Crime – Procurement

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GRAND LODGE
FRATERNAL ORDER OF POLICE®

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GILBERT G. GALLEGOS
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

27 March 2000

Crime
Procurement

The Honorable Trent Lott
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Lott,

I am writing to you on behalf of the more than 285,000 members of the Fraternal Order of Police on a police officer safety matter of great concern to us.

In the wake of one firearms manufacturer's decision to adhere to certain standards of conduct imposed by the Department of Housing and Urban Development (HUD), we are concerned that members of the Senate may offer legislation or amendments to pending bills on the Senate floor which would require local, State and/or Federal law enforcement agencies to purchase their firearms from manufactures who have agreed to HUD's terms. We strongly disagree with this approach to firearms safety and would vigorously oppose any such efforts.

The top concern of any law enforcement agency purchasing firearms is officer safety, not adherence to a particular political philosophy. Law enforcement agencies have to stretch every dollar and they need to get the best weapons for their officers that their budget allows. Reducing their choice by imposing a requirement that they buy only from gunmakers who agree to certain HUD stipulations does not help the law enforcement mission.

Firearms issues are difficult issues as we try to walk the fine line between public safety and constitutional rights. We have worked with the Senate successfully in the past on these issues and we have always found you to be a champion of the views of law enforcement in this debate. We are urging you to discourage any initiatives imposing restrictions on the ability of law enforcement agencies to purchase the very best equipment available. Efforts to the contrary are political only and do not benefit public safety.

I hope that you will keep the view of the Fraternal Order of Police in mind should this matter become an issue. Please feel free to contact me or Executive Director Jim Pasco through my Washington office if I can be of any further assistance.

Sincerely,

Gilbert G. Gallegos

Gilbert G. Gallegos
National President

** TOTAL PAGE.02 **

Plan to Pressure Gun Makers Hits Some Snags

By VANESSA O'CONNELL
Staff Reporter of THE WALL STREET JOURNAL

Gun foes, led by the Clinton administration, are threatening to use the purchasing power of law-enforcement agencies to pressure gun makers into changing the way they do business.

But a close look at their plan reveals that the politicians' purse strings probably aren't as powerful as they claim.

The administration and 70 mayors nationwide have declared that when it comes time to buy new handguns, they want police in their jurisdictions to favor firearm makers willing to comply with sweeping restrictions in manufacturing and marketing. The goal is to reward Smith & Wesson Corp., which broke ranks with the gun industry when it agreed to such curbs last month.

Cuomo — Procurement

U.S. Housing Secretary Andrew Cuomo, who is leading the initiative, estimates that governments at all levels together buy more than 500,000 police guns annually, or 25% of the overall handgun market. That, he says, is "considerable purchasing power to encourage gun manufacturers to make a safer product."

But the notion that a government can simply shift gun contracts to Smith & Wesson conceals a far more complex reality. Most jurisdictions that want to favor S&W would have to amend open-bidding laws that require guns and other items to be purchased based on price and quality. That process could take months or years in some areas. What's more, most police departments already have the guns they'll need for years, and police representatives say that many officers would resist any effort that deprives them of their choice of gun.

Executives with S&W, the largest U.S. handgun maker and a unit of Britain's Tomkins PLC, say they welcome any advantage they can get. In exchange for settling much of the government litigation filed or threatened against the company, S&W agreed last month to measures such as imposing restrictions on its dealers that go far beyond federal law and introducing a high-tech gun that fires only for authorized users.

But S&W rivals, all of which have refused to sign such a pact, say they aren't intimidated by government threats. "We're not taking this seriously," says Paul Jannuzzo, vice president of the U.S. unit of Austria's Glock GmbH. Glock makes the pistols that are most popular with U.S. police and derives half of its revenue from law-enforcement sales.

One reason for Mr. Jannuzzo's confidence, he says, is that in the past few years, Glock sold guns to "the vast majority" of the cities and states that ended up supporting the S&W preference. Those jurisdictions aren't likely to have to buy new guns for many years to come. Several of the biggest cities that have joined the Cuomo initiative, including Boston and New Orleans, confirm this assertion.

In Philadelphia, Mayor John F. Street was one of the first politicians to promise to favor S&W, but before he announced his support, the city had just completed its purchase of Glock pistols for its 7,000 officers. Barbara Grant, a spokeswoman for the mayor, acknowledges that the city's recent purchase could undermine the mayor's intentions. "We're in a tricky place," she says.

The way police guns are acquired in many cities also could lessen the impact of the S&W preference. Increasingly, police forces don't buy guns in bulk. Since officers often want a choice of weapons, some municipalities have arranged for them to use their own cash to choose from a list of approved models. In Miami-Dade County, for example, selections for members of the 3,000-person force include Beretta and Sig Sauer. S&W guns are also on the list, but police officers say those have become less popular in recent years as other companies churn out newer, sleeker pistols.

Local officials acknowledge they are reluctant to risk hurting morale by ending officers' ability to choose their weapon, even though Miami-Dade Mayor Alex Penelas embraced the Cuomo initiative early on. "Certain people have their own preferences, and those who want to go with Sig Sauer are not going to have a Smith & Wesson," says John Rivera, president of the union for Miami-Dade police.

Joe Ramallo, the mayor's assistant director for policy, says Miami-Dade is considering offering a $100 rebate for selecting a Smith & Wesson—but the offer probably would be enticing only to the 100 or so rookies who buy new guns each year.

Other police representatives agree that their constituents would resist any directive to favor guns based on a manufacturer's willingness to settle politicized lawsuits. Choosing a gun is "a health and safety issue," says Jack Roberts, president of the Southern States Police Benevolent Association, which represents 18,000 officers in Georgia and eight other states.

Police chiefs also are worried about alienating their troops. Chief Trevor Hampton of Flint, Mich., faces the imminent replacement of the decade-old 9mm Smith & Wessons for his 350-person force.

The city's mayor has asked Chief Hampton to buy new S&Ws, but the chief's firearm experts have rated the Sig Sauer as more durable and accurate, and the police rank-and-file prefer the better-known and easier-to-shoot Glock. "If we had our druthers we'd go with the one the majority likes," Chief Hampton says, adding that he'll wait to see how the Flint City Council responds to the mayor's request.

Clinton administration officials maintain that they don't intend to pressure police into using unpopular guns. But "there is often more than one 'right' weapon that gets the job done," one administration aide says, and "once police officers hear that they will get the weapon they need, they accept the idea."

Still, some cities say that tight budgets may require them to refurbish service weapons rather than buy new ones. In St. Louis, another city that signed onto the Cuomo initiative, Mayor Clarence Harmon—part of the five-person board that controls the police department—has urged other members to consider buying new firearms only from companies like S&W that agree to new gun controls. But replacing the city's arsenal of 1,800 Beretta SpA pistols would cost $500,000 or more. Board member Edward Roth says, "If we can meet our needs on $75,000 of refurbishment, it doesn't make sense to spend a half-million dollars on new guns."

The police department of Akron, Ohio, also on Mr. Cuomo's list, already uses S&W weapons but says it isn't looking to replace them soon. "We currently use Smith & Wesson and have for 10 years," says Mike Woody, director of training for the 600-officer department. "We're not looking to replace them."

Officials within the Clinton administration and some coalition participants admit they have hit snags. "This won't immediately provide tons of business to Smith & Wesson but over time [the impact] will be felt," contends one Clinton administration aide.

Senator Charles Schumer (D., N.Y.) says he intends to introduce legislation that would get around the open-bidding laws and require federal law-enforcement agencies, such as the Federal Bureau of Investigation, to give preference to S&W. But Mr. Schumer will likely run into strong opposition organized by the National Rifle Association, which has vehemently condemned S&W's settlement as a sellout.

THE WALL STREET JOURNAL
TUESDAY, APRIL 11, 2000

Treasurys Rise on Renewed Tech-Stock Pullback As Many Investors Hang Back Ahead of Data

By JOHN PARRY
Dow Jones Newswires

NEW YORK — Treasurys got a boost from renewed weakness in technology stocks and concerns about the shrinkage in supply of government securities.

But many bond investors were laying low ahead of major economic reports later in the week, including a monthly retail-sales release from the Commerce Department.

Late yesterday, the 30-year Treasury bond's price was up ½ point, or $5 for a bond with $1,000 face value, at 108 9/32. Its yield fell to 5.664% from 5.697% late Friday, as bond yields move inversely to prices.

Ten-year Treasurys, which increasingly are being viewed as the market benchmark, performed even more strongly, gaining 18/32 point in price to yield 5.767%.

Early in the session, prices rose as the Federal Reserve Bank of New York made a $726 million purchase of Treasurys maturing in three to four years. Such transactions—which bond traders refer to as "coupon passes"—don't have policy implications and are done to boost reserves in the banking system to accomodate growing demand for money.

Later in the day, a plummeting Nasdaq Composite Index helped to lift Treasurys prices further.

Investors often move money into the relative safety of the government securities market when stocks are falling sharply, and they did so yesterday, even though blue-chip stocks ended higher.

"The Nasdaq is the No. 1 factor at the back of peoples' minds," said John Roberts, managing director of fixed income at Barclays Capital in New York.

Although the dive in high-tech stocks was the main force propelling Treasurys prices higher, expectations that the government will escalate its purchases of outstanding Treasurys also lifted 10-year and 30-year Treasurys.

Rumors abounded Friday that strong tax receipts would prompt the Treasury Department to buy back more than the $30 billion in outstanding securities it has said it plans to repurchase this year. Talk also circulated that the department wouldn't sell any new bonds at the August refunding auctions.

The Treasury Department declined to comment on that speculation Friday.

Particularly because of those expectations, the 30-year bond will continue to do better than the rest of the Treasurys market, said David Ging, a market strategist at Donaldson, Lufkin & Jenrette Securities Corp. in New York.

But for several more days, the bond market may have little to react to other than movements in equities prices, some people noted.

That is because many investors are sidelined ahead of economic releases this week, including retail sales and the producer-price index Thursday, followed by the consumer-price index Friday.

The PPI and CPI are key gauges of inflation and closely watched by the bond market. But many economists expect them to show only modest increases in the latest month. As a result, most attention likely will turn to Thursday's retail-sales release by the Commerce Department, which may shed light on how much impact higher short-term interest rates are having on consumer demand.

Many forecasters anticipate a March sales rise of about 0.2%, or in the 0.4% to 0.5% area if autos are excluded. In February, sales grew 1.1%, or 1% excluding autos.

Meanwhile, some bond investors hope stock prices will remain weak for a while. Those investors worry that any renewed stock rally would feed the "wealth effect," boosting stock investors' confidence that because of swelling paper gains, they can afford to spend more.

"As the equities market, particularly the Nasdaq, falls, that will slow consumer spending, which is what the Fed wants to see, and will also slow retail sales and limit the tightening that the Fed needs to do," noted Mary Ann Hurley, vice president of fixed-income trading at D.A. Davidson, a Seattle brokerage firm.

Meanwhile, here are details of the Treasury's weekly sale of 13-week and 26-week bills:

Here are the details of yesterday's auction by the Treasury of 13-week and 26-week bills:

All bids are awarded at a single price at the market clearing yield. Rates are determined by the difference between that price and the face value.

	13-Week	26-Week
Applications	$30,207,534,000	[illegible]
Accepted bids	$8,504,164,000	[illegible]
Accepted noncompet'ly	$1,378,827,000	[illegible]
Auction price (rate)	98.564 (5.680%)	97.040 ([illegible])
Coupon equivalent	5.844%	[illegible]
Bids at market yield	53%	[illegible]
Cusip number	912795ET4	[illegible]

Both issues are dated April 13. The 13-week bills mature July 13, 2000, and the 26-week bills mature Oct. 12, 2000

Agencies

Freddie Mac was preparing to sell $3 billion in notes despite weakness in the agency debt market. The deal, expected tomorrow, is to include a $2 billion reopening of 6⅞% notes due January 2005, and $1 billion reopening of 6¾% reference notes due September 2029.

J.P. Morgan Securities, Merrill Lynch & Co. and Morgan Stanley Dean Witter will be joint lead managers.

In trading, meanwhile, the agency market lost ground as investors shifted funds into government securities.

Yield margins between agency bonds and Treasurys, a key gauge of performance for fixed-income securities, widened by 0.03 to 0.04 percentage point across the board, according to traders.

Fannie Mae's 7¼% securities due 2010 were bid at 1.25 percentage points over Treasurys late yesterday, widening from about 1.19 percentage points Friday.

Corporate Bonds

Despite the renewed weakness in the Nasdaq, Global Crossing Ltd. entered the convertible bond market as scheduled, offering to sell $750 million of convertible preferred securities.

The deal was expected to be priced late yesterday via Salomon Smith Barney and Goldman Sachs.

Participants are closely watching the Global Crossing deal to test the strength of the convertible market, which has lost some of its momentum amid the recent declines in the Nasdaq.

Price guidance on the 12-year securities calls for a dividend of 6.25% to 6.75%, with a conversion premium of 20% to 24%.

The issue will be noncallable for five years.

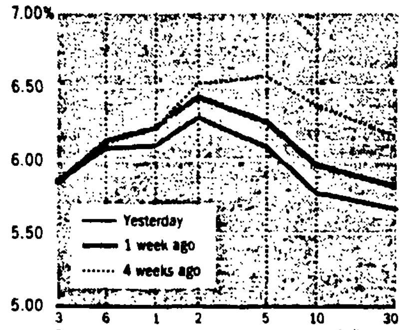
Convertibles are hybrid securities that can act like bonds or equity.

The offering from Global Crossing, a Bermuda-based undersea fiber-optic-network builder that was until recently a frequent borrower in the junk-bond market, comes as the junk market continues to suffer more than some other corners of the credit markets.

—Sheila Calamba and Jennifer Ablan contributed to this article.

Treasury Yield Curve

Yields as of 4:30 p.m. Eastern time



Source: Reuters

YIELD COMPARISONS

Based on Merrill Lynch Bond Indexes, priced as of midafternoon Eastern time.

	4/10	4/7	—52 Week— High	Low
Corp.-Govt. Master	6.72%	6.76%	7.15%	5.61%
Treasury 1-10yr	6.23	6.29	6.71	5.01
10+ yr	6.02	6.04	6.93	5.65
Agencies 1-10yr	6.97	7.01	7.26	5.58
10+ yr	6.63	6.64	7.34	6.01
Corporate				
1-10 yr High Qlty	7.15	7.20	7.55	5.70
Med Qlty	7.60	7.65	7.94	6.16
10+ yr High Qlty	7.52	7.54	7.85	6.47
Med Qlty	7.93	7.95	8.24	6.89
Yankee bonds(1)	7.43	7.46	7.79	6.42
Current-coupon mortgages (2)				
GNMA 7.50%	7.63	7.65	8.05	6.40
FNMA 7.50%	7.74	7.77	8.05	6.44
FHLMC7.50%	7.77	7.80	8.08	6.46
High-yield corporates	11.77	11.78	11.82	9.74
Tax-Exempt Bonds				
7-12-yr G.O. (AA)	5.05	5.05	5.36	4.37
12-22-yr G.O. (AA)	5.62	5.62	6.04	4.69
22+yr revenue (A)	5.88	5.88	6.35	4.97

Note: High quality rated AAA-AA; medium quality A-BBB/Baa; high yield, BB/Ba-C.

(1) Dollar-denominated, SEC-registered bonds of foreign issuers sold in the U.S. (2) Reflects the 52-week high and low of mortgage-backed securities indexes rather than the individual securities shown.

THE PLEDGE

COMMUNITIES FOR SAFER GUNS COALITION

With over 30,000 people killed and several times that number injured by guns each year, ensuring safe communities is our highest priority. Many of these tragedies could be prevented through reasonable distribution and design reforms on the part of responsible firearms manufacturers. As representatives of communities throughout the nation who purchase firearms for public safety purposes, we have a unique ability to express our desire for safety through our procurement choices and a corresponding responsibility to ensure that our choices reflect our concerns.

We therefore pledge to support using as a criterion in our firearms purchasing a consideration of whether companies have agreed – at a minimum – to adhere to a new code of responsible conduct. This code provides for safer gun designs and a distribution system that makes it harder for guns to get into the hands of criminals and children. This consideration will apply only to equipment that meets law enforcement needs, and only to comparable equipment available at a comparable price.

We firmly believe that this pledge will make our communities safer and reduce the awful toll of gun violence in our nation.

____

Remington

Pleading

commission/enforcement, fees

USADILLINGS to file

Mexico - t50 incentive for SnW

big retailers like Sports Auth

MTG w/ POLICE GROUPS

National Firearms Litigation Meeting
U.S. Department of Housing and Urban Development
March 28, 2000

Agenda

Opening Remarks – Secretary Cuomo

Update on Smith & Wesson Agreement & Follow-Up

- Present state of manufacturer reaction to the Smith & Wesson agreement;
- Open issues with respect to the Smith & Wesson agreement, including
    - Questions of interpretation raised by participants;
    - Practicalities of getting the agreement signed;
    - Practicalities of entering the agreement as a consent decree;
    - Outreach to litigants who have not yet joined;
- Creating a mechanism for future negotiations;
- Provisions negotiators should consider altering in any future settlements;

Open discussion on other topics to be raised by participants.

Draft Leanne sent to Bea

DRAFT DRAFT DRAFT DRAFT DRAFT

[March X, 2000]

SUBJECT: Federal firearms procurement

From the start of my Administration, improving public safety has been among our highest priorities. I am pleased that we have made tremendous progress in our efforts. We worked to pass the historic 1994 Crime Bill to fund 100,000 more community police officers, we fought for and passed the Brady Law that has stopped over 500,000 felons, fugitives, domestic abusers, and other prohibited persons from buying handguns, and we passed the assault weapons ban to take these deadly weapons of destruction off the street. Combined with a strategy of tough penalties, smart prevention, and an unprecedented level of resources that we have provided to state and local law enforcement to combat local crime problems, we have achieved remarkable results. The overall crime rate has declined for seven straight years, the longest period of decline on record, and the homicide rate is at its lowest point in over three decades.

Despite this progress, however, gunfire still claims the lives of too many people in our country, including nearly a dozen young people every day. And though we have cut gun crime by over a third since 1993, we can still do much more. We must aggressively work on every front to combat the gun violence problem. We must build on our record of increased prosecutions of gun criminals at the federal, state, and local level by working to pass our $280 million gun enforcement initiative to add more ATF agents and inspectors, more federal, state and local gun prosecutors, and more and better tools to help trace guns and bullets to the criminals who used them. We must also continue our efforts to reduce the tragic accidental shootings that kill and injure thousands of children every year by investing in smart gun technology that limits the use of a firearm to authorized adults. In addition, we must work to enact common sense safety gun legislation designed to keep guns out of the wrong hands that would close the gun show loophole, require child safety locks for new handguns, ban the importation of large capacity ammunition clips, and permanently bar violent juveniles from owning guns as adults.

We must also work with the gun industry to join us in our efforts. [Last week], a broad coalition of cities and States across America joined us in signing a historic agreement with Smith & Wesson, the nation's largest handgun manufacturer, that will lead to groundbreaking reforms in the design, distribution and marketing of their firearms. This landmark agreement demonstrates that the gun industry has the ability and the willingness to partner with us in our fight to reduce gun violence.

We should build on [last week's] progress and encourage other members of the gun industry to adopt responsible business practices that can save lives and reduce gun violence in our nation. To this end, cities and States recently announced plans to give preference to companies that implement such practices through their procurement policies for state and local law enforcement.

As the single largest purchaser of firearms in America, the Federal government has an opportunity to further influence industry reforms. Every year, the Federal government procures thousands of guns from private firearms manufacturers to equip the more than 74,500 federal officers authorized to carry firearms and make arrests. [Need to add more factoids on federal procurement here.]

To bolster our overall strategy to keep guns out of the wrong hands, improve firearms safety, and enhance the enforcement of our gun laws, our procurement policies should reward those manufacturers who work with us toward achieving these goals. In doing so, we must also maintain our foremost commitment to ensuring that federal law enforcement officers and agents have the best firearms to accomplish their mission.

Therefore, I direct you to develop a plan that strengthens the federal procurement process by rewarding gun manufacturers that adopt responsible business practices with respect to gun safety design, distribution and marketing. Specifically, manufacturers should be encouraged to: (1) help control proper distribution of firearms to ensure that guns do not slip into the illegal market; (2) develop safety measures to prevent unauthorized use and accidental misuse of guns; and (3) abolish advertising and marketing practices that target individuals who are legally prohibited from owning or buying guns such as criminals and juveniles. Such practices should complement and enhance law enforcement's ability to enforce gun laws and improve officer safety. The plan also shall ensure that federal agents will obtain the firearms they need to best carry out their law enforcement duties.

I instruct you to report back to me with your plan in the next [30] days.

GRAND LODGE
FRATERNAL ORDER OF POLICE®
LEGISLATIVE OFFICE
309 Massachusetts Ave., N.E.
Washington, DC 20002
Phone 202-547-8189 • Fax 202-547-8190

GILBERT G. GALLEGOS
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

27 March 2000

The Honorable Trent Lott
Majority Leader
United States Senate
Washington, D.C. 20510

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Sincerely,

Gilbert G. Gallegos

Gilbert G. Gallegos
National President

FAX TRANSMITTAL

DEPARTMENT OF THE TREASURY
Office of the General Counsel
1500 Pennsylvania Ave., N.W., Room 3000
Washington, DC 20220
Telephone: (202) 622-0283
FAX: (202) 622-2882

To: Eric Liu
Deanne Benos

DATE: 3/27/00

PAGES TO FOLLOW: ______

From: Neal Wolin/ Marty Moe

Addressee FAX No. 456-2878

Confirmation No.: ____________

Notes and Special Instructions:

DRAFT DRAFT DRAFT DRAFT DRAFT

[March X, 2000]

MEMORANDUM FOR THE SECRETARY OF THE TREASURY
THE ATTORNEY GENERAL

SUBJECT: Federal firearms procurement

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Despite this progress, however, gunfire still claims the lives of too many people in our country, including nearly a dozen young people every day. And though we have cut gun crime by over a third since 1993, we can still do much more. We must aggressively work on every front to combat the gun violence problem. We must build on our record of increased prosecutions of gun criminals at the federal, state, and local level by working to pass our $280 million gun enforcement initiative to add more ATF agents and inspectors, more federal, state and local gun prosecutors, and more and better tools to help trace guns and bullets to the criminals who used them. We must also continue our efforts to reduce the tragic accidental shootings that kill and injure thousands of children every year by investing in smart gun technology that limits the use of a firearm to authorized adults. In addition, we must work to enact common sense safety gun legislation designed to keep guns out of the wrong hands that would close the gun show loophole, require child safety locks for new handguns, ban the importation of large capacity ammunition clips, and permanently bar violent juveniles from owning guns as adults.

a broad coalition of cities & states

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I instruct you to report back to me with your plan in the next [30] days.

Government Coalition to Try to Pressure Gunmakers

By Edward Walsh
and Helen Dewar
Washington Post Staff Writers

The Clinton administration and a coalition of local governments announced yesterday that they will use the purchasing power of law enforcement agencies to try to force other gun manufacturers into accepting the same package of gun safety measures and restrictions on gun sales that Smith & Wesson Corp. agreed to last week.

Seeking to keep pressure on the gun industry, Housing and Urban Development Secretary Andrew M. Cuomo and representatives of the coalition of 29 city and county governments said the combined purchasing power of federal, state and local law enforcement agencies should be brought to bear on gun manufacturers to pressure them into adopting the Smith & Wesson agreement or risk the economic consequences.

"We hear the loud, angry rhetoric today, but inevitably they will sign on or they will cease operation," said Atlanta Mayor Bill Campbell, whose police department already uses Smith & Wesson handguns.

However, a senior Treasury Department official later acknowledged that implementing such a policy could be complicated by a thicket of laws and regulations setting government procurement policies and the judgment of law enforcement officials on what weapons would be best for their agencies.

"It is not a matter of snapping our fingers," he said. "At Treasury and I think at Justice, we want to be sure our law enforcement agents have the best weapons they can to get their jobs done."

According to government spokesmen, none of the main federal law enforcement agencies within the Justice and Treasury departments purchases Smith & Wesson products as its primary handgun.

Implementing the policy could also be complicated by political factors. Addressing yesterday's news conference, Maryland Attorney General J. Joseph Curran said that Gov. Parris N. Glendening (D) "does indeed conceptually support this," adding that he could sign a pledge on state government gun purchases "as a concept."

According to spokesmen for the agencies, the Maryland State Police and Prince George's County police use handguns manufactured by Beretta. Montgomery County police use Beretta and Smith & Wesson handguns. Beretta is an Italian company whose U.S. affiliate has its headquarters in Prince George's County.

Smith & Wesson, the nation's largest handgun manufacturer, agreed to take a series of steps last week in return for the withdrawal of lawsuits against it by several cities and the threat of a lawsuit by the federal government. The city lawsuits remain pending against other gun manufacturers.

In the accord, Smith & Wesson agreed to begin providing external trigger locks with all the guns it sells and within three years to include "smart gun" technology that would allow only the gun owner to fire the weapon as part of any new handguns it develops. It also agreed to impose on gun dealers a "code of conduct" that includes requiring background checks and other restrictions on all gun sales.

Smith & Wesson manufactures only handguns, but it is not clear how much of the law enforcement market is served by the company. An employee of rival Glock Inc. said Glock claims to provide 67 percent of the handguns carried by law enforcement officers. Glock said Tuesday that it would not agree to the terms accepted by Smith & Wesson.

As the administration continued its pressure on the gun industry, on Capitol Hill House Republican leaders entered the bidding war over gun legislation with a proposal to provide financial incentives for states that agree to strengthen their enforcement policies, including mandatory minimum sentences for crimes in which guns are used.

The bill requires "hard time for armed crime," said Rep. Heather A. Wilson (R-N.M.). It was introduced by Rep. Bill McCollum (R-Fla.) and endorsed by House Majority Leader Richard K. Armey (R-Tex.) and other top GOP leaders.

The measure would authorize $100 million over five years to states that agree to implement programs modeled on "Project Exile" in Richmond that seek to assure tough prison sentences for criminals who use guns. States would have to agree to mandatory sentences of at least five years, without possibility of parole, for anyone who uses or carries a gun in a violent crime or serious drug-trafficking offense or for a violent convict caught possessing a gun. They also would have to agree to "awareness campaigns" to publicize the tough sentencing policy and to cooperate with federal law enforcement authorities to carry it out.

Democrats, who earlier introduced a broader proposal that included 1,000 new prosecutors to carry out a "Project Exile" policies but did not require mandatory minimum sentences for receipt of the funding, criticized the GOP proposal as a thinly disguised attempt to divert attention from Republicans' opposition to tougher gun control. "It appears to only pay lip service to enforcement by mimicking Reagan-era revenue sharing approaches" to transfer federal resources to states, said Rep. John Conyers Jr. (Mich.), ranking Democrat on the House Judiciary Committee.

In the Senate, Judiciary Committee Chairman Orrin G. Hatch (R-Utah) introduced legislation to curb what he called "burdensome and frivolous suits" against firearms manufacturers and dealers. It would allow lawsuits only in cases where "plaintiffs could show that the manufacturer or seller knew that the firearm would be used to commit a state or federal crime," Hatch said in a speech to the Senate.

The bill also would bar the government from charging a fee for background checks, require immediate destruction of background check records for approved transactions and create civil remedies for citizens who believe these provisions have been violated.

Staff writer Katherine Shaver contributed to this report.

Right Hook! Left Jab! Gore and Bush Enter Swinging

By Michael Powell
Washington Post Staff Writer

Whap! Whap! "The vice president illegally raised money from monks at a Buddhist temple who took a vow of poverty." Whap! Whap! "George Bush opposes real campaign finance reform."

Whap! Whap! "Gore fails to trust parents."

Whap! Whap! "Bush an education reformer? Texas voters don't think so."

They're at it already, a couple of Ivy League palookas and their corner men working the speed bags, two would-be heavyweights sweating and pounding the body bag, tuning up for a campaign that is endless before it begins.

Only 230 days left until Election Day. And every day sees a steady stream of e-mail jabs, roundhouse faxes, and kidney shots disguised as speeches. A belly shot to the Gore's ethical plexus, a windmill left to Bush's cerebellum shallowus.

Is any American with a day job paying attention yet? No matter. The point is to get down the moves, to perfect the *craft* of opening a cut, and *the art* of turning it into a gushing wound.

The experts will tell you: Fights are won and lost in the gym.

"There's so much to say about George Bush, we just can't help ourselves," says Doug Hattaway, the Bundini Brown in Gore's corner. "We view it as a rapid-fire public education campaign."

Whap! Whap!

"The campaign will exist on two levels," says Ari Fleischer, Bush's own Gil Clancy. "The level the governor will keep it on and the level Gore will take it down to."

Whap! Whap!

A bald-pated corner man of no mean accomplishment wrinkles his nose at such talk. James Carville enjoys the scent of blood on the nostrils as much as the next carnivore. And the reportorial suggestion that there's such a thing as *too much* negativity pains him.

But this sniping seems amateurish.

"We're already at mid-September intensity. This is too much about too little too soon," says the man who helped elect Bill Clinton in 1992. "This notion that every paper clip has to be contested, it's ludicrous."

Carville sees a confluence of problems this year: The major political parties know the identity of their candidates far too early. A thousand party hacks are quivering with hormonal aggression and have no place to vent it. And everyone's haunted by the "memory" that Republican Bob Dole lost the 1996 presidential election when he relaxed after winning the Republican primary and let Clinton attack him.

The fact that polls and studies suggest that nothing of the sort happened to Dole in 1996 doesn't dissuade anyone.

"It's not truth, it's just dogma," Carville says. "It's got everyone believing that you can't let the other side get a leg up. We've got too much testosterone going on here."

Then there's the beast known as the 24-hour news cycle. Approximately 116 cable news operations compete for the affections of .00003 percent of Americans who can't live without a daily injection of politics. And the Web sites of major American newspapers, not least The Washington Post, seem predicated on the certitude that readers really hunger for *more* news about Gore and Bush.

So we feast on conflict. K Street consultants take to the air to tweak other consultants in service of their candidates. And campaigns ship out attack e-mails and faxes that sometimes arrive two or three per hour at newspapers.

Whap!

"Unless the Vice President has something to hide, he needs to name the union on whose behalf he sought confidential I.R.S. information," states an e-mail from the Bush campaign. "He should also denounce his staff's attempt to obtain secret I.R.S. information in the first place."

Whap!

"Bush's accountability system is under serious scrutiny," states the Gore campaign e-mail, "for problems involving cheating and exempting too many [Texas] students from the test."

The fact that you've likely never heard of either story is irrelevant. The point is to swing from the heels.

Bill Clinton, he was the Muhammad Ali of the business: He could spin out I-feel-your-pain combinations one minute and play impeachment rope-a-dope the next.

Not these Bayonne bleeders. They dutifully jump rope, run the streets, pound the bag. Over and over and over again. The worried mind turns to pacing and blood pressure rates.

"If you have a power puncher, you send him out to be aggressive and not to box. You want to keep cutting and cutting until something gives."

Now our interlocutor is a real corner man, Michael Wiggins of the Kronk, the world-famous boxing gym in Detroit. He digs heavyweights and those heavy-gravity roundhouses.

Can't do it for 15 rounds, though.

"That's different, he says. "You have to mess around, move around, keep him puzzled."

What would he tell Gore and Bush?

"I wouldn't even know how to rate these guys," he says. "They are candidates and all, but I wouldn't call 'em prize winners. I really wouldn't."

Whap! Whap!

The Washington Post
Thursday, March 23, 2000

Gun Accord Prompts RSR to Stop Buying From Smith & Wessor

By a WALL STREET JOURNAL *Staff Reporter*

WINTER PARK, Fla. – A major gun wholesaler said it plans to drop Smith & Wesson weapons and accessories from its menu of products, citing the burdens of a gun-control agreement that the gun maker recently reached with the federal government.

A senior executive at the wholesaler, **RSR Group** Inc., said some of the sweeping sales restrictions embedded in Smith & Wesson Corp.'s unprecedented agreement with the government would be too difficult and costly for RSR to enforce.

"Basically, we are very disappointed in what [Smith & Wesson] did," said Michael Saporito, senior vice president of RSR Group, Smith & Wesson's largest customer. "They have agreed to something we can't adhere to," he added.

The Clinton administration dropped its threat of legal action against the nation's largest gun maker after the company agreed to marketing and manufacturing changes, including adding safety features to its handguns. About half of the 29 cities and municipalities that have sued gun makers also agreed to drop their suits.

The agreement also requires gun retailers carrying Smith & Wesson guns to adopt sales restrictions that go far beyond current federal law. Dealers would have to lock all handguns in a safe at night, for instance, and keep an electronic inventory of purchases and sales.

Mr. Saporito said RSR would reconsider buying Smith & Wesson guns only if the gun maker decides to abandon its agreement, or determines that it isn't enforceable.

Ken Jorgensen, a spokesman for Smith & Wesson, a unit of Britain's **Tomkins** PLC, said the gun maker will regard RSR as an existing customer until its contract with the wholesaler expires at year end.

Microsoft to Unveil Revamped Software For Playing Audio, Video Over the Web

By REBECCA BUCKMAN

Staff Reporter of THE WALL STREET JOURNAL

Microsoft Corp., upping the ante in the digital-music wars, today plans to unveil revamped software for playing audio and video over the Internet.

The new version of Microsoft's Windows Media Player, which won't be generally available to the public until this summer, handles tasks that previously had required at least two pieces of software. It will be able to play audio and video that is broadcast over the Internet, a technique known as "streaming," as well as store and play back music that is downloaded from the Internet or transferred from CDs. That set of functions previously was handled by separate "jukebox" programs supplied by other companies.

Microsoft has been locked in a fierce battle in the field with Seattle-based **Real-Networks Inc.**, an early leader in streaming media that offers a separate jukebox program. RealNetworks says RealJukebox software, released last May, has 29 million unique users, and plans to announce this week that consumers have played or recorded one billion songs using the software.

In an interview last week, RealNetworks Chairman and Chief Executive Officer Rob Glaser—a former Microsoft executive—called the new jukebox from the Redmond, Wash., software company a "me-too" product. Separately, RealNetworks also plans to announce that RealPlayer and RealJukebox are now available in nine different foreign languages; about 40% of RealPlayer users and 30% of RealJukebox users live outside North America, the company says.

But Microsoft officials described their new media player as a powerful new product that allows consumers to listen to compact disks, watch videos, listen to far-flung radio stations and organize their music collections all in one place. The product is also "a lot more consumery," said Dave Fester, director of marketing for Microsoft's Digital Music Division. On computer screens, the new Windows player looks like a gray-colored, small electronic device, with a big "play" button. Previously, it was a plain-looking box.

Users can also customize the look of their player, turning it into a heart shape or an image of a floating, green human head, among other options. Some of the more exotic looks are targeted at teenagers, according to Mr. Fester. The new player also will allow consumers to transfer digital music stored on their computers to tiny, hand-held playback devices, such as the Rio products made by S3 Inc.'s Diamond Multimedia and Sony Corp.'s stick-shaped Music Clip.

CHASE MANHATTAN CORP.

Chase Chief Compensation Off 7% From Year Earlier

Chase Manhattan Corp., New York, gave its Chairman and Chief Executive William B. Harrison Jr. a compensation package totaling $8.6 million before options, according to proxy statements filed with the Securities and Exchange Commission. The package is down 7% from the $9.2 million he received a year earlier, a decline related to a long-term incentive payout Mr. Harrison received in 1998, the statements indicated. Mr. Harrison, who served as president and CEO of the bank from June through December, received a salary of $930,769 and was granted a $5.3 million bonus, up from $5.1 million in 1998. He also received a $2.3 million restricted stock award, the filing said. Mr. Harrison was also granted 820,000 in new stock options during 1999.

US Air Is Poised to Resume Turnaround If Attendants Ratify Tentative Contract

By SUSAN CAREY and WENDY BOUNDS
Staff Reporters of THE WALL STREET JOURNAL

A tentative contract reached by US Airways and its flight attendants positions the big East Coast airline to resume the turnaround its executives mapped out when they arrived at the company four years ago.

Stephen Wolf, chairman of US Airways Group Inc., and Rakesh Gangwal, the chief executive, got off to a strong start. They gave the company a new name and image, ordered a massive fleet of new jets, started a low-fare airline division and began reining in US Air's high costs.

But last year, US Air's three-year run of profits dissolved into red ink during the third and fourth quarters. Worker unrest and the demands brought on by absorbing new planes and training pilots caused massive cancellations. The mechanics union came to the brink of a strike in the fall before agreeing to a new contract.

Then negotiations with the flight attendants stalled in February. The National Mediation Board released the group from the talks and gave the Association of Flight Attendants the legal right to strike as of last Friday.

Rather than subject its passengers to the union's plan of selectively striking individual flights or routes, US Air management a month ago said it would close down Saturday in the absence of an agreement. That unusual news caused thousands of potential customers to change their reservations to other carriers, **Delta Air Lines** being the biggest beneficiary because its route network most closely overlaps US Air's.

But early Saturday morning, three hours after the strike deadline, the two sides found a compromise. The resulting five-year pact, which is subject to approval by the union's ruling master executive council and then to a ratification vote by all 10,000 US Air attendants, would give the workers a signing bonus equaling 5% of their annual salaries, then four raises totaling 11%. Under the old contract a starting flight attendant would earn about $17,150 a year, with top pay for a 14-year veteran climbing to nearly $37,000.

The sticking point was the AFA's rejection of US Air's idea that attendants' pay, benefits and work rules be linked to those of their counterparts at the nation's four largest airlines, plus an additional 1%. Management demanded the attendants go along because all its other unions had accepted that formula. US Air, the nation's sixth-largest airline, has the highest operating costs in the industry due to its short-haul route network and motley fleet.

Following a Formula

All other big US Air unions have accepted contracts that link their pay, benefits and work rules to their counterparts at the four largest airlines, plus 1%.

- **Air Line Pilots Association:** 5,500 pilots; Five-year pact began January 1998.
- **International Association of Machinists union:** 7,500 mechanics and cleaners; Five-year pact began October 1999.
- **International Association of Machinists:** 6,000 ramp workers; Five-year agreement began April 1999.
- **Communications Workers of America:** 10,400 customer-service and reservations agents; Five-year contract began December 1999.
- **Association of Flight Attendants:** 10,000 attendants. Tentative five-year contract reached Saturday. Not parity plus 1% but 'cost competitive.'

Source: US Airways

But the attendants, whose last 4% pay raise came in early 1996 and who have been trying for a new contract since October of that year, were angered by large pay packages for Messrs. Wolf and Gangwal and well aware of US Air's generally strong financial performance. So they balked.

Facing a costly closure that would have caused a net loss of $12.5 million a day, US Air last week drew down an entire $500 million credit line and has the cash at the ready. After a week of intense negotiations, the airline on Friday changed its offer. While the company doesn't call it "parity plus 1%," it does meet the airline's key objectives of being competitive with the other carriers' deals with their cabin crews. US Air also agreed to amend its pension plan so it doesn't penalize married workers, and gives all attendants leave time to care for sick family members.

US Air declined to comment on the terms of the tentative pact, except to say it "works for our flight attendants and allows the company to compete in the marketplace." Lynn Lenosky, president of the AFA branch at the airline, said her negotiators granted US Air "relief" it was seeking in areas such as sick leave and scheduling, but said her group didn't agree to terms that are below industry standards.

The pact will go to the union's ruling council this week. Ms. Lenosky said she thinks members will be "very, very pleased." But the council could send negotiators back to the table or put out the agreement for a ratification vote with a negative endorsement. The process could take as long as 45 days. If the attendants reject the accord, they would be free to strike immediately.

Despite US Air's sixth-place ranking in the U.S., it dominates East Coast airports from New England to Florida. The Arlington, Va., company carries an average of 153,000 passengers a day on its 2,200 jet flights. It wasn't clear whether US Air would put its tickets on sale this week to lure back passengers and add to its bookings. The company said it can't comment on its pricing plans.

US Air had warned investors early this year that it expected to post a loss for the first quarter, based on higher fuel costs and the labor unrest. First Call/Thom Financial's current consensus of analys estimates indicates US Air will report a first-quarter loss of $1.15 a share. That would compare with year-ago profit of $46 million, or 56 cents a share. US Air was down 87.5 cents to $22.375 in New York Stock Exchange composite trading at 4 p.m. Friday.

With all its labor contracts in place, at least provisionally, US Air is expected to start seeing the fruits of the company's work-rule efficiencies, new planes, low-fare airline division, improved information-technology system and expanding presence in Europe.

Indeed, Chairman Wolf was in France last week to take delivery of US Air's first long-range Airbus Industrie A-330 plane for European routes. Even as Mr. Gangwal, the CEO, was locked in negotiations in Washington trying to avoid a strike, Mr. Wolf was touting US Air's operational rebound. Now, perhaps with the attendants on board, the two men's plan for turning a once-mediocre regional airline into a national contender could take off.

THE WALL STREET JOURNAL
MONDAY, MARCH 27, 2000

Cops To Favor Cooperative Gun Cos.

By Lawrence L. Knutson
Associated Press Writer
Wednesday, March 22, 2000; 3:24 p.m. EST

WASHINGTON — Maintaining pressure on gun manufacturers, the Clinton administration announced that 29 cities and counties will give preference to gun makers that follow the lead of Smith & Wesson – producing safer firearms and adopting a code of responsible conduct.

"Government at every level should use their procurement policies to support manufacturers who take responsible steps to make guns safer and to keep guns out of the wrong hands," said Andrew Cuomo, secretary of Housing and Urban Development, who announced the new gun-safety coalition.

Cuomo urged communities of every size to join the effort and said preferential buying can force the gun industry to fall in line behind the Smith & Wesson agreement because sales to law enforcement agencies represent 20 percent to 30 percent of the U.S. gun market.

"It's common sense from police to buy guns from a company that makes it harder for criminals to get hold of guns that can be used against police and civilians," Cuomo said.

Last week, Smith & Wesson, the largest U.S. manufacturer of handguns, agreed to quickly install gun locks on all the weapons it sells, to introduce "smart gun" technology permitting weapons to be fired only by their owners and to block gun sales at gun shows without a background check.

The company broke industry ranks and changed its policy in exchange for an a promise that a lawsuit against it would be dropped.

Two gunmakers – Glock Inc. and Browning – have already announced they will not sign voluntary gun-safety agreements similar to the one agreed to by Smith & Wesson Corp.

Cuomo said Wednesday's announcement was an undisguised attempt to keep the pressure on those and other gun makers.

"Consumers want a safer America" Cuomo said. "Because of Smith & Wesson's agreement we now know a safer America is possible. And we demand it."

Joining the coalition were the attorneys general of Connecticut, Maryland and New York and mayors or county officials in California, Connecticut, Florida Georgia, Hawaii, Indiana, Louisiana, Massachusetts, Michigan, Missouri, New Jersey, Ohio, Rhode Island, Texas and Wisconsin.

The list included Los Angeles, San Francisco, Atlanta, St. Louis, New Orleans, Boston and Florida's Miami-Dade County.

"We have the capacity to squeeze manufacturers like a pincers and hurt them in the marketplace.," said Democratic Attorney General Elliot Spitz of New York. "We are bigger than the NRA (National Rifle Association)."

The NRA has been harshly critical of gun initiatives in general. NRA executive Wayne LaPierre discounted the Smith & Wesson deal's importance, saying there was not much new in it.

Mayor Bill Campbell of Atlanta said he had just attended the funeral of Fulton County (Ga) deputy sheriff Ricky Kinchen, a shooting victim.

"Atlanta buys about a million dollars (worth) of guns each year," the mayor said.

When the purchasing power of other cities is added the gun manufacturers "will comply or they will cease operations," he said.

Sen. Charles Schumer, D-N.Y., applauded the effort and said he will shortly introduce legislation to instruct federal law enforcement agencies who buy guns to give preference "to those manufacturers who sign on to the Smith & Wesson agreement."

Schumer said he will offer similar but separate legislation dealing with gun purchases by the police force which protects the Capitol complex.

"I think we are seeing a real sea change here in how America regards guns," Schumer said. "And now there is a chance in America to do something about guns."

On the Net: http://www.hud.gov/news.html

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Yellow Pages

Police urged to buy from safer gunmakers

HUD, local officials seek support for higher standards

By Gary Fields
USA TODAY

WASHINGTON — Led by the Department of Housing and Urban Development, officials from 29 cities and counties said they'll push their law enforcement agencies to buy guns from manufacturers who agree to higher safety standards.

Included on Wednesday were officials from major cities, such as Los Angeles, New Orleans and St. Louis, and smaller ones, such as Bloomington, Ind., and Flint, Mich.

The agreement expands on a pact reached last week by HUD Secretary Andrew Cuomo and the mayors of Atlanta, Detroit and Miami. It is intended to pressure other gunmakers to join Smith & Wesson in agreeing to increase gun safety, Cuomo said.

Cuomo said law enforcement agencies buy 30% of guns sold in the USA. "Why wouldn't we want to patronize the company that is doing the most (it) can to keep guns out of the hands of criminals in the first place?" he asked.

Smith & Wesson, the USA's largest maker of handguns, agreed last week to a series of safety measures. The measures include placing trigger locks on all guns, monitoring retailers more carefully and developing a "smart" gun that can be fired only by authorized users. In return, the company was freed from lawsuits filed by 17 cities and counties.

New York Attorney General Elliot Spitzer said Wednesday's action is about economics. "We have the capacity to squeeze them like a pincer and say we will deny them their most important market," he said.

Sen. Charles Schumer, D-N.Y., said he has introduced legislation that would require federal law enforcement agencies also to participate.

Several U.S. Justice and Treasury Department officials said that could be difficult because of federal procurement laws and because the safety of the officers and agents who use the weapons is the top concern.

Three manufacturers provide the primary weapons for the FBI, Bureau of Alcohol, Tobacco and Firearms, Secret Service, Customs and Drug Enforcement Administration. They are Beretta U.S.A., SIG Arms and Sturm, Ruger & Co.

"Most departments bought new semiautomatics within the last 10 years, and new purchasing is incremental," said Jeff Reh, Beretta U.S.A's general counsel.

James Pasco, executive director of the Fraternal Order of Police, said, "What it sounds like they are saying is instead of equipping our officers with the best-quality weapons available, we're going to equip our officers with weapons from manufacturers who agree with us politically."

USA TODAY · THURSDAY, MARCH 23, 2000

McCain's advice to Bush: Return to message

The Arizona senator, who is withholding support for the Texas governor, says Bush has detoured from being a 'compassionate conservative'

By Jill Lawrence
USA TODAY

WASHINGTON — Sen. John McCain, who is withholding an endorsement of the man who bested him in the contest for the Republican presidential nomination, said George W. Bush needs to get back to being a "compassionate conservative" after what McCain considers a damaging detour.

McCain has said that he will support his party's nominee, but that his degree of enthusiasm remains an open question.

In an interview Wednesday, the Arizona senator advised the Texas governor to "go back to the message that he was transmitting at the beginning of the campaign. That was a unifying and inclusive message. Obviously, in my view, he left that message after New Hampshire."

> "I want to have a good, healthy relationship with Gov. Bush. But I also will not abandon my agenda."
>
> — Sen. John McCain

After losing the New Hampshire primary election to McCain on Feb. 1, Bush became more adversarial and made pointed efforts to cultivate the religious right. Bush then won a string of victories, and McCain suspended his campaign, which leaves Bush and Vice President Gore to battle for the independent-minded voters whom McCain attracted.

McCain said Wednesday that "it's too early to tell" whether Bush is back to his initial message — and too early to tell how their relationship will play out.

"Except for debates, I've never had any conversations with him," the senator said.

Progress toward détente was set back last week when Bush said in a *New York Times* interview that he had learned nothing about reform from McCain. When reminded that McCain had generated record turnouts, the *Times* said, Bush "responded curtly, 'Well, then, how come he didn't win?' "

McCain said he needs a better idea of Bush's priorities before deciding what level of support he would offer. He did not rule out campaigning for him.

"I want to have a good, healthy relationship with Gov. Bush," McCain said. "But I also will not abandon my agenda."

During the campaign, the two candidates' main differences were on campaign-finance reform and what to do with the federal budget surplus.

In a wide-ranging interview in his Senate office, McCain discussed his relationship with Bush and his fellow senators, the influence he hopes to have at the Republican convention this summer, his rationale for forming a political action committee after having advocated banning PACs, and his plans for pursuing campaign-finance reform in Congress.

McCain made a low-key re-entry into Senate life this week. It would be counterproductive, he said, to "seek confrontation" and "start slapping people in the face" at a time when he's trying to get back to his responsibilities as a senator.

On the other hand, McCain said, his commitment to campaign-finance reform and other causes has not waned — and now, he emphasized, he has an e-mail army of 200,000 people he can mobilize.

"I know that I have more influence here because of the performance in the campaign," said McCain, who won seven primaries with his message of "taking back government" from special interests and big money.

McCain met Wednesday with Sen. Russ Feingold, D-Wis., to plan the next move in their five-year battle, futile so far, to reform political fundraising.

"He's fired up and I'm fired up. We've got to decide on tactics," McCain said. He said any bill will include a ban on unlimited, unregulated "soft money" contributions to political parties and tighter regulation of independent spending by interest groups.

Democrats are already accusing McCain of hypocrisy for agreeing to campaign for Republicans who don't necessarily support such steps. Opponents of his campaign-finance proposals are criticizing him for creating a political action committee to underwrite his travels to promote reform causes — even though he once tried to abolish PACs, calling them conduits for special interests' money.

McCain said he and Feingold dropped the PAC ban from later versions of their bill because they were told it was unconstitutional. His own PAC will be different from others, he said, because he is accepting no soft money and will not distribute any of the money to other candidates.

The McCain campaign informed Common Cause and other reform advocates of the somewhat paradoxical plan to promote reform through a new PAC.

"They didn't endorse what we are doing, but they certainly understand it," he said. "They don't find it particularly pleasant, but they don't find it unacceptable."

As for deciding which candidates he will help, McCain said his first priority is to keep Republican control of the House and Senate.

Second, he said, "I will give preference to those who are at least committed to some form of reform agenda."

That could mean reform of spending, taxes, education, Social Security or the military, the senator said, even as he continued to call campaign-finance reform the gateway to all other reforms.

"You can't be a litmus-tester," McCain said, explaining why he agreed to campaign for candidates who oppose campaign-finance reforms, such as California Rep. James Rogan.

McCain is trying to hold onto his convention delegates and play a role in writing the party platform. He said the document should send a specific message of inclusion: that people can disagree on abortion, the death penalty or campaign-finance reform and still be welcomed in the GOP.

He said the platform should also make explicit that minorities, particularly Hispanics, are welcome in the country and the party. McCain also would modify the call for a total ban on abortion to allow exceptions in cases of rape, incest or to save a woman's life.

One more item on his wish list: restoration of a 1996 provision that "decried the influence of special interests." But that's unlikely, he said. "Gov. Bush won the nomination, and he will have the major input as to what the platform says."

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

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

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

NRA working to isolate Smith & Wesson, plans boycott of its guns
By Jackie Koszczuk
Knight Ridder Newspapers

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

US Airways shutdown could strand tens of thousands of travelers
By Tom Belden
Knight Ridder Newspapers

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Flight attendants, whose contract expired in 1996, say the airline's offer proposes a formula that would actually cut pay and fringe benefits by 5 percent. Flight attendants have had no raise since 1996 and their pay ranges from $17,145 to $36,918.

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

New legislation ends earnings limit for Social Security recipients
By David Goldstein
Knight Ridder Newspapers

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

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

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

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

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

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

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

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

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

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

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

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

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

Clinton implores India to stop building nuclear weapons
By Christopher Marquis
Knight Ridder Newspapers

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

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

NOTE TO DEANNE BENOS:

You requested some background material to include in your memo pertaining to the requirement for contracting officer responsibility determinations of prospective contractors. The following is provided for your use:

The Federal Acquisition Regulation (the government wide procurement regulation) , as required by law (see 41 U.S.C. 253(b) and 10 U.S.C. 2305(b)(3)), mandates that no purchase or award may be made unless the contracting officer makes an affirmative determination of responsibility. The FAR requires (also as prescribed by law) that to be determined "responsible", an offeror must have, among other things, a satisfactory *record of integrity and business ethics*. This is one of seven standards used by the contracting officer in making the responsibility determination and is based in the long standing policy that contracts may be withheld to protect the government.

Until earlier this year, the standard - integrity and business ethics - had never been specifically explained either in law or regulation. Informally we understood it to mean honesty and general uprightness. As a practical matter agencies found offerors lacking integrity and business ethics when they, for example, were found to be in violation of certain labor laws, environmental laws, tax laws and anti-trust laws. However, in June of this year the Federal Acquisition Regulatory Council (which is comprised of the chief procurement executives form DOD, GSA, NASA, and the Administrator for Federal Procurement Policy, and which has statutory responsibility for maintaining the FAR) issued a proposed rule stating that examples of a lack of integrity and business ethics may include persuasive evidence of lack of compliance with tax laws or substantial non compliance with labor laws, antitrust laws or consumer protection laws. The proposed rule does not change the current policy it merely codifies the examples of what may be considered a record lacking in integrity and business ethics. The rule was published for public comment in the Federal Register and the comments are currently being analyzed. It has become a very controversial rulemaking, meeting with major opposition from the private sector.

Current considerations to use the standard of integrity and business ethics to apply to suppliers of guns are not precluded by the issuance of the proposed rule because the proposed rule added a list of examples that was not considered to be exhaustive. A rule could be developed by adding non compliance with a code of conduct as another example of what would be considered a record lacking in integrity and business ethics. However, this would go well beyond what is covered by the proposed rule and what has been the practice.

Historically, our approach has been to been to consider withholding contracts when there is a need to protect the government's interest. While withholding of contracts because of non compliance with the code of conduct is not in and of itself precluded by law or regulation, there must be a connection (nexus) between the activity and the procurement process. That is, we must be able to articulate why we believe that the government's interest must be protected because of non compliance with the code of conduct. This analysis is rooted in the longstanding policy that "*responsibility*" determinations are made to protect the government's interests and not to punish the contractor. Absent this showing, the policy would not withstand a legal challenge.

March 16, 1999

MEMORANDUM

TO: **The Chief of Staff**

FROM: **Gene Sperling**
Larry Stein

RE: **Child Labor Procurement Executive Order**

I. SUMMARY

Pursuant to a conversation that you had with Senator Harkin on October 21, 1998, you asked the NEC to evaluate whether the President has the authority to issue an executive order barring the government from procuring goods made with forced or indentured child labor. You also asked us to assess the policy and political consequences of issuing such an order.

The NEC's Sarah Rosen led a working group (comprised of staff from DoL, USTR, State, OMB, OFPP, WH counsel, WH Leg Affairs, and DoJ) that evaluated the President's legal authority to issue the proposed executive order and the policy and political considerations of doing so. The working group has concluded that, on the current factual record, the President does not have the authority to directly bar the procurement of goods made by forced or indentured child labor.[1] However, he does have authority to direct the Federal Acquisition Regulatory Council ("FAR Council") to issue a proposed regulation to that effect. While he cannot direct the outcome of that rulemaking process, he can indicate his desire to see such

Key: we can define 'integrity' however we propose to — only limit is Child Labor.

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[1] Senator Harkin may dispute this conclusion. At his request, the Congressional Research Service (CRS) prepared a legal memorandum that asserted that the President could issue an executive order directing this policy. As discussed below, the Department of Justice (DoJ) agrees that the President has the authority, but only if he can make a bona fide case that the order would promote "economy" and "efficiency" in procurement. The Department of Labor (DoL) put together the best case they could advance for that proposition, but recognized that they did not have factual support for their case. The working group concluded that the argument could not be made in good faith on the current factual record. In contrast, the CRS memorandum simply assumed that the Administration could make a good faith case that barring procurement of goods made by forced or indentured child labor would promote economy and efficiency.

regulations adopted. This is the approach that the President used when he directed the relevant agency heads to take actions: (1) lifting the abortion gag rule (by Presidential memorandum); and (2) developing policies governing human subject research (by executive order).

The working group also has concluded that significant adverse political consequences from issuing the executive order are unlikely. While there is little constituency for it and Senator Thompson is likely to be irritated, fall-out is expected to be minimal.

Finally, the working group evaluated the merits of the policy. The executive order and ultimate regulations are likely to have only a modest effect, at best. The Federal government buys very few goods that are likely to have been produced with forced or indentured child labor. However, the President has sought to have the United States lead the world in the fight against abusive child labor. The executive order would send an important signal that we will not tolerate forced or indentured child labor; and it might have some impact on raising awareness of the problem throughout the world.

II. BACKGROUND

Senator Harkin has asked that the President issue an executive order identical in effect to an amendment to the Treasury-Postal appropriations bill that Senator Harkin sponsored last year. In short, his amendment would have required the Department of Labor (DoL) to develop a list of goods that it has a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor. Contractors who wished to sell the U.S. goods on that list would have been required to provide a certification that the goods were not made with forced or indentured child labor.

The Harkin amendment was adopted by the Appropriations Committee, but, when the bill reached the Senate floor, Senator Thompson strongly objected on two grounds: (1) that the provision placed a burden on government contractors that was inconsistent with efforts to streamline procurement; and (2) that the provision would authorize unreasonable and unconstitutional searches of government contractor premises by federal agents.

The Administration supported the Harkin amendment. We had worked closely with the Senator's staff to develop the final language, after we had strongly objected to earlier, broader versions. The revised amendment, we believed, limited the burden on contractors to only those cases where there was a risk that forced or indentured child labor might be used. The importance of sending a strong signal about child labor outweighed the streamlining concerns in those limited cases. Moreover, Senator Thompson's constitutional concerns were completely

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[2] Senator Thompson argued that the legislation would have subjected contractors to unreasonable searches. To address this concern, the executive order authorizes only "reasonable" requests for access to documents or premises.

unfounded.[2] However, Senator Thompson's objections ruled the day and the amendment was effectively gutted on a party-line vote (with only Senator Snowe joining the Democrats). The final conference report had no reference to the issue.

III. SUMMARY OF EXECUTIVE ORDER AND NEXT STEPS

Attached you will find a draft of the executive order developed by the working group. (OMB is currently resolving technical comments received during clearance so minor changes are possible.) In short, the President directs the Department of Labor, in consultation with the Departments of State and Treasury (Customs), to develop within four months a list of products, identified by their country of origin, that the agencies have a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor. He also directs the Federal Acquisition Regulatory Council (FAR Council) to publish proposed regulations that require that, when the government solicits for a contract for goods on that list, it require the contractor to provide a certification that: (1) the contractor has made a good faith effort to determine whether forced or indentured child labor was used in producing the product; and (2) the contractor is unaware of any such use of child labor. Various enforcement mechanisms and remedies are provided.

The executive order is more detailed than would normally be the case. The executive order could be significantly shortened, leaving the details to the FAR Council to develop in proposed regulations. However, the details are included in order to make the executive order conform, to the greatest extent possible, with Senator Harkin's amendment. Similarly, the President could direct the FAR Council to issue proposed regulations without issuing an executive order, instead issuing directions by Presidential Memorandum or announcement. However, the executive order format is used because of Senator Harkin's request. Either choice could be altered if you prefer.

III. ANALYSIS OF GOODS TO BE AFFECTED

During negotiations over the Harkin amendment last year, the Administration sought to limit the amendment's scope so that it would be consistent with U.S. trade obligations. Specifically, the U.S. has agreements with signatories to the NAFTA and to the World Trade Organization's (WTO) Agreement on Government Procurement covering contracts above certain thresholds. In order to ensure that the amendment did not violate those agreements, Senator Harkin agreed to exempt from the scope of this legislation contracts above those thresholds for goods made from

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[2] Senator Thompson argued that the legislation would have subjected contractors to unreasonable searches. To address this concern, the executive order authorizes only " reasonable" requests for access to documents or premises.

[3] These countries are: Aruba, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Israel, Italy, Japan, Liechtenstein, Luxembourg, Mexico, Netherlands, Norway, Portugal, Republic of Korea, Singapore, Spain, Sweden, Switzerland, and the United Kingdom.

the relevant countries.[3]

The General Services Administration (GSA) has estimated how many contracts, during FY 97, were for goods manufactured, grown or mined outside the United States in categories in which there is some risk of use of forced or indentured child labor, based on the best information available to the Department of Labor.[4] GSA found that over ***$6 billion*** in goods were procured in those categories from all sources; however, only about ***$57 million*** came from overseas. Of that, most came from low risk countries excepted from the executive order. ***Less than $9 million*** was acquired from countries that could be subject to the executive order and only a tiny fraction of that $9 million would be affected, since the categories counted are must broader than the goods actually at risk. In other words, it is likely that the ultimate regulations implemented as a result of this executive order would affect at most only a tiny fraction of the goods procured by the Federal government. Its value would be largely symbolic.

IV. ANALYSIS OF ANTICIPATED CONGRESSIONAL REACTION

White House Legislative Affairs (OLA), extrapolating from Congress' reaction to Senator Harkin's proposed appropriations rider last summer, concluded that the political impact of taking executive action in this area will be insignificant. It is true that the Administration would be accomplishing, by executive order, something that the Senate expressly rejected in what was essentially a party-line vote. Moreover, given his opposition to the Harkin amendment last year, Senator Thompson will not view this action favorably. Nonetheless, OLA does not expect the issue to be nearly as contentious as other procurement issues that are under review in the Administration -- specifically, allowing contracting officials to consider a potential contractor's labor practices when awarding government contracts. In addition, OLA advises that there are no pending Administration nominees dealing with procurement issues, so there is no risk of nomination delay stemming from opposition to this executive order. OLA does note, however, that there is likely to be little Congressional support for this action, other than from Senator Harkin.

V. RECOMMENDATION:

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[3] These countries are: Aruba, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Israel, Italy, Japan, Liechtenstein, Luxembourg, Mexico, Netherlands, Norway, Portugal, Republic of Korea, Singapore, Spain, Sweden, Switzerland, and the United Kingdom.

[4] The identified categories were: (1) medical, dental, and veterinary equipment and supplies; (2) subsistence; (3) furniture; (4) clothing, individual equipment and insignia (including sporting equipment); and (5) textiles, leather, fur, apparel and shoe findings, tents and flags.

The Working Group recommends that the President sign the Executive Order and announce it at an event with Senator Harkin, Secretary Herman, and human rights advocates. However, the importance of the Executive Order is largely symbolic. We do not want to oversell what it will do. Thus, we recommend that, at the event, the President also press for full funding of his child labor budget proposal including:

* a new $10 million program at USAID called "School Works" to improve educational opportunities and get kids out of abusive child labor;
* maintenance of last year's unprecedented $30 million funding for the International Program for the Elimination of Child Labor (IPEC), for which Senator Harkin is the primary champion;
* a $4 million increase in labor law enforcement in industries prone to child labor ("salad bowl" agriculture and garment); and
* a $2 million increase in funding for customs enforcement of the ban on importation of goods made with child labor.

In addition, the President should describe the specific projects throughout the world that will be funded with the U.S. contributions to IPEC in the FY 99 budget (eliminating child labor in fireworks industry in Guatemala and El Salvador, the footwear industry in Southeast Asia, the coffee industry in six Central American countries, etc.).

APPENDIX A

ANALYSIS OF THE PRESIDENT'S AUTHORITY TO ISSUE AN EXECUTIVE ORDER BANNING PROCUREMENT OF GOODS MADE WITH CHILD LABOR

The President's authority to issue an executive order "must stem either from an act of Congress or from the Constitution itself." Youngstown Sheet and Tube Co. v. Sawyer, 343 U.S. 579, 585 (1952). The working group initially evaluated whether the President had authority under general procurement laws to bar the acquisition of products made with forced or indentured child labor. The Federal Property and Administrative Services Act of 1949 ("FPASA") was enacted "to provide for the Government an economical and efficient system for ... procurement and supply." 40 U.S.C. § 471 (1994). The FPASA expressly grants the President authority to "prescribe such policies and directives, not inconsistent with the provisions of this Act, as he shall deem necessary to effectuate the provisions of said Act." Id. § 486(a). An executive order issued pursuant to 40 U.S.C. § 486(a) is valid if (1) the President "acted 'to effectuate the provisions' of the FPASA," and (2) the President's "action was 'not inconsistent with' any specific provision of the Act." American Fed'n of Gov't Employees v. Carmen, 669 F.2d 815, 820 (D.C. Cir. 1981) (quoting 40 U.S.C. § 486(a)).

Courts have consistently concluded that § 486(a) grants the President a broad scope of authority. In the leading case on the subject, the United States Court of Appeals for the District of Columbia Circuit, sitting en banc, held that § 486(a) was intended to give the President broad-ranging authority to issue orders designed to promote "economy" and "efficiency" in government procurement. AFL-CIO v. Kahn, 618 F. 2d 784 (D.C. Cir.) (en banc), cert. denied, 443 U.S. 915 (1979). The court emphasized that 'economy' and 'efficiency' are not narrow terms; they encompass those factors like price, quality, suitability, and availability of goods or services that are involved in all acquisition decisions." Id. at 789. The court concluded that a presidential order issued pursuant to § 486(a) is authorized as long as there is a "sufficiently close nexus" between the order and the criteria of economy and efficiency. Id. at 792. The court did not set forth a definitive statement of what constitutes such a nexus, but in reviewing other executive orders proposed to be issued under § 486(a), the Office of Legal Counsel has examined whether, assuming the fact stated by the proposing agency the President's proposed order is reasonably related to the goals of economy and efficiency.

Orders under § 486(a) issued in recent years include:

1. Exec. Order No. 12954 of March 8, 1995 (prohibiting federal contracting with employers that permanently replace lawfully striking employees) (executive order struck down on the grounds that it was preempted by the National Labor Relations Act, which permits permanent replacements). See Chamber of Commerce v. Reich, 74 F.3d 1322 (D.C. Cir. 1996).

2. Exec. Order No. 12989 of February 13, 1996 (prohibiting federal contracts with

providers that knowingly employ unauthorized alien workers).

3. Exec. Order No. 12969 of August 8, 1995 (requiring contracting, to the greatest extent practicable, with companies that publicly report on toxic chemicals released to the environment).

4. Exec. Order No. 12933 of October 20, 1994 (requiring provisions for carryover workers in solicitations and building service contracts for public buildings).

The determination that economy and efficiency in federal procurement will be promoted by the specific provisions of the proposed order on child labor is legally available if the assertions to that end made in the order can be substantiated. Thus, if the President determines, in good faith, that a prohibition on contracting for goods made with forced or indentured child labor would promote economy and efficiency in federal procurement, the order would be authorized by 40 U.S.C. § 486(a). The question whether there is a sufficient nexus between the executive order and economy and efficiency in federal procurement is a question of fact. A senior official in an agency with access to the relevant information would have to come forward with facts that would establish such a nexus. See Imposition of Agricultural Export Controls Under § 5 of the Export Administration Act of 1979, 43 Op. Att'y Gen. 203, 204 (1980).

DoL initially argued that such an executive order would promote economy and efficiency for the following reasons:

* Under the Tariff Act of 1930, 19 U.S.C. §1307, goods "mined, produced, or manufactured wholly or in part in any foreign country by . . . forced labor and/or indentured labor under penal sanctions," may not be imported into the United States. As a result, if the government engages a contractor who supplies foreign goods made with forced or indentured child labor, it runs the risk that its supply of the goods will be cut off, if the Tariff Act is applied.

* Forced or indentured child labor is unlawful in may countries, as well as in the United States. Contractors who depend on illegal sources of labor are inherently unreliable. Their work force is less stable and dependable. They are subject to disruption or closure of their operations as a result of law enforcement action. This vulnerability jeopardizes the performance of government contracts. (The President relied on a similar rationale to issue Exec. Order No. 12989, "Economy and Efficiency in Government Procurement through Compliance with Certain Immigration and Naturalization Act Provisions" (February 13, 1996).)

* It is reasonable to believe that goods manufactured by forced or indentured child labor are of poorer quality than goods made by adult workers, employed lawfully. Children are less skilled and less productive than adults. Productivity and quality, moreover, are a function of working conditions. By definition, children who are forced or indentured to work are employed under poor working conditions.

Unfortunately, DoL could offer no factual support to demonstrate that there was a genuine risk to economy and efficiency. DoL could offer no evidence of disruptions in contract performance due to enforcement against illegal child labor, nor any actual evidence that the goods made by child workers were inferior. Moreover, the Tariff Act has never been invoked to bar importation of any good made with forced or indentured child labor and the U.S. seems to procure few goods that conceivably could have been made with forced or indentured child labor. Thus, a " sufficiently close nexus" could not be established between economy and efficiency and banning procurement of goods made with forced or indentured child labor.

DoJ suggested instead a route that has been used by the President in other similar circumstances[5] -- that he direct the FAR Council to issue proposed regulations to the same effect. The President cannot direct the ultimate outcome of the rulemaking, which is subject to the Administrative Procedure Act-like requirements under the Office of Federal Procurement Policy Act (the " OFPP Act"), 41 U.S.C. § 418(b). However, by directing that the rulemaking be undertaken he sends a strong signal about U.S. attitudes toward child labor, just as he did in the case of human subject research and the abortion gag rule.

The FAR Council has broad authority to issue regulations. 41 U.S.C. § 421. Such regulations would be consistent with the OFPP Act and existing Federal Acquisition Regulations (FAR) requirements. Several statutes require agencies to do business with "responsible sources." (See e.g., the Armed Services Procurement Act, 10 U.S.C. § 2305 and the Property and Administrative Services Act of 1949, 41 U.S.C. § 253(b).) 41 U.S.C. § 403 defines " responsible source" as a prospective contractor who "has a satisfactory record of integrity and business ethics." Moreover, § 9.406-2 of the FAR provides 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." Clearly, no employer who uses forced or indentured child labor can be said to have a satisfactory record of "integrity and business ethics." Thus, the FAR Council would clearly have the authority to require that, where there is a significant risk of forced or indentured child labor, a contractor certify that it did not use such labor practices.

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[5] Exec. Order No. 12975 of October 3, 1995, Protection of Human Research Subjects and Creation of National Bioethics Advisory Commission, (directing each relevant agency to review protections afforded under existing policies, report the results of the review to a new advisory commission including steps they plan to take to enhance protection, and develop public education programs); and Memorandum from the President for the Secretary of Health and Human Services on the Subject of the Title X "Gag Rule", January 22, 1993 (directing that she immediately implement her plan to suspend the gag rule pending promulgation of new regulations and that she publish new proposed regulations for public comment).

Consistent with the legislation, the draft executive order would require contractors (providing select goods from countries where DoL had identified a risk of forced or indentured child labor) to certify to the contracting officer that forced or indentured labor was not used to produce products furnished under their contracts. Historically, through statute and regulation, certifications (as opposed to actual physical compliance checks) have been imposed to ensure a contractor's compliance with various contractual requirements. However, in the recent past, acquisition reformers have objected to certification requirements because of the increased burden on the procurement process. In 1996, the OFPP Act (41 U.S.C. § 425) was amended to require written justifications be provided by the FAR Council to the Administrator for Federal Procurement Policy before a non-statutory certification could be imposed on contractors. The standard applied by OFPP is that "there is no less burdensome means for administering and enforcing the particular regulations that contain the certification requirement." OFPP believes that the FAR Council will find that there is no less burdensome means of enforcing the prohibition on forced or indentured child labor.

Proposed
Code of Conduct

The undersigned manufacturers of handguns ("manufacturers") commit herein to adhere to this Code of Conduct (the "Code") for the design and distribution of handguns, internal corporate compliance, and external verification and enforcement.

The goal of this Code is to reduce accidental and intentional misuse of handguns, decrease crime, violence, accidents, and deaths. It sets: (1) minimum mandatory requirements for safety features in new handguns; (2) policies for discontinuing handgun models and features that prove disproportionately attractive to criminals; and (3) rules for terminating irresponsible retailers who sell too many handguns later used in crime.

I. Design

A. *Attractiveness of certain guns and/or features to criminals.*

Manufacturers shall design handguns so as to minimize their attractiveness to criminals and their use in crime. Manufacturers shall not design guns to make them appealing to criminals, and shall not promote firearm features attractive to juveniles or criminals.

Manufacturers shall:

1. Discontinue gun models or gun features that are or become disproportionately attractive to criminals or used disproportionately in crime.

2. Include a second hidden serial number on all handguns.

Manufacturers shall not:

3. Manufacture or distribute guns that if manufactured elsewhere would be illegal to import into the United States. This includes "Saturday Night Specials" and all guns banned for import under 18 U.S.C. § 925 and the regulations promulgated thereunder.

4. Produce weapons with features that (either individually or when combined) unreasonably facilitate criminal uses, even if a substantial lawful demand for such features exists. Features unduly attractive to criminals, include, but are not limited to:

a. Fingerprint resistant guns.
b. Guns easily convertible to illegal firearms.
c. Guns with easily obliterated serial numbers.
d. Pistols that accept magazines with a greater than 10-round capacity or that can be easily modified to do so.

B. *Safety*.

Manufacturers shall design firearms to be as safe as reasonably possible for their law-abiding owners and innocent third parties, including children. Manufacturers shall employ new safety-enhancing features as they become technologically and functionally feasible.

Manufacturers shall:

1. Include an effective external locking device on every gun sold.

2. Include on every gun sold an internal locking device by which the gun can be operated only with a mechanism unique to that gun, including but not limited to a key or combination.

3. Include a magazine safety disconnect on every pistol.

4. Include, on every pistol, a device that effectively alerts users that a round is in the chamber.

5. Include directions with the sale of every firearm that describe safe and proper storage methods of firearms and warnings explaining the dangers of firearms within the home.

6. Agree, at manufacturers' cost, to retrofit existing guns with improved safety devices as they become available and feasible.

7. Spend at least one percent of gross handgun sales each year to develop or produce "authorized user" or "personalized handgun" technology, otherwise known as "smart gun" technology.

Manufacturers shall not:

8. Design, manufacture, or sell firearms that can be readily operated by a child aged six or younger.

9. Design, manufacture, or sell firearms that fail to meet standards promulgated by the New York State Police and currently set forth in 9 NYCRR §§ 482.5-482.6.

C. *Law enforcement exemption.*

Handguns sold to law enforcement or the military shall be exempt from all design standards set forth elsewhere in this Code. For all handguns sold to law enforcement or the military that would not comport with the Code if sold to the general public, manufacturers shall include a written advisory from the Oversight Panel (as defined in VI(A), below) containing, in sum and substance, the following warnings:

1. That the firearm being sold to law enforcement or the military does not comport with the requirements of this Code of Conduct for sale to civilians, and stating the provision or provisions of this Code of Conduct that would be violated by such a civilian sale.

2. That, pursuant to this Code of Conduct, the Oversight Panel requests that the purchasing agency ultimately dispose of the weapon in a manner that prevents its later migration into the civilian population.

II. Sales and Distribution

Manufacturers shall adopt measures to reasonably prevent their products' diversion from the legal stream of commerce, intentionally or otherwise, for later sale or transfer to those not legally entitled to purchase or possess guns.

A. *Internal Compliance Officer.*

Manufacturers will designate an executive-level manager as a Compliance Officer. Each manufacturer shall provide its Compliance Officer with sufficient staff and other resources to discharge the officer's responsibilities, including but not limited to:

1. Ensuring the manufacturer's compliance with local, state, and federal law and with the terms of this Code.

2. Reporting both to the manufacturer's CEO and its Board of Directors.

3. Being the liaison between the manufacturer and the monitor (see III, below) and federal, state and local law enforcement agencies and regulators.

B. *Authorized Wholesalers and Retailers.*

Manufacturers' products will be sold only by authorized dealers. No manufacturer shall certify a wholesaler or retailer as an authorized dealer without first establishing, at a minimum, that the wholesaler or retailer:

1. Possesses all licenses required by federal, state, and local law.

2. Complies with local, state, and federal laws and regulations, and with this Code, and files an annual certification verifying such compliance with the manufacturer.

3. Has sufficient internal compliance procedures to ensure adherence to governing laws and this Code, including annual training and written testing of employees as provided in section II(C), below, before they are permitted to sell or handle firearms.

4. Has a program to eliminate sales to straw purchasers and to otherwise thwart illegal gun trafficking. Such a program must include, at a minimum, employee training and a policy prohibiting a retailer from selling to an individual more than one handgun in a 30-day period, or another equally effective plan to retard gun trafficking.

5. Carries liability insurance coverage of no less than $1 million for each incident of damage, injury, or death.

6. Securely displays, stores, and ships firearms.

7. Excludes from its premises persons under 18 years of age not accompanied by a parent or guardian.

8. Sells guns only at the location listed on its FFL license, and does not sell guns at gun shows.

9. Agrees in writing to all applicable provisions of this Code, including, without limitation, provisions regarding audits, training, revocation of status as an authorized dealer, and jurisdiction.

C. *Training for wholesalers and retailers.*

Manufacturers shall annually train all authorized dealers on how to recognize attempts to illegally purchase firearms, how to recognize that firearms may be being diverted (intentionally or otherwise) for later sale or transfer to those not legally entitled to purchase, and how to respond to those attempts. Training shall also address how to teach ultimate consumers rules of firearm safety including safe storage of firearms. Personnel at authorized dealers shall not sell or handle firearms without receiving the training and passing a written test, which must be approved by the monitor described in section III, below.

D. *Ongoing evaluation of authorized dealers.*

Manufacturers shall continually evaluate their authorized dealers to ensure dealer compliance with the Code.

1. Manufacturers shall require authorized dealers to maintain sales

information, including the serial numbers of handguns sold, dates of sale, and identity of purchasers. Manufacturers will require authorized dealers to make this information available for review by the manufacturer, its designee, and/or the monitor (as defined in III below).

2. Manufacturers shall require authorized dealers to maintain records of traces initiated by the Bureau of Alcohol, Tobacco, and Firearms ("ATF"), and to report those traces, by serial number, date of trace, date of sale, and identity of purchaser, to the manufacturer, its designee, and/or the monitor (as defined in III below).

3. Manufacturers must determine, on an ongoing basis, which authorized dealers have sold disproportionate numbers of guns later used in crime. Manufacturers will require authorized wholesalers to determine, on an ongoing basis, which authorized retailers have sold disproportionate numbers of guns later used in crime. These ongoing analyses will, at all times, be fully available to the monitor (as defined in III below).

E. *Enforcement.*

Manufacturers, in consultation with the monitor (as defined in III, below), shall retrain, suspend or, as necessary, discontinue authorized dealers that violate this Code, sell disproportionate numbers of handguns that are later used in crime, or otherwise act irresponsibly. Manufacturers shall contractually provide for these remedies. Manufacturers and authorized wholesalers will, at a minimum, rely on traces initiated by ATF to calculate the numbers of guns later used in crime.

III. External verification

The manufacturers shall retain an independent external monitor ("the monitor"), under the terms and conditions set forth below:

A. Duties of the monitor. The monitor shall audit and otherwise test or investigate compliance with the Code and the standards and practices established pursuant to it. The manufacturers shall make all best efforts to assist the monitor in performing its duties, and shall contractually require all authorized dealers to assist the monitor.

B. Powers of the monitor. The monitor shall have full access to the books and records of the manufacturers and authorized dealers that, in the sole judgment of the monitor, are necessary to perform the requisite tests and audits. The monitor shall have the right to conduct interviews and to perform or commission necessary tests or other examinations, including undercover tests. The monitor shall have the power to require the manufacturers to suspend or terminate authorized dealers. The monitor shall have the power to determine whether or not a manufacturer is in compliance with the Code.

C. Reporting. The monitor may report directly to manufacturers' Boards of

Directors. The monitor may consult with or provide information obtained from any source to any law enforcement body or regulator that it deems appropriate, without prior notice or disclosure of the communication to the manufacturers. The monitor shall promptly report to the Oversight Panel any violations of the Code.

D. Public reports. From time to time, but at least annually, the monitor shall issue a public report evaluating the compliance with the Code. Before publicly issuing any such report, the monitor shall provide each manufacturer with copies those portions of the report that pertain to that manufacturer. The manufacturer will have 15 (fifteen) calendar days to object to the public release of trade secrets or other information contained within the report. If the manufacturer and the monitor are unable to agree on the extent of material to be make public, the dispute shall be submitted to the Oversight Panel (as defined in VI(A), below), who shall make the final determination in the sound exercise of its discretion.

E. Term. The term of the monitor shall be 10 (ten) years. A manufacturer may apply to the Oversight Panel for relief from some or all oversight by the monitor. Each manufacturer may make such application once during the first five years of the term, and once during the second five years of the term. The Oversight Panel's decision as to such relief is unreviewable.

F. Funding. The cost of the monitor shall be borne jointly by the manufacturers, governmental entities, and such other sources of funding as might be identified. All such monies shall be paid into a fund, and the monitor shall be paid periodically from that fund upon invoice review and approval by the Oversight Panel.

G. Retention of monitor. The manufacturers shall each retain the monitor designated by the Oversight Panel under terms and conditions approved by the Oversight Panel. The Oversight Panel shall designate the monitor before the manufacturers subscribe to this Code of Conduct.

H. Removal of monitor. The monitor may be discharged during its term only by the Oversight Panel for good cause shown. Manufacturers may contest or object to any such removal only on the grounds that good cause has not been shown.

I. Filling the unexpired term of the monitor. In the event the monitorship becomes vacant during the term set forth in III(E), the position shall be filled as follows:

1. In first 30 days of the vacancy, the Oversight Panel and a majority of the undersigned manufacturers may agree on a new monitor. Upon such agreement, the new monitor will be retained as set forth in III(G) above.

2. If the 30 days pass without such agreement, the Oversight Panel will nominate a candidate, and the manufacturers (either together or separately) will nominate a candidate or candidates. On the 31st day after the vacancy all such nominations shall be forwarded to the Court supervising this agreement, which shall designate the new monitor from

among those nominated. Upon such designation, the manufacturers shall retain the new monitor within 10 (ten) days under the terms set forth in III(G) above.

IV. Cooperation with law enforcement

The manufacturers reaffirm their commitment to cooperating fully with law enforcement and regulators to eliminate illegal firearms sale and possession.

A. Disclosure of documents upon request. Manufacturers shall assist and cooperate with law enforcement by providing law enforcement and regulators, upon request, full access to the marketing, market research, development and production data and documents, and other documents that law enforcement or regulators request.

B. Retention of bullets and casings. Manufacturers shall fire each weapon before it is sold and shall retain at least three fired casings and three fired bullets, identifying each casing/bullet pair with the weapon's serial number. Each manufacturer will begin retaining the casings within six months of the effective date of this agreement. Each manufacturer will begin retaining the bullets within 18 months of the effective date of this agreement. The Manufacturers will, on a regular and ongoing basis and without charge, provide the casings and bullets with the corresponding serial numbers to such law enforcement agency or agencies designated by the Oversight Panel (as defined in VI(A) below).

V. Enforcement

This agreement shall be entered as an order in a court of appropriate jurisdiction and shall be enforceable and enforced as such.

VI. Miscellaneous Matters

A. The "Oversight Panel" shall be constituted of representatives of local, state, and federal signatories to this agreement.

B. Except as otherwise stated, the terms "manufacturer" or "manufacturers" as used in this Agreement, shall include all affiliated firms.

C. This Agreement shall be binding upon the successors and assigns of a manufacturer and upon any company or concern with which it may merge or enter into a joint venture or by which it may be acquired.

D. This Agreement constitutes the full agreement between the parties, and its terms may not be changed orally. Each provision of this Agreement is a material provision.

E. Each of the undersigned signatories covenants and represents that it is authorized to enter into this Agreement with full force and effect on behalf of the party represented.

F. Telefaxes or other written notification or reports required by or prepared pursuant to this Agreement shall be made, mailed, or delivered as set forth below:

1) To the Oversight Panel:

2) To Manufacturers:

G. All duties and responsibilities of the Manufacturers shall be required within six months of execution of the Code unless another time is otherwise specified.

H. In the event that any equitable, injunctive or other conduct-related relief granted to any state or municipal government exceeds the terms in the Code, the Oversight Panel shall, upon application to the Court, be entitled to such further relief.

DRAFT **DRAFT** **DRAFT** **DRAFT** **DRAFT** **DRAFT**

[Date]

MEMORANDUM FOR THE SECRETARY OF THE TREASURY
THE ATTORNEY GENERAL

SUBJECT: Federal firearms procurement

Since I took office in 1992, this Administration has made reducing violent crime and improving public safety a top priority. Our multi-pronged anti-crime strategy has focused on giving communities more and better tools to combat their local crime problems. Among the most effective tools we have fought to put in place have centered on putting more police on our streets and keeping guns out the hands of those who should not have them. This includes our successful community policing initiative to fund 100,000 more police for our streets, and the Brady Law, which has helped to keep more than 400,000 felons, fugitives, and others prohibited by law from purchasing firearms since it took effect in 1994.

Recent statistics released by the Justice Department show that we have made great progress in lowering violent crime, and gun-related crime in particular. Since 1992, the violent crime rate has dropped 25 percent, with violent crimes committed with guns down by over 35 percent within the same time period. In addition to preventing guns from getting into the wrong hands through Brady background checks, we have also worked to staunch the flow of guns to the illegal market. Our Youth Crime Gun Interdiction Initiative has traced more crime guns and cracked down on gun traffickers who sell to children and criminals. We also developed new regulations and supported legislation that rooted out illegitimate gun dealers and improved the overall integrity of the federal firearms licensing system to ensure that all dealers are responsible and law-abiding. These reforms resulted in a two-thirds reduction in the number of federal licensees since 1992. Through these and a host of other efforts, we are making a difference to reduce gun crime in America.

We have also taken action to help reduce gun violence from accidents and unauthorized gun use through a number of other safety measures. The accidental gun death rate for American children under age 15 is nine times greater than that of 25 other industrial nations combined. That is why I directed all federal agencies to provide child safety locks for firearms issued to federal law enforcement officers, and I recently launched an initiative for the Department of Housing and Urban Development to help communities fund locally-administered gun buy back programs to take unused guns out of circulation and prevent their misuse.

Moreover, I have proposed the most comprehensive gun legislation put forward by any Administration in thirty years. My legislation: builds on the success of the Brady Law by closing the gun show loophole and imposing a three-day waiting period for handgun sales; deters illegal gun running by limiting handgun sales to one per month and providing new tools for ATF to halt illegal gun trafficking by licensed gun dealers; and restricts youth access to guns by requiring child safety locks for every gun sold and permanently banning violent juveniles from owning guns. Unfortunately, despite repeated calls by my Administration and the American public, the Congress failed to enact a number of these common sense initiatives before it adjourned for the year. I will continue to urge the Congress to make this the first order of business when they return.

As we await Congressional passage of these needed reforms, another estimated 12 young people are killed daily, and a total of 32,000 Americans are killed annually by gunfire. The gun industry must also do its part to reduce the toll of gun violence by improving the safety of their products and working with law enforcement to make sure that their firearms do not fall into the wrong hands. [As the largest single purchaser of firearms in America,] the Federal government has an opportunity to work with the industry toward these goals.

Every year, the Federal government procures thousands of guns from private firearms manufacturers to equip federal law enforcement agents. To bolster our overall strategy to keep guns out of the wrong hands and to improve gun safety, we should contract with firearms companies that adhere to safe and responsible business practices that are consistent with and enhance the enforcement of our federal firearms laws.

Therefore, I direct you to develop a code of conduct for the firearms manufacturers with whom you contract. The code of conduct should serve as a guide for federal firearms procurement for your agencies. In developing the code of conduct, you should consider elements that: (1) help control proper distribution of firearms to ensure that guns do not slip into the illegal market; (2) contain safety measures to prevent unauthorized use and accidental misuse of guns; and (3) restrict advertising that targets individuals who are legally prohibited from owning or buying guns such as criminals and juveniles. Manufacturers should agree to abide by the terms of the code of conduct in order to enter into [new] contracts with federal agencies.

I instruct you to report back to me on your recommendations for the code of conduct within [TK] days.

Crime - procurement

November 12, 1999

TO: Eric
FR: Leanne
Deanne
RE: Procurement Code of Conduct for Gun Manufacturers -- DRAFT ASSESSMENT

This memorandum represents a discussion piece on an Executive Order proposal to limit the Federal government from procuring firearms from any manufacturers that do not employ a specified code of conduct or business practices.

The White House Counsel's Office is working with the Office of Legal Counsel at DOJ and Treasury General Counsel to resolve threshold questions about the viability of an Executive Order on firearms procurement. Key issues for resolution include: (1) Whether it would be preempted by any other Federal regulatory scheme; and (2) Whether it would also meet the statutory requirements on "economy and efficiency in government procurement."

Assuming these legal issues can be overcome, there are several other substantive issues that would need to be resolved regarding the scope of the Executive Order, including: (1) Agencies that should be covered; and (2) Requirements that would be placed on firearms manufacturers doing business with the Federal government.

AGENCIES COVERED BY THE EXECUTIVE ORDER

Every federal agency purchases firearms, but the majority of firearms are procured by 37 Federal law enforcement entities with 100 or more law enforcement officers and the Department of Defense. An Executive Order impacting procurement policy is likely to present unique questions for each agency based upon their law enforcement functions and needs. Key consideration to determine the scope of the Executive Order include:

(1) Should the Executive Order include the Department of Defense? Integral to this decision is information on their current firearms procurement contracts. There may be serious institutional resistance and sensitivity to an E.O. that restricts DOD's ability to purchase specific firearms for military purposes.

(2) Should the E.O. cover all federal law enforcement agencies, or just those with the largest firearms contracts (i.e., Department of Justice and Department of Treasury)? According to the Justice Department there are over 74 total law enforcement agencies within the federal government, many of which employ a small number of agents who carry firearms.

(3) Which manufacturers have the largest contracts with the federal government, and how much of these sales comprise their total business? This information will help to assess our overall ability to leverage the E.O. to influence industry reforms.

(4) Which agencies have pending contracts for new firearms in the coming year, and which manufacturers would be impacted by the potential change in procurement policy?

(5) Should we limit the executive order to gun manufacturers, or expand it to include other firearms manufacturers including ammunition and explosives manufacturers who also produce firearms on the civilian market?

POTENTIAL REQUIREMENTS FOR CONTRACTING

The requirements of manufacturers we consider for the Executive Order should closely track the proposed remedies list. However, we suggest taking a more limited approach in the context of the Executive Order due to the impact the order will have in preventing federal law enforcement agencies, and potentially the military, from purchasing certain firearms they have identified as best suited to their needs. The extent of this problem will be impossible to determine without extensive feedback from affected agencies.

We propose that all of the requirements fall under the umbrella of a legally binding code of conduct that all manufacturers must agree to before contracting with the federal government. The requirements we select should be achievable within a reasonable period. Under the code, manufacturers would be required to:

- Establish a system for monitoring crime gun traces;
- Establish standards for the distributors and dealers who sell their products, such as requiring them to:
  - operate out of legitimate storefront business locations;
  - meet specific store security requirements;
  - computerize their inventory, including all acquisition and disposition information, to help speed crime gun traces (*this would be an expensive requirement*);
  - postpone all gun transfers until the FBI issues an approval (even if it takes longer than the legal three-day period);
  - verify that all employees have undergone training on subjects such as compliance with gun laws and identifying straw purchasers;
  - agree not to sell assault weapons to youth under the age of 21;
  - forego sales to dealers under indictment; and

- refrain from selling high capacity ammunition clips, fingerprint resistant guns or other weapons that facilitate criminal activity.

- Impose sanctions for violations of the code such as cutting off all sales of their product to the offending distributors or dealers.

- Employ certain existing safety features for civilian sales such as chamber-loaded indicators and magazine disconnect safeties and to sell child safety locks with handguns;

- Produce weapons with serial numbers that are impervious to defacing;

- Enter into partnerships with the ATF and/or FBI to create a database for identifying crime guns through ballistics data. [ATF/FBI costs to a sizeable expansion to these systems need to be taken into consideration. Instead of requiring the immediate formation of partnerships, we may require that manufacturers simply "agree" to participate in the ballistics system when resources are available.]

- Agree not to produce advertisements that targets kids or criminals by directly or indirectly promoting gun violence or criminal use of guns.

- Produce guns that conform to the safety standards already in effect for imported handguns.

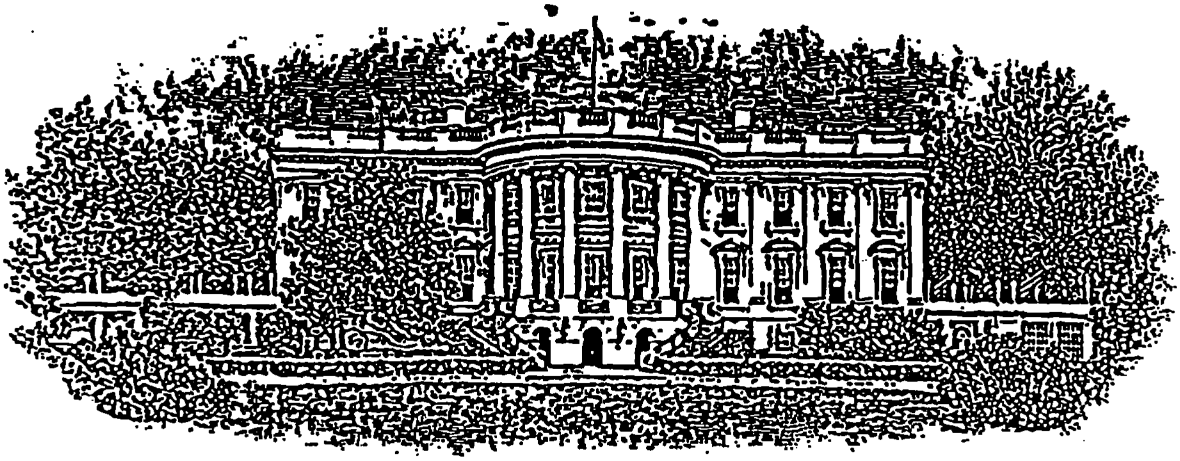
We need to consider how to enforce the code of conduct. One possible option includes the formation of partnerships between ATF and each agency, perhaps through their respective Inspector General's Offices, to police contract compliance.

NEXT STEPS

We plan to meet with the White House Counsel next week, and to continue gathering answers to key questions from appropriate federal agencies. Comments on the initial remedies list are also expected from DOJ and Treasury by Wednesday, and should be helpful in determining the Procurement Code of Conduct.

· direct DoD & Treas to procure only with manufacturers that abide by a code of conduct.
· Instruct dir ~~[illegible]~~ Treas to work w/ mfgs to develop such a code.

The White House



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MEMORANDUM ON PROPOSED EXECUTIVE ORDER RE: PURCHASE OF FIREARMS BY THE UNITED STATES GOVERNMENT

By John P. Coale and David K. Lietz

Virtually all presidents since Franklin D. Roosevelt have used their general power over procurement to place conditions on private actors who do business with the United States government. The tool most commonly used to implement these conditions is an Executive Order issued as a valid exercise of the President's authority under the Federal Property and Administrative Services Act of 1949 (FPASA), 40 U.S.C. Section 471 et seq. That statute grants the President authority to issue policies or directives to promote economy and efficiency in governmental procurement. Courts have interpreted that authority very broadly, upholding Presidential orders so long as they have some nexus to the general goals of economy and efficiency, even if the orders also serve other goals. The courts have only acted to strike down such Executive Orders when such orders are deemed to be regulatory in nature, and pre-empted by existing federal law.

Gov violence costs.

A. The President's Authority Under the FPASA

The FPASA was enacted "to provide for the Government an economical and efficient system for . . . procurement and supply." 40 U.S.C. Section 471. The goals of economy and efficiency "appear in the statute and dominate the sparse record of the congressional deliberations" concerning the FPASA. *AFL-CIO v. Kahn*, 618 F.2d 784, 788 (D.C. Cir.) (en banc), *cert. denied*, 443 U.S. 915 (1979).

Section 486(a) of the FPASA provides that the President "may prescribe such policies and directives, not inconsistent with the provisions of this Act, as he shall deem necessary to effectuate the provisions of said Act." Congress intended to "emphasiz[e] the leadership role of the President in setting Government-wide procurement policy on matters common to all agencies," *Kahn*, 618 F.2d at 788, by giving the President "particularly direct and broad ranging authority over those larger administrative and management issues that involve the Government as a whole." *Id.* at 789.

Since enactment of the FPASA, Presidents have exercised their statutory authority, among other things, to ban discrimination and require affirmative action by federal contractors, to exclude certain state prisoners from federal contract work, to require federal contractors to adhere to wage and price controls, and to require federal workers to pay parking fees. *See id.* at 790-93; *American*

Fed'n of Gov't Employees v. Carmen, 669 F.2d 815 (D.C. Cir. 1981); *Contractors Ass'n v. Secretary of Labor*, 442 F.2d 159 (3d Cir.), *cert. denied*, 404 U.S. 854 (1971); *Farkas v. Texas Instrument Inc.*, 375 F.2d 629, 632 n.1 (5th Cir.), *cert. denied*, 389 U.S. 977 (1967). President Bush issued Executive Orders requiring federal contractors to post notices declaring that their employees could not be required to join or maintain membership in a union, 57 Fed. Red. 12985 (Apr. 14, 1992), and prohibiting federal contractors from entering into "pre-hire" agreements that are legal under the NLRA, 57 Fed. Reg. 48713 (Oct. 28, 1992). The courts have consistently held these Presidential orders to be within the broad authority under section 486(a).

B. Scope of Executive Orders Promulgated Under the FPASA

Over the years, Presidents and the courts consistently have interpreted the FPASA to allow any Presidential order, so long as it is "rationally related" to economy and efficiency in government procurement. The President need only have a "rational basis" for finding that the Executive Order serves economy and efficiency in government procurement. Although courts have stated that there must be a "reasonably close nexus" between the goals of economy and efficiency in government procurement and the Order, this nexus has generally been defined as a "reasonable relation." *See Kahn*, 618 F.2d at 793.

The FPASA authorizes the President to prescribe any policies and directives he deems necessary to effectuate the provisions of the FPASA. 40 U.S.C. Section 486(a). Since the purpose of the FPASA is to promote economy and efficiency in federal procurement of goods and services, Presidential orders under section 486(a) "must accord with values of 'economy' and 'efficiency.'" *Kahn*, 618 F.2d at 792. "Economy and efficiency are not narrow terms; they encompass those factors like price, quality, suitability, and availability of goods and services that are involved in all acquisition decisions." *Id.* at 789. In light of this broad reading of economy and efficiency, section 486(a) "grants the President particularly direct and broad-ranging authority over those larger administrative and management issues that involve the Government as a whole." *Id.* at n.8.

As one commentator has asserted, under *Kahn*, the President need not demonstrate that an order "would infallibly promote efficiency, merely that it [is] plausible to suppose this." Alan Hyde, "Beyond Collective Bargaining: The Politicization of Labor Relations under Government Contract," 1982 Wis. L. Rev. 1, 26. In the view of the United States Department of Justice,

> "a more exacting standard would invade the 'broad ranging' authority that the court held the statute was intended to confer upon the President. *See Kahn*, 618 F.2d at 787-89. In addition, a stricter standard would undermine the great deference that is due presidential factual and policy determinations that Congress has vested in the President. *See e.g.*, Henry P. Monaghan, "stare Decisis and Constitutional Adjudication," 88 Colum. L. Rev. 723, 738 (1988).
>
> We have no doubt, for example, that Section 486(a) grants the President authority to issue a directive that prohibits executive agencies from entering into contracts with contractors who use a particular machine that the President has deemed less reliable

than others that are available. Contractors that use the less reliable machines are less likely to deliver quality goods or to produce their goods in a timely manner."

Justice Department Memorandum on Executive Order 12,954, 1995 (BNA) DLR 48 d28 (March 13, 1995).

In reviewing Presidential orders, courts have shown great deference to the President's construction of his authority under the FPASA and his judgment as to what measures will promote economy and efficiency in government procurement. *See Kahn*, 618 F.2d at 790; *see also AFL-CIO v. Reagan*, 870 F.2d 723, 727 (D.C. Cir. 1989) (court presumes Presidential order complies with the statute in the absence of clear evidence to the contrary); *United States v. Duqensne Light Co.*, 423 F. Supp. 507, 509 (W.D. Pa. 1976) (court will not second-guess validity of President's judgment if the Presidential order does not contradict the policy and purposes of FPASA); *United States v. Chemical Found. Inc.*, 272 U.S. 1, 14-15 (1926) ("in the absence of clear evidence to the contrary, courts presume that [public officers] have properly discharged their official duties"). Further, so long as the Order is designed to promote economy and efficiency, the Order may also serve other permissible ends, such as slowing inflation or promoting employment opportunities for minorities. *Carmen*, 669 F.2d at 821; *Rainbow Navigation Inc. v. Dep't of the Navy*, 783 F.2d 1072, 1078 (D.C. Cir. 1986). "We cannot agree that an exercise of section 486(a) authority becomes illegitimate if, in design and operation, the President's prescription, in addition to promoting economy and efficiency, serves other, not impermissible, ends as well. *Carmen*, 669 F.2d at 821.

The *Kahn* Court stated that the President is entitled to at least as much deference in construing his own statutory authority as executive agencies receive in construing statutes they are charged to administer. 618 F.2d at 790; *see Chevron U.S.A. Inc. v. NRDC*, 467 U.S. 837, 844 (1984) (agency interpretation of statute entitled to "considerable weight"); *Fleming v. Mohawk Wrecking and Lumber Co.*, 331 U.S. 111, 116 (1947) (President's contemporaneous and consistent construction of his authority under the First War Powers Act entitled to "great weight").

C. The Executive Order 12,954 Conundrum

In the 1996 case of *Chamber of Commerce of the United States v. Reich*, 74 F.3d 1322 (D.C. Cir. 1996), the D.C. Circuit Court of Appeals set aside Executive Order 12,954, which was an Executive Order barring government agencies from contracting with employers that permanently replace lawfully striking employees. In *Reich*, it was undisputed that the National Labor Relations Act (NLRA) preserved "to employers the right to permanently replace strikers as an offset to the employees' right to strike." *Reich*, 74 F.3d at 1332. Under the NLRA preemption doctrines which the US Supreme Court has promulgated through its many decisions involving the NLRA, the D.C. Circuit ruled that the Executive Order was regulatory in nature, and was pre-empted by the NLRA.

It is notable that the *Reich* Court specifically declined to address the issue of whether the President, in the absence of the NLRA, would be authorized (with or without appropriate findings) under the FPASA and the Constitution to issue the Executive Order. *Reich*, 74 F.3d at 1332. Thus, the President's authority to act with broad discretion under the FPASA was not eroded by the *Reich* decision. It is only in those situations Congress has acted to put in place elaborate regulatory schemes (such as the federal labor relations policy and the careful "balance" between employers and employees) and where an Executive Order is "regulatory" in nature (as opposed to relating to procurement) that the courts have become willing to invalidate FPASA Executive Orders.

With regard to the purchase of firearms by the United States government, there is no regulatory scheme relating to firearms and enacted by Congress which is remotely comparable to the broad-reaching NLRA. Moreover, an Executive Order relating to the purchase of firearms by the federal government is related to procurement *per se*. Any challenge to such an Executive Order would be hard pressed to cite *Reich* as controlling authority to invalidate the Executive Order.

Crime -
Prosecution

Paul D. Glastris
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To: Eric P. Liu/OPD/EOP@EOP

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Subject: idea--gun safety

Eric,

Below is *The New Republic* piece by Gregg Easterbrook that I mentioned awhile back. The final paragraph contains the basic idea: have the Pentagon issue new specs for firearms that employ better safety devices. This could have a profound affect on the private firearms market in two ways. First, just as California's preferences for school text books largely determine what text books are available to schools across the country, so too would the buying power of the Pentagon lead arms manufacturers to retool and sell safer guns to the general public. Second, as Gregg points out, the public **likes** buying weapons that have a military look or aura; if safety features become more pronounced on military sidearms, then more gun enthusiasts will begin demanding them. Someone would have to check this out, but I'll bet that we have some lattitude to change the specs on military hardware by executive order. If so, then this would be an initiative that that the President would love, the public would support, and the Congress would be unable to block.

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Making guns safer.

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Two of the four weapons used in the Columbine High massacre, the Hi-Point 9mm carbine and the Intratec TEC-DC9 semiauto, are popular on the gun circuit because they look zoomy. The Intratec is designed to look like something used by commandos, the Hi-Point to look like a weapon issued to space marines for combat in orbit. The popularity of these guns reminds us that weapons manufacturers constantly redesign their products for appearance, features, and targetmarket appeal. Don't want futuristic, for instance? Then check out Smith & Wesson's "Ladysmith" gun series, designed with that feminine touch. Design features added to guns for marketing purposes are often as cosmetic as the features of car or clothing marketing--the TEC-DC9 may give users a commando feel, but no genuine commando would ever wield this inaccurate and jam-prone hunk of junk. Of course, that does not prevent them from being deadly to the helpless.

But, though gun manufacturers invest considerable sums in designing for appearance and firepower, what they don't design for is safety. As a gun owner, I think it's time they did.

"Safety" and "gun" are not mutually exclusive terms. Something that does intentional harm should also be engineered not to do unintended harm. Yet, while the design of firearms has been extensively elaborated in recent decades for such harmful characteristics as rate of fire, the safety engineering of guns has scarcely changed since the time of Samuel Colt. In 1996, the most recent year for which statistics are available, 1,134 Americans died in firearm accidents, 135 of the dead being children. Most of these fatalities were caused by the lack of safety engineering. Just try to imagine any other product still being marketed unchanged if inherent design faults caused a thousand accidental deaths annually. Why shouldn't the same logic that has been used to require recent gains in the safety of cars also be applied to guns?

People who don't own a gun may not appreciate how ridiculous most firearms are from the standpoint of safety engineering. Only a small percentage of guns, for instance, have internal safeties that prevent them from firing if dropped. Internal safeties are cheap and reliable: one of the deadliest new weapons on the market, the Austrian-made Glock pistol, has this feature, which could easily be added to all guns. The manual safeties on the outside of most guns are often poorly labeled, confusing to operate, or hard to see-- the safety on my Savage 69RXL twelve-gauge shotgun has its designations imprinted so deep into the metal you practically need a flashlight to tell whether it's on or not. (The weapon's owner's manual actually says, under a section titled "ten commandments of firearms," "1. Don't rely on your gun's safety.") There's no requirement that guns even have manual safeties, and some do not.

Also unchanged since the nineteenth century is the fact that it often requires labored inspection to determine whether a gun is loaded. For revolvers, you must look closely along the axis of the barrel, which is not exactly the world's greatest idea if the gun is loaded. For most shotguns and for pistols whose magazines snap into the grip, there is no way to tell from appearances whether the weapon is ready to fire.

And, for most guns, it is nigh unto impossible to know whether a round is chambered. That fact is deceptively dangerous. Popular firearms such as the AR15 rifle or the Baretta 9mm handgun seem harmless if the clip has been removed, but a bullet may sit unnoticed in the chamber. Perhaps a quarter of annual gun-death accidents occur when people fail to realize a round is chambered in an "empty" gun. This mistake is amazingly easy to make: I'm a college graduate, and that didn't stop me from once accidentally discharging a handgun after snapping out the clip but forgetting to check the chamber. (Fortune smiled and I only killed a couch.)

The simple addition of a magazine safety prevents chambered-round accidents. But the majority of gun manufacturers haven't incorporated this device, though Smith & Wesson has begun embossing a cheerful warning disclaimer about chambered rounds on some pistols. Magazine safeties cost less than $2 each. Every gun for sale in the United States could have this feature for a total cost that for new guns works out to roughly $30,000 per life saved in chambered-round accidents--making the magazine safety extremely attractive from the standpoint of the eternal benefit-cost tradeoff.

There has been some halting action in the direction of improved gun safety. A few manufacturers now include trigger locks with each gun sale; after Columbine, President Clinton proposed national legislation requiring trigger locks. Trigger locks would not have prevented Columbine High, but they might save hundreds of lives per year without one whit of firearm-freedom loss. Several handgun companies are experimenting with a fire-confirmation system that in theory would render pistols inoperative for anyone but their owners. (When shooting, owners would wear a ring that broadcasts a security code to the gun; the hitch is that kids or thieves might take the ring when taking the gun.) The Hi-Point carbine was conceived to appeal to gun fanciers, but at least its designer took the precaution of engineering the weapon so that it cannot physically accommodate the assault-style magazines that have no legitimate sporting or self-defense purpose. These are steps in the right direction.

But it's time to rethink gun engineering from the ground up, bringing firearms out of the antebellum era and into the technological age from the standpoint of the systems-engineering approach that has made so many other products safer. Trigger locks, for example, should not be add-ons that the buyer can simply discard. My cheap, reliable cell phone won't work unless I punch a four-digit code; why isn't my gun the same? (In an emergency, I'd rather fumble to punch a code than fumble to load.) Every gun should be designed so that it's completely obvious whether the weapon is loaded-- transparent magazines, say. Safeties should be standardized and color-coded for rapid reading. Some visible cue should make it obvious whether a gun has a chambered round. (In addition to reducing gun accidents, making it visually obvious whether a firearm is loaded or chambered would be a boon to police.) Internal and magazine safeties should be ubiquitous. Firing actions should be redesigned so that it's not physically possible t o convert semiautomatic weapons into illegal full automatics. Ammunition systems should be redesigned so that they cannot be converted for assault-style clips designed to spray death in all directions.

Safe gun engineering has nothing to do with gun control. Today, government requires extensively detailed safety engineering for many products that are dangerous but only lightly controlled, such as automobiles, and for products that are completely uncontrolled, such as toys, furnaces, and baby strollers. It's preposterous to think that as a society America imposes rigorous safety- design standards on strollers but merrily exempts firearms from the benefits of modern safety engineering, allowing gun manufacturers to continue using design assumptions that date to Colt's tinker's shop.

Ideally, gun manufacturers would offer safer designs of their own accord. But marketing experience has shown that, although police departments, hunters, and sport shooters will buy gun-safety features, significant elements of the gun market probably won't--gun buyers who are criminals, for example, have as a class not shown themselves to be overly concerned with public safety. In pure textbook theory, we'd let gun buyers sort out their own safety choices and pay for the level of risk they accept. But gun buyers aren't making safety decisions solely for themselves; they impose their choices on the people they might accidentally shoot. Thus, public safety dictates a gun- safety regulatory standard.

Needless to say, the gun lobby will fight firearm redesign, but does NRA opposition have any meaning to anyone anymore, other than to the sold-out? For responsible political leaders, or responsible firearm owners, to contend they can't advocate safer guns because the gun nuts will howl is an indictment of the responsible, not of the nuts. Gun proponents constantly say they oppose controls but favor safety. Let's call them on this claim and demand a national initiative to reinvent the gun with safety in mind.

Would the right-to-bear-arms clause of the Constitution permit this idea? Because the preamble of the Second Amendment places gun ownership in the context of the raising of state militias--an anachronistic goal the NRA today methodically fudges--the Supreme Court has given states broad discretion in gun statutes. This means there is little doubt states could legislate firearm safety standards. Congress probably has the power to do so, too, though legal challenges are inevitable. The Second Amendment specifies a right to bear arms but also that firearms be "well-regulated," and, in this context, the Supreme Court has upheld national restrictions against the sawed-off shotgun and automatic weapons. Gun-safety engineering wouldn't stop individuals from owning weapons--it would require only that their weapons incorporate the best available safety features.

And, as an added bonus, if there were firearm-safety standards, many of the manufacturers stung by new design engineering costs would be foreign. As Tom Diaz points out in his new book, Making a Killing: The Business of Guns in America, a surprising percentage of the companies flooding U.S. gun shows and Kmarts with firearms are foreign-owned--Baretta being an Italian firm, Browning being Japanese-owned, Smith & Wesson being English, Germany's Heckler & Koch and Austria's Glock being leading U.S. gun suppliers, and the Chinese (who generally bar their own citizens from owning guns) selling in the United States about half the rifles imported here. When European politicians prattle on in high dudgeon about the shocking American gun culture, they never pause to add that it is their own corporations busily exploiting and encouraging that culture; roughly half the guns sold in the United States are imported, mainly from Europe, with the firearm import sector growing much faster than domestic manufacture. It might be argued that European and Asian firms are dumping unsafe guns here--not only mass- marketing the types of weapons favored by criminals (such as North China Industries' SKS assault rifle, which is similar to the AK-47) but also shipping, by the millions, firearms that lack basic safety features. If the United States were exporting cars without seat belts to Italy, Germany, or China, those nations would be apoplectic. Why is it OK for their companies to ship to us firearms without magazine safeties?

It's possible that, if gun manufacturers begin to lose liability suits, they will adopt safety engineering for reasons of legal exposure. Generally, liability law allows products to be dangerous if they are obviously dangerous, in the way that cigarette lighters obviously cause open flame. Absurdly, gun makers' legal departments may fear that adding safety features will increase liability by reducing the obviousness of danger. But such problems as the lack of magazine safeties create firearm dangers that aren't obvious, more akin to the Pinto gas tank than the Bic lighter; considerations such as these may eventually lead to plaintiffs' victories in liability suits against gun manufacturers. Why endure another decade of avoidable gun-accident deaths as the lawsuits mount rather than working for safe-gun engineering right now?

Safer guns would seem to be in the long-term interest of those who support the right of honest citizens to own firearms for hunting, self-defense, and sport shooting. And public support appears evident: polls show that 68 percent of Americans favor gun-safety regulation. **But if Congress lacks the will or courage to take on the NRA, there is another way the national government could assume the lead.**

Firearms aficionados pine for guns with the latest military features: folding stocks, banana clips, laser sights, black-carbon finish, flash suppressors, and so on. Suppose the Pentagon reengineered its guns with safety in mind. Defense Department contractors have both the technical know- how to accomplish breakthroughs in firearm design and the financial incentive that flows from the dollar volume of Pentagon purchasing. If the Defense Department made a commitment to safer guns, training accidents would decline, the technology of gun safety would be advanced--and safety might become cool and high-tech rather than square, because everything the military does with guns is copied by the gun culture. Something to think about, Secretary Cohen.