

Holding Gun Dealers Accountable For High-Risk Gun Sales

Gun Sellers Must Take Steps Which Will Drastically Reduce the Supply of Guns Available in the Illegal Market

Virtually every gun available in the illegal market was first acquired by a federally licensed gun dealer as part of a legal transaction. The guns are then stolen from dealers who lack adequate security systems to deter theft, purchased in bulk by gun traffickers or the straw purchasers who work for them, or simply bought with false identification by a prohibited purchaser from a gun dealer who does not require another form of identification and proof of in-state residence in addition to a driver's license. Guns are also supplied to the illegal market through gun shows, where it is easy for prohibited purchasers and gun traffickers to find each other and where the unregulated sale of firearms through private sales is common. It is therefore incumbent upon the gun industry, from the manufacturer to the wholesaler to the retail dealer, to work together to limit the opportunity for guns to cross over from the legal to the illegal market. Together they should, among other steps, limit handgun sales to one gun per month, stop the practice of selling firearms at gun shows and ensure that adequate security measures are in place to limit theft from retail establishments.

Current Cases:

Kitchen v. K-Mart

On July 17, 1997, the Florida Supreme Court handed down a landmark 7-0 decision holding that a retail gun dealer has a legal duty to refrain from selling a firearm to an intoxicated buyer and is liable for the harm that results when the buyer uses the gun to shoot an innocent person. Ten years earlier, Deborah Kitchen's ex-boyfriend shot her in the neck with a rifle he purchased at K-Mart. K-mart sold him a rifle despite the fact that he was too intoxicated to fill out the form required by law for the purchase of the firearm. The clerk filled out the form for him.

Case Status

Chapman v. K-Mart; Hagerman v. K-Mart

LAP is assisting an attorney who is representing the families of people who were injured when a seventeen-year-old boy fired his shotgun into a passing car using shotgun shells that he purchased from K-Mart one day earlier.

Case Status

Hicks v. T&M Jewelry, Inc.

On July 18, 1996, Scott Greer entered T&M Jewelry, a federally-licensed dealer, to purchase a handgun and candidly told the dealer that he was only eighteen-years-old. The dealer failed to submit Greer's application for a background check and sold him the handgun. The next week, Greer shot Jennifer Hicks in the face and head. Plaintiffs seek to hold the dealer liable for negligently and illegally selling the gun to an underage purchaser and for the injuries sustained by Jennifer Hicks.

Case Status

Hodges v. Wal-Mart

LAP assisted the plaintiffs' counsel in a case against Wal-Mart for negligently selling a handgun to Michael Alford who, when told that he could not purchase a firearm if he had been committed to a mental institution, wrote "no" over his "yes" response to this question. Thereafter, the clerk and his manager sold the handgun to Michael Alford who, two months later, killed both his parents with the handgun he purchased at Wal-Mart. The plaintiffs allege, among other things, that Wal-Mart negligently sold the handgun to Alford by violating federal law and is liable for the deaths of Alford's parents.

Related Articles:

M. Polston, Civil Liability for High Risk Gun Sales: An Approach to Combat Gun Trafficking, Seton Hall Legislative Journal, Vol. 19, No. 3 (1995).

Federal and state laws licensing firearms' transactions need bolstering to end gun trafficking and to stamp out the illegal gun market. The author illustrates how imposing tort liability on gun dealers for selling guns, knowing that such guns will end up on the illegal gun market, will reduce the rate of gun-related crimes.

D. Henigan, Victims' Litigation Targets Gun Violence, Trial, (Feb. 1995)

This article looks at the movement within the judiciary toward "fashioning a common law of accountability that recognizes that the inherent danger of firearms justifies a higher standard of conduct." This development has led to owner liability for improperly stored guns used in accidental shootings by minors, retailer liability for negligent or illegal gun sales, and manufacturer liability for the manufacture and sale of guns having no legitimate purpose that are used in crimes.

M. Polston, Suing Firearm Dealers for Gunshot Injuries - Liability Without Defect, Product Liability Law Reporter, Vol 13, (July 1994).

Federal, state and local laws provide attorneys with the prospect of successfully suing gun dealers for sales of non-defective guns where customers subsequently use the guns in crimes, suicides or negligent acts. The author examines several cases to demonstrate the viability of this approach to holding gun dealers liable for gun-related violence.

D. Henigan, Gun Control Through Tort Law, Legal Times, (August 19, 1991)

Once the exception to the rule, the trend towards holding dealers accountable when an irresponsible gun sale leads to violence, is slowly building momentum. The author refers to several cases that indicate a willingness of courts to apply negligence principles in ways that punish the gun industry for wrongful conduct of individual dealers.

Article 1

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THE WALL STREET JOURNAL.

Loaded Words:

A Dealer Breaks Rank,
Blaming Gun Makers:
'Let the Chips Fall'

New Rules Could Lift Image
Of Industry -- and Limit
Mr. Lockett's Rivals

Article Causes Nervous Buzz

By Paul M. Barrett

06/22/1999

The Wall Street Journal

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OVERLAND PARK, Kan. -- **Gun** dealer Robert Lockett is considered dangerous by his own **industry**.

The veteran proprietor of The Second Amendment **gun** shop in this Kansas City suburb argues that **gun** manufacturers could -- and should -- police **gun** sales more vigilantly. Mr. Lockett says as much in a forthcoming column in an influential **industry** trade magazine. The article, scathing in tone, links lax manufacturer practices to the sale at **gun** shows of weapons that later turn up in crimes.

"I get down and dirty about things the manufacturers don't want to talk about," Mr. Lockett says in an interview. "I tell the truth, and let the chips fall."

This is remarkable stuff coming from an **industry** insider. Strikingly, the dealer's assertions strongly support arguments in lawsuits filed against **gun** manufacturers and wholesalers first in a trailblazing **gun** -liability suit in Brooklyn, N.Y., and now by 23 municipalities. Many of those suits blame "negligent distribution" for the huge flow of handguns into the black market.

When told of Mr. Lockett, lawyers representing some of the cities and counties in the suits say they see the dealer as a potential witness. "We want to speak to this gentleman right away," says Daniel Abel, a New Orleans lawyer helping represent that city and four others. "As soon as I find out his address, I'll be on the plane."

Indeed, **gun** dealers may turn out to be a significant weakness in the **industry**'s defenses. Motivated by economics, sometimes combined with safety and ethical concerns, many established **gun** -store owners favor greater **industry** regulation. List-price retailers tend to favor a crackdown by manufacturers and government on **gun** shows and fly-by-night dealers as a way of improving the **industry**'s image and -- not incidentally -- limiting low-price competition.

FM
articles from
WSJ June
1999

Robert Taborden, a former retailer in suburban Chicago, has agreed to cooperate with the city in its suit against the **industry**, in exchange for the city's dropping its damage claims against him. Mr. Taborden is willing to testify that **gun** manufacturers "know or should have known" that a healthy fraction of the firearms distributed to suburban retailers would in fact be bought for illegal use in Chicago, which has an ordinance effectively banning guns, says his attorney, Stanley Jakala.

Not surprisingly, **gun**-company executives and lawyers aren't pleased over the prospect of either the Lockett article or of dealers' possible testimony. They have been anxiously buzzing in recent days about the column-scheduled to be published next month in Shooting Sports Retailer magazine-copies of which have already been circulating in the **industry**. While the article has yet to run, the Lockett controversy was promoted on the magazine's Web site yesterday.

Publicly, **gun** executives question Mr. Lockett's motives and suggest he doesn't know what he is talking about. Privately, the tenor is different. "This guy could very definitely be a problem," says one senior **industry** official. "He has credibility."

A wooden plaque near a shotgun display in Mr. Lockett's store commemorates that he was named 1993 Dealer of the Year by the National Alliance of Stocking **Gun** Dealers. He "knows more about retailing firearms than anyone I've met," says Bob Rogers, Shooting Sports Retailer's editor. Mr. Rogers compares the July column to "lighting a flame to a gas can" and worries that it may alienate advertisers. But despite the collapse last week of a **gun**-control bill in the House of Representatives, the **industry** needs a wake-up call, he says. Municipal lawsuits "remain a threat that has to be confronted."

As for Mr. Lockett himself, it is hard to figure out just what he is up to. The term whistleblower comes to mind, but he isn't the standard **industry** defector.

Standing behind a pistol-filled glass display case in his no-frills shop, he portrays himself as a pro-**gun** loyalist who wants only to clean up his **industry**, not see it pummeled in court. He says that if called to testify, he could outsmart antigun lawyers by arguing that, even if the **industry** had been negligent in its distribution practices, "guns don't jump up and kill people; someone has to pull the trigger."

"People have told me," he says, "that I should have been an attorney myself."

Though Mr. Lockett clearly enjoys verbal fencing, antigun lawyers predict that they would be able to elicit damning testimony about the **industry**, while excluding as irrelevant his opinions on the legitimacy of the **gun**-liability suits.

A powerfully built 51-year-old Vietnam veteran and Naval Reserve commander, Mr. Lockett is a competitive shooter and hunter who 18 years ago quit a corporate auditing job to get into the **gun** business. He wears a coat and tie every day, drives a red Maserati and prides himself on his financial acumen. His store has annual sales of about \$1 million a year. He trades stocks online from a computer near the ammunition department. He disdains dealers in T-shirts who can't read a balance sheet. "**Gun** hobbyists," he calls them.

He has little use for firearm manufacturers, either. For years he has written searing trade-magazine columns, assailing what he sees as the many examples of manufacturer incompetence. Not coincidentally, most of these purported failings -- such as the marketing of guns through discount mass-retailers and the widespread publication of wholesale prices -- have hurt list-price **gun**-store owners like Mr. Lockett.

Wain Roberts, a Pinellas Park, Fla., dealer who serves on the board of directors of the National Alliance of Stocking **Gun** Dealers, a trade association, says that while Mr. Lockett's style is viewed as brash, "a lot of what he says makes sense -- not all of it, but a lot." For example, Mr. Roberts says that many dealers favor greater restrictions on **gun** shows, which have lower overhead and generally make

weapons available at lower prices.

Even though the **gun** business is vulnerable in court right now, Mr. Lockett says he welcomes the chance to inform a broader audience about how his **industry** has hurt itself by refusing to take more responsibility for the distribution of its deadly products. "This thing can be fixed," he says, "but the manufacturers are putting their heads in the sand."

Gun makers typically sell their wares to wholesalers who resell them to retailers. Manufacturers maintain that once firearms leave the factory, they can't keep track of where the guns go.

Mr. Lockett counters that **gun** manufacturers could establish direct franchise relationships with dealers that would include tough restrictions on how and to whom guns could be sold. Manufacturers could demand monthly sales reports from retailers on where each **gun** was in the distribution chain, Mr. Lockett says. This, he adds, would discourage dealers from selling firearms at **gun** shows, which are gatherings similar to flea markets where buyers may obtain guns from unlicensed sellers without undergoing background checks or filling out government paperwork.

All four of the guns used in the Columbine High School massacre were legally obtained at **gun** shows -- an example, according to law-enforcement officials, of how the shows have become a major source of guns used in crime.

Just recently, Mr. Lockett writes in his forthcoming column, two teenagers came to his store, looking for ammunition magazines for a pair of new Glock pistols they said they had bought the day before at a nearby **gun** show. The boys were obviously younger than 21, the legal age for buying handguns, Mr. Lockett writes. The youngsters brazenly volunteered that there had been "no background check, no wait, no questions," he writes.

Mr. Lockett, who turned away the teenagers, blames Glock. The company, he says, "knows what's going on and should be taking steps to control who is selling those guns."

Glock disagrees. "I don't know how we would have known about that sort of thing," says Paul Jannuzzo, general counsel of the U.S. unit of Austria's Glock GmbH, which is a defendant in the municipal suits. Mr. Jannuzzo says that Glock sponsors a program in which dealers receive promotional benefits in exchange for agreeing to obey all government sales regulations, among other rules. In addition, he says, Glock employs a retired U.S. Drug Enforcement Administration agent who covertly looks for suspicious sales of the company's weapons at **gun** shows. "We're doing a lot" to check illegal activity, Mr. Jannuzzo says.

Mr. Lockett's proposal is more radical: Each manufacturer should choose only a few hundred official franchisees, each of whom would have an exclusive sales territory. The franchisees could be banned from selling at **gun** shows or selling more than two or three guns at a time to a customer, among other restrictions. Price competition would be reduced, and the much smaller cadre of retailers could be closely supervised.

"Those are certainly lofty goals," says Ed Shultz, the chief executive of Smith & Wesson Corp., a unit of Britain's Tomkins PLC and another defendant in the municipal suits. "But to literally go out and police these actions would be a phenomenal effort. It's not possible."

Of the roughly 17,000 retail- **gun** -store owners in the country, Smith & Wesson has signed up about 3,000 who promise to follow its code of conduct, Mr. Shultz says. "But it would be impossible to get out on a weekly or monthly basis to observe what they're doing and check up on them." That is the job of federal and local authorities, he adds.

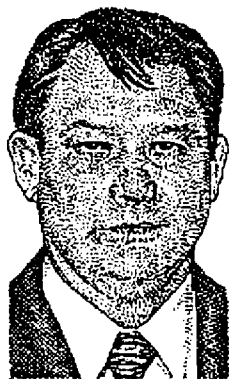
Jeffrey Reh, general counsel of the U.S. unit of Italy's Beretta SpA, also a defendant in the municipal suits, accuses Mr. Lockett of "using the threat of litigation" to propose "anticompetitive solutions." In any event, "we deal with distributors, not dealers," the Beretta lawyer adds. "What he's talking about just isn't within our realm of responsibility."

But Mr. Taborden, the former Chicago **gun** dealer who is cooperating with that city in its lawsuit against the **industry**, is prepared to testify that from the retailers' perspective, manufacturers shouldn't "be off the hook" because they do understand how their products end up in criminal hands, says Mr. Taborden's attorney, Mr. Jakala. Mr. Taborden may feel more liberated to discuss **industry** practices because he decided recently to quit the **gun** business altogether, the lawyer adds. The former dealer asked himself, says Mr. Jakala, whether he should "continue to operate a business that hurts the common good in his area."

Mr. Lockett warns that the manufacturers' basic defense -- that current **industry** arrangements don't facilitate scrutiny of retail activity -- won't wash with juries. His forthcoming column is titled "The Implications of New York City," a reference to the verdict returned in February in Brooklyn. In a case brought on behalf of relatives of seven **gun**-shot victims, a federal court jury, for the first time, held three **gun** companies liable for the criminal use of their weapons. The Brooklyn suit, which helped inspire the broader municipal litigation, demonstrated that manufacturers' arguments "regarding lack of accountability" are "tenuous at best," Mr. Lockett writes.

The plaintiffs's lawyers in the Brooklyn case presented sworn statements from a former Smith & Wesson executive who said that **gun** manufacturers were generally aware of the diversion of guns to the black market but did little to stop it. But the ex-executive's testimony lost much of its punch when he failed to testify in person at trial because of what plaintiffs' lawyers said were severe health problems.

The difference between that ex-executive and Mr. Lockett is that while Mr. Lockett maintains that he wouldn't be helpful to **gun** foes, he is unafraid to state his views in person and in public. "I'm amazed," he says, "that I haven't been subpoenaed before now."



Robert Lockett

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Article 18

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THE WALL STREET JOURNAL.

**Boom Times:
Industry Under Siege,
Threats of Regulation
-- And a Surge in Sales****It's the Economics of Guns,
Where Bad News Is Good
For Mr. Santizo's Clips****'Just a Box With a Spring'**

By Paul M. Barrett

06/08/1999

The Wall Street Journal

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(Copyright (c) 1999, Dow Jones & Company, Inc.)

SANTA FE SPRINGS, Calif. -- The **gun industry** is under attack in the courts and legislatures. Its foes, in the wake of grotesque school shootings, sense a rare opportunity to curb America's **gun** culture.

But for Carlos Santizo, who manufactures ammunition clips for pistols and rifles, business has never been better.

Wholesalers from around the country are calling Mr. Santizo's U.S.A. Magazines Inc. here in suburban Los Angeles, pleading that he fill stacks of back orders. Three 35-person shifts are working around the clock in his small factory. "It's absolutely crazy," the entrepreneur says. For 1999, he predicts a 50% jump over last year's \$10 million in sales.

It is much the same in the rest of the **gun industry**. Tiny Beretta "pocket pistols," powerful Colt assault rifles, ammunition, **gun** safes -- they are all flying off the shelves. The main reason is fear of new proposals to stiffen federal **gun**-control laws, combined with a wave of municipal lawsuits that could force far broader limits on **industry** practices.

In a striking example of unintended consequences, the **gun** market historically booms whenever consumers perceive a threat that regulations will make it harder to obtain firearms or their accoutrements.

Store owners also report that year 2000 paranoia that guns will be needed for personal protection is accelerating this year's rush, with many customers buying more guns -- or their first -- as well as ammunition and magazines. (Also known as clips, magazines are rectangular steel boxes containing bullets, which are inserted into the handle of a pistol or the body of a rifle; a spring pushes the bullets up into the **gun**.)

At Koscielski's Guns, Ammo & Surplus, a retailer in Minneapolis, sales exploded by 112%, to \$89,000, for the first five months of this year, compared with the same period in 1998, according to proprietor Mark Koscielski. Wade Gaughran, owner of Wade's Eastside **Gun** Shop in Bellevue, Wash., reports a stampede of first-time buyers, including executives from high-tech companies "who want high-end guns." Given how competitive his **industry** is, Mr. Gaughran says, "right now, the threat of **gun**-control legislation is the thing that's making the difference for a lot of guys."

Mr. Santizo, 38 years old, who broke into the magazine business 12 years ago as a ponytailed upstart, personifies the current boom: He has built the largest American-based company in his niche market by capitalizing on consumer fear of regulation. The muscular son of a Guatemalan immigrant family of modest means, Mr. Santizo today drives a spacious white BMW, lives with his wife and three small children in an \$800,000 Huntington Beach, Calif., home, and enjoys Las Vegas gambling jaunts with his buddies. For a lot of his success, he says, "I have to thank Sarah Brady," the **gun**-control activist.

His strategy of turning anxiety over **gun** curbs to his advantage has made him a particular target of antigun advocates' wrath. But he escaped liability in one closely watched court case in 1996, and hasn't been named as a defendant in the current profusion of municipal suits.

Mr. Santizo learned his business as a young clerk at a hardware store that had a **gun** counter -- a retail combination rare today but once common. Working at the store in his hometown of Bell, adjacent to south-central Los Angeles, he observed the sharply increasing popularity in the 1980s of semiautomatic pistols, which replaced revolvers as the handgun of choice for police, civilians and criminals.

Revolvers generally accommodate six bullets, which are inserted individually into a revolving cylinder. Semiautomatic pistols use magazines, which can contain more bullets, allowing the user to fire more rounds before reloading.

Mr. Santizo recalls noticing that customers who wanted extra magazines lacked much variety to choose from. The alternatives were expensive clips sold by **gun** manufacturers, called "original-equipment," or cheaper "aftermarket" products that were available for only a few models of guns. "There was room," he says, for someone to offer a wide variety of aftermarket magazines at low prices.

Another opportunity was the growing popularity of military-style assault rifles and pistols, which characteristically accommodate high-capacity clips. Although assault weapons, such as Navegar Inc.'s TEC-9, were gaining notoriety as crime guns, Mr. Santizo says he saw nothing wrong with making clips for them.

"You tell me what the law is, I will follow it and leave law enforcement to do their job," he says.

But he has his limits. When a customer walked into the hardware store in 1985 and ordered more than 100 AK-47 assault rifles, Mr. Santizo blew the whistle. He agreed to wear a surveillance wire for federal agents, who staked out the store to arrest the local businessman who was serving as a "straw buyer" for a group allegedly planning to export the guns. Mr. Santizo testified as a prosecution witness in federal court, and at least three men were imprisoned for illegal gunrunning. "Those AKs weren't going to be used for anything good," he says.

While still working at the store, he began making magazines in his father's garage, bending thin steel with rudimentary tools and assembling parts he bought from machine shops. In 1987, he started U.S.A. Magazines with \$2,000 in savings and one employee. To focus on his new business, he reluctantly gave up gigs as a professional skateboarder and as lead singer of a Van Halen-style rock band that played in L.A. clubs.

The magazine- **industry** leader was then, and still is, Mec-Gar SRL, an Italian manufacturer that makes clips mostly for **gun** companies, law enforcement, and the military. With the aftermarket

splintered among small shops, Mr. Santizo exploited relationships with wholesalers he had cultivated while working as a salesman.

"Carlos stuck out," says Martin Arnstein, chief executive of Interstate Arms Corp., a wholesaler in Northridge, Calif., that serves dealers nationally and was the first to carry U.S.A. Magazines products. With his hair and dark complexion, "he didn't look like other people in the business," which is overwhelmingly white. But Mr. Santizo also stood out because of his polite manner, eagerness to learn, and, above all, his low prices, Mr. Arnstein says.

Using today's prices to illustrate, the wholesaler explains that a 10-round magazine sold by Smith & Wesson Corp. might retail for \$27 to \$29, while a U.S.A. Magazines knockoff could go for as little as \$9.95. "No one would say his are as good as Smith & Wesson," Mr. Arnstein says, "but that's a low price."

Despite persistent concerns about quality, U.S.A. Magazines grew steadily. Fueling demand in the late 1980s was the **gun**-control movement's drive to ban assault weapons, which were linked to drug gangs. "Whenever you tell **gun** owners that they might not be able to have a certain **gun**, they will run right out and buy another one, and they'll want some extra magazines to go with it," says Robert Ricker, executive director of the American Shooting Sports Council, a Washington, D.C., trade group.

After a year in business, U.S.A. Magazines employed 15 workers and had moved from the Santizo garage to a small factory east of L.A.

The antiassault weapons effort gained momentum in 1989, when a man armed with an AK-47 sprayed a Stockton, Calif., schoolyard, killing five children. In reaction, California and other states banned certain assault weapons, and the federal government prohibited the importation of some, as well.

For Mr. Santizo, business exploded, because people were afraid big clips along with assault weapons themselves would become impossible to obtain. By 1990, he employed 25 people at a facility in Santa Fe Springs. **Gun** control, he says, "really helped me get off the ground."

In 1994, he got another boost, with the approval of a federal ban on the domestic manufacture of certain assault weapons and of clips holding more than 10 rounds. Anticipating the new law, Mr. Santizo hurriedly built a huge stockpile of high-capacity clips. A loophole in the ban allowed the sale and possession of high-capacity guns and magazines already in existence at the time of enactment.

As a result, millions of guns that can accommodate high-capacity clips are still in circulation -- both assault weapons and more conventional models. The limited stock of high-capacity magazines is in heavy demand, with prices running at roughly twice pre-ban levels. A U.S.A. Magazines 55-round AK-47 clip today retails for \$39.95; an 18-round Glock pistol clip for \$32.95.

The fact that manufacturers are making more guns that accommodate smaller clips is also a boon to Mr. Santizo. **Gun** makers typically include a clip with a new pistol. A customer who in years past might have bought an extra 18-round clip with his Glock, for a total of 36 rounds, today has to buy three extra clips to match that firepower.

The ban, in practice, has made "the magazine makers rich, because they sell more," says Mr. Koscielski, the Minneapolis dealer. Indeed, U.S.A. Magazines doubled its work force in 1994, to 50, and has now grown to more than 100 employees. "Thanks to Bill Clinton," Mr. Santizo declared in a 1995 ad in Shooting **Industry** magazine, "we now produce a full line of politically correct 10-round" magazines.

The company's immaculate factory churns out magazines for almost every major model of **gun**. Once Mr. Santizo imitated original-equipment clips by eyeball estimates; today, his engineers use computer-scanners and other high-tech gadgets to produce knockoffs that are within two-thousandths of an inch of the originals. (Most **gun**-magazine designs aren't patented because the technology is so basic and so widely disseminated.)

It is a source of frustration to Mr. Santizo, who has clipped his ponytail, that, despite his success, some people think of him primarily as a purveyor of high-capacity magazines of dubious quality. "Those are the hecklers, the tiny minority," he says. He points out proudly that his company, acting as a subcontractor, is currently tooling up to make tens of thousands of special five-round clips for the U.S. military. And, in another sign of acceptance by the **industry**, U.S.A. Magazines lately has supplied its wares directly to at least two large **gun** manufacturers: Colt's Manufacturing Co. and a unit of Brazil's Forjas Taurus SA. (Mr. Santizo won't discuss these relationships for fear of irritating corporate customers.)

Early on, he acknowledges, his products were inferior and jammed too often. But today, he says, they are as good as anyone's.

Some dealers remain skeptical. "He's a nice guy, but I don't use his magazines because the bad-apple rate is too high," says Bob Kahn, who owns two dealerships and a wholesale business in California. Bernie Esguerra, owner of Bernie's Sports Center in Norcross, Ga., complains about malfunctioning high-capacity clips he ordered from Mr. Santizo years ago but says newer U.S.A. Magazines products are working and selling.

As for the taint of assault weapons and big magazines that go with them, Mr. Santizo says high-capacity clips are a small and shrinking part of his business. But his marketing emphasizes these lines. His Web site, for example, prominently advertises his stock of pre-ban high-capacity merchandise for the AK-47 and TEC-9. And an ad in the June issue of Handgunner magazine notes that the company has a "good supply" of these high-capacity magazines.

U.S.A. Magazines is the one clip maker known to all **gun** foes. "In 1994, Congress declared that this product was against public policy," Dennis Henigan, legal director for Handgun Control Inc. in Washington, says of the high-capacity clips. "This is a manufacturer who is acting in complete defiance of that public policy." Mr. Santizo's response: "I follow the law," and, in any event, magazines don't kill people; people do.

Antigun forces went after Mr. Santizo once but failed. In 1993, a disgruntled client of a San Francisco law firm used a pair of TEC-9s equipped with U.S.A. Magazines clips to kill eight people at the firm. Represented by Mr. Henigan, victims' families sued Mr. Santizo's company, as well as the **gun**'s maker, Navegar Inc. of Miami. The trial judge dismissed U.S.A. Magazines from the case in 1996, saying that it couldn't be held liable for the criminal use of its legally marketed products; the case against Navegar was thrown out in 1997 on similar grounds.

When Mr. Henigan and other lawyers planned the municipal suits against **gun** manufacturers and distributors that began last fall and now involve about 20 cities and counties, they left out magazine makers. "The **gun** is more obviously the cause of the problem," says Mr. Henigan. To many people, he adds, a clip "is just a box with a spring."

Mr. Santizo would be affected by pending legislative proposals, but hardly deterred. A bill moving toward passage in the California legislature would ban the sale of any high-capacity magazines in the state. Mr. Santizo says he would just have to move his big clips out of state and sell them from there. A provision recently approved by the U.S. Senate that would ban importation of high-capacity magazines actually could help him by reducing foreign competition. And as in the past, the current controversy has been pumping up sales.

Acting through the American Shooting Sports Council, however, Mr. Santizo and other **industry** figures have responded to the school shootings, the calls for legislative action and the lawsuits by proposing modest reforms. They have backed instituting background checks for all sales at **gun** shows, for instance, and raising the minimum age for handgun possession to 21 from 18. In light of heightened interest in child safety, U.S.A. Magazines will soon start manufacturing an innovative **gun** lock for semiautomatic pistols.

Mr. Santizo says that he is also amending his own marketing. After an article in The Wall Street Journal last December mentioned one of his ads hawking 10-round magazines -- "Any better, and they would be illegal," the ad boasted -- he says he decided to stop running the slogan. "I was being too cute," he says.

His ads still refer to the 10-round legal limit, though. One in the June issue of Handgunner magazine promotes clips for a Sturm, Ruger & Co. pistol, urging consumers, "Take your Ruger P90 to the limit."

Philip Connors contributed to this article.



Carlos Santizo

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Proposed Agenda for 1/6/2000 Industry Meeting with ATF and FBI

1. Industry concerns regarding NICS.
2. NICS Oversight Committee.
3. Straw purchaser educational effort.
4. Delayed denial program.
5. Educational video for retailers.
6. S.H.O.T. Show conferences.
7. Industry/ ATF Seminars.
8. New Business.

The following individuals have been invited to participate in the meeting.

1. Jim Chambers- SAAMI
2. Paul Jannuzzo- Glock
3. Doug Kleaver- NSSF
4. Beth Lavach- Colts
5. Jeff Reh- Berretta
6. Steve Sanetti- Sturm/Ruger
7. Bob Steger- RSR Wholesale Guns
8. Art Wheaton- Remington
9. NSSF Board Members
10. SAAMI Executive Committee
11. Bill Carter

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In dissonance to
see what
step they

can take
to reduce
gun violence

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welcome any

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proposals from
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**National Shooting Sports Foundation, Inc.**FLINTLOCK RIDGE OFFICE CENTER 11 HALE HILL ROAD NEWTOWN CT 06470-2889 203 426-1380 FAX 203 426-1087
WEB SITE www.nssf.org E-MAIL nssf@nssf.orgROBERT T. DELRAY
PRESIDENT AND
CEO - EXECUTIVE OFFICE

November 30, 1999

Mr. Cecil Cahill
Vice President, Marketing
Sports, Inc.
333 2nd Avenue North
Lewiston, MT 59457

Dear Cecil:

Many thanks for your letter of November 29 outlining your concerns about NICS. Please be assured that NSSF and SAAMI staff share your concerns about the operation of NICS as well as the collective industry frustration that comes from trying to register concerns about a program run by two independent federal agencies and overseen by an administration that is far less than sympathetic to our industry.

I believe, however, I can pass on some progress at this point:

- Yesterday we met with ATF to discuss a number of issues—among them industry concerns about the efficiency of NICS. ATF officials agree that a joint meeting between industry, ATF and FBI to discuss NICS is called for. ATF agreed to organize that meeting which will be held during the first week of January, 2000. We'll let you know the date and the location as soon as possible. It is important that we have appropriate retailer representation at the meeting.
- The GAO is scheduled to release its audit of the NICS system on or about January 1, 2000. We plan to use the release of this report as a springboard to urge Congressional action into some of the problems that very clearly exist with the NICS system.

- In cooperation with the NRA, we are attempting to bring about the formation of a 12-person NICS Advisory Committee. The formation of such a committee is provided for in federal law. Please see the attached letter. Although we have not heard back from the FBI on our letter of September 21, we are now prepared to get more aggressive in seeking the establishment of this committee and have turned the task of obtaining some response from FBI over to Randy Scheunemann and the Mercury Group.
- There will be a joint ATF/FBI seminar on the NICS program at the SHOT SHOW on Tuesday, January 18, in the Member's Lounge from 9:30 a.m. to 11:00 a.m. where all SHOT SHOW attendees, including retailers and exhibitors, will have the opportunity to voice comment with the ATF and FBI.

So, again, Cecil, we greatly appreciate your comments. We certainly agree that NSSF is the organization that must take the lead in this issue and, I believe, we are moving in the right direction and should have some substantive progress to report to retailers prior at the SHOT SHOW.

Look forward to discussing this further at your convenience.

Sincerely,



Robert T. Delfay
President and Chief Executive Officer

RTD:dp

cc: NSSF Board
HSSHF Board

Attachments



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
11260 WAPLES MILL ROAD
FAIRFAX, VA 22030-7400

OFFICE OF THE
EXECUTIVE DIRECTOR

JAMES JAY BAKER

FAX COVER SHEET

TO: BOB DELFRAY / Jim Cramer
FROM: Pat O'Malley
RE: NICS ADV. BD. RESPONSE
PAGES: 3 AT: 203/426-3592
DATE: 12-9-99 203/242-1691

See attached. Yes, paragraph 3
repeats on page 2, and yes, it is an
exercise in bureaucratic vagueness, but I
think they've said yes. Kind of. Sorta, maybe?

***** ATTENTION *****

THE INFORMATION CONTAINED IN THIS FACSIMILE MAY BE CONFIDENTIAL AND MAY ALSO BE ATTORNEY-PRIVILEGED. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. THANK YOU.

PLEASE REPORT ANY TRANSMISSION DIFFICULTIES TO 1703N 287.1140

I will follow up to see what happens at their meeting-
POD



U.S. Department of Justice

Federal Bureau of Investigation

Charleston, WV 26034

December 2, 1999

Mr. Patrick O'Malley
Deputy Director
NRA-ILK
11250 Wayles Mill Road
Fairfax, Virginia 22030

Dear Mr. O'Malley:

The Criminal Justice Information Services (CJIS) Division was formed in 1992 to serve as the focal point and central repository for criminal justice information services within the Federal Bureau of Investigation (FBI). Currently, the CJIS Division is responsible for managing the following programs which are administered by the FBI for the benefit of local, state, federal, and foreign criminal justice agencies: Fingerprint Identification, Law Enforcement Online, National Crime Information Center (NCIC), National Instant Criminal Background Check System, and Uniform Crime Reporting (UCR).

In December 1994, FBI Director Louis J. Freeb established the CJIS Advisory Policy Board (APB) to advise him on policy issues relative to the programs listed above. This act combined an NCIC advisory policy board which was established in the late 1960's with a UCR advisory group which was established in 1989. The current CJIS APB operates consistent with the Federal Advisory Committee Act of 1972.

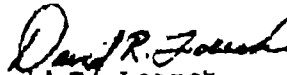
In response to your letter dated September 21, 1999, the FBI recognizes a need to receive input from the users of our systems as we have done since the late 1960's when the first advisory policy board was formed. The input from gun owners and retail dealers would certainly be beneficial to the advisory process as the APB makes policy recommendations to the Director of the FBI. I have taken the liberty of discussing your letter with the Chairman of the APB, Mr. David Gavin, and he concurs that input from these individuals would be beneficial to the advisory process. Both Mr. Gavin and I agree that we have in place a process which could accommodate your requests and function within the existing advisory system.

Mr. Patrick O' Malley

In response to your letter dated September 21, 1999, the FBI recognizes a need to receive input from the users of our systems as we have done since the late 1960's when the first advisory policy board was formed. The input from gun owners and retail dealers would certainly be beneficial to the advisory process as the APB takes policy recommendations to the Director of the FBI. I have taken the liberty of discussing your letter with the Chairman of the APB, Mr. David Gavin, and he concurs that input from these individuals would be beneficial to the advisory process. Both Mr. Gavin and I agree that we have in place a process which could accommodate your requests and function within the existing advisory system.

Mr. Gavin has added your letter to the Executive Committee agenda to be addressed on December 11, 1999 at the APB Meeting in San Antonio, Texas. The Executive Committee has, in the past, formed subcommittees, ad hoc task forces, and working groups to address policy issues relevant to the management of the CJIS Systems. It will be at this meeting that the executives of the CJIS APB will address this issue. I have taken the liberty of forwarding a copy of your request to Mr. David Gavin, Texas Department of Public Safety, Post Office Box 4143, Austin, Texas 78765-4143, and I have asked CJIS Section Chief Mr. Don M. Johnson, also the Designated Federal Employee for the advisory process, to coordinate your request with the APB Executive Committee. Should you have any questions, please do not hesitate to contact Mr. Johnson at (304) 625-2740.

Sincerely,


David R. Loesch
Assistant Director in Charge
Criminal Justice Information
Services Division

[Heritage
Fund](#)[SAAMI](#)[Women's
Shooting
Sports
Foundation](#)[Links](#)

Arizona, at the Sheraton Crescent Hotel. For the convenience of our participants, the 2000 Summit will be organized in conjunction with the fourth **Shooting Range Symposium**, which will immediately follow the Summit June 4-6 at the same hotel. Registration materials and a tentative program will be available this fall for both the Shooting Sports Summit and the Shooting Range Symposium. Stay tuned!

**ATTENTION WRITERS:
UP TO \$28,000 IN PRIZES AVAILABLE
IN NSSF'S WRITER'S & PHOTOGRAPHER'S CONTEST**

"NSSF's "Good Shots, Great Stories" contest will award up to \$28,000 in prizes to writers and photographers whose stories and photos showcase those dedicated, responsible and skilled individuals who enjoy hunting and shooting -- in other words, "people in the shooting sports!" [Click here for story ideas, contest rules and an official entry form.](#)

WHAT IS AN "UN-ENDANGERED SPECIES?"

NSSF Online's growing "Reference Library" now includes an extensive new section titled *The Un-endangered Species: The Success of Wildlife Management In North America*. It provides a detailed and comprehensive look at the American system of wildlife management and how it has succeeded in restoring species that were once endangered but now have healthy and thriving populations throughout America. Can you name one of these species? [Click here to visit this section.](#)

The information available on this website is intended for the use of adults and youngsters under adult supervision.

The National Shooting Sports Foundation urges all members of the public to become familiar with [The Rules of Firearm Safety](#) and to practice firearms responsibility in the home.

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Gun Retailers Form Group To Push Views

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL

Gun retailers, worried that their interests aren't being represented by manufacturers in industry talks to settle municipal litigation, are forming a new trade group to demand a place at the table.

The move is sure to stir controversy, because the dealers have hired an industry operative whose pragmatic approach has put him at odds with a number of major manufacturers and the National Rifle Association, which represents gun owners.

The operative, Robert Ricker, has already arranged for his new clients to meet today with staff members at the White House. Seeking to get involved in settlement negotiations, the Clinton administration last month threatened to file its own lawsuit against the industry on behalf of thousands of public housing authorities.

Gun foes began a coordinated legal assault on the industry in late 1998. Since then, 28 municipalities have sued gun makers, distributors and retailers, seeking to recover the public costs of gun violence—a demand that industry lawyers have branded improper, saying blame lies with those who misuse guns, not those who lawfully make and sell them.

The real goal of the litigation isn't large damage awards but a settlement under which the industry would agree to more stringent regulation in an effort to keep guns out of the wrong hands. There have been several rounds of preliminary settlement talks, without a substantive accord.

Bill Carter, proprietor of Carter's Country Outdoor Stores in Houston and one of the founders of the new National Coalition of Firearm Retailers, said in an interview, "We don't feel like the dealer has been represented in any of the talks at this point." He said dealers from California to New York have indicated interest in joining the organization, which will have its first meeting at a trade show in Las Vegas later this month.

The choice of Mr. Ricker as a consultant is significant. He was effectively pushed out of a Washington-based industry lobbying job last spring after he angered the NRA and some gun manufacturing executives by trying to forge compromises with the White House and Congress on various legislative gun-control proposals. Mr. Ricker, who has re-established himself as a state-level gun lobbyist in Sacramento, Calif., is unusual within the industry because of his open lines of communication with certain Clinton administration officials and others in the gun-control camp.

Robert Delfay, head of the overall industry trade group, the National Shooting Sports Foundation, said his organization was vigilantly representing retailers' interests and that it was best to present a unified front against gun foes.

Mr. Ricker said in an interview that the several nationally known dealers he is scheduled to accompany to the White House today don't plan to offer anything, but would outline some issues on which dealers may have a different perspective from others in the industry.

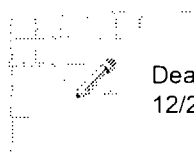
For example, many well-established dealers would like to see more aggressive policing of gun shows, the weekend gun-selling bazaars that law-enforcement officials single out as a leading source of weapons for criminals, Mr. Ricker said. Agreeing with the law-enforcement view, many storefront dealers also resent gun shows as lightly regulated, low-price competitors. So, dealers would probably be more willing than some manufacturers to include in a settlement a requirement that all gun-show sales include the sort of computer background checks required of gun-store sales. Dealers are also more likely to back a provision calling on the federal Bureau of Alcohol, Tobacco and Firearms to patrol gun shows more vigorously, Mr. Carter said.

On the other hand, dealers would probably resist more fiercely than manufacturers any attempt to use the bureau's statistics showing which retailers sold guns later used in crime as a basis for excluding those retailers from the industry. "That would be very disturbing, because you're going to catch any high-volume dealer on that sort of list," Mr. Carter said. Manufacturers have firmly opposed the idea that they should be responsible for compiling such a black list, but some gun makers have suggested that if the government identified "bad apple" dealers, the industry would consider cutting them off.

Mr. Delfay, head of the industrywide trade group, said that any differences in perspective weren't great. He explained that industry representatives haven't discussed background checks at gun shows with the municipalities because "that's got to be something that Congress does." As for use of any black list based on the bureau's trace statistics, Mr. Delfay said, "It would be totally inappropriate for manufacturers to cut off retailers based on the number of firearms traced to them."

Mr. Delfay said that he and some members of his trade group are scheduled to meet separately with White House staff members today. Both gun groups are also expected to meet with Bureau of Alcohol, Tobacco and Firearms and Federal Bureau of Investigation officials today, but the structure of that meeting wasn't clear last night.

The prospect of gun retailers seeking to assert their own distinct views in the settlement process was first raised on a national level by a page one article in The Wall Street Journal in June 1999.



Deanne E. Benos
12/28/99 01:40:51 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP, Eric P. Liu/OPD/EOP@EOP, Leanne A. Shimabukuro/OPD/EOP@EOP
cc: epliu@msn.com @ inet, Anna Richter/OPD/EOP@EOP, Cathy R. Mays/OPD/EOP@EOP
Subject: GUN DEALERS.

Would you be interested in meeting with Bob Ricker and the gun dealers (Bill Carter, National Coalition of Firearms Dealers and Wain Roberts, National Alliance of Stocking Gun Dealers and a few other members) on January 6th after 2 p.m.?

They coming to town on January 6th at 1 p.m. to meet with ATF/FBI on 3 things: (1) To ask questions about new ATF Director Brad Buckles; (2) To talk about improving the NICS system and lines of communication when dealers need assistance; (3) To talk about their new group, the National Coalition of Firearms Dealers, and their hope that they can create code of conduct that will be its driving force.

Interesting dynamic already emerging: Delfay/NSSF and NRA are meeting with ATF/FBI at 2 p.m. as part of their ongoing talks on reform. The dealers wanted to join the meeting and Delfay was very resistant. ATF/FBI had to schedule a separate meeting with dealers beforehand. . . .

I briefly talked with him about his ideas for a code of conduct, and delicately raised a couple of remedies mentioned in newspapers that would impact dealers. While NRA opposition always lingers, they appear to be open to computerization; they like the "concept" of the Schumer study that only a small portion are "bad guys," and when I asked them if he thought dealers with high crime gun traces should work with ATF in an agreed fashion like opening up sales records, he liked the idea and said they were considering something similar. We're following up more on Thursday, and I hope to get some paper to share with you.