ✓ b. Operate only on premises c. Certify compliance w/ laws d. Insurance (min. \$1mil.) -? e. no internet or gunshow -? f. no incentive sales - no programs ✓ g. inventory tracking plan ✓ h. security plan for securing firearms and <u>excluding minors</u> ✓ i. no sales of high-capacity magazines or guns w/o safety locks → <i>us</i> j. provide all necessary documentation to manuf., law enf., gov. regulators, and Monitor ✓ k. comply w/ monitoring of distribution by manf., ATF, law enf., Monitor l. maintain electronic record of trace requests initiated by ATF, and report those traces to manf., monitor m. agree to by subject to jurisdiction of Monitor and the court n. all employees attend 	<p>Conditions dealers and distributors must comply w/ for manf. and importers to sell to them:</p> <ul style="list-style-type: none"> ■ operate only out of store front ■ meet specific security standards ■ subject to audits by and inventory checks by manf., importers, and monitor ■ maintain records of all trace requests initiated by ATF ■ All employees undergo continuous training 	<ul style="list-style-type: none"> ★ ■ This needs clarification. Are we worried about gun shows or people dealing out of their own homes? ■ Could broaden to ban all indirect sales, whether internet, mail order, telemarketing, etc. ■ ATF and NSSF has discussed establishing tighter inventory controls and improved transaction records ★ ■ Additional provision in this regard could be mandatory background checks for all employees of manf.,

<p>training by manf.</p> <ul style="list-style-type: none"> o. all employees pass comprehensive exam p. provide sales data to the Monitor for use in Sales Data Clearinghouse. 		<p>importer, dealer who come into contact w/ firearms.</p>
<p>No corresponding provisions</p>	<p>Provisions in Admin. Code not in Cities Code:</p> <ul style="list-style-type: none"> ■ Computerize inventory, including all acquisition and disposition information (exception for low volume dealers) ■ Postpone all gun transfers to non-licensees until completion of NICS check, regardless of whether 3 day waiting period as passed ■ Agree not to sell semiautomatic assault rifles to youth under 21 ■ Refrain from selling large capacity magazines or weapons that facilitate criminal activity (e.g. easily obliterated serial numbers) ■ Must verify validity of licenses against ATF data base before shipping guns to FFL ■ Require ID for purchase of ammo ■ Consent to up to 3 unnoticed ATF compliance inspections ■ Complete annual inventories w/ reports of thefts 	<ul style="list-style-type: none"> ■ Subject of discussion between ATF and NSSF. ATF is seeking voluntary extension of waiting period to 20 days. NSSF has expressed support for 4 or 5 days. ■ need need to define the term "facilitate criminal activity" ■ Subject of discussion between ATF and NSSF.

CITIES	ADMINISTRATION	COMMENTS
Failure to comply w/ provisions of Certificate result in suspension or revocation by manf. or Monitor	Manf. and importers would impose sanctions, including suspension and termination of supplies, on dealers and distributors that 1. violate Code, or 2. are substantially associated w/ crime guns as determined by a measure based on ATF trace data.	-- Number of ATF traces does not necessarily equate w/ bad dealer. Must develop a better measure.
Wholesalers sell only to FFLs or gov't	No corresponding provision	
Retailers must be a stocking gun store w/ minimum total inventory level and a majority of rev. derived from guns and/or sporting equip.	No corresponding provision	What about K-Mart and Wal-mart? Are we intending to ban them from firearm sales?
7. Retailers will not sell to FFLs not authorized under Code	No corresponding provision	
Retailers agree not to sell to straw purchasers	No corresponding provision. (though there is a provision requiring training to prevent straw purchasers)	
Retailers agree to one-gun-per-month	Manf. and importers will not sell to dealers who do not agree to one-gun-per-month limitation (included in code of conduct)	Do we mean all firearms or just handguns? <i>handguns</i>
Other obligations on Manufacturers: ■ Pay for dealer training ✓ ■ provide quarterly reports of sales and downstream sales to Monitor ✓ ■ Agree to fund Sales Data Clearinghouse administered by the Monitor (X)	Other obligations on Manufacturers: ■ Develop training for employees and dealers ■ Computerize inventory to facilitate linkage to ATF tracing system ■ Establish security procedures for factories and shipping ■ Verify validity of license before shipping to FFL	■ Access 2000 is a preexisting ATF program in which several companies already participate. ATF has had discussions w/ NSSF regarding expanding voluntary participation to all companies.

<ul style="list-style-type: none"> ■ Manf. shall fire gun before sale and retain 3 fired casings and bullets. Of these, one set along w/ the gun's serial number shall be provided to law enf. 	<ul style="list-style-type: none"> ■ Enter into partnership w/ ATF and/or FBI to create a database for identifying crime guns through ballistic data (test fire every gun before sold and records cast imprints and serial numbers in database) ■ Consent to up to 3 unnoticed ATF compliance inspections ■ Establish compliance director 	<ul style="list-style-type: none"> ■ ATF does not need the actual shell casing. ■ ATF and NSSF have discussed expanding the Integrated Ballistics Identification System (IBIS) to record images from cartridge cases and projectiles fired from manufactured guns. There currently is a voluntary pilot project w/ Glock.
<p>ATF trace requests for guns recovered by law enforcement shall be rebuttable presumption of misconduct under Code.</p>	<p>No corresponding provision</p>	<ul style="list-style-type: none"> ■ Misconduct by whom -- the retailer or the manufacturer? ■ The mere fact that a gun is traced to a dealer is not presumptively misconduct. It may be an indicator of a violation.

CITIES	ADMINISTRATION	COMMENTS
<u>Monitor</u>	Monitoring system subject to third party review and oversight and its findings would be available to federal law enforcement. Third party monitor would have broad oversight powers	<ul style="list-style-type: none"> ■ The notion of the "oversight panel" in the Cities column is unclear. ■ Will the monitor be inside the current regulatory scheme (i.e. Treasury or ATF) or outside the scheme? What are the implications -- for law enforcement or otherwise -- of a private monitor? ■ The proposals in the Cities Column are more specific, while the Administration column provides for greater flexibility for terms and conditions to be worked out in the agreement ■ NSSF has raised w/ ATF its strong desire that there be a single enforcement monitor, and that the federal government, through ATF, perform this role.
Monitor is funded by manf.	Funded pursuant to terms of the agreement	
Monitor has full access to manf. and dealer records	Broad oversight	
Monitor may give info to law enforcement	Finding available to law enforcement	
Monitor has 20 yr. Term	No corresponding provision	
Monitor subject to removal only by Oversight Panel and for good cause	No corresponding provision	
Monitor has authority to conduct interviews, perform tests, and retain investigators to conduct undercover sting operations and unannounced investigations and audits	Broad oversight	A monitor that retains investigators and conducts undercover sting operations could interfere with ongoing criminal investigations by federal, state, local law enf

<u>CITIES</u>	<u>ADMINISTRATION</u>	<u>COMMENTS</u>
Monitor shall have line directly to manf. board of directors	No corresponding provision	
Monitor shall report violations of Agreement to Oversight Panel, and may levy fines and sanctions	Broad oversight	
Monitor shall issue public reports on manf. compliance on a quarterly basis	No corresponding provision	
Each manf. shall designate exec. level manager as compliance officer and submit name to Monitor	Each manf. and importer shall have a director of compliance	
Each manf. shall cooperate w/ Monitor	No corresponding provision	
Prior to execution of agreement, Oversight Panel may review manf. documents regarding design, marketing, and distribution	Broad oversight	
<u>Cooperation w/ Law Enf.</u>		
Manf. shall disclose marketing, market research, development and production data and docs sought by law enf. and regulators	No corresponding provision	
<u>Cooperation w/ Litigation</u>		
Manf. shall agree to cooperate w/ pending and future lawsuits	No corresponding provision	
<u>Legislation</u>		
Manf. shall support pending and proposed legis efforts endorsed by Oversight Panel	No corresponding provision	
<u>Education Trust Fund</u>		
Manf. shall establish trust fund to implement a public service campaign	No corresponding provision	

<u>Enforcement</u>		
The Agreement will be entered and enforceable as a Court order and a contract	No corresponding provision	
<u>Advertising</u>		
No corresponding provision	The firearms industry could be restricted from advertising [on cable TV], and to develop advertising standards that prohibit targeting juveniles or criminals. Also could restrict advertising within vicinity of public housing, schools, high crime zones, etc.	May also consider banning product placement in TVs and movies.

Guns
Smith

DAVID LIMBAUGH

White House ambulance chasing

The Clinton administration has just outdone itself with its latest outrage of the week. It has announced plans to assist in a class action suit on behalf of public housing residents against gun manufacturers.

You may be asking yourself, "Why public housing residents?" The official reason is that the government is entitled to reimbursement for the \$1 billion it spends annually on security because of the inordinate number of shootings in public housing projects.

But the real reason is that the federal government would have no jurisdiction in this matter without using the public housing residents as pawns in their monomaniacal quest for gun control.

As usual, blame anyone but the responsible parties for the crimes. To President Clinton, it's the gun manufacturers who are at fault, not those who fire the weapons.

If this isn't an artificially trumped up lawsuit, I've never seen one. It is nothing but a transparent ploy to terrorize the gun industry into making gun control concessions that this administration couldn't achieve through legislation.

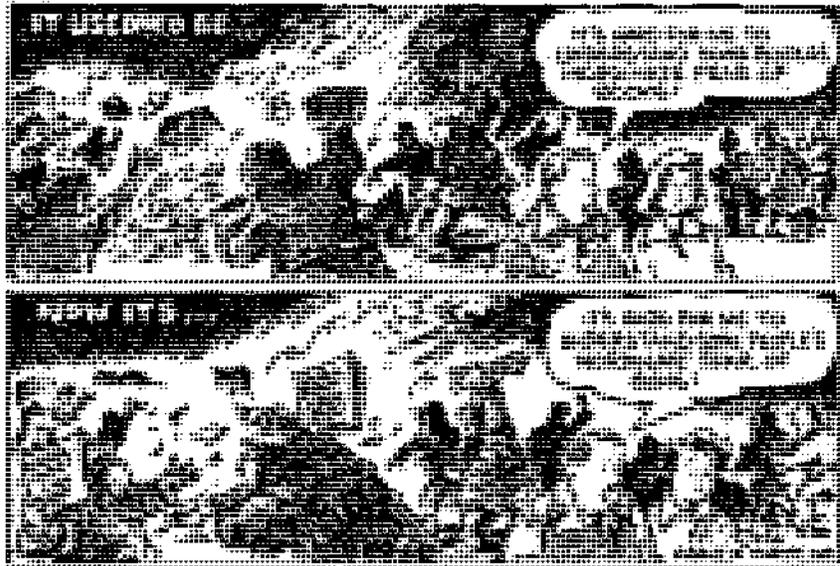
James Dorr, an attorney for several gun companies, said there is no legal basis for the federal govern-

ment to sue gun manufacturers when it has licensed these companies to make and sell guns. Exactly.

Many in the gun industry, who have been cooperating with the ATF "to get the bad guys," justifiably feel betrayed by their own government. "To find out that the very government you're trying to help is going to sue you . . . you just don't know where to turn," said Robert Delfay of the National Shooting Sports Foundation.

What is really scandalous is that while the Clinton administration claims to be concerned with safety, it has abrogated its responsibility in the one area most likely to promote safety. A recent Syracuse University study showed that prosecutions of federal gun crimes were down by more than 40 percent.

But to me there's something even more troubling about this lawsuit. Simply put, it is a perversion of the



legal system and another violent assault on our Constitution. It is an ambulance-chasing power play by the White House.

We must realize that our unique freedoms are preserved primarily

in two ways: First, by criminal and civil laws preventing individuals from infringing on the rights of others; and second, the constitutional limitations imposed on government through the Bill of Rights and the

Separation of Powers Doctrine.

People are quite attuned to many of the criminal and civil laws and the freedoms guaranteed by the Bill of Rights. Indeed, champions of the various civil rights, such as free speech, sometimes advocate them with a nearly religious zeal. But they seem less aware of the subtle workings of the Separations of Powers Doctrine and its importance in guaranteeing our liberties.

The Framers understood that one of the best ways to limit governmental power was to divide and diffuse it among three separate branches — legislative, executive and judicial — and impose an intricate scheme of checks and balances between them. With these checks each branch is prevented from gaining too much power at the expense of our liberties.

This administration has been particularly abusive of the Separation of Powers Doctrine. The president apparently believes his policy aims are more important than the constitutional safeguards of our liberties. In other words, the ends justify the means.

That's why the administration has no hesitation, for example, in:

- Refusing to cooperate with congressional investigations aimed at curbing its numerous abuses of

ADDITIONAL PROVISIONS FOR INDUSTRY REFORM

*Guns-
Smith & Wesson*

I. DISTRIBUTION

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

II. ADVERTISING/MARKETING

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

III. INJURY SURVEILLANCE

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

PROPOSED REVISIONS TO INDUSTRY REFORM

REVISIONS AND QUESTIONS

A. DESIGN

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

B. DISTRIBUTION

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

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

Gun Industry/Settlement Talks
January 19, 2000

*Gun-
Smith +
Wesson*

Q: It has been reported that a planned meeting with gun industry has been called off due to the industry's refusal to sit down with the White House. Doesn't this show that your presence is stalling progress on reaching a settlement?

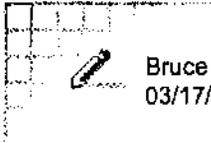
A: Absolutely not. For one thing, the positive reaction of a number of gun industry officials to our presence in these talks indicates that our involvement has already moved things forward. Moreover, our entry into these negotiations has helped to unify the many cities that have brought suit -- and that will strengthen our overall ability to get real reforms in the way the gun industry does business.

Of course, we are disappointed that the representatives of the gun industry decided to back out of this meeting at the last minute. Regrettably, a few hard-line voices in the industry appear to have put politics ahead of progress. At the same time, some members of the industry have taken a more responsible approach and have stated that they welcome negotiation. We hope to work with these members of the industry to institute common sense changes in the way the guns are designed, distributed, and marketed.

Q: Gun industry leaders have announced that the threat of a federal lawsuit by HUD has spurred increased political action by the gun industry and has galvanized gun control opponents. What is your reaction?

A: The idea that the gun lobby is only now becoming politically active flies in the face of history. For years, many in the gun industry have worked hand-in-hand with the NRA and their allies to block common sense gun safety reforms. Now that more and more Americans want to see the gun industry behave more responsibly, some industry leaders appear to be redoubling their efforts to stall reform.

But it is also important to remember that the industry is not monolithic. As we have seen in the last year, there are a number of other voices in the gun industry that have been willing to break from the hard line of the gun lobby to take a more responsible approach. We remain ready, as the President said yesterday, to engage these more reasonable members of the gun industry in good faith.



Bruce N. Reed
03/17/2000 09:49:59 AM

*Guns -
Smith & Wesson*

Record Type: Record

To:

cc:

Subject:

1:45

Secretary Cuomo
Secretary Summers
Deputy Secretary Eizenstat
Attorney General Reno
Deputy AG Holder
Reed
Liu
Max Stier
Neal Wolin

Mayor Bill Campbell, Atlanta
Mayor Alex Panelas, Miami

Rep. Michael Barnes, President of Handgun Control, Inc.
Dennis Henigan, Handgun Control, Inc.

Eliot Spitzer? (NY AG)
Richard Blumenthal? (CT AG)

By phone:
Jim Hahn, LA City Attorney
Louise Renne, SF City Attorney
[Gary? Bridgeport?

Bea Witzleben, DOJ
Steve McHale, Treasury
Lexa Edsall, Treasury
Doug Kantor, HUD



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Guns -
 Smith &
 Wesson

Cops To Favor Cooperative Gun Cos.

Partner Sites:

- [Newsweek.com](#)
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By Lawrence L. Knutson
 Associated Press Writer
 Wednesday, March 22, 2000; 3:24 p.m. EST

WASHINGTON — Maintaining pressure on gun manufacturers, the Clinton administration announced that 29 cities and counties will give preference to gun makers that follow the lead of Smith & Wesson — producing safer firearms and adopting a code of responsible conduct.

"Government at every level should use their procurement policies to support manufacturers who take responsible steps to make guns safer and to keep guns out of the wrong hands," said Andrew Cuomo, secretary of Housing and Urban Development, who announced the new gun-safety coalition.

Cuomo urged communities of every size to join the effort and said preferential buying can force the gun industry to fall in line behind the Smith & Wesson agreement because sales to law enforcement agencies represent 20 percent to 30 percent of the U.S. gun market.

"It's common sense from police to buy guns from a company that makes it harder for criminals to get hold of guns that can be used against police and civilians," Cuomo said.

Last week, Smith & Wesson, the largest U.S. manufacturer of handguns, agreed to quickly install gun locks on all the weapons it sells, to introduce "smart gun" technology permitting weapons to be fired only by their owners and to block gun sales at gun shows without a background check.

The company broke industry ranks and changed its policy in exchange for an a promise that a lawsuit against it would be dropped.

Two gunmakers — Glock Inc. and Browning — have already announced they will not sign voluntary gun-safety agreements similar to the one agreed to by Smith & Wesson Corp.

Cuomo said Wednesday's announcement was an undisguised attempt to keep the pressure on those and other gun makers.

"Consumers want a safer America" Cuomo said. "Because of Smith & Wesson's agreement we now know a safer America is possible. And we demand it."

Joining the coalition were the attorneys general of Connecticut, Maryland and New York and mayors or county officials in California, Connecticut, Florida Georgia, Hawaii, Indiana, Louisiana,

Massachusetts, Michigan, Missouri, New Jersey, Ohio, Rhode Island, Texas and Wisconsin.

The list included Los Angeles, San Francisco, Atlanta, St. Louis, New Orleans, Boston and Florida's Miami-Dade County.

"We have the capacity to squeeze manufacturers like a pincers and hurt them in the marketplace.," said Democratic Attorney General Elliot Spitz of New York. "We are bigger than the NRA (National Rifle Association)."

The NRA has been harshly critical of gun initiatives in general. NRA executive Wayne LaPierre discounted the Smith & Wesson deal's importance, saying there was not much new in it.

Mayor Bill Campbell of Atlanta said he had just attended the funeral of Fulton County (Ga) deputy sheriff Ricky Kinchen, a shooting victim.

"Atlanta buys about a million dollars (worth) of guns each year," the mayor said.

When the purchasing power of other cities is added the gun manufacturers "will comply or they will cease operations," he said.

Sen. Charles Schumer, D-N.Y., applauded the effort and said he will shortly introduce legislation to instruct federal law enforcement agencies who buy guns to give preference "to those manufacturers who sign on to the Smith & Wesson agreement."

Schumer said he will offer similar but separate legislation dealing with gun purchases by the police force which protects the Capitol complex.

"I think we are seeing a real sea change here in how America regards guns," Schumer said. "And now there is a chance in America to do something about guns."

On the Net: <http://www.hud.gov/news.html>

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Yellow Pages

Guns
Smith-Wesson

Good afternoon. For seven years, my Administration has been working on every front to reduce gun violence and keep our communities safer. That's why I have been pushing for common-sense gun safety legislation. And that's why in December I said we would engage gun manufacturers to seek changes in the way they do business. Today, I am pleased to report that a key member of the industry has decided to set a powerful example of responsibility.

Earlier today, Smith and Wesson signed a landmark agreement with the federal government and cities from across the country. For the first time, a major gun manufacturer has committed to fundamentally change the way guns are designed, distributed and marketed in this country. Under the agreement, Smith and Wesson will include locking devices and other safety features and will develop smart guns that can only be fired by the adult who owns them. The company will cut off dealers who sell disproportionate numbers of guns that turn up in crimes and will require all its dealers not to sell at gun shows unless every seller at the gun show conducts background checks. The company will also agree to design new firearms that do not accept large-capacity magazines, and will work with ATF to provide ballistics fingerprints for all its firearms. This agreement is a major breakthrough in our efforts to make guns safer and keep them out of the wrong hands.

It has taken courage and vision for Smith and Wesson to be the first manufacturer to negotiate, and I applaud their determination to do what's right for their company and their country. As I have said all along, there are responsible citizens in the gun industry who want to make progress on this issue. I hope today's announcement will encourage them all to step forward.

As I have said time and again, the effort to reduce gun violence is not about politics. It's about saving lives. That's what this agreement is all about.

This agreement could not have come to pass without the leadership of many mayors, city attorneys, and state attorneys general. I am glad to be joined today by several of them, and in a moment I will be calling several more to congratulate them on joining this agreement and to urge them to continue working to keep our children safe. We can get so much done for the American people when we find the courage to find common ground.

Chris
Smith & Wesson

NOTEBOOK

ELIAN'S WEEK

Trying to Be a Kid With Feds on Your Tail

THE IMAGE MIGHT HAVE COME STRAIGHT from suburbia: a wiry six-year-old boy hops on a two-wheeled bike for the very first time. He gets a little push, and then he's off—racing down a private drive, no training wheels, a born rider. The scene wouldn't be notable if the child weren't **ELIAN GONZALEZ** and the man chasing after him weren't a burly U.S. marshal.

With the furor over his custody at least temporarily subsided, Elián may actually be getting a chance to be a regular kid again. Holed up at the Aspen Institute's Wye River estate, a 1,100-acre retreat on Maryland's Eastern Shore, Elián is playing with schoolmates from Cuba while getting bombarded by huge lots of



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Learning the national sport from Dad

toys from well-wishers. His father has sent most of them back, says family friend the Rev. Joan Brown Campbell, because "he doesn't want to repeat the Miami situation, in which Elián was surrounded by things." Elián, she says, seems to agree: "He said he was going to give his toys to his friends in Cuba." But maybe not the bike. —By Elaine Shannon/Washington

GUN BATTLE

Mayor Street: Pick Up Your Messages

LAST FALL BILL CLINTON TORE UP HIS schedule to help elect **JOHN STREET** mayor of Philadelphia. The President worked the phones, deployed emissaries to get out the vote and made a last-minute visit to Philadelphia for the Democratic candidate, who won by a narrow margin. But Street doesn't seem to be overflowing with grati-



CHRIS GARDNER—AP

John Street

tude. He has embarrassed the Administration by endorsing a city suit against 14 firearms manufacturers—including Smith & Wesson, which signed an agreement in March to install new safety features in exchange for assurances that the company would be left out of a suit the Federal Government is considering against gunmakers. Worse, Street and his deputies aren't taking calls from top U.S. officials, apparently including Secretary of Housing and Urban Development Andrew Cuomo, who are trying to get him to drop Smith & Wesson from the suit. With the Administration calling on other gunmakers to cut similar deals, Street's recalcitrance is not helping. —By Sally B. Donnelly/Washington

TERRORISM

A Lockerbie Conviction—Tougher Than Expected?

IT TOOK NEARLY 12 YEARS, BUT LAST WEEK the trial began of two alleged Libyan intelligence agents accused of blowing up Pan Am Flight 103 over Lockerbie, Scotland. Though some victims' families believe the defendants are only bit players in a broader terrorist scheme, they are looking for a conviction at the Netherlands trial. But early indications are that the prosecution's job may be tougher than expected. The defense doesn't have to prove anyone else's involvement but merely sow reasonable doubt in the minds of the judges about the guilt of the defendants. And despite the prosecution's 1,100 witnesses, the defense plans to implicate other terrorist groups. A

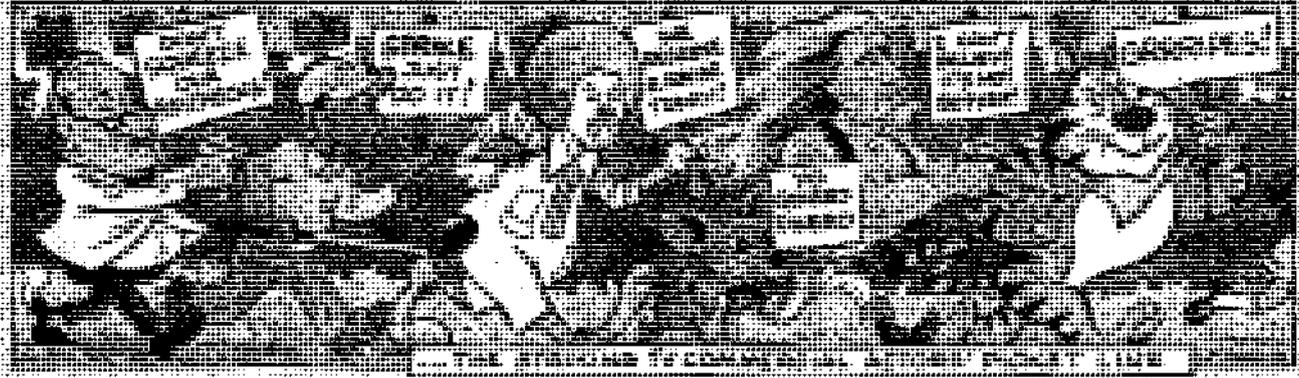


MARTIN CLEAVER—AP

Pan Am 103

recantation from one of the prosecution's witnesses could hurt. When an FBI agent in 1990 showed Edwin Bollier, a Swiss electronics maker, photos of a fingernail-size fragment found in the Scottish woods six months after Pan Am 103 went down, Bollier said it could have come from timers he had made for the Libyan army. But he now tells *TIME* that after finally seeing the actual fragment, he believes it is not the same piece that he saw pictured—and that his company didn't make it. Such inconsistencies could raise the kind of doubts that will complicate the families' search for justice. —By James L. Graff/Camp Zeist, Netherlands

THE DRAWING BOARD



Thanks, I Must Be Going

THE WEBBY AWARDS, THE OSCARS OF THE Internet, have found a solution to painfully long acceptance speeches. At the ceremony this Thursday night, winners must limit their thank-yous to five words. If only the Oscars would take the cue:

OSCAR VERSION *Cher, Best Actress, 1988:* "I'd like to thank everyone I worked with on the movie. They were really fabulous. It was really a great experience for me. My makeup man, who had a lot to work with. My hairdresser. My assistant..."

WEBBY VERSION This was all about me.

OSCAR VERSION *Laurence Olivier, Honorary Oscar, 1979:* "In the great wealth, the great firmament of your nation's generosity, this particular choice may perhaps be found by future generations as a trifle eccentric, but the mere fact of it—the prodigal, pure human kindness of it—must be seen as a beautiful star in that firmament which shines upon me at this moment, dazzling me a little but filling me with warmth of the extraordinary elation, the euphoria that happens to so many of us at the first breath of the majestic glow of a new tomorrow."

WEBBY VERSION I'm a whiz at Shakespeare.

OSCAR VERSION *Sally Field, Best Actress, 1985:* "I haven't had an orthodox career, and I've wanted more than anything to have your respect. The first time I didn't feel it, but this time I feel it, and I can't deny the fact that you like me, right now, you like me!"

WEBBY VERSION I really need your approval.



Liz Lange's form-fitting ice-blue dress and wrap in silk dupione fabric



Vivienne Tam psychedelic Buddha print for A Pea in the Pod, left; Japanese Weekend body-hugging velvet-trim mesh in a green leaf pattern, below; Kelly Preston in L'Attesa top and pants, right



Maternity Chic

MOMS-TO-BE WILL BE FLAUNTING THEIR figures this Mother's Day. Emboldened by the stylish look of pregnant celebrities like Annette Bening and Cindy Crawford, body-conscious expectant mothers are clamoring for hip, clingy garb that will show off their burgeoning-but-still-sexy silhouettes. Designers and retailers aiming at this market are burgeoning too. Barneys New York launched a maternity line in January, and A Pea in the Pod, a maker of upscale maternity wear, has exclusive deals with designers Nicole Miller, Vivienne Tam and Lil Pulitzer. Business is expanding quite nicely. Mothers Work, the world's largest manufacturer of maternity apparel, saw earnings jump 26% in the first three months of 2000.

APOCALYPSE CANCELED



THE SKY IS FALLING! Apocalypse watchers were on full alert last Friday, when the moon, sun and five planets were in close alignment. The day was supposed to bring devastating tidal waves and earthquakes, but the only ruination was caused by the LOVEYOU computer virus. Hardly a surprise; doomsday milestones have a way of not living up to expectations.

DREADED DATE	DOOMSDAY PREDICTION	WORST NEWS OF THE DAY
Jan. 1, 2000	Y2K, the millennium bug, would cause financial chaos or nuclear holocaust	In Japan a glitch shuts down a radiation alarm at a nuclear plant, causing concern but no leaks
Aug. 11, 1999	The solar eclipse, said designer Paco Rabanne, would cause the Mir space station to fall on France	A tornado strikes Salt Lake City, Utah, leaving at least one person dead and more than 60 injured
March 26, 1997	The Heaven's Gate cult claims the earth will be destroyed, and they must flee on a spacecraft trailing Comet Hale-Bopp	The bodies of 39 cult members are discovered, participants in a mass suicide

HUD OFFICE OF GENERAL COUNSEL

*Cous -
Smith - Wesson*

FACSIMILE TRANSMITTAL SHEET

TO: Bruce Reed	FROM: Douglas S. Kantor
COMPANY:	DATE: December 14, 1999
FAX NUMBER: 202-456-5542	TOTAL NO. OF PAGES INCLUDING COVER: 6
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
RE: Remedies Comparison	YOUR REFERENCE NUMBER:

- URGENT
 FOR REVIEW
 PLEASE COMMENT
 PLEASE REPLY
 PLEASE RECYCLE

NOTES/COMMENTS:

We gave this comparison to Deann yesterday but wanted to be sure you had a chance to look at it as well.

<u>Proposal</u>	<u>9/27 Proposal by Negotiating Group</u>	<u>DPC Working Draft</u>
I. Design		
• Serial number only visible with infrared detector	yes – by 6/1/00	no – but refrain from selling easily obliterated serial numbers
• Locking devices	yes – external by 6/1/00, internal by 1/1/01	yes
• Magazine safeties	yes – introduced 6/1/00, sold 1/1/01	yes
• Warning on risk of gun in home and proper home storage	yes by 6/1/00	no
• Chamber load indicator	yes by 1/1/01	yes
• Prevention of operation by children 5 and under	yes by 1/1/01	no
• Prevention of accidental discharge, repeat firing or risks of explosion	yes by 1/1/00	no
• Authorized user technology	yes by 1/1/04	yes
• Agreement on materials in gun frame, barrel and cylinder	yes	no
• Agreement not to sell gun kits, guns that can be easily converted into illegal firearms, guns with fingerprint resistance or guns accepting greater than 10 round magazines	yes	yes – only for ability to accept large capacity clips
• Agree to retrofit existing guns with improved safeties as they become available	yes	no
II. Distribution		
• Commit to a standard of conduct	yes	yes
• Wholesalers/retailers must have valid FFL	yes	yes
• Operate only from premise listed on license	yes	no
• Certify compliance with federal, state and local law	yes	no
• Carry appropriate insurance (minimum of \$1 million for each incident of damage, injury or death)	yes	no
• No internet or gun show sales	yes	no
• No incentive sales programs	yes	no
• Inventory tracking plan with data forwarded to	yes	yes – silent on who gets the information

- manufacturers and monitor
- Security plan and exclude persons under 18 without an adult yes yes – security plan
 - Not sell magazines able to accept more than 10 rounds, and comply with safety standards and federal law on design features yes yes
 - Provide manufacturers, law enforcement, government regulators and monitor full access to documents yes no
 - Agree to cooperate with manufacturers, ATF, law enforcement or Monitor yes no
 - Agree to track all ATF trace requests and provide information to manufacturer and Monitor yes implied in requirement that they cut-off dealers with too many trace requests
 - Agree to be subject to Monitor yes yes
 - Train all employees with content provided by Monitor yes yes – silent on who provides content
 - Employees pass written exam administered by Monitor yes no
 - Provide sales data to Monitor yes no
 - Wholesalers sell to only licensed/authorized dealers or government purchasers yes no
 - Retailers must be stocking gun store with majority of revenue from firearms or sporting equipment yes yes – no provision on revenue
 - Retailers agree not to sell to an FFL that is not authorized under this code yes no
 - Retailers agree not to sell where knows or has reason to know it's a straw purchase yes no
 - Retailers agree to sell only one gun to a person in a 30 day period yes yes – limits this to only one "handgun" per person in a 30 day period
 - Manufacturers report quarterly on sales data including downstream data to Monitor yes no
 - Agree to fund sales data clearinghouse yes no
 - ATF trace request shall be rebuttable presumption of misconduct yes no

III. Monitor

- | | | |
|---|-----|-----|
| • Monitor to enforce code | yes | yes |
| • Funded by manufacturers | yes | yes |
| • Granted full access to manufacturer and dealer books and records | yes | no |
| • Granted right to communicate information to law enforcement | yes | yes |
| • 20 year term subject to extension | yes | no |
| • Subject to removal only by oversight panel for cause. Manufacturers may object. Must be replaced in 30 days | yes | no |
| • Has authority to conduct interviews, perform tests, retain investigators and conduct undercover sting operations and unannounced investigations | yes | no |
| • Reports directly to manufacturer Boards of Directors | yes | no |
| • Reports violations of agreement to oversight panel | yes | no |
| • Issues public reports on manufacturer compliance | yes | no |
| • Manufacturers designate a compliance officer as contact | yes | yes |
| • Manufacturers fully cooperate with monitor | yes | no |
| • Oversight panel review manufacturer documents prior to signing this agreement. | Yes | no |

IV. Cooperation with Law Enforcement

- | | | |
|--|-----|--|
| • Manufacturers disclose marketing, market research, development and production data to law enforcement/regulators | yes | no |
| • Manufacturers fire weapons before sale and retain three casings and bullets – provide one to law enforcement | yes | yes – partner with ATF and/or FBI on these efforts |

V. Cooperation with

Litigation

- Manufacturers agree to cooperate in pending and future lawsuits yes no

VI. Legislation

- Manufacturers support pending and future legislative efforts proposed by oversight panel yes no

VII. Education Trust Fund

- Manufacturers create trust fund for PSAs yes no

Points not included in 9/27 Proposal

- Manufacturers consent to up to 3 ATF unannounced inspections per year no yes
- Refrain from selling semi-automatic assault rifles to youth under 21 no yes
- Require identification for ammunition purchases no yes
- Complete annual inventories with reports on thefts no yes
- Develop advertising standards that prohibit targeting juveniles or criminals no yes
- Possibly restrict advertising within vicinity of schools, public housing, high crime zones or other vulnerable areas no yes

Points not included in 9/27 Proposal or working draft

- Agree to support legislation to allow federal agency to collect detailed information about every shooting or gun death no no
- Track gun models and modify, limit or discontinue those used disproportionately in crime no no

- Void warranties on any gun that is transferred from the original purchaser unless the transaction takes place through an FFL with a background check no no
- Agree not to manufacture or sell assault weapons as defined by California law (with an exception for law enforcement and the U.S. military) no no
- Only make and sell guns that meet the physical size limitations applicable to imported guns no no
- Refuse to sell to dealers whose place of business is in an area zoned as residential no no

Every year the residents of public housing see 10,000 gun crimes and the taxpayers shell out a billion dollars for security. That's wrong.

*Guns
Smith &
Wesson*

We'll convene all the parties – cities, states, the gun industry – to spur progress toward a strong settlement. If a strong settlement is not possible, the public housing authorities are prepared to go to court.

Remedies: Any company's responsibility as a good corporate citizen is to take reasonable measures to reduce the chances its products will be misused. We'd like the gun industry to agree to adopt common-sense safety features, cut off dealers who make a living selling to criminals, and stop advertising targeted to criminals and children. [For example, 1% of dealers sell 50% of the guns used in crime. The industry has a responsibility to do something about that.]
[We want gun mfgs to behave responsibly in marketing and advertising their product and take steps to make it safe]

Just yesterday, we saw another tragic school shooting in Oklahoma. We're going to keep pressure on Congress to act. But at the same time, we're going to see whether the gun industry will join us in saying, this has to stop.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-0500

OFFICE OF THE GENERAL COUNSEL

December 15, 1999

*Gons -
Smith + Wasson*

Ben Wittes
Washington Post
Editorial Board
1150 15th Street, N.W.
Washington, D.C. 20071

Dear Ben,

Thank you for giving me the opportunity to elaborate in writing on some of the issues we discussed yesterday on the telephone. We have spent many months working very hard on the question of whether the federal government should enter into the gun litigation negotiations and whether we should support public housing authorities in their legal claims against the gun industry. I believe the more that you learn about what we are doing and why we are doing it, the more you will see this as a legitimate exercise deserving of your support.

As I understand your concerns, they break down into two basic issues: First, you question whether the federal government would be better off addressing the problems of gun violence through legislation and regulation, rather than through the mechanism of the courts; Second, you suggest that if the federal government were to involve itself in litigation, it should be the litigant instead of supporting others in their efforts.

The first proposition – aren't you just using the courts because you failed in the legislative arena – depends on several factual misconceptions. Our efforts in the gun litigation negotiations are not part of an either/or strategy. The Clinton Administration has pursued an aggressive legislative and enforcement strategy and will continue to do so in the future. The problem of gun violence in our society is immense and needs to be attacked from all possible angles. Good faith litigation to force gun manufacturers to take responsibility for their share of the problem is an appropriate part of the solution.

In addition, the Administration has not failed in its regulatory, legislative or enforcement efforts. Since 1992, federal and state prosecutions for weapons offenses have increased 25% and the number of people sentenced to 5 or more years has risen 30%. Indeed, the most recent Uniform Crime Report notes a decline in rates of violent crime and suggests quite strongly that our enforcement efforts have been extremely successful. And on the legislative front, this Administration has had many successes. Foremost among these may be the Brady Law which has blocked 470,000 felons and other prohibited purchasers from buying guns.

Congress' failure to move on this past year's gun legislation was not related to the

decision regarding a possible suit against the gun industry. Our efforts to develop and investigate the possibility of a lawsuit by public housing authorities goes back many months and clearly pre-date the final decisions by this Congress on gun legislation.

The courts are clearly an appropriate venue for these claims, a point that has been validated by favorable decisions in California, New York, Illinois and Georgia. It is important to understand that the theories of liability that would be invoked in a public housing authority lawsuit apply to every industry in our country. The law simply says that when you have reason to know your product may be misused by people you can't simply turn your back on the problem. Your responsibility as a good corporate citizen is to take reasonable measures to reduce the chances that your product will be misused. Lawsuits against irresponsible manufacturers are hardly a novel idea. This happens all the time.

Finally, we have an appropriate role to play in the litigation with the gun industry. The plaintiffs requested federal involvement in the negotiations with gun companies and have cheered our decision. It is also important to note that the gun industry has expressed some favorable views on the involvement of the federal government. Robert Delfay of the National Shooting Sports Foundation has said that our decision could accelerate a negotiated resolution. As on other issues of national scope, federal involvement offers the potential of uniformity and finality to a negotiated resolution. That potential has great appeal for both sides of this dispute.

The second proposition – that HUD or the federal government should sue on its own rather than support the public housing authorities in their suit – is inconsistent with the legal claims at stake. Straightforward legal analysis demonstrates that the housing authorities are the right plaintiffs for this suit. Housing authorities – in contrast to the federal government – suffer direct harms from gun violence. Similar claims by the federal government could only be based on the underlying injuries suffered by the housing authorities. There is no legitimate legal reason for the federal government to displace the housing authorities as plaintiffs.

In fact, there is substantial evidence that HUD or the federal government would face legal difficulties when compared to the HAs if it were to act as plaintiff. Trial courts in Bridgeport, Connecticut and Miami, Florida have dismissed the claims of those cities within the last week. The reasoning behind the Bridgeport decision – which was also the primary point raised by the Miami court – was that the cities were not the parties directly injured by the conduct of gun companies and therefore could not recover for any indirect injuries they may have suffered. While there is a good possibility that one or both of these cases will be reversed on appeal, the federal government would face this same question if it were a plaintiff. Housing authorities, on the other hand, suffer direct injury just like any private landlord who has had crimes and accidents occur on his or her property. This distinction shows that housing authorities are the right parties to bring this suit.

Moreover, HUD would be derelict in its duties if it failed to assist the housing authorities in these lawsuits. As we discussed, HUD has a statutory obligation to provide “decent, safe and sanitary” housing to the millions of American families in need of assistance. Indeed, HUD’s enabling statute states that it is to “encourage the solution of problems of housing [and] urban development . . . through State, county, town, village or other local and private

action, . . ." That is exactly what we are doing here.

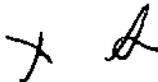
Nor are we alone in believing that our proper mission is to assist public housing authorities in developing a potential lawsuit. For example, during a congressional hearing before the Subcommittee on Criminal Justice, Drug Policy and Human Resources held on August 4, 1999, the ranking minority member, Patsy Mink, forcefully stated that with respect to a possible public housing authority lawsuit "it is incumbent upon the Department to collaborate, and join forces, and provide whatever assistance that they could." These sentiments were echoed by several others including Congressman Henry Waxman.

Plus, this proposition implies a misunderstanding of the serious interest and resolve of housing authorities to address this problem and advance their legal claims. We are far from alone in our efforts. Many public housing authorities have expressly asked for our help. HUD traditionally provides assistance to housing authorities on a vast array of matters, including litigation. While it is true that I cannot give you examples that are identical to this one, I believe that your request misses the singular impact of gun violence on our nation's housing authorities. While we have worked with housing authorities in the past on a whole range of legal issues from lead paint to securities disputes, there is nothing else with the same impact as gun violence on our public housing.

I very much hope that I have given you a better appreciation of the appropriateness of our efforts. I know that Secretary Cuomo looks forward to the opportunity to speak with you, and I also would be pleased to talk to you about these issues again.

Please give this a new and hard look.

Yours sincerely,



Max Stier
Deputy General Counsel for Litigation

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
.001. report	Gun Industry Regulation (6 pages)	12/13/99	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: 21553

FOLDER TITLE:

Guns-Smith and Wesson [1]

rs24

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]

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. draft agreement	[Gun Industry] Code of Conduct and Agreement (4 pages)	08/17/99	P5

**This marker identifies the original location of the withdrawn item listed above.
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9/27/99 Proposal	Issues	Response
Compliance by all handguns with import restrictions (18 U.S.C. § 925) and strongest existing state law	<ul style="list-style-type: none"> - Import restrictions based primarily on suitability of guns for sporting purposes, not self-defense. - Bans sale of all small-frame handguns (even though designed primarily for self-defense). - Would ban historic collectibles (e.g., Colt Single-Action Peacemaker) - State law restriction would impose will of 1 state upon rest of nation without assent of voters in other 49 states. - How to define "strongest" state law? What to do when state laws conflict? - If a state bans handgun sales, nationalizing such an act would be unacceptable. - How does this issue reduce crime? - How does this issue reduce accidents? 	<ul style="list-style-type: none"> - The firearms industry commits to continued compliance with all applicable laws.

9/27/99 Proposal**Issues****Response**

Serial number placement in [hidden] locations and visible only with infrared detector or similar device.

- BATF believes hidden serial numbers will remain hidden "for about 48 hours" among criminals. Cost v. Benefit relationship weak.
- Existing serial numbers can often be reconstructed, even if obliterated.
- According to NAFFE executive in over 3,000 ballistic traces in 1 year, 300 guns had obliterated serial numbers. Of these, reconstruction of serial numbers was relevant to apprehension of only one suspect.
- Infrared identifiers, especially means of securing them within a firearm, have not been widely studied.

- Industry is currently working with BATF to set minimum depth for serial number marking.
- BATF already regulates and monitors marking requirements.
- Industry is working with UN re: international marking standards.
- Industry will continue to work with BATF to provide firearms serial number identification in a manner which the ATF recommends as most efficient.
- Industry will continue to work with ATF on "Access 2000" to facilitate faster possible tracing between law enforcement, manufacturer and distributor.
- Industry is currently working with BATF to test various additional methods of weapon tracing (including electronic bullet and casehead archives; IBIS firearm profile identifying system)

9/27/99 Proposal

Sell guns with warnings re:
risk in home and proper
storage techniques

Issues

- False or misleading warnings should be avoided. Studies support lifesaving importance of defensive gun use and of concealed carry laws.
- Although the courts and the public typically regard the risks of firearms to be a matter of obvious and common sense, instruction manuals already contain storage and risk warnings.

Response

- Industry members support strong warnings and storage language. Recommendations are welcome.
- Industry is supporting Project HomeSafe to provide locks and safety instructions to communities.
- Industry will continue to emphasize that bringing a firearm into the home for self-defense is an important personal decision and the risks and advantages must be weighed by the individual. Industry will continue to urge that consumers who are not prepared to accept the important responsibilities of proper firearms use and storage should not purchase a firearm.

9/27/99 Proposal	Issues	Response
Require chamber-loaded indicator in all guns by 1/01.	<ul style="list-style-type: none">- All guns can already be checked for loaded condition.- Indicator is meaningless unless user is trained concerning its function. Trained users already know how to check chamber.- Cannot be done on .22 caliber rimfire cartridges for safety reasons.- High pressure of rifle cartridges might convert device into a projectile.- In "all" guns or in all new guns?<ul style="list-style-type: none">• retrofit impossible• no design available for many models	<ul style="list-style-type: none">- Industry supports training programs re: firearms safety.- Industry already provides loaded condition instructions with each firearm sold.- Locks sold with firearms and programs like Project HomeSafe present the best means of reducing accidents.- It is the opinion of industry that chamber load indicators are an inadequate and ineffective substitute for proper firearms training. Industry strongly fears that reliance on chamber load indicators could lead to an increase and not a decrease in firearms accidents.

9/27/99 Proposal**Issues****Response**

Prevent operation of all firearms by children aged 5 and younger by 1/01

- "Childproofing" may prevent elderly use of firearms for lifesaving purposes. [Note: Federal child safety standards for medicine containers prevent access by over 20% of elderly]
- Calling a firearm "childproof" encourages parents to leave loaded gun accessible to children.
- Define "operable by child aged 5." [Note: Child safety bottle standard allows access by 20% of children (i.e. 600,000)]
- Evidence indicates reliance on "childproof" medicine containers has increased poisonings.
- Heavier trigger pull prevents use by adults; decreases accuracy; can cause children to point gun at selves and use thumbs to pull trigger.
- The fundamental purpose of a firearm is to discharge when needed. Impediments to lifesaving use by intended owners must be carefully evaluated.

- Current technology already allows firearms to be secured away from children (i.e. - locks provided by firearm manufacturers).
- Industry supports home and community safety programs.
- Industry members will ship all firearms with locking devices by July 1, 2000. Industry to continue free distribution of locking devices through Project HomeSafe.
- Industry interested in preventing unauthorized access to firearms by children of all ages (not just under 5) as well as unauthorized adults.

9/27/99 Proposal	Issues	Response
Prevent accidental discharge, repeat firings or risk of explosion by 1/00.	It is unclear what is meant by this. Current designs and standards (e.g., SAAMI drop test standard) prevent these.	<ul style="list-style-type: none">- BATF already has standards for evaluating susceptibility of firearm to automatic/repeat firing.- Needs better definition of nature and scope of problem being addressed<ul style="list-style-type: none">• crime?• misuse?• proof of noncompliance?

9/27/99 Proposal

External locks sold with all firearms by 6/00; internal locks built into all firearms by 1/01.

Issues

- Every gun can already be locked. Locks are readily available for gun owners who want them.
- Not every gun owner wants or needs a lock (e.g., police, gun owners without children).
- Internal locks have not been widely developed.
Risks include:
 - Lock can prevent gun from functioning when needed to save someone's life.
 - Internal locks are always with the gun. Are thus subject to fouling from gunpowder, corrosion, etc., which can prevent both locking and unlocking of the gun.
 - Internal locks can cause parents to believe gun is "childproof", thus encouraging them to rely on device to keep children safe. Could increase number of people who leave gun loaded around children.

Response

- Industry members are already providing locks with 90% of guns sold.
- Project HomeSafe, which is funded by industry members (NSSF), provides locks and safe storage instruction to communities.
- Industry members are developing/using internal locks. Success of these efforts must be evaluated.
- Use of lock should be determined by customer need, not political mandate.
- The industry welcomes funding for research.

9/27/99 Proposal	Issues	Response
Authorized user technology by 1/04.	<ul style="list-style-type: none">- Already exists. Any gun can be locked so that only 1 person can gain access.- Internal lock concepts are unproven. Some have expressed concerns about safety, feasibility and advisability. (See discussion re: internal locks)- Government studies of internal lock feasibility reveal numerous problems/concerns.	<ul style="list-style-type: none">- Industry is already researching internal lock technology.- Industry supports mandatory shipment of locks with (not in) guns sold, but not mandatory use.- Industry would welcome federal funding to broaden and expedite internal lock technology research.

9/27/99 Proposal**Issues****Response**

Include magazine disconnect safeties in all new pistols by 6/00; retrofit into all pistols sold by 1/01.

- Purpose of firearm is to fire when needed with or without a magazine. Almost all military and law enforcement gun users, as well as the international civilian community, reject magazine disconnect safeties because they can prevent lifesaving gun use.
- Ability of pistol to fire multiple rounds does not mean it should not also be able to fire 1 round, with or without magazine.
- Reliance on magazine disconnect safeties without proper training can cause accidents. For example, child finds gun without magazine, but chamber loaded. Pulls trigger. Gun does not fire. Child believes gun is empty. Puts empty magazine in gun. Points gun at friend and pulls trigger. Gun fires.
- Device may encourage parents to remove magazine and store chamber-loaded gun around children.
- Device is infrequently used now. Widespread use could increase accidents, as well as homicides disguised as accidents. ("I didn't know gun was loaded. I pulled the trigger and it didn't go off.")

- Place warnings about ability of firearm to discharge with or without magazine in instruction manuals.
- Prevent uneducated user access to firearms by providing locks, safety instruction.
- Pistols with magazine disconnect safeties are available to customers who want them.

- Introduction in many models unestablished.
- Include in magazine-fed rifles?
- Retrofit impossible. Existing guns cannot be changed to add device.
- Retrofit of some guns in model line, but not all, could create confusion re: presence of device and therefore safety risk.
- Magazines are often removed to allow safer "one shot at a time" firearm instruction.

9/27/99 Proposal	Issues	Response
Only use materials in gun barrel, frame or cylinder with melting point above 900° F, with ultimate tensile strength above 55,000 per square inch, or powdered metal with density greater than 7.5 grams per cubic centimeter.	<ul style="list-style-type: none">- How relevant to criminal or accidental use?- Bans polymer-frame guns used by police and others.- Bans polymer-frame sporting shotguns and rifles.- Material design safety is determined by ballistics. (i.e. - what is needed for a 9mm handgun may not be necessary for a .22 caliber handgun)	<ul style="list-style-type: none">- Industry members already comply with this standard in accordance with state laws.- SAAMI/NIJ specifications re: performance already exist. Is there evidence of non-compliance?

9/27/99 Proposal	Issues	Response
<p>Do not sell gun kits, guns that can be converted to an illegal firearm, guns that resist fingerprints or guns that accept magazines with greater than 10 rounds.</p>	<ul style="list-style-type: none"> - Bans all rifles and shotguns <ul style="list-style-type: none"> • Any rifle or shotgun barrel can be sawed off, thus making gun illegal. - Define "kits" <ul style="list-style-type: none"> • includes sale of spare/service parts, new stocks, etc.? • if so, bans gunsmithing - Corrosion resistance (including resistance to oils and salts in fingerprints) is needed by hunters and all gun users. Compliance with this request would ban all guns. - Bans all pistols and many semi-automatic rifles. <ul style="list-style-type: none"> • the capacity of the magazine is independent of the design of the pistol 	<ul style="list-style-type: none"> - Federal law already bars the manufacture of guns susceptible to illegal conversion (i.e. - re: automatic fire; serial number obliteration; conversion of magazines to hold more than 10 rounds).

9/27/99 Proposal

Retrofit existing guns with improved safeties as they become mandated.

Issues

- Since the mayoral demands are mandates and require internal locks, etc., this proposal constitutes a requirement to retrofit all 240 million guns in circulation in the U.S.
- No product is retrofitted simply because improved safety devices become mandated (e.g., no air-bag retrofit in cars)
- If a firearm is defective, manufacturer faces same litigation risk as does any product maker.
- Accident rate has declined 40% in 15 years. Is at lowest point since 1963.
- Retrofits usually not possible (i.e. - magazine disconnect safety, loaded chamber indicator, internal locks, etc.).

Response

- A national lock program is in place (sale with each firearm; Project HomeSafe, etc.).
- Industry will aggressively promote the availability of locking devices for those consumers who desire a measure of security beyond that afforded by the safety technology incorporated by the manufacturer.

9/27/99 Proposal

Issues

Response

Recall all armor-piercing ammunition

- Federal law currently defines and prohibits the manufacturer of armor piercing ammunition."

- Industry will comply with all federal rules regarding the manufacture, distribution and sale of armor piercing ammunition.



GENERAL COUNSEL

DEPARTMENT OF THE TREASURY
WASHINGTON

April 21, 2000

*Gurs -
Smith Wesson*

To: Larry Summers
Stu Eizenstat
Jim Johnson
Brad Buckles
Susan Ginsberg
John Manfreda
Eric Liu
Bruce Reed
Bea Witzleben
Didem Nisanci

Neal Wolin



DEPARTMENT OF THE TREASURY
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT



April 19, 2000

Mr. L. Edward Shultz
President and Chief Executive Officer
Smith & Wesson
2100 Roosevelt Avenue
P.O. Box 2208
Springfield, MA 01102-2208

Dear Ed:

A few weeks ago, Smith & Wesson published on its website information about the agreement Smith & Wesson entered into with the Departments of Treasury and Housing and Urban Development and state and local governments on March 17, 2000 (the "Agreement"). As we detailed in phone conversations with you and George Colclough, some of the "interpretations" put forward on your website are incorrect and inconsistent with the plain language of the Agreement. Following is a list of points that we believe are incorrectly stated on the Smith & Wesson website. This list is not intended to be exhaustive, and there may be additional issues. We recognize that you are currently facing considerable pressure as you implement the Agreement, and we also want to reiterate our commitment to resolving these and other issues with you.

First, a principal area in which the website deviates from the Agreement relates to the scope of many of the sales and distribution restrictions imposed on authorized dealers and distributors, such as the requirements that authorized dealers and distributors make no sales at gun shows unless all sales are conducted only upon completion of a background check and that authorized dealers and distributors await notice from the National Instant Criminal Background Check System (NICS) that a purchaser is not a prohibited person under the Gun Control Act before transferring a firearm. The material on your website states that several of these requirements (II.A.1.d, f, h, k, n, o, r; II.C.3) place restrictions on your authorized dealers' and distributors' disposition and storage of Smith & Wesson firearms *only*. However, the plain terms of the Agreement extend these restrictions to the authorized dealers' and distributors' disposition and storage of *all* firearms. By contrast, in the few instances in the Agreement where the restriction applies only to the firearms produced by Smith & Wesson, the Agreement plainly states that limitation. The inventory tracking requirement, for example, applies only to "the products of the manufacturer parties to this Agreement." See II.A.1.e; see also II.B. II.C.1.

Second, the website states that the requirement that dealers complete the legally-mandated forms in the presence of the purchaser at the premises listed on their federal firearms licenses (Section II.A.1.b) does not apply to sales made at gun shows, so long as the sales are consistent with other restrictions in the Agreement. While we agree with you that Section

Mr. L. Edward Shultz

April 19, 2000

Page 2

II.A.1.b does not preclude such sales. Section II.A.1.b does apply to such sales, insofar as the authorized dealer must complete the forms and related requirements under the Brady Act and the Gun Control Act in the presence of the purchaser for all sales, regardless of where they take place.

Third, the website states that the requirement that gun show sales be made only if all sales by any seller at the gun show are conducted upon completion of a background check (II.A.1.d) does not apply to private sales. The Agreement contains no such exception. By its terms, the requirement applies to all sales at gun shows.

Fourth, the website states that the requirement that ammunition be stored separately from the firearms (II.A.1.f.(3)) pertains to centerfire handgun ammunition only where physically possible. The Agreement contains no such exception. By its terms, the requirement applies to all ammunition.

Fifth, the website states that the requirement that persons under 18 years of age be accompanied by a parent or guardian when they are in portions of the premises where firearms or ammunition are stocked or sold may be accomplished by posting a sign (II.A.1.g). This provision, however, requires the dealer or distributor to enforce the restriction and simply posting a sign may be insufficient.

Sixth, the website states that the requirement that authorized dealers and distributors agree to be subject to the jurisdiction of the court enforcing this Agreement (II.A.1.i) pertains to manufacturer parties to the Agreement only. By its terms, however, this provision applies to authorized dealers and distributors.

Seventh, the website states that courses such as NRA Basic Pistol, Hunter Safety or State Conceal Carry courses will also likely fulfill the requirement that purchasers demonstrate that they can safely handle and store firearms through the completion of a certified firearm's safety training course or test. See II.A.1.r. We are not in a position at this time to express an opinion as to whether these courses or other materials that Smith & Wesson provides for training will fulfill the Agreement's requirement. The Oversight Commission will have the opportunity to review this issue as one related to the implementation of the Agreement. See III.A.2.

Eighth, we are also not in a position to express a view as to your statements that Smith & Wesson firearms currently comply with certain of the design and warning requirements. As set forth in the Agreement, compliance will be determined by ATF or an agreed upon proofing entity.

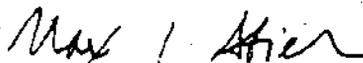
Mr. L. Edward Shultz
April 19, 2000
Page 3

We are confident these matters can be resolved in due course and write at the present time simply to make clear that we do not believe that the statements on your website are correct in all instances.

Sincerely,



Neal S. Wolin
General Counsel
Department of the Treasury



Max I. Stier
Deputy General Counsel for Litigation
Department of Housing and Urban Development

THE WHITE HOUSE OFFICE OF LEGISLATIVE AFFAIRS HOUSE LIAISON



112 East Wing
Office phone: 456-6620
Office fax: 456-2604

FACSIMILE TRANSMISSION

DATE: 4/21/00

TO: Bruce Reed, Leanne & Deanne

FAX: 66515, 67028 PHONE: _____

FROM:	<input checked="" type="checkbox"/> BRODERICK JOHNSON	_____ JOSH ACKIL
	_____ LISA KOUNTOUPES	_____ ERICA MORRIS
	_____ MARK MAGANA	_____ BRIAN MASON
	_____ MARTY HOFFMANN	_____ TANBESHA JOHNSON

Comments: _____
Congress Letter ... Any Comments?

PAGE ONE OF 4

456 2604

Guns -
Gun Shows

Dear Chairman Hyde:

I am in receipt of your April 14 letter concerning gun safety legislation being.

At the outset, I would note that no one is more interested in enacting meaningful gun safety legislation than I am. As you know, I am on record as strongly supporting the "Lautenberg" amendment which passed the Senate. However, as I have repeatedly stated to you, I would be and am willing to negotiate a compromise from that position, so long as the legislation is not a sham, does not weaken current law, and truly shuts down, rather than perpetuates, the gun show loophole to the Brady law. It is in this spirit that I have proposed to you language requiring that the vast majority of gun show Brady checks occur within 24 hours, an important departure from the Lautenberg language.

Notwithstanding your professed commitment to closing the gun show loophole, I am concerned that the House Republican Leadership is the principal obstacle to enacting meaningful gun safety legislation. I need not remind you that it was the House Republican Leaders who have said they would not allow a vote in their "pro-gun House" on any bill that departed from NRA-authored proposals. I also continue to be frustrated by the failure of the Majority to convene a meeting of the juvenile justice conference, so that our positions can be aired openly and debated in a public forum.

As for your last two "compromise" proposals, I am profoundly concerned by their continuing fidelity to loopholes, and by the manner in which you have proposed them to me. Both proposals were released to the press, rather than to me. Both proposals parrot the loopholes in your earlier draft which would effectively allow in some cases for criminals to get guns at gunshows. I've explained these problems to you in repeated letters - the substance of which I might add you have never refuted. And amazingly to me, these tactics were used just one day after you signed a joint letter to Chairman Hatch stating that "(w)e have pledged to each other to begin anew negotiations." Yet, the very next day, you wrote to the President that "(Representative Conyers and the Democratic Leadership) have again rejected meaningful negotiations." Yet, less than 24-hours later, you made such a declaration without a single conversation with me or my staff.

As to the substance of your April 14 "compromise," I am disappointed that it contains all of the loopholes and drawbacks as your November 4 proposal. Among these loopholes are the following:

- **The Fugitives, Felons and Stalkers Loophole:** Your discussion of your "official records" loophole appears to miss the point completely. All we are asking for is that we preserve the same language that is already in the Brady law to describe when law enforcement can take more time to finish background checks. Current law allows up to three business days to investigate any information available to the system that indicates that receipt of the firearm may violate federal or state law. The purpose of this leeway is to allow up to three business days to investigate - to the fullest extent of the law - the 5 percent of purchasers who are 20 times more likely than the average purchaser to be fugitives, felons or stalkers. The law permitting this minimal period of time does not require that records from state and local law enforcement be notarized, properly signed or printed on letterhead. It would seem obvious

that, if our objective is not to weaken current law, we should use the plain and unambiguous language in current law that has worked to prevent over 500,000 felons, fugitives and stalkers from purchasing guns.

- **The Gun Show By a Different Name Loophole:** Your definition of gun show, derived from the NRA-drafted Hatch-Craig amendment and rejected by the Senate, is so tortured that it would not even apply to most gun shows, so long as they sell items other than guns such as camping equipment, survival gear and knives. While you consistently contend that your definition of gun show is any event where 50 or more guns are sold and there are five or more vendors (a definition I could, in a spirit of compromise, agree to), you also include "purpose" language that would make the entire gun show background check regimen apply to almost no one.
- **Meaningless Ammunition Clip Ban Loophole:** I am also frustrated that you continue to assert that there is agreement on all the other gun safety provisions. Your large capacity ammunition clip ban strikes essential language that was in the amendment you offered on the House floor and renders this provision *completely meaningless*. We never discussed changes to this important provision and I am disappointed that you are backing away from your own amendment.

I am also baffled that you view this proposal as progress when in fact it is weaker than your November 4 proposal. Every time we appear to be closer to agreement, I am concerned that you push the goal posts backward and make further concessions to the NRA and your leadership. In my judgment, your April 14 proposal takes the following steps backward:

- **Guns for Murder Suspects Loophole:** Your November 4 proposal explicitly guaranteed a background check of up to three days for "official records" that indicate a person is under indictment but your April 14 proposal does not. It would, therefore, allow persons under indictment for murder, rape, child molestation and other potentially dangerous persons to purchase guns at gun shows if a background check could not be completed within 24 hours.¹
- **Bad Apple Gun Dealer Loophole:** Unlike your November 4 proposal, your April 14 proposal calls for immediate destruction of Brady background check records. This provision alone would prevent effective enforcement of the Brady law by removing one of the only means of holding fraudulent gun dealers accountable. Recent cases have been brought against licensed dealers who have entered false information into the Instant Check system in order to fraudulently sell guns to criminals. Without an ability to compare the information sent to the Instant Check system with a dealer's records, we would provide an invitation to fraud that would permit thousands of criminals the ability to evade background checks and purchase guns. On balance, is the NRA's paranoia about any record keeping really worth letting criminals get guns and criminal gun dealers get away?

¹ In your November 4 proposal, you explicitly required a three day check individuals for whom an "official record" indicates "receipt of a firearm would violate subsection (g) or (n) (the section which prohibits the transfer of a firearm to an individual under indictment) of section 922." Your April 14 proposal would merely allow a three day check where an "official record" indicates a person is prohibited under 922(g).

- **Lee Harvey Oswald Loophole:** Unlike your November 4 proposal, your April 14 proposals substantially weakens the ban on interstate sales on firearms, enacted over thirty years ago in response to Lee Harvey Oswald's interstate purchase of the rifle used to kill President Kennedy.

As to my acceptance or counteroffer to your proposal, you have had my counteroffer since October. You have never responded to it. However, Chairman Hyde, this six-month-old game of floated "compromises" and missives has brought us no closer to producing a gun safety bill that the American people overwhelmingly want and deserve. In contrast, a meeting of the conference could produce such a bill.

Sincerely,

Guns -
Smith & Wesson

Smith & Wesson Agreement
Q&A
April 13, 2000

Q: Smith & Wesson is disseminating a far narrower interpretation of their agreement to reform their design, distribution and marketing practices than adopted by the Administration and the state and local governments that joined in the agreement last month. What is the Administration's position on this new interpretation of the agreement and does this represent a setback?

A: It took a great deal of courage for Smith & Wesson to join the Administration in signing this landmark agreement. It is unfortunate – but predictable – that they have been under tremendous pressure from other members of the gun industry since then. However, the agreement, which was written in great detail, speaks for itself. There is no question that it represents fundamental changes in the way that guns are designed, distributed and marketed in this country.

*bins -
Smith +
Wesson*

For Immediate Release Thursday, April 13, 2000

Joint Press Statement by Smith & Wesson, HUD, & the Department of the Treasury

The newspaper reports that suggested that Smith & Wesson was not honoring its agreement – or renegeing in any way – on its agreement with the federal, state and local governments are inaccurate and misleading. The agreement is in full force and effect. Clearly, there will be questions that need interpretation as we go along, as this agreement is historic and without precedent. We will address those questions as they arise.

#

Nestor Davidson
Special Counsel
Office of General Counsel
U.S. Department of Housing and Urban Development
451 Seventh Street, S.W.
Room 10142
Washington, D.C. 204102
202-708-0614 x5573 (phone)
202-401-6725 (fax)



Fax

To: Bruce Reed	From: Nestor Davidson
Fax:	Pages: 3
Phone:	Date: April 10, 2000
Re:	CC:

● **Comments:** Max asked me to fax you this memo. Don't hesitate to call if you have any questions. Thank you!

CALL TO Los Angeles County Supervisor Gloria Molina
213-974-1111.

Guns -
Smith & Wesson

L.A. County Counsel William Pellman has recommended that the County Council not sign on to the Smith & Wesson agreement, citing a number of details that he believes could have been made stronger. This call is to bolster our arguments for why the Smith & Wesson agreement is as strong as it could be, why future agreements will be stronger, and why it is critical for the cities and counties that have filed suit to stand together now.

Background:

In terms of substantive objections, Pellman has sent a letter outlining his concerns about the Smith & Wesson agreement, arguing that:

- the most stringent state standards on safety features should be the national minimum;
- firearms should be designed so that *any* child under 6 cannot fire the weapon;
- magazine disconnects should be mandatory on all pistols;
- the agreement fails to make progress in eliminating "kitchen-table" dealers;
- restrictions should be added on Internet sales, multiple sales, gun kits, straw purchases, and sales at gun shows;
- the agreement leaves too many details open with respect to the Oversight Commission and opens the County to unlimited liability;
- enforcement by consent decree is not ensured or sufficient without monetary sanctions.

Pellman is also threatening to call a separate meeting of plaintiffs.

There are three basic responses to the substantive concerns that Pellman raises:

First, in any negotiation, there has to be some give and take, and the provisions that he considers too weak have to be viewed in the context of the entire agreement – an agreement that makes unprecedented progress on issues of design, distribution, advertising, cooperation with law enforcement, and oversight.

Second, the Smith & Wesson agreement is a floor, and any future agreements will have to include stronger provisions. We have always said that the first manufacturer to settle gets the best deal, and the concerns L.A. County raises are appropriate grist for future negotiations. Moreover, the more current litigants that keep fighting the Smith & Wesson suit, the more difficult it will be to settle future suits.

Finally, many of the substantive concerns are actually off the mark:

- the child-safety provision's use of the term "readily operated" merely sets a realistic operating threshold, it does not leave any children out of the provision;
- several provisions of the distribution section will attack the problem of kitchen-table dealers, such as the requirements that an authorized dealer possess a valid federal firearms license, carry at least \$1 million in insurance, maintain inventory tracking and security plans, and maintain an electronic record of all ATF trace requests;
- the Oversight Commission details are currently being worked out (and L.A. County will not be able to participate in its formation if it hesitates too long to join);

- costs of the Oversight Commission are entirely at the discretion of the parties to the agreement – if local governments don't want an open-ended obligation, they are under no compulsion to do so; and
- the sooner L.A. County signs on to the agreement and enters it into court as an enforceable consent decree, the sooner enforcement can kick in.

On a separate note, Supervisor Molina may also raise concerns with the way the agreement was negotiated and then communicated to the litigants. It is important to emphasize the contingencies of the negotiation and the fact that we sought, and received, L.A. County's substantive input at several points in the process.



**BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES**

856 KENNETH HAHN HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012 / (213) 974-4111

GLORIA MOLINA
SUPERVISOR, FIRST DISTRICT
CHAIR OF THE BOARD

April 18, 2000

Mr. Bruce Reed
Assistant to the President for Domestic Policy
The White House, Second Floor
Washington DC 20502

Dear Mr. Reed:

It was good to speak with you yesterday and I look forward to working with you and the Administration on this issue. As you know, gun control is a priority for the County of Los Angeles and we have a unique opportunity to make substantive reforms within the gun manufacturing industry.

As we discussed, the County and the Administration share the same overall objectives and can be of mutual benefit to each other as we seek to have other manufacturers sign on to the Smith & Wesson Agreement (Agreement). However, as a partner in this effort the County must play a larger role in these negotiations and ultimately, in the oversight and enforcement of the National Agreement.

Our Counsel has shared their legal concerns with HUD's staff and I know they are working on mechanisms to meet our concerns and those of many other localities. It is my hope that these discussions will lead to a strategy to bring other manufacturers to sign the Agreement.

As I mentioned, the County will be hosting a meeting of the national plaintiffs to discuss litigation strategies here in Los Angeles at the end of May. I believe this discussion will not only apply pressure to the industry, but also afford the County and Administration another forum to address the Agreement terms.

cc: MAY

file: Guns -
Smith &
Wesson

Mr. Bruce Reed
April 18, 2000
Page 2

One of HUD's goals was to give preference to Smith & Wesson in contracting when ever possible. To that end, I introduced a motion this morning that would give preference in county firearms contracts, to manufacturers that have adopted Agreement standards. I also understand that HUD will be convening a national conference of law enforcement regarding the use of Smith & Wesson products. With the largest local law enforcement agency in the country, I hope Los Angeles County will play a lead role.

Again, it was a pleasuring speaking with you and I look forward to our work together on this issue in the future. I will be traveling through May 5, which includes two days in Washington, DC, May 3 and 4. Please do not hesitate to contact my office if I can be of further assistance.

Sincerely,



GLORIA MOLINA
Chair of the Board
Supervisor, First District

GM/WW/sf

SYN. NO. _____

AGN. NO. _____

MOTION BY SUPERVISOR GLORIA MOLINA

May 9, 2000

As local elected officials, ensuring safe communities is our highest priority. Over 30,000 people are killed and several times that number injured by guns each year. Many of these tragedies could be prevented through reasonable distribution and design reforms by gun industry manufacturers. With the largest local law enforcement agency in the Country, Los Angeles County has the unique ability to express our desire for safety and gun industry responsibility through our procurement choices for weapons.

To that end, the County should incorporate in its firearms purchases a consideration of whether companies have acted responsibly in the manufacturing and marketing of their firearms, by taking steps such as those contemplated in the code of responsible conduct, set forth in the historic Smith & Wesson Gun Agreement with the United States Department of Housing and Urban Development on March 17, 2000, and give preference to those manufacturers.

MOTION

Burke

Yaroslavsky

Knabe

Antonovich

Molina

WW/sE

I, THEREFORE, MOVE that the Board:

Direct the Purchasing agent, in coordination with the Sheriff's Department and County Counsel, to incorporate in bidding requirements a consideration of whether manufacturers have adopted, at a minimum, safety and design standards in the manufacture of firearms which include such items as locking devices, second serial numbers, and child safety devices, as well as the standards of conduct for making and monitoring sales of firearms. This consideration will apply to equipment that meets law enforcement needs and is available at comparable prices.



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TUESDAY, APRIL 18, 2000



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- Bonus: 10 (Monday)
- Megabucks: 3-10-18-30-33-34 (Saturday)

Only Smith & Wesson handguns meet state's specs

By Trudy Tynan, Associated Press, 04/18/00

SPRINGFIELD, Mass. — Gun dealers are clearing their shelves and some gunmakers have been effectively shut out of the Massachusetts market as the nation's toughest handgun safety regulations take effect.

The only new handguns that can be sold here under the new consumer protection regulations announced earlier this month are some models made by Springfield-based Smith & Wesson.

That means even the high-end models of Glocks and SIG-Sauers used by police would not pass muster if they were being sold to the general public.

"It's killing the small dealers," said Vincent DeValle, manager of Strictly Defense in West Springfield. "We are stuck with thousands of dollars in guns we can't sell."

But dealers are vowing to fight back. They told the Boston Herald that they will announce plans today to file a lawsuit challenging the regulations.

"It's not over yet," said Michael Yacino, executive director of the Gun Owners Action League. He said the suit, which will challenge the state's authority to regulate handguns, could be filed as soon as this week.

The new rules ban cheap handguns and require childproof locks on any handgun sold in the state. They also require safety warnings with each handgun, tamper-resistant serial numbers and indicators on semiautomatic handguns that tell if a bullet is in the chamber.

Used handguns, police weapons and models made before September 1998 are exempt from the regulations that went into effect after manufacturers, including Smith & Wesson, lost a two-year court fight to stop them.

Attorney General Thomas Reilly realizes many gun manufacturers don't meet the regulations — yet.

"It is our hope that all companies will comply," said Ann Donlan, a spokeswoman for Reilly. "But there is no going back as far as we are concerned."

The other major gunmakers say they've been sidelined by such things as how many serial numbers are now required on the weapon and the minimum force needed to pull the trigger.

"It's in the details," said Gary Mehalik, marketing manager for Miami-based Taurus, which has been selling pistols

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equipped with an internal trigger lock since 1997. "We are able to comply in most regards."

But Taurus, and Glock -- which makes the guns that Boston police carry -- and SIG-Sauer -- which arms the state police -- have all run afoul of a requirement that it take at least 10 pounds of force to pull the trigger.

Some of Smith & Wesson's lighter guns, including its popular Sigma line, also fail to meet the 10-pound pull test that is aimed at helping to prevent a child from firing the weapon.

In part because more women are buying guns, most guns are now sold with a trigger pull of 4 to 6 pounds, with target pistols having pulls as light as 2 pounds.

Richard Callaghan, of Callaghan's Firearms in Marlboro, is one of several gun dealers who have pulled all their new handguns off the shelves in response to the new regulations.

There may be some room for interpretation of the new regulations, but Callaghan is taking no chances.

"I am not going to jeopardize my business and life savings for a fast buck," he said.

Paul Jannuzzo, a spokesman for Glock, said the company may send special models to Massachusetts if distributors are interested.

Beretta stopped shipment into Massachusetts for just one reason: Its guns do not have a second hidden serial number.

Paul Jannuzzo, a spokesman for Beretta USA, based in Accokeek, Md., said Beretta had been trying to comply with requirements in the state's 1998 gun law, which are exceeded -- and superseded -- the new consumer protection regulations.

"Unfortunately, everyone is styling themselves as experts in gun design and we are on the brink of ending up with a confused mix of state, local and federal laws," he said.

The same week Massachusetts announced its new regulations, Maryland's governor signed legislation requiring built-in locks on all new handguns sold after January 2003.

Even within Massachusetts things are getting confusing.

Aides to Jane Perlov, the state's secretary of public safety, say Perlov is drawing up her own list of acceptable weapons based on the less-stringent provisions of the 1998 law. That could include guns that would not be acceptable under the attorney general's new regulations.

"We took it a step further," said Donlan of the attorney general's regulations. "As far as we are concerned we have the law behind us and we are going about the business of enforcing the consumer regulations."

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**Gun Litigation
December 8, 1999
Questions and Answers**

Q: Why is HUD threatening to sue gun manufacturers?

A: We are determined to do everything we can to keep guns out of the wrong hands. My Administration has worked hard to make public housing safer, but gun violence remains a serious problem in many of these communities. Every year, thousands of gun-related incidents and hundreds of gun-related murders take place in and around public housing buildings. So I think it makes sense for the housing authorities – which bear the costs of this violence – to consider filing suit against the gun industry. Of course, it's my preference that the industry and housing authorities can work toward a negotiated settlement before anyone has to go to court. I know there are talks already underway between some of the manufacturers and the cities that have sued them. I want to spur those talks along, and encourage the industry to do all it can to address gun violence – in public housing and in all our communities.

Q: What would you be seeking from the gun industry by filing a lawsuit?

A: My understanding is that the plaintiffs wouldn't be seeking monetary damages; they want injunctive relief of the sort that has been proposed by many of the cities in their suits against the industry. This would include distribution controls to prevent the slippage of firearms into the illegal gun market, and improvements in the design and safety of firearms to prevent accidents and unauthorized uses. Our goal – whether in court or out of court – will be remedies that truly make our communities safer.

Q: Didn't HUD testify to Congress that they were not going to file a lawsuit? What is their role in the lawsuit? And what is the Justice Department's role?

A: HUD's general counsel testified accurately that HUD is not bringing a lawsuit. Instead, public housing authorities from across the nation would file a class action lawsuit on behalf of the over 3,000 public housing authorities nationwide. HUD has helped housing authorities to take this step – which is exactly what three HUD employees told Congress. But let me say: I believe this lawsuit would be entirely consistent with HUD's mission and with my Administration's efforts to help make this the safest big nation on earth.

HUD has a statutory mandate to provide safe and decent housing to the nation's neediest citizens. That's why they have helped the public housing authorities in their efforts to organize against gun violence and to work through some of the technical aspects of this possible litigation. The Justice Department would not

have a role in filing this suit, since the housing authorities are not part of the federal government and hire their own private counsel.

Q: On the heels of the tobacco litigation, isn't this just ushering in the era of big lawsuits? And does this mean that you've given up on passing legislation?

A. Not at all. I am absolutely committed to passing common sense gun legislation – and it remains among my top legislative priorities for next year. There is tremendous public support for reasonable gun measures like closing the gun show loophole, and we will keep the pressure on Congress. Having said that, I am absolutely committed to doing everything in my power to keep guns out of the wrong hands. A dozen American children die every day due to gunfire. We owe it to them to look into every available avenue to make our streets and schools safer. Just because Congress refuses to act doesn't mean that everyone else should give up on their responsibility to make this country safer. And, those who bear the costs of gun violence should have a chance to make their case in court.

Q: Why are you announcing the possibility of this lawsuit now?

A: The public housing authorities have been reviewing the possibility of a lawsuit for the past several months. After consulting widely with legal experts, the housing agencies and HUD have concluded that a suit would be viable and the public housing authorities are prepared to move forward with a case. The string of violent gun incidents in recent months only underscores the urgency of this issue. But again, my belief is that we can avoid more litigation if the industry works in good faith toward a meaningful and comprehensive settlement – and my Administration stands ready to engage them on those terms.

Q: What about the NRA's charge that you could do more to reduce gun violence by simply enforcing the law against criminals than by passing legislation or filing a lawsuit?

A: I agree that effective enforcement of our gun laws is a critical part of any crime-fighting strategy. This Administration has boosted assistance to state and local law enforcement – who carry out most gun-related enforcement activities – by over 500 percent. Total prosecutions are up, and federal prosecutions of the most serious gun offenders are up by over 25 percent since 1992. We've also funded 100,000 more police for our streets and we've proposed funding to add more police and local community prosecutors to help fight crime at the local level.

But ultimately, what you enforce matters too. We know that laws that keep guns

out of the wrong hands can make a difference. Take the Brady Law. Since it took effect, over half a million guns have been kept from felons, fugitives, stalkers, and other prohibited persons through common sense Brady background checks – saving countless lives and averting countless crimes.

Let me say too that while we have made significant strides in reducing gun violence over the past several years, we could do even more with the cooperation of the industry. When gun manufacturers, distributors and dealers don't share records on crime guns with law enforcement in a timely fashion; when manufacturers continue selling guns to dealers who are the source of large numbers of crime guns; when most of the roughly 100,000 gun dealers in this nation aren't subject to more than one inspection a year; and when guns are marketed to criminals and juveniles – then our enforcement efforts are hindered. These are some of the practices that need to be remedied.

Gun Remedies
Question and Answer
December 8, 1999

Q: What sort of remedies would you be seeking from the gun industry by engaging in settlement talks?

A: First of all, this isn't about money; it's about saving lives. We are interested in injunctive relief of the sort that has been proposed by many of the cities in their suits against the industry. In general, we would be interested in industry reforms that improve distribution controls to prevent firearms from reaching the illegal market, change the design and safety of firearms to prevent accidents and unintended uses, and halt the practice of marketing guns to criminals and juveniles. As the President said earlier today, this could more specifically include cutting off supply to unscrupulous gun dealers whose guns turn up in numerous crimes, banning the marketing and manufacture of guns with criminal-friendly features such as fingerprint-resistance or easily-obliterated serial numbers, and requiring the incorporation of safety features into the design of firearms, such as trigger locks or chamber-loaded indicators. These are just some of the remedies we would want to consider as part of a comprehensive settlement. Our goal would be remedies that truly make our communities safer.

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 MAX STIER**

Fax

To: BRUCE REID **From:** MAX STIER

Fax: 202-456-5542 **Pages:** 17

Phone: 202-456-5595 **Date:** December 6, 1999

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Domestic Policy Council
Bruce Reed (Crime)
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FOLDER TITLE:

Guns-Smith and Wesson [1]

rs24

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
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DRAFT TALKING POINTS

- **In an effort to change the way the gun industry does business, the Administration is seriously considering a lawsuit on behalf of public housing residents, [as well as executive action to require gunmakers that sell guns to the federal government to comply with an industry code of conduct.]**

- **The Administration is actively considering a lawsuit on behalf of public housing residents, but is holding off for now to determine whether a strong settlement can be achieved.** Over the past several months HUD has looked closely at the viability of a lawsuit that would be brought by public housing authorities against the gun industry. After consulting widely with legal experts, HUD has concluded that a suit would indeed be viable, and is prepared to file if necessary. The Administration would prefer a strong comprehensive settlement, and will try to secure one before going to court. However, if the talks fail to produce an acceptable agreement, HUD and the public housing authorities are prepared to proceed with a lawsuit. Given the impact that gun violence has had on public housing authorities, and recent victories by plaintiffs in a California appeals court and a federal district court in New York, such a suit poses a serious threat.

- **[The Administration will also inform the industry that it is seriously considering executive action to change federal procurement policy to require manufacturers that sell guns to the federal government to comply with a code of conduct.** Such a code of conduct might include, for example: distribution controls to prevent firearms from slipping into the illegal market; safety measures to prevent accidental death and injury; and restrictions on advertising to criminals and juveniles.]

- **The Administration hopes these actions will spur a settlement in ongoing talks between cities and states and the gun industry.** For the past several months, talks have been under way between gunmakers and states and cities that have brought suit against the industry. For some time now, the Administration has been coordinating strategy with negotiators for the cities and states in an effort to achieve the strongest possible settlement. In the next several days, the Administration will engage the industry in an effort to spur a comprehensive settlement.

- **The Administration will seek strong remedies with teeth.** The Administration does not intend to seek monetary damages as part of a comprehensive settlement. Instead, the Administration will join the cities and other parties in asking for a number of reforms that encompass and go beyond those contained in the code of conduct. This list is a work in progress that has been developed in consultation with the Treasury and Justice Departments to address public safety concerns with regard to the gun industry's conduct. Remedies being considered include:

Distribution controls. Manufacturers could be required to work with law enforcement to establish a system to monitor sales by dealers and distributors linked to crime gun trace information, computerize inventory systems, provide comprehensive employee training, establish security protocols, and cooperate in ballistics testing programs. Manufacturers

could also be prohibited from selling to dealers who sell semiautomatic assault weapons to youth under 21 and large capacity ammunition clips, and who permit multiple handgun purchases within a 30-day period.

Safety Measures. Manufacturers could be required to ensure that guns have existing safety features (e.g., trigger locks, chamber loaded indicators, magazine disconnect safeties), and meet certain safety standards similar to those applied to imported firearms. They could also be prohibited from producing firearms with certain criminal-friendly features such as easily obliterated serial numbers.

Advertising. Manufacturers could be restricted from advertising that targets juveniles or criminals and potentially near public housing authorities.

- **The Administration will continue to do everything in its power to keep guns out of the wrong hands, even as Congress fails to act.** We will continue to press for strong, common-sense gun legislation. A negotiated settlement can secure many public safety gains, but Congress still has a responsibility to close loopholes in our gun laws. Administration officials believe that Congress's failure to address public concerns about the gun issue leaves embattled manufacturers no choice but to agree to a negotiated settlement or face the risk of potentially bankrupting verdicts. The President and Vice President are determined to make progress on gun safety, with or without help from Congress.

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004. report	Background for Gun Meeting (1 page)	12/2/99	P5

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Talking Points Gun Strategy

OPTION 1

The Administration plans to intervene to help cities and states negotiate an agreement with major gun manufacturers.

In the next few days, Administration officials will meet with city and state leaders who have filed suit against the industry about the progress of negotiations that began last _____. The Administration will also inform leading gun manufacturers that the White House is determined to seek a negotiated settlement, but if no settlement can be reached, a coalition of public housing authorities is prepared to file its own suit on behalf of federal taxpayers and residents of public housing.

[The Administration will also inform the industry that it is seriously considering executive action to change federal procurement policy to require manufacturers that sell guns to the federal government to comply with a code of conduct (that what??).]

The Administration's decision to step up pressure on the gun industry coincides with Congress's utter failure to pass common-sense gun legislation this year, despite the Littleton tragedy. Administration officials believe that Congress's failure to address public concerns about the gun issue leaves embattled manufacturers no choice but to agree to a negotiated settlement or face the risk of potentially bankrupting verdicts. Aides say the President and Vice President are determined to make progress on gun safety, with or without help from Congress.

Next steps??

More on the HUD suit, EO

OPTION 2 (assumes executive order and Presidential announcement)

In an effort to extract major concessions from the gun industry, President Clinton is about to sign an executive order to require manufacturers that sell guns to the federal government to comply with a code of conduct. The White House is determined to seek a negotiated settlement with the industry, but if no settlement can be reached, a coalition of public housing authorities is prepared to file its own suit on behalf of federal taxpayers and residents of public housing.

Fired Bank of New York Employee Is Arrested in Benex Probe

By ANN DAVIS and PAUL BECKETT
Staff Reporters of THE WALL STREET JOURNAL

A fired Bank of New York Co. administrative assistant was arrested and charged with lying to federal agents about what she knew about the money-transfer business at the heart of a major money-laundering probe.

The charges, filed in a New York federal court against Svetlana Kudryavtsev, give the first indication by federal authorities that more than one Bank of New York employee may have worked secretly to aid Benex International Co., a money-transfer firm that allegedly helped siphon about \$7 billion out of Russia through accounts at Bank of New York over the past three years. A vice president who worked above Ms. Kudryavtsev in the Eastern European Division, Lucy Edwards, was indicted in September along with her husband and another associate for conspiring to operate an unlicensed money-transmitting business.

Probe of Benex

Ms. Kudryavtsev, 49 years old, pleaded not guilty yesterday after being arrested at her home in Brooklyn, N.Y., earlier in the day. She was released on a \$30,000 bond. An attorney for Ms. Kudryavtsev, Charles Adler, said his client denies wrongdoing and noted that authorities hadn't charged Ms. Kudryavtsev with more serious money-laundering offenses.

Investigators are probing whether proceeds of criminal activity moved through Benex or whether Benex was designed to dodge Russian taxes and customs duties. Mr. Adler added that Ms. Kudryavtsev speaks "not very good English," which may have been an issue during the questioning.

A Bank of New York spokesman declined to comment. An attorney for Ms. Edwards and her husband declined comment. He has previously said the two did nothing wrong.

A criminal complaint filed in connection with the arrest said Ms. Kudryavtsev, a former international-banking associate in the bank's Eastern European Division, denied to Federal Bureau of Investigation agents when they interviewed her in August that she had ever received money or loans from Ms. Edwards or Ms. Edwards's husband, Peter Berlin.

Denies Hearing of Benex

Mr. Berlin controlled Benex International, a small company with offices in Queens, N.Y., and several other companies that had accounts at a downtown Manhattan branch of the bank through which billions of dollars coursed over the past several years. Ms. Kudryavtsev also denied having heard of Benex, the wire-transfer business, or being close to Mr. Berlin or knowing about his business activities, according to the complaint.

But, the complaint alleges, Ms. Kudryavtsev played a important role as a troubleshooter for Mr. Berlin's money-moving operation. The FBI says it interviewed a bank employee handling the Benex accounts and an employee of the wire-transfer operation who both said Mr. Berlin or his associate had said to contact her if they "experienced problems with wire transfers involving his accounts."

Long Friendship

Moreover, the complaint says, both Ms. Kudryavtsev and her husband received more than \$30,000 from the couple or companies they controlled, including Benex itself. When she deposited the checks, she made notations in her checkbook indicating they came from either Ms. Edwards or her husband, the complaint says. In one case, agents found a letter from Ms. Edwards's father to Ms. Kudryavtsev that accompanied a check he said he was sending at "Petya's request." "Petya" is a nickname for Peter, Mr. Berlin's first name.

Agents also found about 30 blank wire-transfer authorization forms, already signed by Mr. Berlin, in her desk at the bank, the complaint says.

The Russian-born Ms. Kudryavtsev moved to the U.S. in 1991, her attorney said. She has known Ms. Edwards for 15 years from their days living in St. Petersburg, Russia, formerly Leningrad. Her attorney, Mr. Adler, said "any money that she might have received was a product" of her long friendship with Ms. Edwards.

The former bank associate, whose 1999 salary at the bank was \$42,432, initially told investigators that she hadn't gotten her job through Ms. Edwards. However, the complaint alleges that she misled agents about this fact, too. Her 1993 employment application, which agents obtained from the bank, states that she was "referred for employment by" Ms. Edwards.

Ms. Edwards and Ms. Kudryavtsev were fired in August and September, respectively, for failing to cooperate in the bank's internal investigation.

Illinois Lawsuits Against Gun Makers Are to Proceed With 'Nuisance' Claims

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL

An Illinois state-court judge in Chicago ruled that relatives of three shooting victims could go forward against the gun industry with lawsuits that rely on the same theory as many of the suits filed against the industry by municipalities.

Judge Jennifer Duncan-Brice of the Cook County Circuit Court rejected motions to dismiss the individual shooting-fatality suits filed against several gun companies. The judge said the plaintiffs could base their action on the theory that the industry as a whole had endangered public welfare in Chicago by flooding the market with guns likely to find their way into the hands of children and criminals.

This idea that gun makers, distributors and retailers contribute to what lawyers call a "public nuisance," akin to industrial pollution, is being pressed by Chicago and 27 other municipalities in lawsuits filed around the country. The ruling interpreted Illinois law and likely will aid the city in its suit, which is pending before a different judge in the same county courthouse.

The decision, which comes at a preliminary stage of the individual shooting-death case, isn't binding precedent in Illinois, let alone in other states. But it does contribute to a legal atmosphere in which innovative claims against the gun industry are receiving more respect from the courts.

In October, a Georgia state judge allowed Atlanta's lawsuit to proceed against the gun industry. In February, a federal-court jury in Brooklyn, N.Y., for the first time imposed damages against three gun companies in connection with criminal shootings—a verdict upheld by the U.S. judge in the case. In September, a Califor-

nia state-appeals court reinstated a suit against the maker of a gun used in a 1993 San Francisco law-firm massacre.

The majority of court precedent, however, weighs against holding liable companies that legally make and distribute guns later used in crime. The industry won a round in October when an Ohio state-court judge dismissed Cincinnati's gun suit, saying it was an illegitimate attempt to get the judiciary to regulate a legal industry.

Still, yesterday's ruling indicates "a growing trend on the part of judges to allow claims alleging gun-manufacturer liability to proceed to trial," said Locke Bowman, the lawyer representing relatives of a Chicago police officer killed while on duty and two other people who were fatally shot.

Defendants in the three cases include the biggest U.S. gun maker, **Sturm, Ruger & Co.**, Southport, Conn.; **Coit's Manufacturing Co.**, West Hartford, Conn.; **Smith & Wesson Corp.**, a unit of Britain's **Tomkins PLC**; and the U.S. unit of Austria's **Glock GmbH**.

Anne Kimball, a senior industry lawyer in the case, said she was disappointed by the ruling but predicted the judge would throw out the plaintiffs' claims before they reach trial because the manufacturers' actions couldn't be linked closely to the deaths. She said the Smith & Wesson revolver used in the 1997 shooting of police officer Michael Ceriale had been made and sold to a dealer in 1980. "It's very hard to think that any court would find that Smith & Wesson activity putting a weapon on the market nearly two decades ago could result in liability today," she said.

In one part of her ruling, the judge dismissed the plaintiffs' allegations that gun makers failed to supervise their dealers adequately.

E. J. Dionne Jr.

... Small Differences

HANOVER, N.H.—When he ran for the Democratic presidential nomination in 1988, Al Gore tried to shake the lead enjoyed by Michael Dukakis, then the governor of Massachusetts, by criticizing the state's prison furlough program. That's the program, you might recall, that let a convicted murderer named William Horton out of jail.

Gore did not make much subsequent use of the furlough issue, and Dukakis went on

It's perfectly possible that most Democratic primary voters will dismiss Gore's attack. Many may not warm to one Democrat criticizing another, and most like the idea of spending a lot of money to guarantee universal health coverage.

The former New Jersey senator has certainly worked hard to get where he is. But he doesn't so much run for president as sit back and wait for votes to come his way—and it's working so far. Bradley barely moved an intellectual muscle in replying to Gore. "We each have our own experts," he said. "I dispute the cost figure that Al has used."

But one can imagine the same attacks reappearing like magic a year from now if Bradley wins the Democratic nomination. Could any Republican resist quoting one Democrat charging another with fiscal irresponsibility and for offering a "scheme" next year that would shred the safety net and hurt Medicare?

What Democrats may be about to see is the psychopathology of small differences. The truth is that on issue after issue, Gore and Bradley agreed far more than they differed. Both supported a more energetic, and potentially more costly government, especially in popular areas such as education and, yes, health care. Both turned a deep shade of green when environmental issues arose. Both of these adept fund-raisers railed against the influence of money on politics.

Especially striking was their shared support for domestic partnership laws that would allow gay and lesbian couples many of the benefits of marriage—and their shared opposition to gay marriage as such. On a divisive issue, both tread carefully. But Gore could not resist pointing out that he, unlike Bradley, opposes including gay rights as part of existing civil rights law, a microdistinction Gore thinks might help with African American groups that want to keep civil rights laws as they are.

It's said this campaign will be decided on style and the Clinton connection (from which Gore pointedly ran away when he spoke of his "anger" at his boss). If that's so, the debate probably changed few minds. If you like Bradley's Adlai Stevenson-like cool detachment, you loved his performance here. Gore called too much attention to how hard he was trying to relate to voters—it was as if he were wearing a button reading, "I'm warm." But as his supporters pointed out, he did it rather well, and, yes, rather warmly.

But my hunch is that issues will be more decisive in this primary battle than people now expect, and that could make it disagreeable. Republican political consultants were prowling the press area during the debate. They were smiling.

to beat him. But Willie Horton became a centerpiece of Vice President George Bush's general election campaign against Dukakis.

After the thoughtful and mostly genial debate between Gore and former senator Bill Bradley here Wednesday night, Horton's might seem a jarring name to bring up. But it's just possible that history repeated itself at Dartmouth College.

Gore's attack this time came not on the evocative issue of crime but on a more workaday question: whether the numbers in Bradley's ambitious health care proposal added up. Gore charged that Bradley's plan would "cost more than the entire surplus over the next 10 years." Its "way excessive" price tag, Gore said, could "shred the social safety net" and threaten Medicare.

Lest anyone doubted this was the message Gore wanted to come out of the evening, he kept coming back to it during the town meeting, even if it meant some awkward and clumsy interruptions of answers to questions far removed from the subject of health care.

For good measure, Gore's campaign sent aides swooping into the media area bearing press releases (under the headline "Reality Check") citing sources for Gore's charges within minutes of his making them.

And the army of Gore spinners who buttonholed reporters after the town meeting stuck to theme. Labor Secretary Alexis Herman, a Gore supporter, called health care "the big issue that separates the two candidates." Gore, she said in an interview, was proposing what was "practical and doable," while Bradley offered a "dream scheme."

Dennis A. Henigan

Sue The Gun Makers

In its "Guns in Court" [Oct. 12], The Post questions the legitimacy of the lawsuits brought by cities and counties against the gun industry. The Post's arguments reflect a misunderstanding of the role of courts in a democratic society, and would give the gun industry a legal immunity not enjoyed by other industries.

The Post asserts that "[a]s a legal matter, it is hard to see how companies making lawful products can be held liable when those products perform precisely as intended even when the intent is death." This assertion fails to account for the cases in which products have been held unreasonably dangerous in design even though they did not malfunction in any way.

For example, auto makers have been held liable for failing to install seat belts and other safety improvements to increase "crashworthiness," though there was no question that the cars performed "as intended." Their liability could be demonstrated by the existence of safety mechanisms that could prevent injuries and deaths. Similar claims are at the core of the lawsuits against the gun makers.

The city suits complain, for example, of the gun industry's failure to design guns to reduce the risk of unintentional discharge by children and teenagers. Time and again, children shoot themselves and other children with guns they thought were unloaded. In a tragic but typical scenario, a child will remove the ammunition magazine from a semiautomatic pistol and then think the gun is unloaded, only to have a round hidden in the chamber to inflict serious injury or death.

A simple mechanical part—costing less than 50 cents to install—could save lives by preventing the gun from being fired with the magazine removed. A New Jersey appeals court

has held that a gun maker can be liable for the accidental shooting of a teenager that could have been prevented by such a modest design change. This is entirely appropriate.

Guns are unique among consumer products in having a statutory exemption from federal safety regulations. The threat of product liability litigation is the only incentive gun makers have to improve the safety of their products. Is it "anti-democratic activism" (to use The Post's phrase) for courts to apply the same product liability standards to guns as they routinely apply to other products?

The argument against the city lawsuits is based on the false premise that a party cannot be liable for conduct that violates no statute. This view confuses criminal liability, which applies only to illegal conduct, with civil liability, which does not. Most of civil tort law concerns the liability of parties whose actions, though they may be legal, nevertheless expose others to an unreasonable risk of harm. If the city lawsuits are "undemocratic" because they are based on rules of law not enacted by legislatures, then all of civil tort law is "undemocratic."

The city lawsuits also charge that the gun industry should be liable for failing to take steps in the distribution and marketing of guns to deny access to criminals. These claims are based on legal precedent establishing that people (and companies) whose conduct violated no law can be held liable for increasing the risk that someone else will act illegally.

Two years ago, the Supreme Court of Florida invoked this principle against a gun retailer in finding that Kmart could be liable for selling a gun to an intoxicated buyer, even though the sale violated no statute. Why shouldn't gun manufacturers similarly be accountable when their negligence increases the risk of criminal violence? A New York federal court decision recently found that handgun makers owe a duty "to exercise reasonable care in marketing and distributing their products so as to guard against the risk of criminal misuse." A California appeals court recently found that a gun maker could be liable for negligent conduct that increased the risk of harm beyond that reasonably to be expected from the availability of firearms. Although the defendant company's irresponsibility in that case was exceptional, the legal principle at stake was not.

The authority of our judicial system to define standards of conduct for individuals and companies is as much a part of our democratic system as the work of Congress or state legislatures. The argument against the gun industry lawsuits amounts to either a rejection of our system of common law adjudication or a plea for a special legal immunity for the gun industry. Either way, the argument fails.

The writer, director of the Legal Action Project at the Center to Prevent Handgun Violence, represents more than 20 cities and counties suing the gun industry.



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Mr. Bruce Reed
Domestic Policy Advisor
The White House
Washington, D.C.
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VIA FACSIMILE

Dear Mr. Reed:

As a mayor of the first city to successfully settle part of one of the suits against the gun industry, I believe it is now time for the federal government to become involved in the gun industry litigation. I understand that HUD has already determined that a lawsuit could and should be brought by the public housing authorities of this country against the gun manufacturers, and I strongly support HUD's work in this regard. With the possibility of such a lawsuit, I hope that the federal government will join the cities in their negotiations with gun manufacturers. These negotiations have already begun, and I believe that the federal government's immediate involvement would greatly enable a global, lasting settlement. Now is the time for action.

Thank you for your consideration.

Yours truly,

A handwritten signature in black ink, appearing to read "Scott L. King".

Scott L. King, Mayor

**DRAFT
GUN INDUSTRY ACCOUNTABILITY PLAN**

System to monitor sales by dealers and distributors. Manufacturers could be required to develop a system to monitor sales of their products by distributors and dealers, and determine when unsafe practices are occurring. The monitoring system would be linked to crime gun trace information, and would focus on both numbers of traces and models of firearms used in crimes.

? [This would probably require legislation] Dealers could be required to maintain records of all trace requests initiated by ATF, and could be subject to audits by manufacturers. Based on information from the monitoring system, manufacturers would cut off or suspend supply to dealers or distributors whose practices result in large numbers of crime gun traces or a threshold number of traces within a specified time period.

Code of conduct/screening system for distributors and dealers. Manufacturers could be required to develop a code of conduct and screening system for the distributors and dealers to whom they sell their guns. This could require, for instance, that manufacturers only sell to stocking gun dealers whom they have verified operate out of legitimate storefront business locations, and mandate dealers to meet specific store security requirements. Similar to Smith and Wesson's example, violation of the code would mean that manufacturers could impose sanctions such as cutting off all sales of their product to distributors and dealers.

Existing child safety features. Manufacturers could be required to employ existing safety features such as internal trigger locks, chamber-loaded indicators, and magazine disconnect safeties. This would take the next step beyond the Administration's current proposal to require dealers to simply sell child safety locks or other safety devices with handguns.

Banning criminal-friendly features. Manufacturers could be prohibited from including features that facilitate criminal activity or make it more difficult to apprehend and prosecute criminals, such as easily obliterated serial numbers, fingerprint resistance, or ability to accept large capacity ammunition clips.

Limiting multiple handgun sales. Dealers could be prohibited from selling more than one handgun to an individual within a 30-day period. This concept is consistent with the Administration's legislation, although a version of it could be implemented without legislation. Other limits have been proposed to limit multiple sales, including enhanced waiting periods for subsequent purchases.

Ballistics testing. Manufacturers should be required to enter into partnerships with the ATF and/or FBI to create a database for identifying crime guns through ballistics data. This would involve manufacturers to test shoot every gun before it is sold and record casing imprints and serial numbers into the database. This would give law enforcement a new tracing tool where only casings are left at the crime scene. ATF already has a voluntary ballistics testing system with Glock.

No AW's
Under 21?
^
No large capacity clips
No sales on Internet
Destroy trade-ins
Product placement in movies

Military gun sales E.O.

Safety standards. Manufacturers could be required to make guns that conform to the safety standards already in effect in other areas, such as those applied to imported handguns. This could include prohibiting manufacturers from making guns from inferior materials and requiring guns to pass certain tests (e.g., drop tests). This approach is similar to junk gun legislation that was not included in the Administration's gun bill. However, without participation by the Ring of Fire companies, this proposal may not have a broad impact.

NICS check completion. Dealers could be required to postpone the transfer of a gun until the FBI or state/local law enforcement has completed its background check – even in the event that the 3-day period under the Brady Law has expired. Since the NICS took effect, the 3-day limit has already resulted in the transfer of about 2,000 weapons to prohibited persons which ATF must reclaim.

Code of ethics?

Computerized inventory tracking. Dealers could be required to maintain computerized inventory tracking programs containing detailed information about the acquisition and disposition of every gun. Computerized records would help to speed crime gun tracing.

Personalized technology. Manufacturers could be required to employ safety features, such as smart gun technology, as soon as they are technologically feasible. Personalized technology has the potential to prevent nearly all unauthorized gun use. Such a requirement would be strongly opposed by the industry if it was applied to all new guns. A more modest alternative could require manufacturers to provide resources for research and development of new gun safety technology.

Gun advertising. The firearms industry could be required to develop standards that prohibit advertising that directly or indirectly promotes gun violence or criminal use of guns. For example, ads that promote non-detectable guns such as fingerprintless weapons, would not be permitted. *Ads no kids, schools, ♀*

Training for employees, sales agents, distributors and dealers. Similar to other industries, manufacturers and/or dealers would be responsible for providing certain training to individuals who sell their products on subjects such as compliance with gun laws, how to identify straw purchasers, and other illegal attempts to buy guns.

Public service campaign. Manufacturers would be required to fund a public service campaign to inform the public about risks relating to guns.

Liability insurance. Manufacturers and/or dealers could be required to carry adequate liability insurance. This could be extremely costly and may not be readily accessible to many companies and dealers.

- **The White House plans to enter the negotiations between the gun industry and those who have filed suit against the industry.** For the past ___ months, talks have been underway between many of the states and cities that have brought suit against many of the manufacturers. The White House intends to sit down with these parties (and other relevant parties) to spur a comprehensive settlement. The plaintiffs welcome our involvement.
- **The Administration will seek a negotiated settlement and is holding off on its own lawsuit for now to see whether a strong settlement is possible.** Over the past five months HUD has looked closely at the viability of a lawsuit that would be brought by public housing authorities against gun manufacturers. After consulting widely with legal experts, HUD has concluded that a suit would indeed be viable, and is prepared to file if necessary. However, the White House, HUD, Treasury and Justice agree that we should first try to secure a comprehensive settlement to protect public safety before going to court. If the talks fail to produce an acceptable agreement, HUD and the public housing authorities are prepared to proceed with a lawsuit. Given the impact that gun violence has had on public housing authorities, and recent victories by plaintiffs in a California appeals court and a federal district court in New York, this threat should be taken seriously.
- **The Administration will seek strong remedies with teeth.** The Administration does not intend to seek monetary damages as part of a comprehensive settlement. Instead, the Administration will join the cities and other parties in asking for _____.
- **The ball is in the industry's court.** The industry ought to welcome a comprehensive settlement that will improve public safety and avoid the cost and uncertainty of drawn-out litigation. [Have we contacted the industry?] [We have worked with the industry in the past to secure agreement on voluntary child safety locks and on support for national legislation to close loopholes in our gun laws.]
- **The Administration will continue to do everything in its power to keep guns out of the wrong hands, even as Congress fails to act.** We will continue to press for strong, common-sense gun legislation. A negotiated settlement can secure many public safety gains, but Congress can still has a responsibility to close loopholes in our gun laws.

[Tough Q&A]:

1. **What are you seeking?**
2. **What is the industry reaction?**
3. **Will the NRA be involved?**
4. **Are you just doing this because Congress is stalled?**
5. **Is this the era of big lawsuits?**
6. **Are you doing this because of Hugh Rodham?**
7. **Why did you wait so long to get involved?**