

GUN LITIGATION

LEVEL 3 - 151 OF 315 STORIES

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June 11, 1999, Friday

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HEADLINE: RENDELL SCHEDULES A MEETING TO SEEK A COMPROMISE ON GUNS

BYLINE: BY PETER NICHOLAS

JOURNAL-CODE: PHI

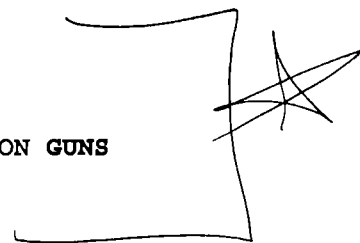
ABSTRACT:

Mayor Ed Rendell is trying to broker a compromise with gun makers under which other mayors would settle suits in return for the industry agreeing to help curb firearm violence; Rendell and the president of Smith & Wesson have agreed to meet next month and to bring with them other mayors and gun-industry representatives (M)

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U.S. Conference
of
Mayors



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The Times-Picayune

June 11, 1999 Friday, ORLEANS

SECTION: NATIONAL; Pg. A1

LENGTH: 916 words

HEADLINE: MAYORS MEETING WILL FOCUS ON GUNS, VIOLENCE

BYLINE: By Kristen DelGuzzi Staff writer

BODY:

Judging by the name of the organization, this weekend's gathering of the U.S. Conference of Mayors could be a mind-numbing exercise on how to run a city.

But with high-profile, controversial issues such as gun control, school violence and welfare on the agenda, the five-day meeting in New Orleans promises to be more appealing than a dry administration manual.

"The meeting this year, like every meeting of the U.S. Conference of Mayors, will deal with many timely issues that affect America's cities -- everything from the issues of school violence, crime and public safety to the issues of economic development, brownfield redevelopment and the growing impact of the nation's metropolitan economy on the economic revitalization of this nation," said Mayor Marc Morial, who is playing host to the conference's 67th annual meeting.

Among the most timely issues are school violence and gun safety, which the conference zeroed in on last year, long before the school massacre in Littleton, Colo., and before more than a dozen cities followed New Orleans' lead in filing lawsuits against the gun industry.

Now a hot-button issue around the country since the April shootings in Littleton, youth violence has been the focus of the conference since last summer, when Mayor DeeDee Corradini of Salt Lake City decided to focus her yearlong presidency on it.

"Little did we know that we would be at the center of this issue," Corradini said Thursday. "We are the only ones we know of that have a national plan on youth violence that is as comprehensive as ours is."

Called the National Action Plan, the conference's proposal is the product of a daylong seminar last fall with educators, youngsters, mayors, police chiefs, media and entertainment representatives, and Attorney General Janet Reno. It recommends ways to prevent youth violence at school and after school lets out, and also discusses violence in the entertainment industry and the media.

"Ever since Littleton, it's been in great demand," Corradini said. "It's in its third printing."



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NOTES

what want to do:

- engage in new tech for work life
Young people
philanthropy
- just start a conversation.
- we have found way to create a new institution/project in future of phil
- I leave projects in need to:
 - C-Space online
 - Tom, requires online
 - democracy online: referendum

Corradini, too, has been in demand, attending several White House functions to talk about youth violence and programs to curb it.

Given the events of the past year and her prominent role in the debate, Corradini said, it is obvious that the conference is an influential player on the national stage. And it didn't start with her.

Two years ago, Chicago Mayor Richard M. Daley took the conference full-tilt into the uncharted waters of public education, "starting a whole new dialogue in this country on education," Corradini said.

Last year, Fort Wayne, Ind., Mayor Paul Helmke focused the conference on brownfields, or the redevelopment of inner-city blighted and contaminated property.

"I think we've been very successful over the years," said Corradini, who has been mayor for eight years. "When I first started, it was very hard to get Washington to pay attention to mayors. But now they realize we're out on the front lines."

While violence will be a key focus at the New Orleans meeting, it will be far from the sole topic.

Also on the agenda are forums on the 2000 census and gambling. In addition, mayors will talk about the growing trend of Internet sales, a subject that is alarming to many, since there is no sales tax on online purchases.

"Without the sales tax on Internet sales, many of our cities are losing a third of their annual revenue," Corradini said. "Cities depend on sales tax."

The mayors also will talk about the Safe Drinking Water Act, solid waste management, immigration, housing for the elderly, public transit, financing for the arts and "invasive species."

The discussions will kick off this morning with a forum on **guns**, during which the conference's Gun Violence Task Force will talk about proposed national legislation on firearms and how to enforce existing laws. U.S. Treasury Undersecretary James Johnson, who oversees the Bureau of Alcohol, Tobacco and Firearms and other federal agencies, will discuss federal efforts to stem gun violence.

There also is expected to be a discussion about the growing number of cities that are suing gun makers.

A representative of one gun-industry group arrives today to continue negotiating a possible resolution of the suits with several cities.

Bob Ricker, president of the American Shooting Sports Council, has been negotiating with several mayors who have filed **gun lawsuits**. He and New Orleans lawyer Danny Abel said progress has been made during the talks, as evidenced by the fact that Newark, N.J., did not name the council as a defendant in a lawsuit it filed Wednesday against gun makers.

Ricker said he hopes to leave New Orleans facing fewer lawsuits. "We want to explore different policy areas that will be directed at keeping guns out of the

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The Times-Picayune, June 11, 1999

wrong hands and making the streets safe," he said Thursday.

While Ricker is trying to work with the mayors, those at the conference could touch on another issue that has Morial at the forefront: what to do when a state legislature passes a law to block city suits against gun makers. A bill that would block the lawsuits in Louisiana is on Gov. Foster's desk and awaiting his signature.

Although the law would be retroactive and would nullify his lawsuit, Morial did not seem overly concerned about it. "I don't think that the Legislature's actions, at the end of the day, will be anything more than symbolic," he said.

* * * * *

Staff writer Pamela Coyle contributed to this article.

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NIS = 2nd Street

- Bus. street due to AB, ~~Sum~~ and end
- regulatory action on bad dealers at Treas. possible but not yet

→ ATP- atlas?

• How budgetary grants?

→ grant as obstacles to prosec (exp). → McClure / Viken

• possible NIS or NID report on techs. of smart guns

↳ but need to renew CMT's grant + 4 other : cost \$9⁸⁵⁻
maybe DD?

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June 8, 1999, Tuesday USA EDITION 1

SECTION: FRONT PAGE - FIRST SECTION; Pg. 01

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HEADLINE: Mayors may drop action against gun group
AMERICAN SHOOTING SPORTS COUNCIL SET TO ESCAPE LITIGATION AS
REWARD FOR CONCILIATORY STANCE TOWARDS CRITICS;

BYLINE: By Richard Wolffe in Washington

DATELINE: Washington

BODY:

Mayors from several US cities suing the gun industry are this week expected to drop their action against a leading trade group in a move that will deepen the bitter rifts among firearms manufacturers.

The decision to exclude the American Shooting Sports Council (ASSC) from the lawsuits will represent a reward for the group for taking steps towards conciliation with industry critics, including the Clinton administration.

Rival gun-lobby groups, led by the National Rifle Association (NRA), are seeking to harden resistance to any compromise. The House of Representatives is debating gun control this week.

The ASSC has infuriated hardline gun groups by leading the drive towards talks over the last two years. Its membership consists mainly of the manufacturers which have been the targets of most of the legal actions and are therefore keen to explore a possible settlement.

It has backed a series of proposals for gun safety measures in the wake of the school massacre in Littleton, Colorado, in April. The council appeared at a White House conference on youth violence last month.

Its escape from litigation is set to be announced at the annual US Conference of Mayors in New Orleans, which begins on Friday. Two other industry groups and several gun manufacturers will continue to be sued by 20 cities and counties, including New Orleans, Chicago and Boston.

Lawyers and lobbyists close to the ASSC and mayors said the industry group was reaping the benefits of its "willingness to work with its opponents and the White House".

John Coale, one of the leading gun-control lawyers who represents New Orleans and Cleveland, said: "We are exploring the idea. They have backed the legislation in the Senate and are doing the same in the House, which is a lot of what our clients want. They have been reasonable and that should be rewarded."



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12/15 = Gutzger et al.

ATF + 1-2m. mtr: do they rely on multiple scales for?

Blumenthal: This letter counter will enter a ENFVMS.

• not can use a pre 1/21 mtr to blame that - and to request identity

• basic counter is the mtr's length duty than the law

• USGang days 1/25, RTWS in LV 1/22

• Delfay call a mtr

• Delfay calls on LV and RTWS

• over Tenu in mtr - 12 rule of law.

• submit mtr as data/marketing (Lover in ^{DC} 14th)

• 1/21 - Gen LV

• 1/22 - RTWS in LV

• 1/25 - Mayon

• 1/27 - SOTA

• find out

What show dates

• Treas. & DoJ

ATF

• we're doing it here

• making expectations

Page

212-416-
8058

However, the expected removal from litigation poses risks for the group. In February it was pressured by gun manufacturers and the NRA into ousting its executive director, Richard Feldman, for seeking talks with opponents.

Some gun manufacturers are now pressing the ASSC to merge with a rival group, the National Shooting Sports Foundation, which has close links to the NRA. Both the NRA and NSSF believe that no compromise is possible or desirable over the lawsuits they condemn as "evil".

The NRA has sharply increased its lobbying efforts in recent weeks to convince House Republicans not to follow the Senate, which approved gun restrictions last month. The Senate bill requires all handguns to be sold with child safety locks or secure storage containers and introduces background checks for purchasers at gun shows.

The NSSF remains a target of the New Orleans lawsuit, filed last year, naming more than a dozen manufacturers including Beretta of Italy, Glock of Austria, and Smith & Wesson, a division of Tomkins of the UK. Handgun industry faces legal onslaught, Page 7

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12/19

- Gary HN - suggest help w/ smart guns? can we help develop?
1-0-000000
statistical gathering: help w/ breakfast
each person is diff.
- Budapest - 'issue don't go any' w/ as judge ending not your identity
Jan - US Conf begins + even TF
- Wilmington - wanted local US Mtg? Hbs? ask BR for a role - Bea makes clear the role + limits
- Rehoboth - Louis Henry, atty - Pres of Code of Ct
want help for ATF + DOJ as district + academy (to as smart guns)

Bjork - no motion

Guy - takes very important msg.
ATF in headlines

MAAP - unclear (date is his interest)

Richter - call for fed forum on negotiating points

H.O. - not that + need CEO

Conder County - wants more fed. threat

Guy - we have dir, but should play dir + conf + others too

BR - 'partnership' even if different

Kevin - value of simplicity in message

infos. at Grafton table - some just there to say yes/no, not to

Wayne City - success, distinct things, + damages → no gun shows now
in charge for disarmament. retailers taking steps too, want no more
→ - need training help for ATF, VIDEO
- want training, hand lines, no retreat room

2's:

- how work w/ states?
- how best to word?

do:

- call Pope
- procurement?
- revenue - can we do more?
- neg. w/ retailers? is he Wayne City?
- ATF help
- CEO/HCO

• still has pre-empt
state of mind

Gun Litigation
Joint Talking Points
December 14, 1999

We met today because we believe that all who care about gun violence – the cities and counties that have filed suit against the gun industry, along with the NAACP, the states, and the federal government – will be most effective if we work together. The federal government will provide additional leadership on this issue, and we will build on the significant work already done by the cities, counties, states, and other parties in order to successfully address this important problem. Today's discussions have been a productive first step in this effort.

As our negotiations go forward, our side will be united in making sure that the gun industry changes the way it does business. The gun industry must take responsibility for its share of the problem of gun violence by making a safer product, reasonably monitoring its distribution, and refusing to advertise to criminals and kids.

TALKING POINTS

JOINT STATEMENT

We met today because we believe that all who care about gun violence —

The cities and counties that have filed suit against the gun industry, along with the NAACP and the federal government, ^{will be most} believe they are more effective if ^{we} they work together. to address the problems of gun violence. The federal government will provide additional leadership on this issue, and we will build on the significant work already done by the cities, counties, ^{parties} current litigants in order to successfully address this important problem. Today's discussions have been a productive first step in this effort.

states, and other

Our side

~~We will take a unified stance in our negotiations with the gun industry to ensure that either through a settlement or litigation the gun industry changes the way it does business. The gun industry must take responsibility for its share of the problem of gun violence by making a safer product, reasonably monitoring its distribution, and refusing to advertise to criminals and kids.~~

As our negotiations go forward, ~~the~~ side will be united in making sure that our

sc. d

Summary of Terms

I. Design

1. Compliance with performance and design standards set forth in 18 USC § 925 and the strongest existing state law or regulation: 1/1/01.
2. Serial number: placement in a location or multiple locations and visible only with the aid of an infrared detector or similar device: 6/1/00.
3. Locking devices
 - a. external: 6/1/00
 - b. internal: 1/1/01
4. Magazine safeties
 - a. introduced: 6/1/00
 - b. sold: 1/1/01
5. Sale of guns with warning on risk of guns in the home and proper home storage: 6/1/00.
6. Chamber load indicator: 1/1/01.
7. Prevention of operation by children 5 and younger: 1/1/01.
8. Prevention of accidental discharge, repeat firing, or risks of explosion: 1/1/00.
9. Authorized user technology: 1/1/04.
10. 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 square inch, and powdered metal with a density of more than 7.5 grams per cubic centimeter.
11. 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.
12. Agree to retrofit existing guns with improved safeties as they become mandated.

II. Sales and Distribution

1. In addition to complying with specific terms, manufacturers, wholesalers and retailers shall commit to a standard of conduct to make every effort to eliminate suspect sales.

A. Wholesale and Retail Dealers

1. Manufacturers may only sell to authorized wholesale and retail dealers defined as those who possess a Certificate of Authorization (Certificate), renewed on an annual basis by the manufacturer, subject to approval of the Monitor. In order to be issued a Certificate a wholesale or retail dealer must:

- a. Possess a valid and current federal firearms license, and all other licenses and permits required by local, state, or federal law.
- b. Operate only from the premises listed on those licenses and permits.
- c. Certify on an annual basis, under penalty of perjury, compliance with all local, state, and federal firearms laws.
- d. Carry an appropriate amount of insurance coverage in amounts, at minimum no less than \$1 million for each incident of damage, injury or death.
- e. Make no sales over the Internet or at gun shows.
- f. Have no incentive sales programs or practices.
- g. Maintain an inventory tracking plan, subject to approval by the Monitor, which includes at minimum electronic recording of firearms acquisition and sales data, security from data loss, and forwarding of data to manufacturers and the Monitor.
- h. Implement a security plan for securing firearms and for excluding persons under 18 years of age not accompanied by parent or guardian.
- i. Not sell ammunition magazines able to accept more than 10 rounds, provide child safety lock and warnings with firearms, and sell only guns that comport with design criteria of Code, federal import standards, and assault weapons ban.
- j. Provide manufacturers, law enforcement, government regulators, and the Monitor full access to any documents deemed necessary by one of those parties.
- k. Agree to participate in and comply with all monitoring of firearms distribution by manufacturers, ATF, law enforcement, or the Monitor.
- l. Agree to maintain an electronic record of all trace requests initiated by ATF, and to report those traces to the manufacturer of the firearm and the Monitor within 24 hours.
- m. Agree to be subject to the jurisdiction of the Monitor and the court enforcing this Code.
- n. All employees attend training provided by manufacturers on an annual basis. Content of training shall be pre-approved by the Monitor.
- o. All employees pass a comprehensive written exam administered by Monitor before being allowed to sell or handle firearms.
- p. Provide all sales data to the Monitor for use in the Sales Data Clearinghouse.

2. Failure to adhere to any one of the provisions set forth in 1(a-p) above may subject a dealer to suspension or revocation of the Certificate by the manufacturer or the Monitor.

B. Wholesale Dealers - additional provision

1. Agree to sell only to other licensed and authorized dealers or directly to government purchasers.

C. Retail Dealers - additional provisions

1. Must be a stocking gun store with a minimum total inventory level and inventory for each manufacturer's product, and with a majority of revenue derived from sale of firearms and/or sporting equipment. *Why?*
2. Agree not to sell to any federal firearms licensee that is not a licensed and authorized dealer under this Code.
3. Agree not to engage in sales that the retailer knows or has reason to know are being made to straw purchasers.
4. Agree not to sell to any person who has purchased a firearm within the previous 30-day period. ✓

D. Manufacturers

1. Provide quarterly report of its own sales data and all downstream sales data to Monitor.
2. Agree to fund a Sales Data Clearinghouse administered by the Monitor. *) — Der sheet?*

E. Other terms

1. ATF trace requests for firearms recovered by law enforcement shall be rebuttable presumption of misconduct under Code. Burden shall be on industry to prove firearm was sold properly.

III. Monitor**A. Authority**

1. Funded by manufacturers, with budget set at level sufficient to perform duties. Monitor can seek court approval for additional funds.
2. Granted full access to manufacturer and dealer books and records.
3. Granted right to communicate information obtained in his or her oversight capacity to law enforcement.

4. 20 year term, subject to application by member of the Oversight Panel for extension of term. Manufacturers cannot withdraw.
5. Subject to removal only by the Oversight Panel and only for good cause. Manufacturers may object on grounds that good cause has not been established. If steps down, replaced within 30 days by Oversight Panel.
6. Shall have the authority to conduct interviews, perform tests, and retain investigators to conduct undercover sting operations and other unannounced investigation and audits.
7. Shall have a reporting line directly to the manufacturer's Board of Directors.
8. Shall promptly report any violations of the Agreement to the Oversight Panel, and may levy fines and sanctions for such violations.
9. Shall issue on a quarterly basis, public reports regarding manufacturers' compliance with the Agreement.

B. Manufacturer Cooperation

1. Each manufacturer shall designate an executive level manager to serve as a compliance officer whose name and contact information shall be submitted to the Monitor.
2. Each manufacturer shall commit to full cooperation with the Monitor.
3. Prior to execution of agreement, the Oversight Panel will have an opportunity to review signatory manufacturers' documents regarding design, marketing, and distribution.

IV. Cooperation with Law Enforcement

1. Manufacturers shall fully disclose marketing, market research, development and production data and documents sought by law enforcement or regulators.
2. Manufacturers shall fire each weapon before sale and retain three fired casings and bullets. Of these, one set along with the weapon's serial number shall be provided to law enforcement.

V. Cooperation with Litigation

1. Manufacturers shall agree to cooperate in pending and future lawsuits.

VI. Legislation

1. Manufacturers shall support pending and proposed legislative efforts endorsed by the Oversight Panel.

VII. Education Trust Fund

1. Manufacturers shall establish a \$_____ trust fund to implement a public service campaign to inform the public on the risk of guns in the home and proper home storage, as well as the need to reduce gun violence.

VIII. Enforcement

1. The Agreement will be entered and is enforceable as a Court order and as a contract.



National Shooting Sports Foundation, Inc.

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ROBERT T. DELFAY
PRESIDENT AND
CHIEF EXECUTIVE OFFICER

October 14, 1999

Mr. James Kenneth Hahn
City Attorney
City of Los Angeles
1800 City Hall East
Los Angeles, CA 90012

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

Dear Messrs. Hahn and Spitzer:

The nation's elected officials and the nation's leading manufacturers of firearms share a concern about the accidental and criminal misuse of firearms in our society. Yet, in recent months, some 30 city officials have filed lawsuits claiming that firearms makers are largely responsible for the accidental and criminal use of firearms and suggesting that these manufacturers have the ability, by their actions alone, to reduce or eliminate irresponsible, criminal and anti-social use of their products.

While the firearms industry is committed to the support of programs to reduce firearms accidents and violence, the industry does not have the legal authority to address these challenges on its own. To effectively reduce firearms misuse in our nation will require the cooperative effort of industry and elected government officials.

REDUCING FIREARMS ACCIDENTS

Firearms accidents account for some 4% of all firearms-related fatalities each year. Comprehensive educational programs have helped reduce accidental firearms deaths by more than 65 percent over the past 25 years (from 2,600 in 1973 to 900 in 1998). But more can be done. The firearms industry urges elected officials through their offices, their law enforcement departments, public health agencies and their public statements to support the following efforts:

Actions Which Can Be Implemented by Elected Officials

- Recognize firearms safety volunteers and organizations in "State of the City" and "State of the State" reports.
- Publicize firearm safety courses and offer the use of public facilities for safety classes.
- Make law enforcement personnel available to assist with safety programs and to help advise citizens that all gun stores and manufacturers have a variety of appropriate locking devices available (lockable boxes, padlocks, cable locks, trigger locks, safes, etc.). Help inform that trigger locks are unsafe on loaded guns.

Actions In Which Elected Officials Can Partner With Firearms Industry

- Acknowledge the firearms industry's commitment to firearms safety and its effective role in reducing firearms accidents.
- Enact and support "Project HomeSafe" – a partnership program to distribute firearms safety messages and locking devices to urban residents.
- Petition the entertainment industry to provide celebrities to assist cities and industry in production of safety messages for schools, theaters, television, magazines and newspapers.
- Include appropriate safety materials – which industry will provide at no cost – with each new handgun permit and with each renewal.
- Make handgun permit lists available to manufacturers as appropriate for safety notifications or when modifications are announced by the manufacturer.
- Place firearms safety posters in schools and community centers.

Actions Which Elected Officials Can Enhance Through Their Support

- Urge media to run free public service announcements regarding firearms safety and help publicize the availability of firearms safety training courses.
Recognize participating media.
- Support private education campaigns regarding safe gun storage and children's avoidance of guns.
- Support regular and comprehensive gun safety education programs in schools, beginning with the "Stop! Don't Touch! Leave! Tell an Adult!" message in elementary schools, progressing to age-appropriate materials in higher grades.
- Assist in the distribution of gun safety education videos and related materials by non-profit groups (New Hampshire Firearms Safety Coalition, etc.).

REDUCING FIREARMS VIOLENCE

To impact the criminal use of firearms, the industry urges elected officials to:

Actions Which Can Be Implemented By Elected Officials

- Adopt New York and Boston law enforcement models of searching people for illegal guns during any street stop for reasonably suspected criminal activity.
- Direct law enforcement agencies to submit every gun seized in a crime to BATF for comprehensive tracking, not just to link gun to perpetrator, but to identify and prosecute illegal firearms sources.
- Implement and fund conflict avoidance and anti-social behavior recognition programs in city schools.

Actions In Which Elected Officials Can Partner With Firearms Industry

- Join industry in supporting increased funding for BATF.
- Support Federal funding of research into authorized-user recognition technology.
- Support Industry/BATF efforts to cut down on illegal sales, and support prosecution of all "straw purchases" and dealers who knowingly make illegal sales to the full extent under the law.

Actions Which Elected Officials Can Enhance Through Their Support

- Announce support of "Project Exile" to prosecute violent firearms offenses under tough Federal laws and aggressively publicize this effort.
- Petition the entertainment industry to eliminate gratuitous firearms violence and to donate their technical and artistic services to assist industry in the development and distribution of anti-violence messages.
- Enforce penalties for adults who allow child access to guns in violation of local law.
- Enforce all mandatory sentencing laws for use of a gun in a violent crime.
- Support no parole for violent offenders who use guns in commission of violent crimes.
- Refuse to plea bargain gun charges and urge media to publicize that fact.
- Support public education campaigns regarding anger management, depression and suicide avoidance.
- Urge Federal officials to apprehend and prosecute all persons who are denied purchase of a firearm during the required background check if the reason is an outstanding violent felony warrant.
- Urge aggressive prosecution of illegal firearms purchases by convicted felons.

Firearms Procurements

Background for Gun Meeting December 2, 1999 (A)

I. Brief summary of proposed executive order on firearms procurements

The President would issue an two-part executive order that: (1) directs the Attorney General and the Secretary of the Treasury to create a code of conduct for federal firearms contractors within a specified timeframe; and (2) directs the Federal Acquisition Regulations Council (FAR) to propose regulations restricting federal law enforcement agencies from contracting with any firearms manufacturer that does not agree to comply with the code of conduct.

While the specifics of the code of conduct should not be included in the text of the executive order, we must establish a short purpose statement for the code that establishes a statutory link to the FAR Council's authority to promulgate the regulations.

II. Analysis of President's authority to issue executive order

OLC generally determined that the President does not have the authority to issue an executive order directly barring the procurement of firearms from manufacturers that do not comply with our proposed code of conduct. However, OLC believes that he may have the authority to issue an executive order directing the FAR Council to propose regulations to that same end. It should also be noted that, while the President may direct the FAR Council to propose regulations, he does not have the authority to determine the outcome of the rulemaking.

The Federal Acquisition Regulations, which are enforced by the FAR Council, provide that a contractor may be debarred for various reasons or "any other cause of so serious or compelling a nature that it affects the present responsibility of a Government contractor or subcontractor." Also, several statutes require agencies to do business with "responsible sources," which are defined as any prospective contractor who "has a record of integrity and business ethics."

In order to secure the statutory authority for the FAR Council to promulgate these regulations, we must make the case that firearms manufacturers that do not comply with our code of conduct do not have "integrity and business ethics." While there is no statutory definition of "integrity and business ethics," it was recently interpreted as a violation of law in a child labor executive order on procurement issued last July. The proposed executive order would require an even broader interpretation of "integrity or business ethics" since it would debar contractors for engaging in otherwise legal business practices that result or facilitate gun-related crimes, deaths, or injuries. We are working with Treasury to develop a factual basis to support this interpretation.

III. Possible elements for code of conduct

While we would leave the specifics of the code of conduct for the Secretary and the Attorney General to determine, we could indicate in the Executive Order that it should address general

elements such as distribution controls, safety measures, and advertising. We would need to have a sense of some or most of the specifics before the order is signed. The elements below have been developed in consultation with Treasury and Justice.

Distribution controls. The code could be drafted to impact both manufacturers/importers as well as dealers/distributors. Among some of the specific requirements for manufacturers could include: computerization of inventory systems that can facilitate linkages to the ATF tracing system; comprehensive employee training; establishment of security protocols; and ballistics testing. In addition, the code could require manufacturers to sell only to dealers that: computerize their inventory to speed crime gun traces; meet security standards; agree not to sell semiautomatic assault weapons to youth under 21 or to dealers under indictment; and refrain from selling large capacity ammunition clips.

Safety Measures. The code could require manufacturers to ensure that guns have existing safety features (e.g., chamber loaded indicators, magazine disconnect safeties), and meet certain “safety” standards similar to those applied to imported firearms. The code could also prohibit manufacturers from producing firearms with certain criminal-friendly features such as easily obliterated serial numbers.

Advertising. The code could restrict manufacturers from advertising that targets juveniles or criminals or advertising on cable television.

IV. Outreach/Rollout Plan for Executive Order

A. Rollout plan:

1. Pre-release E.O. [linked to possible PHA lawsuit] to press
2. Hold White House event where the President, flanked by Secretary Summers, the Attorney General [and Secretary Cuomo] signs E.O. joined by Mayors and their police chiefs, State AGs and gun control advocates.

B. Who should be contacted: The key people we should contact should be Mayors whose cities have filed lawsuits, interested State Attorney Generals, as well as key gun control advocates. [Perhaps cities could agree to adopt a similar code of conduct for their firearms procurement.]

1. City and County Lawsuits: New Orleans, LA; Chicago, IL; Cook County, IL; Miami-Dade County, FL; Bridgeport, CT; Atlanta, GA; Cleveland, OH; Detroit, MI; Wayne County, MI; Cincinnati, OH; St. Louis, MO; San Francisco, CA [includes in joint complaint: Berkeley, CA; Sacramento, CA; San Mateo County, CA; Alameda County, CA; Oakland, CA; East Palo Alto, CA]; Los Angeles [includes in joint complaint Compton, CA; West Hollywood, CA; Inglewood, CA]; Camden County, NJ; Boston MA; Newark, NJ; Camden, NJ, Gary, IN; and Wilmington, DE.

2. State Attorneys General: New York and Connecticut. Possibly Massachusetts.

3. Gun control groups: Handgun Control (Sarah and Jim Brady), Coalition to Stop Gun Violence

[4. Gun industry representatives]

Background for Gun Meeting December 2, 1999 (B)

I. Brief summary of proposed executive order on firearms procurements

The President would issue an executive order that: (1) directs the Attorney General and the Secretary of the Treasury to create a code of conduct for federal firearms contractors within a specified timeframe; and (2) directs the Federal Acquisition Regulations (FAR) Council to propose regulations barring federal law enforcement agencies from contracting with any firearms manufacturer that does not agree to comply with the code of conduct.

While the specifics of the code of conduct should not be included in the text of the executive order, we must establish a short purpose statement for the code that establishes a statutory link to the FAR Council's authority to promulgate the regulations.

II. Analysis of President's authority to issue executive order

OLC generally determined that the President does not have the authority to issue an executive order directly barring the procurement of firearms from manufacturers that do not comply with our proposed code of conduct. However, OLC believes that he may have the authority to issue an executive order directing the FAR Council to propose regulations to that same end. It should also be noted that, while the President may direct the FAR Council to propose regulations, he does not have the authority to determine the outcome of the rulemaking.

The Federal Acquisition Regulations, which are enforced by the FAR Council, provide that a contractor may be debarred for various reasons or "any other cause of so serious or compelling a nature that it affects the present responsibility of a Government contractor or subcontractor." Also, several statutes require agencies to do business with "responsible sources," which are defined as any prospective contractor who "has a record of integrity and business ethics."

In order to secure the statutory authority for the FAR Council to promulgate these regulations, we must make the case that firearms manufacturers that do not comply with our code of conduct do not have "integrity and business ethics." There is no statutory definition of this term, though a recent executive order on child labor, and regulations proposed by the FAR Council completely independent from the order, have deemed that "integrity and business ethics" would be breached where there was a violation of law. Our proposed executive order would require an even broader interpretation of "integrity or business ethics" since it would debar contractors for engaging in business practices that are otherwise wholly legal but that result in or facilitate gun-related crimes, deaths, or injuries. We are working with Treasury to develop a factual basis to support this interpretation.

III. Possible elements for code of conduct

While we would leave the specifics of the code of conduct for the Secretary and the Attorney General to determine, we could indicate in the Executive Order that it should address general elements such as distribution controls, safety measures, and advertising. The elements below have been developed in consultation with Treasury and Justice. Of course, we would want to secure inter-agency consensus on some or most of the specifics before the order is ultimately signed. And we will also have to sound out any concerns that federal law enforcement agencies may have with the possible consequences of this course of action.

Distribution controls. The code could be drafted to impact both manufacturers/importers as well as dealers/distributors. Among some of the specific requirements for manufacturers could include: computerization of inventory systems that can facilitate linkages to the ATF tracing system; comprehensive employee training; establishment of security protocols; and ballistics testing. In addition, the code could require manufacturers to sell only to dealers that: computerize their inventory to speed crime gun traces; meet security standards; agree not to sell semiautomatic assault weapons to youth under 21 or to dealers under indictment; and refrain from selling large capacity ammunition clips.

Safety Measures. The code could require manufacturers to ensure that guns have existing safety features (e.g., chamber loaded indicators, magazine disconnect safeties), and meet certain "safety" standards similar to those applied to imported firearms. The code could also prohibit manufacturers from producing firearms with certain criminal-friendly features such as easily obliterated serial numbers.

Advertising. The code could restrict manufacturers from advertising that targets juveniles or criminals or advertising on cable television.

DAVID LIMBAUGH

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-

White House ambulance chasing

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

executive power.

- Bypassing legislative prerogatives with its expansive Executive Orders.

- And, of course, using the Justice Department for political ends by fomenting baseless class action suits against the tobacco industry and gun manufacturers when Congress failed to regulate these industries according to its liking.

Regardless of their convictions about the "evils" of tobacco and guns, Mr. Clinton and other liberals must be called on their freedom-snatching methods of eradicating these "evils."

Our Founding Fathers deliberately assigned to Congress the power to make laws and to courts the power to interpret them. Policy decisions, such as gun control measures, should be made by the democratically elected Congress, not by appointed and unaccountable judges.

The next time you hear conservatives bellyaching about Mr. Clinton's congenital disregard for the rule of law, please remember they aren't just referring to such trifling matters as his perjuries and obstructions of justice.

David Limbaugh is a nationally syndicated columnist.

DONALD LAMBRO

"I wish we didn't have so many retirements," Rep. Tom Davis, Virginia Republican and the GOP's congressional campaign committee chairman, told me the other day as he poured over polling data coming in from some of the closest House races in years.

With the Democrats enjoying a 19-to-5 advantage in open House seats because so many Republican lawmakers are retiring or seeking higher office, Mr. Davis faces one of the most daunting challenges faced by anyone in the Republican leadership today. His only hope now, he says, is that George W. Bush — like Ronald Reagan in 1980 — will win the White House next year by a big enough margin to tip several close House races into the GOP column.

The GOP's prospects look bleak. It clings to a razor-thin 222-212 seat majority. The House's lone independent, Rep. Bernie Sanders of Vermont, votes with the Democrats. This means a shift of just five seats would deny the GOP the 218-vote majority they need to retain majority control of the House and turn the speaker's gavel over to Democratic Leader Richard Gephardt.

"The Democrats have a shot at seven, maybe eight seats that we're concerned about," Mr. Davis acknowledged.

Can the Republicans, even with the Democrats' 19-5 open-seat advantage, hold on to the House?

GOP pinning 2000 hopes to Bush gravity

"Sure, the Republicans have a chance to hold on to the House," said congressional-election analyst Stuart Rothenberg, who closely tracks House and Senate races for the political pros.

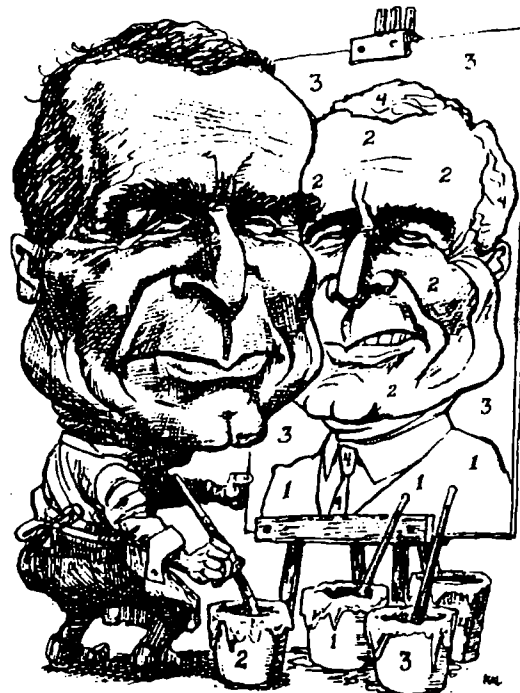
"But you have to look at the number of competitive open seats, and half of them are not particularly competitive. Democrats have eight to 10 opportunities in the open seats, tops, and Republicans may have three opportunities in the open seats," Mr. Rothenberg said.

"In terms of incumbents, it's about even between the two parties," he added.

"The Democrats are more likely than not to pick up seats in the House, with a net gain of anywhere from two to five," he told me. But Republicans could end up gaining perhaps "a seat or two" and thus barely hold on to power.

Mr. Rothenberg's fearless forecast of the likely outcome:

"It's 50-50 right now. Democrats may have a slightly better opportunity among incumbents. But not



FILLING IN THE BLANKS

much. There just aren't that many seats in play, and certainly not that many incumbent seats in play."

"It could be two to three seats one way or the other. We're looking

at a very narrow majority," he said.

David Bositis, chief pollster and political analyst at the Joint Center for Political and Economic Studies, also believes that the outcome of the fight for control of the House is a tossup right now, and that whoever wins will have one of the thinnest majorities in decades. "Whichever party wins a majority in the House, the margin will be smaller than it is right now," he predicts.

That is why Mr. Davis is hoping, and fervently believes, that the Texas governor as his party's presidential nominee will have a major impact in the battle for the House.

"The atmospherics of presidential races are not irrelevant to the House races," he told me.

"They [the Democrats] have a top-of-the-ticket candidate — Al Gore — that does not seem to be working in their direction. Mr. Gore has had a double-digit deficit for the past 12 months [against George W. Bush]," he said. Most polls indicate that Mr.

Bush has a 10-point lead.

This is why Mr. Davis and other House leaders and independent strategists are now convinced that if Mr. Bush is their nominee, as they expect he will be, a landslide election victory over Mr. Gore will help win enough neck-and-neck races to ensure the GOP's hold on the House.

"It's way too early to talk about coattails, because Bush is just starting to be tested," says Mr. Bositis. "But if he becomes a much stronger candidate, then he could have an effect on the congressional races."

Some election analysts think presidential coattails do not exist anymore in an era of independent ticket-splitting. "The coattails factor has been declining, really since World War II, because people are more independent, more apt to split their ticket and be less loyal to one party," said election analyst Rhodes Cook.

But former GOP national chairman Haley Barbour disagrees. He thinks a strong tide toward Mr. Bush over Mr. Gore would help Republican congressional candidates down the ballot, because presidential elections bring a lot of new voters who do not vote in midterm elections to the polls.

"When you increase the elec-

House leaders are now convinced that Mr. Bush can lead a landslide election victory over Mr. Gore, which will help win enough neck-and-neck races to ensure the GOP's hold on the House.

torate by one-half, that increased turnout is likely to affect the outcome of the congressional races," Mr. Barbour told me, noting that when Ronald Reagan won the presidency in 1980, he helped bring an additional 33 Republicans into the House, even though he won by only 51 percent of the vote.

"Presidential elections can create a big wave," Mr. Barbour adds. "And if Bush were to win by 53 or 54 percent of the vote, that would be enough" to carry Republican candidates to victory in a number of close House races.

Donald Lambro, chief political correspondent of The Washington Times, is a nationally syndicated columnist.