

City of Chicago Files Gun Lawsuit

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states and the factual situations," says Prof. Kairys, who adds that he is consulting with other municipalities planning to sue, although he won't identify them.

The Chicago suit turns on the fact that the city has some of the country's most restrictive gun laws, including a ban on handgun sales and private ownership of handguns unless registered before March 30, 1982. Manufacturers "knowingly oversupply" gun stores just outside Chicago's borders with far more weapons than the lawful gun market can absorb intending that many of those guns will spill over into the city's black market, the suit alleges.

"Gun manufacturers and retailers know exactly what they're doing" when they "refuse to impose even the most basic controls" on distribution of their product, Chicago Mayor Richard Daley said in a statement.

Named as defendants were 16 gun stores and distributors and 22 manufacturers, including Smith & Wesson Corp., Glock Inc., Colt's Manufacturing Co., Sturm, Ruger & Co. and Beretta U.S.A. Corp.

'Litigation Tyranny'

Calling the spread of municipal suits "litigation tyranny," Robert Ricker, director of governmental affairs for the American Shooting Sports Council, a manufacturers' trade association, warns that "smaller companies don't have the financial wherewithal to cope with 50 lawsuits" and could fold just trying to defend themselves. Still, he says, the industry plans a determined counterattack and has already asked 17 major law firms to make proposals for defending the New Orleans suit. These include: Latham & Watkins of Los Angeles; Goodwin, Procter & Hoar in Boston; Pillsbury, Madison & Sutro in San Francisco; and Wildman, Harrold, Allen & Dixon in Chicago.

City officials, says Mr. Ricker, "aren't concerned with the [viability of their] legal theories, but are just throwing everything up there to see if anything sticks." He points out that in what is apparently the only reported case in which the public-nuisance idea was used against a gun maker, a federal judge in Chicago last year dismissed a suit brought on behalf of individual handgun victims. In such cases, federal courts apply the law of the relevant state, and the judge said that he didn't want to allow a suit based on "a new theory of nuisance liability" when Illinois courts hadn't yet addressed the issue. With Chicago's new suit, Illinois courts will have that opportunity.

While Mayor Daley made the political decision to sue, Prof. Kairys had laid the in-

tellectual groundwork. The 55-year-old academic only began thinking about gun-industry liability in 1996, when the first wave of state suits against cigarette makers "just jogged something for me," he recalls.

Individuals' product-liability suits against gun companies have failed, he says, "because the problem isn't that handguns are defective; the problem is that they work all too well." After months of research, he concluded that the public-nuisance theory would avoid the defective-product issue altogether. What's more, it could shift a jury's attention away from particular shootings and toward harm done to a community as a whole. Gun companies have been successful in defeating many past cases filed on behalf of individuals by stressing that the immediate cause of a given gun crime was a specific criminal.

Consultant to Philadelphia

Heavily involved in local politics, Mr. Kairys sent his research to Philadelphia Mayor Edward Rendell, who in 1997 hired the professor as a consultant and began planning for a suit based on the nuisance idea. That planning hasn't yet led to a suit by Philadelphia but did stir interest in dozens of other cities, including Chicago. Last spring, Prof. Kairys began advising government lawyers there, who say they plan to handle the city's lawsuit with help from volunteer outside attorneys.

Operating entirely separately, Mr. Henigan, the top in-house lawyer with Handgun Control Inc. in Washington, the nation's biggest gun-control group, for years has been filing high-visibility, if unsuccessful, suits on behalf of individual plaintiffs. Then, this past spring, he received an unexpected telephone call from Mr. Gauthier, a prominent New Orleans plaintiffs' lawyer who had helped to start the recent wave of litigation against tobacco companies. "It was extremely exciting because I had literally dreamed of enlisting the antitobacco bar in efforts against gun violence," Mr. Henigan says.

The two lawyers arranged to have breakfast in Washington, where Mr. Gauthier laid out discussions he had had with New Orleans Mayor Marc Morial to jump to the head of the group of cities considering suits against gun companies.

New Orleans based its suit on a product-liability theory—the industry's failure to employ safety technology that allows only authorized users to fire guns—that resembles theories used in Mr. Henigan's past and pending suits on behalf of individuals. "We think this will work for New Orleans because it fits like a glove with Louisiana's product-liability statute," Mr. Henigan says.

Judge Requests More Evidence In Gun Lawsuit

By VANESSA O'CONNELL

Staff Reporter of THE WALL STREET JOURNAL

A federal judge threatened to throw out a trailblazing lawsuit against the gun industry unless plaintiffs lawyers submit evidence quantifying the liability of each of the more than 40 defendants.

The Brooklyn, N.Y., case—which helped to inspire a legal attack on gun makers by New Orleans, Chicago and other cities—is novel because it seeks to hold the gun industry liable for death and injury caused by seven shootings with illegally obtained handguns.

But in a series of pointed questions on Friday, the federal judge presiding over the Brooklyn case signaled skepticism about the amount of evidence presented so far by lawyers for the plaintiffs, the families of the seven victims. "Where are the facts?" Judge Jack Weinstein demanded in court Friday. "We have to have something more precise" before the jury can deliberate, he warned.

Judge Weinstein was referring to the absence thus far of a breakdown of market share and sales for gun makers and wholesalers named in the suit, including Smith & Wesson Corp., Colt's Manufacturing Co. and Glock Inc. In the highly secretive gun industry, sales data are difficult to uncover. But it is crucial to the plaintiffs' case because the jury must ultimately quantify the potential liability of each defendant.

In court Friday, lead plaintiff attorney Elisa Barnes promised the judge she would provide jurors with market-share information. She said she plans to elicit the data through the testimony of an expert witness, an economist from National Economic Research Associates in New York. The plaintiff's side is using NERA statistics to bolster its argument that gun makers negligently oversupply certain markets, with the result that guns wind up in criminal hands. The gun makers contend that they take all reasonable steps to curb illegal gun sales.

In an interview, plaintiff attorney Marc Elowitz played down the judge's threat to throw out the case, saying: "There is no real issue about whether this case will go to the jury. This is just day-to-day trial work, getting us to finish up the case and put the evidence in."

But in another potentially troubling sign for the plaintiff's side, lawyers say gun-industry defector Robert I. Hass, a former Smith & Wesson marketing executive, isn't likely to testify in person. Mr. Hass, who contends in a sworn affidavit and deposition testimony that gun manufacturers don't do enough to prevent their products from flowing into the illegal market, had been reluctant to appear in court, and has a heart problem that prevents him from showing up, say plaintiff lawyers.

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Wall Street Journal

Inspired by Anti-Tobacco Action, Cities Taking On Handgun Industry

GUNS, From A1

policy at the Violence Policy Center, a Washington-based research and advocacy group. "Both tobacco and gun manufacturing have largely escaped regulation in the past, and now the justice system has emerged as the best way to ensure that they are held accountable for their products."

Gun manufacturers, like cigarette makers, have successfully defended themselves against numerous lawsuits brought by individuals. But gun control advocates hope to end that streak by bringing the public sector's vast resources and powerful new legal arguments into the battle.

That strategy has worked, at least to a degree, with tobacco. So far, cigarette manufacturers have agreed to payments of \$246 billion to settle lawsuits brought by state governments and have accepted restrictions on advertising and the sponsorship of sporting events. The settlements are narrower than an unsuccessful deal proposed last year, but gun control advocates and city officials still see great potential in pursuing similar litigation against gun manufacturers. And many believe they have an easier target.

"The gun manufacturers are not nearly as big, as rich, or as unified as the tobacco people, and so they may well buckle when they have to fight lawsuits in every major city in America simultaneously," said a top aide to a big-city mayor who asked not to be named.

Acknowledging their vulnerability to big-time legal warfare fought on many fronts, gun company executives have expressed concern that they might simply be driven out of business by the costs of fighting the suits.

"The survival of a domestic gun manufacturing industry is at stake," said Bob Ricker, director of government affairs at the American Shooting Sports Council, a trade association and lobbying organization for gun manufacturers, which is a defendant in the New Orleans suit.

The litigation campaign against the gun industry is still in its opening phase and no central leadership or common strategy has emerged on either side. The National Rifle Association, for example, is not playing as prominent a role as it has on other occasions when the gun industry felt under assault, and the industry itself is fragmented among big international firms such as Beretta and Glock that have large military and law enforcement contracts and a great many downscale manufacturers of Saturday night specials.

Meanwhile, gun control advocacy groups are divided over legal tactics and have not played a dominant role. For example, the Center to Prevent Handgun Violence, an influential Washington-based organization, advised New Orleans on developing a complaint that relies on product liability law, while the Violence Policy Center that is recommending the approach behind the Chicago suit

has spent a decade fighting lawsuits against gun manufacturers and has developed a theory that seeks to declare gun manufacturers and distributors a public nuisance. In the meantime, attorneys such as Wendell H. Gauthier who were prominent in the tobacco litigation are helping guide some of the gun suits.

For the moment there is no drive to agree on a unified strategy. "Every city is going to have to tailor a legal theory to its local circumstances and its state laws," said Tom Cochran, executive director of the U.S. Conference of Mayors, which has a long record of promoting gun control measures and is acting as a clearinghouse of information for cities that are undertaking lawsuits.

Indeed, some attorneys involved in the lawsuits see an advantage in starting out with a variety of approaches, because if many different assaults are launched, there is a better chance that a few at least will make it through the uncharted legal territory ahead.

Anti-gun advocates also hope to get an unprecedented glimpse into the inner workings of the gun industry by smoking out whistleblowers and forcing them, through litigation, to turn over corporate documents.

"We are going to get into a phase of discovery, just as with tobacco, that will open the gun industry to a kind of scrutiny that it has never experienced," said David Kairys, a professor of law at

Temple University, who helped Chicago develop its lawsuit and is now working with other cities.

The attorneys, for example, hope to find evidence that manufacturers of Saturday night specials exploit the guns' extensive use by criminals or that industry marketing strategies are based on large numbers of illegal, or at least questionable, sales. Even if only one proceeding generates damaging revelations, the entire effort will benefit, the lawyers said.

Several different battle plans are already developing. The Chicago lawsuit argues, in effect, that handgun manufacturers have knowingly profited from crime and fear of crime, while the New Orleans suit contends more narrowly that the industry has violated state gun safety laws by failing to install devices, such as high-tech gun locks, that would prevent accidental shootings, especially by children.

Regardless of the allegation, the goal is to make handgun manufacturers collectively liable for the municipal costs of handgun violence, expenses that can range from law enforcement salaries to the purchase of emergency medical equipment.

Individual gun manufacturers and industry groups insist they should not be made to answer for the acts of criminals. "The idea that guns in and of themselves are responsible for crime is ridiculous," said Ricker, of the shooting sports council.

The key development, first in

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the tobacco litigation and now in the gun lawsuits, is a change in the nature of the plaintiff—the party that brings the legal action.

"When one person has sued, whether it's on tobacco or guns, the industries have scored points by attacking that person and claiming the harm was all their fault," said Dennis Henigan, director of the legal action project at the Center to Prevent Handgun Violence.

For example, judges and juries routinely concluded that smokers had freely chosen to light up and so tobacco companies could not be held liable for the health consequences of that choice. Similarly, gun manufacturers successfully argued that it was not their fault when someone chose to commit a crime and fired a gun at someone else illegally.

"The states' lawsuits to recover health care costs from tobacco companies showed that a public plaintiff can overcome these obstacles and focus attention on the broad costs to society," said Henigan.

Still, the analogy to tobacco is by no means perfect.

In tobacco cases, plaintiffs could argue that even when cigarettes were used properly, as the manufacturers had intended, a defect—the carcinogenic effect of smoke, for example—inflicted harm on the smoker and the manufacturer should be held liable for it. Moreover, the tobacco suits also argued that manufacturers misled smokers both about those dangers and about the addictive powers of nicotine, which furthered the harm and diminished the consumer's ability to avoid it.

There is no chemical addiction when it comes to guns. And there is no secret they are dangerous. And courts have repeatedly rejected claims that guns are somehow defective when they fire bullets.

"No one has been injured when using a gun properly," said Ricker, expressing the industry view that it can not be held liable for injuries that result from crimes or accidents.

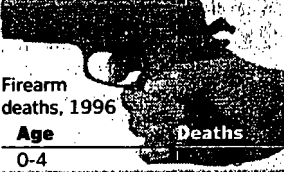
So far, two legal theories have been developed to try to get around these roadblocks and others are under consideration.

The New Orleans suit argues that under Louisiana's unusually strict product liability law, guns are "unreasonably dangerous" because manufacturers failed to take steps that would prevent the guns' use by children and other unauthorized users. For example, the suit alleges that manufacturers failed to include adequate warnings of the risks that minors could gain access to weapons or instructions on how to store a gun to avoid that risk.

The suit also claims that a number of devices have been available for more than 20 years that would prevent an unauthorized person from firing the weapons. These include simple combination locks built into the handgun and more technologically complex "personalized" guns that will only fire when the shooter is wearing a ring equipped with an encoded chip.

"The taxpayers of my city should not bear the continuing increase in hospital costs and police costs and ambulance costs associated with this spate of vio-

In the Line of Fire



Firearm deaths, 1996	
Age	Deaths
0-4	519
5-9	550
10-14	510
15-19	3,550
20-24	4,816
25-29	3,989
30-34	3,414
35-39	3,318
40-44	2,746
45-49	2,289
50-54	1,693
55-59	1,327
60-64	1,077
65-69	791
70-74	1,161
75-79	1,027
80-84	785
85+	546
Unknown	28
Total	34,040

SOURCE: National Center for Health Statistics

BY JOHN ANDERSON—THE WASHINGTON POST

lence," said New Orleans Mayor Marc M. Morial.

The New Orleans suit names 15 major handgun manufacturers, three industry trade associations, and several local gun dealers as defendants. Without specifying an amount, the suit seeks damages to cover the city's costs for "police, protection, emergency services, medical care, facilities and services, as well as lost tax revenues due to defendants' products and actions."

In response, the gun manufacturers will argue that "the single most important gun safety device is the brain of the owner, and if the owner does not use the gun responsibly then there is no device that can make it absolutely safe," Ricker said.

The Chicago lawsuit, by contrast, argues that gun manufacturers have become a "public nuisance" by using marketing and distribution methods designed to circumvent the city's highly restrictive gun laws, which forbid handgun sales. The gun makers "knowingly oversupply" gun shops just outside the city's boundaries with the intention that many of those weapons will be sold to city residents, according to the suit.

The suit seeks \$433 million in city costs related to gun violence over the past five years and names 16 gun stores and 22 manufacturers as defendants.

"Handgun manufacturers knowingly participate in an illegal market that supplies criminals, and then they turn around and feed off the fear of crime by convincing people they can protect themselves by buying these products," Kairys said. "They profit from crime and so they should pay the public costs of crime."

Ricker responds: "How can a city claim that guns cause crime when it gives guns out to police officers, in order to stop crime? It is not the guns that are at fault when a criminal commits a crime."

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OFFICE OF THE MAYOR

CITY OF CHICAGO

RICHARD M. DALEY
MAYOR

November 12, 1998

The Honorable Janet Reno
Attorney General of the United States
U.S. Department of Justice
10th Street and Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Reno:

On November 12, 1998, my administration filed a lawsuit on behalf of the people of the City of Chicago against the gun industry. This \$433 million suit charged that the industry has flooded Chicago with illegal guns, knowing that they will be used to murder, rob and terrorize our citizens.

The gun industry has perpetuated a myth, claiming that illegal guns are acquired illegally. According to them, gun control efforts are not a matter for the Congress, state legislatures, or the courts, but for the police. This myth has now been dispelled by an undercover Chicago Police Department investigation, the results of which were announced last Thursday.

This investigation establishes that area gun dealers routinely encourage customers to deceive federal, state and local police. "Straw" buyers regularly buy dozens of guns for street gangs. Manufacturers and retailers knowingly market and distribute to criminals in Chicago and other communities where the possession of a gun is illegal. Current state and federal law is inadequate to stem the flood of illegal guns into our communities. Changes must be made to protect our families, children and police officers.

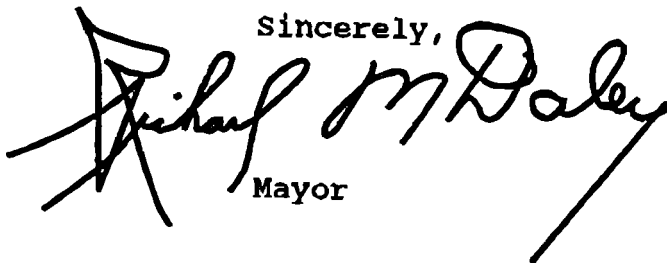
As a result of this investigation, I am proposing state and federal legislation to curb these abuses. The state legislation provides for state licensing of firearm dealers; a limitation of one firearm purchase per month; enhanced penalties for gunrunning and straw purchases; and civil liability for any damages resulting from the illegal possession or use of a firearm when the seller has reason to know that it will be used or possessed illegally.

The Honorable Janet Reno
November 12, 1998
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The federal legislation will provide an improved federal firearms tracing system to enable federal, state and local authorities to far more readily identify gun runners who supply criminals with firearms; require that all firearm sales be reported within one week to the United States Bureau of Alcohol, Tobacco and Firearms; forbid the purchase of multiple firearms within any 30-day period; and forbid gun dealers from making sales whenever the seller has reason to believe that the purchaser intends to use or transfer the weapon illegally.

In addition to these proposed legislative changes, the City of Chicago and Cook County have filed a civil lawsuit to hold the gun industry accountable for the costs to society resulting directly from their negligent business practices. These negligent practices constitute a public nuisance. We hold polluters accountable for poisoning our environment; we hold liquor stores accountable for serving minors. It is time to hold the gun industry accountable for its actions.

Sincerely,



Richard M. Daley
Mayor

Gun Marketing Is Issue in Trial Against Makers

By JOSEPH P. FRIED

On the night of July 27, 1993, 17-year-old Njuzi Ray was fatally shot in a dispute on a Brooklyn street. A suspect was later acquitted, and nobody else has been arrested for the killing.

Normally a case like this would have long disappeared from public awareness, lost in the city's crime statistics and recalled only by the victim's family and friends. But the slaying in Bedford-Stuyvesant is once more in the spotlight, as a subject of a potentially precedent-setting lawsuit against the gun industry in which opening arguments could begin today in United States District Court in Brooklyn.

In the case, Mr. Ray's mother, Freddie Hamilton, and the relatives of five other people killed in separate shootings in New York City and Yonkers in recent years are seeking to hold the gun industry collectively liable for the deaths, just as many recent suits have attacked the tobacco industry as responsible for deaths and illnesses from smoking.

At the heart of the claims is the argument that more than 30 gun manufacturers and distributors have marketed and distributed handguns so negligently that dealers in states with lax gun control laws are oversupplied with them. Many of those guns, in turn, end up in the hands of criminals and youths in states with tough gun laws like New York, the suit contends.

The suit is considered potentially precedent-setting because it invokes

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New York Times

1/6/99

DAVID GONZALEZ/About New York

Gun Makers, and a Culture, on Trial

CLICK, click, click. The sound was faint inside a Brooklyn courtroom on Monday. It underscored the events being played out in Federal court, where the relatives of people slain by illegal handguns are suing more than 25 gun manufacturers who they say negligently marketed guns to states with weak gun laws.

Those sales, the plaintiffs contend in what could be a landmark civil case, resulted in a flood of illegal weapons to states like New York where the gun laws are strong.

Click, click, click. The steady sound was not coming from any weapons demonstration, since the lawyers' arguments seemed almost abstract. The clicking came from among the spectators, where Rebecca Peters was busily typing notes about guns and their availability into her laptop computer.

In the front of the courtroom, lawyers for the gun makers insisted that their international subsidiaries were legally separate from the American counterparts. This is a legal point of some consequence should the jury rule against them, since market share helps determine each company's share of liability.

Ms. Peters was struck by how businesses that boasted for decades about being market leaders were now insisting that corporate restructuring had made them smaller than imagined.

"It's a shell game," she said. "In all of this, the victims are lost. All this talking about corporate stuff, and the victim disappears. These guys are just talking about paper manipulations."

Ms. Peters's interest transcends a trial buff's curiosity. She is a journalist turned lawyer who helped lead a movement for stricter gun laws in her native Australia. In this country, she is conducting comparative research on gun laws in different countries as part of her fellowship at the Center on Crime, Communities and Culture, a foundation established by George Soros (which has also helped defray some of the plaintiffs' expenses on expert testimony).

How guns affect crime and communities has been debated sufficiently in the case. Defense lawyers have insisted that they sell only to buyers who meet current regulations. They have also said that demand by legitimate buyers, not negligent marketing and oversupply, accounts for high gun sales in states like Virginia, Florida, Ohio, Georgia and North Carolina.

But is it a coincidence that law enforcement officials say those same states account for many guns used in crimes in New York City? And does that mean that law-abiding citizens should take up arms just in case they encounter a robber armed with an illegal gun? Either way, what drives this nation's fascination with guns?

That's where culture comes in.

"That an ordinary citizen should be armed in the expectation of shooting another person has not been accepted in the law or the culture in Australia," Ms. Peters said. "I really see that as a benchmark of society."

Handguns, she said, have been tightly regulated in Australia since the 1930's. Her campaign there was for uniformity in gun laws in all eight Australian states, as well as a

ban on semiautomatic rifles and shotguns.

The new laws began to be introduced in 1996, soon after a gunman killed 35 people in Tasmania. The laws also resulted in a buy-back program that netted some 700,000 weapons.

"That shooting was the kind of thing people associated with America," she said, offering a sobering lesson on the image that the United States has around the world. "The shooting highlighted that the policies had failed to do what most people in the country felt was basic for democracy, which is strict control over guns."

IN this country, democracy is defined the other way around by the gun lobby. But that is not the only reversal, Ms. Peters said, adding that rather than look at the guns and their deadly effects from a public health perspective — which stresses prevention for the greater good — the issues are usually confined to criminal justice debates about getting tough on thugs. While lawyers for the industry were eager to show how they help the police trace weapons, Ms. Peters wondered why so much energy was spent after someone lies dead in the street.

"When I look at this court case, there is still in America a very entrenched idea that the purpose of gun laws is to punish bad guys," she said. "There is very little sense in the law that the purpose of gun laws is to prevent gun violence."

That idea has yet to click in this country.

New York Times

2/3/99

Blaming Bullets for Urban Blight, Conn. Mayor to Sue Gunmakers

By DAVID SEGAL
Washington Post Staff Writer

BRIDGEPORT, Conn.—To revive this once bankrupt riverside city, Mayor Joe Ganim has razed a crime-plagued housing project and built a minor-league baseball park in the nearly abandoned downtown. Now, the 39-year-old maverick is on the verge of what could be his boldest—or most desperate—measure yet.

Ganim is about to accuse the nation's gunmakers of negligently pumping a flood of firearms into the city's blighted African American and Latino neighborhoods, places where the weapons are bound to be used for criminal ends, he says.

It's a novel legal argument, accompanied by an audacious demand. In a suit scheduled to be filed today, Bridgeport will seek \$100 million from gun companies to compensate the city for years of depressed property values in minority neighborhoods and for the plunge in tax revenue caused by a steady exodus of businesses.

"It doesn't take a genius to know which neighborhoods are being hurt by the oversaturated gun market," said Ganim, a scrappy 5-foot, 5-inch former attorney. "We think there's a corporate responsibility here."

Ganim's theory is described by law professors as a stretch, though hardly a sure-fire loser. After all, tobacco litigation seemed no less a longshot three years ago, and that has netted states more than \$200 billion.

At minimum, Bridgeport's argument will be a source of migraines for gun company executives in coming months. Other cities, such as Gary, Ind., have signaled an interest in filing suits using an identical approach. Ganim and gun control advocates predict that 50 other cities eventually could file similar cases and may unveil them on the same day.

For the gun industry, it's shaping up as a potentially nightmarish public relations problem—and that is precisely the mayors' goal. By tossing race into the already combustible mix of lawyers and guns, Ganim and others are not so subtly suggesting that the \$3 billion-a-year gun industry is exploiting minorities and callously allowing firearms to waylay urban centers. Proponents of the litigation

believe that the very suggestion might be incendiary enough to produce a hefty settlement without a lengthy court battle.

New Orleans and Chicago have filed separate lawsuits against gun manufacturers, but left race out of it, asking only for money to cover medical and law enforcement expenses allegedly incurred by guns.

The mayors involved say they are trying to reduce crime. And like the cigarette suits, one aim is to achieve through the courts what legislatures have been unwilling to do: impose more restraints on a politically powerful industry. The possibility of some glory and badly needed funds doesn't hurt either. Attorneys general scored political points, raised their profile and landed millions of dollars for states by suing cigarette companies. A growing number of mayors believe it's their turn.

Already, gunmakers are calling it a shameful shakedown, griping that these leaders are suing to raise money for urban-renewal projects and to win national attention to enhance their careers. Not so coincidentally, the Bridgeport suit is being filed right before the annual Conference of Mayors meeting this week in Washington, where gun litigation will be a hot topic.

Gun industry officials are promising an all-out fight, denouncing the imminent Bridgeport litigation and any copycats as cynical ploys based on shoddy reasoning. The property value argument, they say, contains more than a hint of elitism, carrying the implication that minorities can't be trusted with a legal product. And if Bridgeport prevails, they say, ultimately gun prices will rise, making weapons unavailable to those who need them most—poor people in violent neighborhoods.

"It's absolutely ridiculous," said Bob Ricker, a spokesman for the American Shooting Sports Council. "What the mayors are saying is 'Let's tarnish the industry's image, let's play the race card.' These guys will throw anything imaginable up there and hope the world buys this thing."

Weapons were both the doing and undoing of modern Bridgeport, a city of 143,000 once dubbed by a former mayor as the "armpit of New England." For decades, it was home to defense companies including Remington and Sikorsky, which cranked out components for bombs and ammunition



Bridgeport Mayor Joe Ganim, left, and Connecticut chief state attorney Backus at a Jan. 11 press conference.

for the military during World War II and after. But in the 1980s, crack cocaine arrived and crime sent many companies packing.

By the 1990s, the dwindling police force drove dilapidated cars. Three square blocks around Father Panik Village, a housing project in the town's East Side, were the scene of one-fourth of the state's homicides. In 1991 Ganim's predecessor filed to place Bridgeport under Chapter 11 bankruptcy protection.

Though the city no longer resembles a war zone, it is far from healthy. Still, many residents are skeptical about Ganim's lawsuit, even if it raises badly needed cash.

"Criminals are criminals," said Aaron Sarfati, owner of Contempo Fashions, a store selling sneakers and hip-hop clothing on run-down Main Street. "If they don't use guns, they'll use knives. They'll use rocks. Guns are just a tool."

"What they ought to do is close down pawnshops in these neighborhoods," said Jose Cotto, a 22-year-old Contempo clerk. "If all these people who steal to get money for drugs didn't have a place to sell stuff, there'd be less crime."

In spite of such sentiments, Bridgeport and other cities are bank-



Old cars and trash litter the East Bridgeport neighborhood of the city.

ing that hometown juries will be fed up enough to hold gunmakers financially liable. The industry is sure to file motions before judges to dismiss these cases on summary judgment, arguing that they are based on a legal theory that is too far-fetched to deserve consideration.

"Two years ago I would have said that this is unusual to the

point of bizarre," said Gary Schwartz, a tort professor at UCLA Law School. "But the success of the tobacco case has made me wary of dismissing things just because they seem unusual."

To win, the mayors will have to argue that manufacturers could have taken steps to prevent people from bringing weapons into minor-

ity communities. That's because a key component in tort cases is proving that defendants ignored safety measures that could have stopped alleged injuries. Short of metal detectors on street corners, it's hard for some legal experts to envision what those precautions would be.

Ganim also must argue that gunmakers are a "proximate cause" of lost property values, meaning that they were close enough to the chain of events leading to the loss to be held responsible for it. That, too, will be a challenge, as gunmakers say their links to muggers are no closer than those of match manufacturers to arsonists.

None of these problems, though, is necessarily fatal, legal experts contend. Common law evolves and responds to economic and social policy questions of the day, said Steven Croley, a tort professor at the University of Michigan Law School. If Americans believe that gunmakers and buyers should pitch in for the economic impact of their actions, the law eventually will reflect that sentiment through judicial decisions and jury verdicts.

"If you pay \$100 for a gun and the total costs of it are actually \$200—\$100 for the weapon and \$100 in losses to the neighborhood—then we have a serious problem," Croley said. Gunmakers counter that it's unfair to saddle them and law-abiding customers with the costs of crime. It's impossible, they say, to isolate the various factors that lead to a mugging, for example. And jacking up gun prices will mean that only rich people in gated communities will be able to afford them, not single mothers in housing projects who need protection.

Said ASSC spokesman Ricker, "If you look at the policy implications of Bridgeport's claim, what they're saying is that wealthy people should be able to buy guns and poor people shouldn't."

In Ganim's view, he's merely suing for peace, and he's already talking like a man angling for a settlement.

"I sent a letter to a bunch of gunmakers inviting them to avoid the expense of litigation," he said. "So far, all I've gotten is snide and callous responses."



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01/25/99 01:31:00 PM

Record Type: Record

To: Jose Cerda III, Leanne A. Shimabukuro

cc:

Subject: GUN-LAWSUIT DECISION LOOMS FOR PHILADELPHIA MAYOR

Date: 01/25/99 Time: 13:07

Gun-Lawsuit Decision Looms for Philadelphia Mayor

By Peter Nicholas, The Philadelphia Inquirer
Knight Ridder/Tribune Business News

Jan. 25--Will he sue, or won't he?

A year and a half after he began exploring the prospect of suing the gun industry, Mayor Rendell still isn't sure. But he will need to decide soon.

He is heading into a pivotal meeting of mayors this week at which gun litigation will be a hot topic. New Orleans and Chicago have already filed suit against gun manufacturers in an attempt to recover the costs of gun violence. Miami and Bridgeport, Conn., are expected to do the same this week. Atlanta, Boston and other cities have lawyers working on potential suits.

A draft of a suit prepared for Rendell more than a year ago alleges that the gun industry has created a public nuisance by saturating the city with firearms used by criminals. The suit demands that manufacturers reimburse the city for a variety of costs stemming from gun violence -- from washing blood off the streets to police overtime.

Rendell estimates the total cost at nearly \$59 million a year. His legal theory mirrors the approach of the state attorneys general who negotiated a settlement in 1998 with cigarette manufacturers.

While a string of other cities come forward and announce plans to take on the gun makers, Philadelphia's intentions remain a mystery.

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So what does Rendell do if only eight cities sue? Or 10? Or 15? Does he jump in?

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Instead of suing, Rendell has tried negotiating with the gun industry -- with little success.

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Rendell met with gun lobbyists at City Hall two weeks ago, but there was no breakthrough.

For its part, the gun industry still has hope the two sides can find common ground.

"I think there is still an opportunity here," said Richard Feldman, of the American Shooting Sports Council, the industry's main trade group. "As I have said since the beginning of this process, there is so much more that we agree upon than we disagree on."

The mayor has also been working with the National Rifle Association on finding ways to quell gun crimes.

Today, Rendell, U.S. Sen Arlen Specter and Charlton Heston, the president of the NRA, will hold a joint news conference at City Hall to discuss a plan to muzzle gun violence through vigorous enforcement of all existing gun laws.

Apart from giving negotiations a chance, there are other reasons why the mayor has backed off on filing suit.

Rendell, who leaves office Dec. 31, said he would not want to bind his successor to a decision he made in his final year as mayor (That consideration, though, did not stop Rendell last week from calling for a two-year extension of controversial School Superintendent David Hornbeck's contract.)

He denies that politics are a factor, but the mayor's statewide ambitions may be part of the mix. Rendell has talked about running for governor in 2002. Suing the gun industry would not play well in conservative Pennsylvania -- a point that has been made to him by a key friend and adviser, State Sen. Vince Fumo. Pennsylvania has more NRA members than any state except California.

The more Rendell hedges, the more he is eclipsed as a leader in the anti-gun movement.

His gun lawsuit was drafted months before Chicago and New Orleans filed their groundbreaking suits, but Rendell let it sit.

Early last month, Chicago Mayor Richard M. Daley invited his counterparts to a meeting where they would discuss the gun suits filed by his city and New Orleans. Five mayors attended. Representatives came from Atlanta; Detroit; Minneapolis; Newark, N.J.; Portland, Ore.; San Francisco; St. Louis; and Tampa, Fla. Philadelphia didn't show. Rendell said he had a scheduling conflict.

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Rendell is to address his fellow mayors in closed session Wednesday. He will brief them on the status of negotiations with the gun industry.

Rendell said he would look to his counterparts at the mayors' conference for guidance on whether to sue. But a more important forum may be a New York courtroom.

Relatives of six people killed by handguns have sued more than 40 gun makers and wholesalers in federal district court in Brooklyn. The plaintiffs contend that the gun industry is liable for the shootings. They argue that the companies oversupply guns to states with weak gun laws. The surplus passes to illegal traffickers who resell them to criminals in states with strong gun laws, according to the plaintiffs.

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The legal theory tracks many of the arguments cities are making as they attempt to hold manufacturers liable for the costs of gun violence.

If the plaintiffs succeed, it could embolden more cities to file suits of their own. Rendell is watching the case closely.

If flesh-and-blood people can't convince a court of the gun industry's culpability, it's doubtful a city would succeed, he said.

Among Rendell's counterparts, excitement over the suits is palpable. Whether the tactic succeeds or not, cities are clearly excited about what could prove a novel strategy for attacking gun violence.

Katie Cullen, a spokeswoman for the U.S. Conference of Mayors, said the cities were further energized when the NRA announced earlier this month that it would lobby for legislation curbing suits against gun manufacturers.

"There will be a groundswell [of lawsuits] now that the NRA has drawn that line in the sand," Cullen said.

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LAW

Judge Drops Gun Wholesalers As Defendants in Landmark Case

By VANESSA O'CONNELL

Staff Reporter of THE WALL STREET JOURNAL

Lawyers in a trailblazing gun lawsuit were forced to narrow their case against the handgun industry, dropping gun wholesalers and leaving only manufacturers and importers as defendants.

The Brooklyn, N.Y., case — which helped inspire a legal attack on gun makers by New Orleans, Chicago and other cities — seeks to hold the gun industry liable for seven shootings with illegally obtained handguns.

Lawyers for the plaintiffs, the families of the seven victims, initially sought to put the blame on both gun makers and gun wholesalers, arguing both were responsible for negligently "oversupplying" certain markets, with the result that the guns wound up in criminal hands.

But in court yesterday, U.S. District Judge Jack Weinstein dropped wholesalers from the suit, after lawyers for the plaintiffs weren't able to show the potential liability of each of the 15 wholesalers.

"Judge Weinstein finally realized that there was no evidence of market share or causation based on the evidence produced by the plaintiffs' lawyers up to this point," said David Gross, who represents several wholesalers, including RSR Wholesale South Inc. of Winter Park, Fla., AcuSport Corp. of Bellefontaine, Ohio, and Davidsons' Shooting Supply Inc. of Prescott, Ariz.

Lawyers for the plaintiffs claim the judge's move to remove wholesalers from the suit won't hurt their case against about 30 gun makers, including Smith & Wesson Corp., Colt's Manufacturing Co. and Glock

Inc. "The judge removed wholesalers from the case to avoid double-dipping and keep things simple," said Denise Dunleavy, a lawyer for the plaintiffs. "But it's important to note that we aren't conceding that distributors aren't liable and shouldn't be held responsible."

On Friday, Judge Weinstein demanded a breakdown of the market share for each of the defendants — data jurors would need to quantify the liability of each company — and raised his concern that the data doesn't double-count for the injury or death resulting from a single gun.

Yesterday in court, the plaintiffs' lawyers submitted estimates for the national market share and national crime-gun market share for the gun makers. The estimates came from National Economic Research Associates in New York, whose analysis of crime-gun data bolsters the plaintiffs' argument that gun makers negligently oversupply certain markets.

Proponents of the municipal litigation said they weren't terribly discouraged. "What I'm interested in is that the manufacturers are still in" the case, despite their efforts to have the suit dismissed before it reached the jury, said Dennis Henigan, one of the lawyers for New Orleans.

Chicago included several distributors as defendants in its lawsuit; New Orleans didn't, sticking to manufacturers and retailers. "It's not inherently impossible to include distributors," if there is sufficient research and probing of the gun industry for information, Mr. Henigan said.

—Paul M. Barrett
contributed to this article.

Wall Street Journal
1/27/99

PHOTOCOPY
PRESERVATION

Two Cities Join Legal Assault On Handguns

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL

Two more cities joined the legal attack on handgun manufacturers and importers, but mayors of several other cities are backing off earlier predictions of a mass filing of lawsuits against the industry anytime soon.

Miami and Bridgeport, Conn., yesterday filed separate suits in their respective state courts against the major names in the handgun business, including **Colt's Manufacturing Co.**, Hartford, Conn.; **Glock Inc.**, a unit of Austria's **Glock GmbH**; **Smith & Wesson Corp.**, a unit of Britain's **Tompkins PLC**; and **Sturm, Ruger & Co.**, Southport, Conn. The suits resemble one filed against the industry this past fall by New Orleans, the first city to take such an action by alleging that gun companies have failed to incorporate safety technology to prevent unauthorized users from pulling the trigger. Using a different legal theory, Chicago has also taken the industry to court, and a slew of other cities have threatened to follow.

But at the winter meeting of the U.S. Conference of Mayors, going on now in Washington, some participants signaled that the legal assault wouldn't coalesce as quickly as some had predicted. Philadelphia's Mayor Edward Rendell, an early proponent of litigation to attack gun crime, said yesterday, "Each city has different problems," and there wouldn't be a "concerted effort" on a mass filing of liability suits.

"This isn't a class-action tobacco lawsuit," Mr. Rendell said, distancing the mayors from the litigation against cigarette makers that inspired antigun activists two years ago to consider suing the firearms industry. He added that the mayors would push for new state and federal gun-control legislation and try to revive so far unfruitful negotiations with industry representatives. "We can't put all of our eggs in the lawsuit basket," said Mr. Rendell, whose contemplation of a run for governor in Pennsylvania, a National Rifle Association stronghold, is thought to have contributed to his temporizing on the litigation question.

Such cautious comments, including those of Mayor Scott King of Gary, Ind., left some antigun activists puzzled but determined to move ahead, hoping to mount enough lawsuits to force the industry to discuss such proposals as limiting consumers to one gun purchase a month and mandating safety technology.

The industry responded with indignation to the allegations from Miami and Bridgeport. Denying any wrongdoing, industry spokesman Robert Ricker said, "We are the industry that supplies the sidearms for our police and military, people who have fought and died to defend this country."

— Vanessa O'Connell
contributed to this article.

1/28/99

THE WASHINGTON POST

Two More Cities Sue Gun Makers

Industry Pressed on Safety Concerns

By GAIL APPLESON
Reuters

NEW YORK, Jan. 27—The number of municipalities suing the gun industry rose to four today with Miami and Bridgeport, Conn., filing suits and the head of a national mayors' task force predicting that many more would follow.

While the number of such cases is expected to rise, the nation's mayors are not planning a coordinated effort to file one large suit, said Philadelphia Mayor Edward Rendell, who heads the U.S. Conference of Mayors' gun violence task force.

However, he did not rule out the possibility that some cities might file their suits at about the same time. Municipalities may also use different theories in their individual suits.

"There may be a lot of cities filing in the spring, but there will be different lawsuits individually tailored to the laws and problems, facts and circumstances of each jurisdiction," Rendell said at the Conference of Mayors meeting in the District of Columbia.

Rendell said the cities were looking for improved safety features on guns and changes in the way guns are sold. "We are not looking for money damages. We are not looking to put the gun manufacturers out of business."

The suits filed by the Miami-Dade County government and the city of Bridgeport follow those filed by Chicago and New Orleans.

"We will not allow the gun industry to escape accountability any longer," Miami-Dade County Mayor Alex Penelas said at a news conference. "They have killed our children by the dozens."

The civil lawsuit named 25 gun makers and distributors as defendants, along with three firearms industry associations. It did not specify a dollar amount, but seeks reimbursement for "hundreds of millions of dollars" in police, paramedic and hospital

expenses stemming from gunfire. The suit charges that gun makers failed to equip their products with trigger locks, load indicators and other safety devices.

Miami-Dade is Florida's largest county, with 2.1 million residents, and has logged 763 gun-fire deaths in the past two years.

Bridgeport, Connecticut's largest city, is seeking \$100 million from gun makers. It also alleges that manufacturers have failed to make guns with adequate safety features.

The municipalities' strategy follows that launched by state attorneys general against the tobacco industry. Many of the private law firms involved in that battle are now helping the municipalities sue the gun industry.

John Coale, a District lawyer active in class action suits against the tobacco industry, is also helping a number of cities. Coale said he expects Atlanta, Cincinnati and Newark to be among the next to file.

In November, the tobacco industry reached a \$206 billion agreement with 46 states to repay them for money they spent under the Medicaid program on smoking-related illnesses.

These growing efforts by cities comes at the same time that an unprecedented trial against the gun industry reaches its final stages in Brooklyn federal court.

The suit, brought by a group of victims' families, is based on a "negligent marketing" theory that manufacturers can be held liable for violence because they make too many guns.

Gun wholesalers had also been named as defendants, but on Tuesday, the judge in the case dismissed them from the lawsuit, leaving manufacturers and importers as defendants.

The plaintiffs argued that gun manufacturers take advantage of weak gun control laws in southern states and produce more guns than the legitimate market needs. The excess weapons end up in northeastern states that have stricter laws.

*JOSE/EK -
Jose, let me know
if these work - BR*



OFFICE OF THE MAYOR
CITY OF CHICAGO

RICHARD M. DALEY
MAYOR

November 12, 1998

*Mark
Copy to Jensen, Jose Carda,
Bruce Reed.
M. Stacey
11/21/98*

The Honorable Janet Reno
Attorney General of the United States
U.S. Department of Justice
10th Street and Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Reno:

On November 12, 1998, my administration filed a lawsuit on behalf of the people of the City of Chicago against the gun industry. This \$433 million suit charged that the industry has flooded Chicago with illegal guns, knowing that they will be used to murder, rob and terrorize our citizens.

The gun industry has perpetuated a myth, claiming that illegal guns are acquired illegally. According to them, gun control efforts are not a matter for the Congress, state legislatures, or the courts, but for the police. This myth has now been dispelled by an undercover Chicago Police Department investigation, the results of which were announced last Thursday.

This investigation establishes that area gun dealers routinely encourage customers to deceive federal, state and local police. "Straw" buyers regularly buy dozens of guns for street gangs. Manufacturers and retailers knowingly market and distribute to criminals in Chicago and other communities where the possession of a gun is illegal. Current state and federal law is inadequate to stem the flood of illegal guns into our communities. Changes must be made to protect our families, children and police officers.

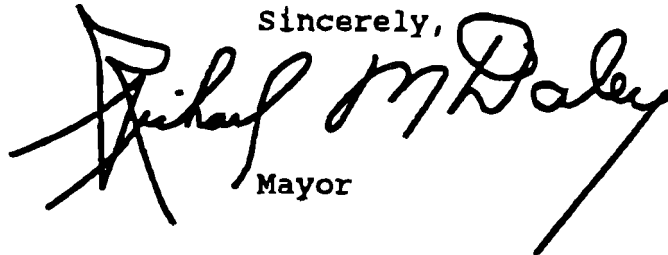
* | As a result of this investigation, I am proposing state and federal legislation to curb these abuses. The state legislation provides for state licensing of firearm dealers; a limitation of one firearm purchase per month; enhanced penalties for gunrunning and straw purchases; and civil liability for any damages resulting from the illegal possession or use of a firearm when the seller has reason to know that it will be used or possessed illegally.

The Honorable Janet Reno
November 12, 1998
Page 2

The federal legislation will provide an improved federal firearms tracing system to enable federal, state and local authorities to far more readily identify gun runners who supply criminals with firearms; require that all firearm sales be reported within one week to the United States Bureau of Alcohol, Tobacco and Firearms; forbid the purchase of multiple firearms within any 30-day period; and forbid gun dealers from making sales whenever the seller has reason to believe that the purchaser intends to use or transfer the weapon illegally. *

In addition to these proposed legislative changes, the City of Chicago and Cook County have filed a civil lawsuit to hold the gun industry accountable for the costs to society resulting directly from their negligent business practices. These negligent practices constitute a public nuisance. We hold polluters accountable for poisoning our environment; we hold liquor stores accountable for serving minors. It is time to hold the gun industry accountable for its actions.

Sincerely,


Mayor



OFFICE OF THE MAYOR

CITY OF CHICAGO

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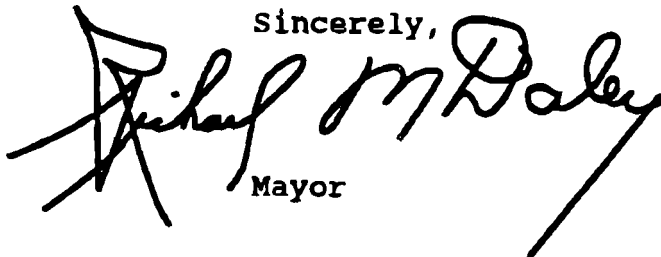
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A handwritten signature in black ink, appearing to read "Richard M. Daley". The signature is stylized with a large, sweeping "R" and a long, horizontal stroke extending to the right. Below the signature, the word "Mayor" is printed in a small, sans-serif font.

Mayor

Date: 01/25/99 Time: 13:07

Gun-Lawsuit Decision Looms for Philadelphia Mayor

By Peter Nicholas, The Philadelphia Inquirer
Knight Ridder/Tribune Business News

Jan. 25--Will he sue, or won't he?

A year and a half after he began exploring the prospect of suing the gun industry, Mayor Rendell still isn't sure. But he will need to decide soon.

He is heading into a pivotal meeting of mayors this week at which gun litigation will be a hot topic. New Orleans and Chicago have already filed suit against gun manufacturers in an attempt to recover the costs of gun violence. Miami and Bridgeport, Conn., are expected to do the same this week. Atlanta, Boston and other cities have lawyers working on potential suits.

A draft of a suit prepared for Rendell more than a year ago alleges that the gun industry has created a public nuisance by saturating the city with firearms used by criminals. The suit demands that manufacturers reimburse the city for a variety of costs stemming from gun violence -- from washing blood off the streets to police overtime.

Rendell estimates the total cost at nearly \$59 million a year. His legal theory mirrors the approach of the state attorneys general who negotiated a settlement in 1998 with cigarette manufacturers.

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For its part, the gun industry still has hope the two sides can find common ground.

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The mayor has also been working with the National Rifle Association on finding ways to quell gun crimes.

Today, Rendell, U.S. Sen Arlen Specter and Charlton Heston, the president of the NRA, will hold a joint news conference at City Hall to discuss a plan to muzzle gun violence through vigorous enforcement of all

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Apart from giving negotiations a chance, there are other reasons why the mayor has backed off on filing suit.

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He denies that politics are a factor, but the mayor's statewide ambitions may be part of the mix. Rendell has talked about running for governor in 2002. Suing the gun industry would not play well in conservative Pennsylvania -- a point that has been made to him by a key friend and adviser, State Sen. Vince Fumo. Pennsylvania has more NRA members than any state except California.

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Cities Plan Legal Assault On Makers Of Handguns Tobacco Lawsuits Viewed as Model

By ROBERTO SURO
Washington Post Staff Writer

In a sudden wave of litigation that could rival the recent legal assault on the tobacco industry, city governments across the country are preparing lawsuits seeking to hold handgun manufacturers responsible for the multibillion-dollar costs of violent crimes.

New Orleans and Chicago led the way with suits filed this fall. Boston, San Francisco, Bridgeport, Conn., and Miami-Dade have announced they are putting together legal teams to develop complaints. And Philadelphia Mayor Edward G. Rendell (D) has proposed a simultaneous filing by as many as 100 cities on the same day sometime next year.

"This is just the beginning," Chicago Mayor Richard M. Daley said this month after hosting officials from 15 cities and the U.S. Conference of Mayors to discuss litigation plans.

Inspired by the success of anti-tobacco lawsuits, elected officials and gun control advocates see a chance to hit handgun manufacturers with so many suits in so many places that the industry will be forced not only to pay huge dollar settlements but to accept tough new regulations on the sale of their products.

"The tobacco suits prompted some new strategic thinking," said Kristen Rand, director of federal

See GUNS, A8, Col. 1

Washington Post
12/23/98

PHOTOCOPY
PRESERVATION

FRIDAY, NOVEMBER 13, 1998 A7

NATIONAL NEWS

Chicago Files Suit Against Gun Makers, Dealers

By JON LETER
Washington Post Staff Writer

CHICAGO, Nov. 12—The city of Chicago sued gun manufacturers and local gun shops for \$433 million today, charging the industry armed drug dealers, gang members and other felons in a city where nearly 500 people die each year from gunshots.

The suit made Chicago the second city to take on the gun industry in court and inserted it into a new national strategy for battling hand-

gun violence that is modeled after the campaign by states that sued tobacco makers to recoup public health costs resulting from smoking.

New Orleans filed the first such anti-gun suit last month, accusing 15 arms manufacturers whose failure to install adequate safety features, the city contended, makes the weapons "unreasonably dangerous."

Other jurisdictions, including Philadelphia and Dade County, Fla., are considering lawsuits against the gun industry and studying New Orleans' and Chicago's approaches to deter-

marketing and distribution of weapons to city residents is tantamount to a public nuisance, similar to an industrial plant that pollutes a city's drinking water.

"Our complaint is not that the gun doesn't work or is defective," said Brian Crow, the city's chief lawyer. "It works too well."

Specifically, the city's lawsuit targets gun makers and their suburban dealers here who marketed and sold weapons to undercover police officers during a two-month sting operation. The officers provided the ven-

dors with city addresses, or posed as "straw buyers" purchasing multiple weapons for a convicted felon or someone else legally prohibited from doing so.

It is a crime to own a handgun in Chicago. While it is neither a crime to sell a gun to a Chicago resident nor to a straw buyer, dealers were aware that the guns were intended for illicit purposes when they sold them, city officials contend, and were negligent to do so.

In some instances, Mayor Richard M. Daley said at a news conference, dealers sold guns to undercover officers even after the officers made remarks about buying especially deadly kinds of ammunition. "We

have to ask the manufacturers: Why are you making this ammunition that can go through [a police officer's] vest?" Daley said.

Gun dealers here argued that it is unreasonable for them to refuse to sell a gun to a buyer because he plans to use the gun illegally.

"What could any retailer know what someone is going to do with a gun when they walk out of the door," John Riggio, the owner of Chuck's Gun Shop in suburban Chicago, and a plaintiff in the suit, told the Chicago Sun-Times. "If they have a current gun card and I try to refuse them, I would be violating their civil rights."

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Ceasefire Action Network

N E W S L E T T E R

Volume 16
December
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1000 16th St. NW, Suite 603 • (202) 530-5888 • fax – (202) 530-0331 • e-mail – edfund@aol.com • web site – <http://www.gunfree.org>

Understanding the Problems and Proposed Solutions to Gun Shows

In communities across the country, there is growing concern over the issue of illegal gun sales through secondary markets. Gun shows are one of the primary avenues for the secondary market. There is a great need to increase the regulation of these events. A variety of new strategies have taken shape over the past year. The article that follows highlights both some of the problems with and suggested solutions to gun shows.

Problems

Under current law, gun dealers are required to acquire a federal firearms license (FFL) if they are "engaged in the business" of dealing firearms. The

law exempts an individual who "makes occasional sales, exchanges or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms." This exemption creates a giant loophole which makes it simple for criminals and young people to acquire a firearm at a gun show.

At gun shows, FFLs are required to conduct background checks (through the National Instant Check System or their own state system) and in some states honor a waiting period when conducting firearms transactions. FFLs are also required to maintain records of the guns they sell in order to assist law enforcement in their efforts to trace crime guns. However, individual non-FFL sellers who sell weapons from their "private collections" or are considered hobbyists can sell firearms without conducting the background checks FFLs are required to complete. Also, unlike FFLs, non-FFL sellers are not required to maintain transaction records that are used in tracing crime guns. Though it remains illegal to sell or transfer firearms to felons, domestic violence abusers, juveniles, fugitives and others, there is no law requiring non-FFLs to use the existing background check system to ensure only legal buyers are purchasing weapons. With an estimated 5,000 gun shows each year, there aren't enough law enforcement agents to monitor the situation. As a result, criminals and young people can easily purchase firearms at gun shows across the nation.

Solutions

There have been several attempts to address the problem of unregulated secondary sales at gun shows. Below are several examples of national, state and local action that has been taken or proposed in the last year.

Firearms Litigation: Exciting Times

The past few months have been exciting times in firearms litigation, with individuals and cities filing suit against the gun industry for the manner in which they make and market their products. At the end of October 1998, New Orleans became the first city to file suit against the gun industry for the financial harm guns have cost that city. A few weeks later, the City of Chicago also filed suit against the gun industry. Boston, Miami, San Francisco, Milwaukee, and numerous other municipalities are also considering litigation against the gun industry. Private firearms lawsuits have also been heating up. In November, a jury in Oakland, California rejected the claim Kenzo Dix's family brought against Beretta USA for defective product design. And in January 1999, the first private "mass tort" action against the gun industry, *Hamilton v. Accu-tek*, will go before a jury in Brooklyn, New York. A brief summary of each of those cases follows:

Chicago v. Beretta et. al.

The City of Chicago conducted a massive undercover investigation of illegal gun sales in suburban Chicago. Over the course of four months, Chicago police officers were able to "illegally" purchase over 170 guns, made, distributed and sold by different segments of the gun industry. The City of Chicago also examined local firearm-related crime rates, surveyed middle and high school students, inmates and arrestees, and examined the recovery rate and other related information associated with illegal firearms found by the Chicago Police Department.

Inside

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HANDGUN CONTROL

ONE MILLION STRONG . . . working to
keep handguns out of the wrong hands.

FAX COVER SHEET

DATE: June 26, 1998

TOTAL PAGES (including this cover sheet): 4

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PLEASE DELIVER TO: Jose Cerda

ORGANIZATION: _____

**Handgun Control, Inc.
Management**

**Robert J. Walker
President**

**June Foster
Executive Assistant
to the President**

FAX NUMBER: 202/682-4462

NOTES/COMMENTS: As I mentioned earlier, we have
a problem with Product Liability. Attached is a copy of
a letter I faxed to John Podesta.

If you have any difficulty receiving this transmission, please call 202/289-5770

HANDGUN CONTROL

**ONE MILLION STRONG . . . working to
keep handguns out of the wrong hands.**

MEMORANDUM

FROM: Bob Walker
President, Handgun Control, Inc.

Dennis Henigan
General Counsel, Handgun Control, Inc.

TO: John Podesta
Assistant to the President

RE: Effect of Product Liability Bill on Gun Industry Lawsuits

DATE: June 26, 1998

Even though guns are the only widely available consumer products designed to inflict injury, they are specifically exempt from safety regulation by the Consumer Product Safety Commission. The absence of federal regulatory authority over safety means that the threat of damages from civil liability is the primary incentive for the gun industry to make its products safer and otherwise to act responsibly.

The latest version of the Product Liability Act of 1998 ("the bill") has several provisions that would adversely affect the ability of shooting victims and their families to recover damages from the gun industry.

I. The Bill Would Severely Diminish the Gun Industry's Incentive to Adopt Safety Innovations to Protect Children

In recent years, there has been increasing attention to product liability suits against gun manufacturers for their failure to design guns to protect against misuse by children and teenagers. These suits allege that gun manufacturers are well aware that guns are misused by young people, that unintended deaths and injuries often result and that guns could be redesigned to prevent these shootings. The Center to Prevent Handgun Violence, the litigation and education affiliate of Handgun Control, Inc., has two such suits currently pending.

In Smith v. Bryco, for example, the Center is seeking damages from a pistol manufacturer for failing to install a magazine disconnect safety, which would prevent the pistol from being fired when the magazine is removed. The suit is being brought by a teenage boy who was unintentionally shot in the face by another boy who had incorrectly assumed that the gun was unloaded because the ammunition magazine had been removed. He was unaware that there was a round in the chamber of the gun, ready to be fired. This is a common shooting scenario, particularly among teenage boys untrained in the use of guns.

In a second case, Dix v. Beretta, the Center is seeking damages against a gun manufacturer for failing to design its gun so that it cannot be fired by children and other unauthorized users. The Dix case is being pursued on behalf of the parents of Kenzo Dix, a teenager who was fatally wounded by his friend, who thought he had unloaded his father's Beretta semi-automatic pistol by removing the magazine, unloading it and placing the empty magazine back in the gun. Again, a round was hidden in the chamber. Feasible internal locking devices could have been installed in the gun which would have prevented this and other similar tragedies. Recently a California Superior Court judge rejected Beretta's argument that gun manufacturers have no responsibility to protect against use of their products by unintended users (including children) and ruled that the Center's case could proceed to trial.

Section 105 of the bill would have a profound impact on these cases and any others seeking to hold the gun industry accountable for failing to protect against the use of guns by children. The Section reduces the damages against the manufacturer in a product liability action in cases of "misuse" of the product which violated the manufacturer's warnings or involved a risk of harm which "should have been known by the ordinary person who uses . . . the product...." The Section adds that "a use of the product that is not intended by the manufacturer of the product" is not a misuse of the product.

The language thus limits recovery against gun manufacturers in cases where the product was defective because it did not protect against foreseeable use by children and other "unintended users." In cases of unintentional shootings by children, the "misuse" of the product (either by the negligent gun owner who left the gun accessible to children or by the child who did the shooting) would likely violate the manufacturer's warnings and the dangers of guns to children certainly "should have been known" by the ordinary gun owner. Thus, the effect of the statute is to severely reduce the manufacturer's liability for failing to make design changes that could prevent death and serious injury to children.

II. The Bill Makes it More Difficult for Victims to Recover for Defects in Foreign-Made Guns

Section 103 of the bill generally cuts off any claim for strict liability against a company that merely resold, but did not manufacture, a defective product. This provision

will make it more difficult for victims of defects in foreign-made guns to recover damages. The gun that killed Kenzo Dix was manufactured by Beretta Italy and sold in America by its domestic affiliate, Beretta U.S.A. Under current California law, a strict liability claim may be made against Beretta U.S.A., even though it did not manufacture the gun. If Section 103 becomes law, such a claim could be made only against the Italian manufacturer, which would put plaintiffs to the expense and delay of having to litigate against a foreign company in order to assert strict liability.

III. The Bill Creates Great Uncertainty as to the Liability of Gun Dealers for Illegal Sales

Many courts have held that gun dealers may be liable to persons injured by guns sold in violation of state or federal gun laws. Typically this liability is imposed under a theory that the dealer's violation of law is negligence per se. This threat of damages liability provides an important financial incentive for dealers to obey the law. The bill, however, creates great confusion as to the liability of dealers for illegal sales and may be read to limit their liability.

Section 102 (B)(ii) exempts from the bill's coverage civil actions "brought under a theory of negligence per se concerning the *use of a firearm or ammunition*. . ." (emphasis added). However, negligence per se claims against dealers concern the sale, not the use, of a firearm or ammunition. Therefore, the exemption does not include negligence per se claims against gun dealers for illegal sales. Section 102 (B)(i) exempts from the bill civil actions for negligent entrustment, but the impact of this provision on gun dealer sale cases, particularly those involving illegal sales, is unclear. First, some states may not recognize a "negligent entrustment" cause of action, but may yet allow a simple negligence claim to proceed against a gun dealer. Arguably, the bill would apply to such a simple negligence claim. Second, even in states recognizing a negligent entrustment cause of action, for cases involving illegal dealer sales, there is serious doubt as to how such claims would be categorized for purposes of Section 102. If they are deemed negligence per se claims involving sale, not use, they would appear subject to the other provisions of the bill. However, they may be deemed negligent entrustment claims, which are not covered by the bill. The ambiguity in the statute creates a risk that courts will limit the civil liability of dealers for illegal gun sales.

cc: Rahm Emanuel, Senior Advisor to the President
Jose Cerda, Special Assistant to the President

THE WHITE HOUSE
WASHINGTON

November 9, 1998

MEMORANDUM FOR BRUCE REED

CC: JOSE CERDA
FROM: SIDNEY BLUMENTHAL 
SUBJECT: CLASS ACTION ON GUNS

I've enclosed an article and press release about the new effort to file class actions suits against gun manufacturers. I think this is a very promising idea. Let's talk about it soon.

Los Angeles Times

New Orleans

Is Expected to Sue Gun Manufacturers

■ **Courts:** Lawyers who fought tobacco firms are now helping cities take on a new industry with liability and negligence suits.

By MYRON LEVIN
TIMES STAFF WRITER

New Orleans is expected to file a massive product liability and negligence lawsuit against major handgun makers today, the opening salvo in a campaign against the gun industry by an alliance of anti-tobacco attorneys and local governments.

The suit, which will be announced by New Orleans Mayor Marc Morial, will name 10 manufacturers, including five Southern California firms that make the cheap handguns known as Saturday night specials, said John Coale, a Washington attorney who is part of a nationwide consortium of law firms that has filed two dozen class-action suits against tobacco companies.

Coale said the suit will accuse gun makers of failing to incorporate safety technology to prevent accidental shootings and of saturating the market with more guns than could possibly be bought by legal purchasers—thus assuring that tens of thousands of firearms will wind up in the hands of juveniles and crooks.

New Orleans, Coale added, "will be the first of many cities" to sue in the next few months with the help of the Castano group, a nationwide consortium of law firms, and the National Center to Prevent Handgun Violence. The other cities were not identified.

"We're going to do to this what we did to tobacco," he said. "It's going to be a very large war."

The Castano group, named for the lead plaintiff in one anti-tobacco case, has filed class-action suits against cigarette makers on behalf of millions of allegedly addicted smokers. The cases are pending in various states.

Among the firms to be named in the suit are Lorcin Engineering, Bryco Arms, Jennings, Phoenix Arms and Davis Industries, producers of low-cost handguns that gun-control advocates have dubbed the "Ring of Fire" companies because their plants partly encircle Los Angeles. An attorney for Lorcin, which is based in Mira Loma, declined to comment, and a call to Bryco, of

Please see GUNS, C4

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GUNS

Continued from C1
Costa Mesa, was not returned.

But an official with a firearms trade association called the suit "a shameful use of the courts."

Jack Adkins, director of operations for the American Shooting Sports Council, which is also expected to be named in the suit, said he could not address the specifics of the case before he had seen the lawsuit. But he called it an attempt "to shift responsibility for the il-

legal use of our products."

After tobacco and firearms, "certainly the alcohol industry is just around the corner for them as a target," Adkins said. "Where does this process stop?"

Some 35,000 Americans die from gunfire every year, and in several states, including California, authorities say the death toll from gunfire exceeds that from auto accidents. Most of these result from street violence, although in 1995 accidental shootings of children and teen suicides accounted for about 1,900 deaths nationwide.

DRAFT

**EMBARGOED UNTIL 1:30 PM
ON OCTOBER 30, 1998**

Contact: Naomi Paine
1-800-465-0334 (pager)
Or Robin Terry
202-218-4641
Or Denise Fitzpatrick
Mayor's Office, New Orleans
504-565-6580

NEW ORLEANS FIRST CITY TO SUE GUN MANUFACTURERS: CENTER TO PREVENT HANDGUN VIOLENCE CO-COUNSEL IN LANDMARK LAWSUIT

New Orleans, LA. New Orleans Mayor Marc Morial today announced that the City of New Orleans has filed the first-ever lawsuit by a city or other government against the gun industry. The suit names fifteen gun manufacturers, three trade associations and several local pawnshops and gun dealers, and seeks to recover the damages to the City from the gun industry's sale of guns that fail to incorporate safety designs to prevent their use by children and other unauthorized users. The Legal Action Project of the Center to Prevent Handgun Violence, which for five years has been bringing innovative lawsuits against the gun industry, has agreed to serve as co-counsel for the City's lawsuit. Louisiana attorney Wendell H. Gauthier, an architect of the legal strategy used against the tobacco industry, will also represent the City in its suit.

"We have been so focused here in New Orleans on fighting crime, getting guns off the street and protecting our citizens," said Mayor Morial. "We have already reduced crime in New Orleans by 40% since 1994. This lawsuit is the next step in making New Orleans the safest city in America."

"This lawsuit is a missing piece in our efforts to force the gun industry to make a safer, childproof, 'personalized' product," said Dennis Hanigan, Director of the Center's Legal Action Project and a national expert on the application of product liability law to the firearms industry. "Mayor Morial is showing great courage in becoming the first mayor to take the gun industry to court, and we expect that other big-city mayors may well follow his lead. It's time for the gun industry to be held accountable for the cost of the thousands of tragedies and millions of dollars gun violence inflicts on our nation's cities."

This year, several urban mayors including Mayor Ed Rendell of Philadelphia, Mayor Alex Poulos of Miami-Dade, and Mayor Richard Daley of Chicago have expressed interest in following the tobacco example in recovering costs from the gun industry. In the last six months,

the gun industry's most powerful trade group, the American Shooting Sports Council, has repeatedly met with big-city mayors to deny responsibility for the design of its manufacturers' products in an attempt to ward off the type of lawsuit now filed by New Orleans. The American Shooting Sports Council is named as a defendant in the New Orleans lawsuit, along with leading gun manufacturers including Smith & Wesson, Sturm Ruger, Beretta U.S.A., Colt, Glock, Loris, Bryon, Jennings and Navar.

"The gun industry has hid behind its mouthpieces at the NRA for many years, but those days are now over," Fleming said. "The money that manufacturers spent on pro-gun propaganda and misleading advertising could have been used to make guns that can only be fired by authorized owners, sparing us thousands of homicides, suicides and accidents."

"Under the Louisiana product liability statute, a manufacturer can be held liable for damage caused by a product that is unreasonably dangerous in design. In this lawsuit, the City is alleging that guns that fail to incorporate safety systems that prevent their use by children and other unauthorized users are unreasonably dangerous in design. Just as car manufacturers have been held liable for failing to install seat belts and air bags, gun makers should be liable for failing to install feasible safety systems to prevent serious injuries and deaths."

Coincidentally, Center attorneys are also in trial in Oakland, CA representing the parents of a child accidentally killed by a gun that lacked any safety features that could have prevented the accident. In *Dix v. Beretta*, the Center's lawyers ask that Beretta U.S.A. be held responsible for the death of Keano Dix, who was killed by a close friend who believed he had unloaded the gun he had found. Keano was killed by a bullet that remained in the gun's chamber, and the Center is asking for damages for failing to implement feasible design changes that would have prevented the gun from being fired by children. The Dix case is expected to go to the jury in early November.

"Why should the innocent citizens of this City, or any other city, bear the costs of gun violence while the gun industry pays nothing?" Fleming said. "No longer must it be permitted to evade its share of the responsibility for protecting our communities and particularly our children from senseless shootings. Mayor Moriel today has filed a lawsuit to save lives. We are all indebted to him."

The Center to Prevent Handgun Violence, chaired by Sarah Brady, was founded in 1982 to reduce gun violence through education, legal advocacy, research, and outreach to the entertainment community. Based in Washington, DC, CPNV's national initiatives include prevention programs for parents and youth on the risks associated with guns, legal representation for gun violence victims, work with the entertainment community to discourage glamorization of guns in the media, and research of the risks associated with guns and the efficacy of gun control laws. More information about CPNV and its affiliated organizations, Handgun Control, Inc., can be found on our website at www.cphv.org.

SAFE CITIES

FIGHTING ILLEGAL GUNS



CITY OF CHICAGO
RICHARD M. DALEY, MAYOR

PHOTOCOPY
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City of Chicago

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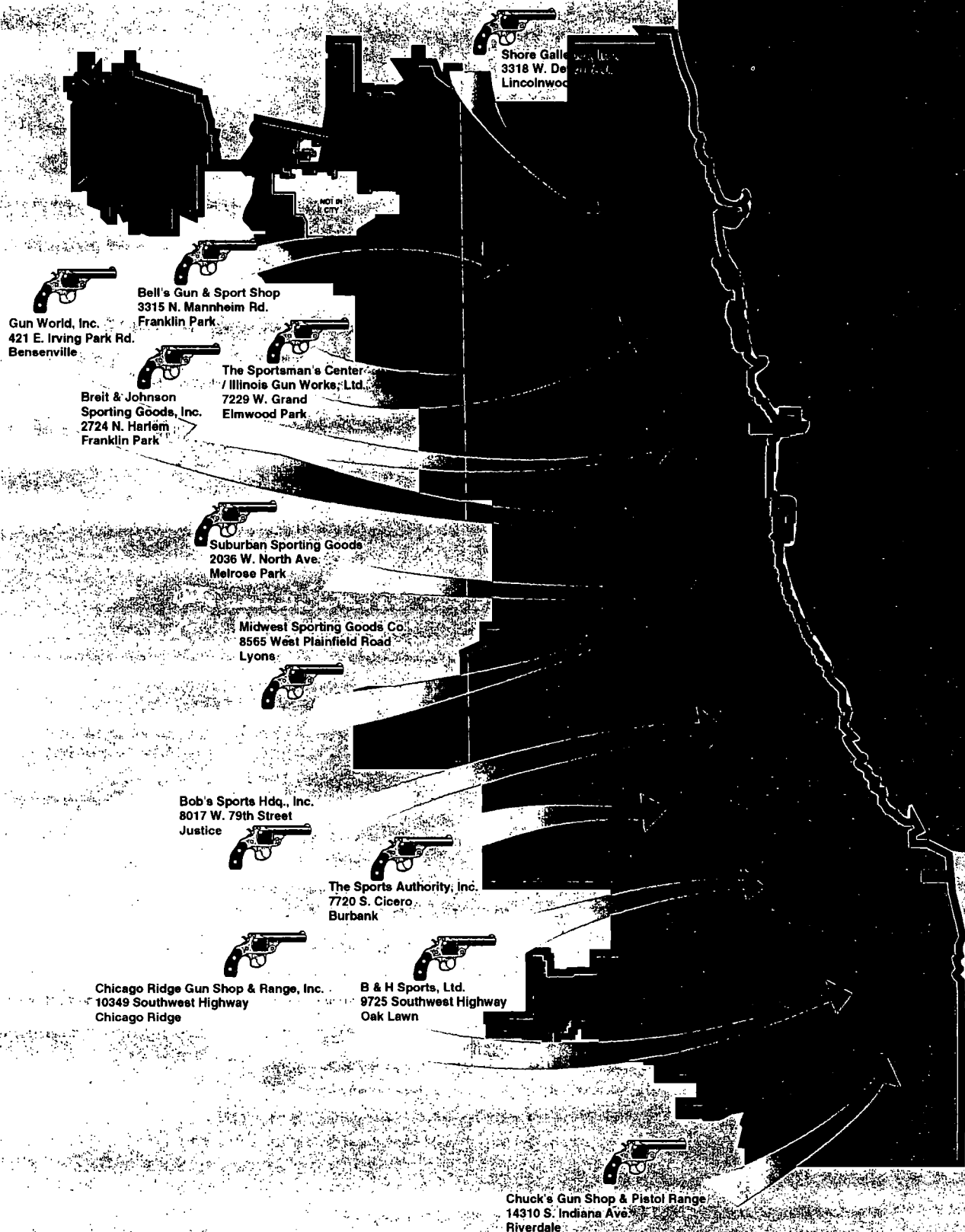
David E. Yudin
Director of Washington, D.C. Office

Office of Intergovernmental Affairs
Office of the Mayor
Suite 404
1301 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

202 783-0911

202 783-3524 (FAX)

CITY OF CHICAGO and COUNTY OF COOK, Plaintiffs, v.



CITY OF CHICAGO and COUNTY OF COOK, Plaintiffs, v.

MANUFACTURER OR DISTRIBUTOR NAME

Smith & Wesson Corp.
Springfield, MA

Browning Arms Co.
Morgan, UT

Glock, Inc.
Smyrna, GA

Faber Brothers, Inc.
Chicago, IL

Colt's Manufacturing Co., Inc.
Hartford, CT

Sturm, Ruger & Co., Inc.
Southport, CT

Bryco Arms
Costa Mesa, CA

Davis Industries
Chino, CA

Jennings Firearms, Inc.
Chino, CA

Lorcin Engineering Co., Inc.
Mira Loma, CA

Phoenix Arms
Ontario, CA

Raven Arms, Inc.
City of Industry, CA

Sundance Industries, Inc.
Valencia, CA

Riley's, Inc.
Avilla, IN

H & R 1871, Inc.
Gardner, MA

International Armament Corporation
Richmond, VA

Hi-Point Firearms
Dayton, OH

Ashland Shooting Supplies, Inc.
Mansfield, OH

Navegar, Inc.
Miami, FL

Taurus International
Manufacturing, Inc.
Miami, FL

Beretta U.S.A. Corp.
Accokeek, MD

Kel-Tec CNC Industries, Inc.
Cocoa, FL

International:

Carl Walther GmbH
Forjas Taurus, S.A.
Glock GmbH
Pietro Beretta Sp.A.



Office of the Mayor
Richard M. Daley
Mayor

November 12, 1998

Contact: Mayor's Press Office
(312) 744-3334

THEY NEEDED HANDGUNS TO "TAKE CARE OF BUSINESS" IN CHICAGO; SUBURBAN GUN SHOPS PROVIDED PLENTY -- NO QUESTIONS ASKED

Posing as street-gang members, undercover Chicago police officers swaggered into suburban gun shops, telling the clerks they needed handguns to settle a score or "take care of business" on the street.

They asked for guns that could be easily -- and illegally -- concealed. They made it clear the weapons would be used in Chicago, where handgun ownership is illegal.

They made blatant "straw purchases," a common street-gang tactic in which a person with a valid state firearm owner's identification (FOID) card illegally buy guns for those with criminal records. To obtain an FOID card, you must be at least 18 (21 to purchase handguns), have no criminal record and not have been in a mental institution.

Time and again, the sales clerks responded in the same way: They took the money and sold them the guns.

As a bonus, the clerks frequently offered advice on how to evade federal laws regulating multiple purchases of guns.

The officers purchased 171 guns from 12 gun stores in the suburbs ringing Chicago.

The ease of purchase, even by people with clear criminal intent, is the cornerstone of Chicago and Cook County's lawsuit contending the gun industry is creating a public nuisance by knowingly supplying handguns to residents of a city that bans them.

The investigation, known as Operation Gunsmoke, enlisted three teams of undercover police officers. One team posed as street-gang members; a second as motorcycle toughs; the third as soldiers of fortune, wearing camouflage.

On one occasion, an undercover officer fondled a gun and stated: "This should be able to get the job done." The sales clerk agreed.

Straw purchases were easy. An undercover officer told a salesman at Bell's Gun & Sport Shop, 3315 N. Mannheim Rd., Franklin Park, that he had no FOID card. He openly handed \$600 to his FOID-card-carrying partner, who gave the cash to the clerk.

-MORE-

City Hall, Room 602 121 North LaSalle Street Chicago, Illinois 60602
(312) 744-3334 FAX: (312) 744-2325

The partner then asked the card-carrying officer to buy him one more gun. He did.

A Bell's clerk recommended a particular bullet that explodes on impact, because "it doesn't go through the target and hit a little girl on the next block."

Gun shops sold guns to the officers even when they made it clear they intended to use them in street killings.

One officer purchased guns at B & H Sports, Ltd., 9725 Southwest Highway, Oak Lawn, after telling the clerk he hung out on the street, lost his gun while being chased by the police and intended to use the new gun to "settle up" with someone who had reported him to the police.

B & H also sold a gun to an officer who said he needed it for his "spot" (a street term for a drug sales location) and needed a size women could hide easily. (Concealed weapons are illegal in Illinois.) The same shop sold a gun to an undercover officer who said he needed it to retaliate against an accomplice who owed him money.

"You made a good choice," the clerk told him after selling him an assault weapon. "This will take care of business."

On another occasion, the B & H clerk accepted a \$350 deposit for two guns from an officer who had no FOID card.

At Chicago Ridge Gun Shop & Range, Inc., 10349 Southwest Highway, Chicago Ridge, the clerk allowed an undercover policeman with no FOID card to handle a gun (which is illegal), then allowed his policewoman partner to make a straw purchase. After she bought the gun, the policeman hugged her and thanked her for the present.

At Chuck's Gun Shop & Pistol Range, 14310 S. Indiana, Riverdale, undercover officers bought two handguns at a time, but were advised to pick them up separately so the store would not have to notify the U.S. Bureau of Alcohol, Tobacco and Firearms (ATF) of a multiple gun purchase.

The Sportsman's Center/Illinois Gun Works, Ltd., 7229 W. Grand Ave., Elmwood Park, sold guns to an undercover officer who said he needed them for "my females," who did not have FOID cards.

When the sales clerk told another store employee that the gun buyers were "crazy gang bangers," the employee told him not to worry about it.

Operation Gunsmoke was directed by Commander Harvey Radney of the Gang Investigation Section and conducted by Lt. Randolph Barton, Sgt. Kenneth Barnas, and Officers Jeanne Brandmayr, James Henk, Bernard Kelly, George Klinger, Lawrence Kynsch, Judy Longos, Robert McClain and William Rogers.

###



Office of the Mayor
Richard M. Daley
Mayor

November 12, 1998

Contact: Mayor's Press Office
(312) 744-3334

FROM SUBURBAN GUN SHOPS TO THE STREETS OF CHICAGO, HANDGUNS LEAVE A TRAIL OF DEATH AND DEVASTATION

Contrary to popular belief, the majority of guns used in crimes were originally purchased from "legitimate" gun stores and passed along to criminals. A relatively small number were stolen or obtained through a "black market." Here are the stories behind some of those weapons.

CHUCK'S GUN SHOP, 14310 S. Indiana Avenue, Riverdale

- December 28, 1997** Ezra Evans, an unemployed 27-year-old who lives at 12007 S. Normal Ave., buys a Smith & Wesson .357 revolver from Chuck's Gun Shop. He buys a total of 13 handguns between August 1997 and July 1998 - seven from Chuck's and six from The Sports Authority, 7720 S. Cicero, Burbank.
- August 15, 1998** Chicago Police Officer Michael Ceriale is shot in the abdomen. Police arrest Michael Tolliver, a 16-year-old gang member, and they recover the Smith & Wesson revolver bought by Evans. Ceriale dies a week later.
- August 18, 1998** Evans is arrested and charged with gunrunning, a Class 1 felony. He admits that he has been purchasing guns for resale to the Gangster Disciples street gang. Eleven of the 13 guns Evans bought are still on the streets.

B & H SPORTS, LTD., 9725 Southwest Highway, Oak Lawn

- February 24, 1995** A Bryco 9mm. semi-automatic pistol is sold to Thomas M. Sanders, 27, of 8540 S. Muskegon Ave. Sanders had purchased seven pistols and a shotgun during 1994 and 1995.
- March 20, 1996** A 37-year-old janitor is accosted by two men on his way home from work near 52nd and Hermitage. One points a gun at his face. The stick-up men take \$7.90 from the victim

-MORE-

and flee. The offenders are arrested the same evening and the gun purchased by Sanders is found in their home. Steven Walters, 23, and Muhammad Gibson, 20, are charged with armed robbery. Gang investigators cannot find a Thomas Sanders at the address he provided the gun store. None of the other seven weapons he purchased has been recovered.

March 18, 1997

James F. Smith, 30, of 1341 S. Springfield Ave., buys a Smith & Wesson 9mm. semi-automatic pistol, one of eight handguns he purchases during 1995-1997.

February 22, 1998

An internal dispute among members of the New Breed Street gang results in a gangland-style shootout in a car wash at 4438 W. 5th Ave. Marcellus Boyce, 28, is killed and two others wounded. Numerous semi-automatic weapons are used during this incident, including the Smith & Wesson bought by James Smith at B & H Sports. Leroy "Lucky" Burton is charged with Boyce's murder. Subsequent investigation by Area 4 detectives reveals that James Smith is a member of the New Breed and that he frequently acts as an armed bodyguard for leaders of the gang.

ILLINOIS GUN WORKS, 7229 W. Grand Ave., Elmwood Park

June 16, 1995

A Bryco Arms 9mm. semi-automatic pistol is sold to Shaundra Oliver, 22, of 2854 W. Warren Blvd. She had purchased 10 semi-automatic pistols and 4 revolvers from two gun stores during the previous seven months.

August 2, 1996

The gun is recovered by Chicago police officers from the 10th District when they arrest a 23 year-old gang member following a high-speed car chase. Oliver later admits that she often buys guns for a friend who is a convicted drug dealer.

August 19, 1996

Renard Johnson, 26, of 3833 S. Langley Ave., buys a Cobray "Full Metal Jacket" 9mm. machine pistol, one of three 9mm. handguns he buys in 1996.

June 12, 1997

The Cobray is one of several used in a drive-by shooting at 633 E. Bowen Ave. Five members of the Black Disciples drive through a neighborhood controlled by a rival gang and

-MORE-

open fire on a group of young men on the street. Two are struck. Their injuries are not fatal. All five offenders, admitted gang members in their late teens and early 20s, are arrested and charged with aggravated battery.

CHICAGO RIDGE GUN SHOP, 10349 Southwest Highway, Chicago Ridge

November 16, 1996

Victor Jordan Caruth, 36, of 6920 S. King Dr., buys a Bryco Arms Model 59 9mm. semi-automatic pistol. Caruth purchases a total of six handguns during 1996.

December 5, 1996

Ernest Jarrett, 28, is shot three times in the chest with the gun while he is leaving a fast-food restaurant at 435 E. 71st St. The shots were fired from a passing car by someone who threw the gun out and sped away.

April 18, 1998

Two tactical officers from the 12th District respond to a call of a man with a gun at 1200 W. Roosevelt Rd. When they exit their car, a group of gang members begin firing at them. The officers call for help and the offenders are chased into the building. Three teenagers are arrested following a search of the building, which also turns up four of the gang's guns. One of the guns had been purchased by Caruth in 1996.

GUN WORLD, 421 E. Irving Park Rd., Bensenville

June 30, 1997

An Imez 9mm. pistol is sold to Samuel Hwang, 24, of Skokie.

October 7, 1997

Two 4th District police officers try to make a traffic stop at 87th and Muskegon. The driver flees the stolen 1983 Chevy Caprice on foot. The 9mm. pistol purchased three months previously by Hwang is found on the floor of the car.

###



Office of the Mayor
Richard M. Daley
Mayor

November 12, 1998

Contact: Mayor's Press Office
(312) 744-3334

BATTLING THE AVALANCHE OF GUNS: SOME FACTS AND FIGURES

- Chicago had 759 homicides in 1997, 570 of which were caused by firearms. Only 22 of those were known to be long guns; 487 were handguns and 61 were guns of unknown type.
- Chicago leads the nation every year in gun seizures. From Jan. 1, 1989, through Sept. 30, 1998, Chicago Police have seized and destroyed 175,866 guns. It is illegal to possess handguns in Chicago.
- In 1997, handguns were used in 8,866 robberies, 4,390 aggravated batteries and 3,963 aggravated assaults in Chicago.
- Nationally, 35,957 people died from firearms in 1995. This includes 18,503 suicides, 15,835 homicides, 1,225 accidents and 394 deaths of undetermined cause.
- Firearms are used in about 70 percent of all homicides nationally.
- In 1993, handguns were used in 1,118,890 violent crimes in the United States, according to the U.S. Justice Department.
- There are 223 million guns in the United States, according to the U.S. Bureau of Alcohol, Tobacco and Firearms (ATF).
- Each year since 1989, 3.5 million new guns have been introduced to the U.S. market, either through manufacture or import, according to the ATF.
- Only one-third of the guns in the United States are handguns, but they account for two-thirds of all firearms crimes.
- In a survey of prison inmates by the Criminal Justice Research Center, 69 percent reported acquiring their guns from family, friends, private owners or retail outlets, and only 27 percent said they had stolen their guns or obtained them on the black market.

###

City Hall, Room 602 121 North LaSalle Street Chicago, Illinois 60602
(312) 744-3334 FAX: (312) 744-2325

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

**CITY OF CHICAGO and COUNTY OF
COOK,**

Plaintiffs,

v.

**BERETTA U.S.A. CORP.; PIETRO BERETTA
Sp. A.; BROWNING ARMS CO.; BRYCO ARMS,
INC.; COLT'S MFG. CO., INC.; DAVIS
INDUSTRIES, INC.; GLOCK, INC.; GLOCK
GMBH; HI-POINT FIREARMS; H & R 1871 INC.;
INTERNATIONAL ARMAMENT CORP.; CARL
WALTHER GMBH; LORCIN ENGINEERING CO.,
INC.; KEL-TEC CNC INDUSTRIES, INC.;
NAVEGAR, INC.; PHOENIX ARMS; RAVEN
ARMS, INC.; SMITH & WESSON CORP.; STURM,
RUGER AND CO., INC.; SUNDANCE INDUSTRIES,
INC.; TAURUS INTERNATIONAL
MANUFACTURING, INC.; FORJAS TAURUS, S.A.;
JENNINGS FIREARMS, INC.; FABER BROTHERS,
INC.; RILEY'S, INC.; ASHLAND SHOOTING
SUPPLIES, INC.; UNIVERSAL FIREARMS, LTD.;
B & H SPORTS, LTD.; BOB'S SPORTS HDQ., INC.;
BREIT & JOHNSON SPORTING GOODS, INC.;
CHICAGO RIDGE GUN SHOP & RANGE, INC.;
JOHN RIGGIO, JR.; ELIZABETH RIGGIO; JIM
RIGGIO; GUN WORLD, INC.; MIDWEST
SPORTING GOODS CO.; THE SPORTSMAN'S
CENTER/ ILLINOIS GUN WORKS, LTD.; SHORE
GALLERIES, INC.; THE SPORTS AUTHORITY,
INC.; and DONALD R. BELTRAME,**

Defendants.

NO.

COMPLAINT

Plaintiffs the City of Chicago (the "City"), by its attorney, Brian L. Crowe, Corporation
Counsel of the City of Chicago, and the County of Cook, Illinois (the "County"), by its attorney,

Richard A. Devine, State's Attorney for the County of Cook, hereby complain as against defendants as follows:

NATURE OF THE ACTION

1. This is a civil action for injunctive relief and compensatory and punitive damages against defendants who, by their actions, have knowingly and deliberately, and for their own financial benefit, created a public nuisance in the City of Chicago and the County of Cook. Specifically, defendants knowingly design, manufacture, market and distribute thousands of firearms in order to facilitate their entry into and possession in Chicago, where they are illegal to possess, and where they often are used in the commission of crimes, including crimes in which residents of Chicago are killed, maimed or terrorized. Defendants know and foresee that their conduct contributes to crime in Chicago and in Cook County, and creates an unreasonable threat to public health and safety. The defendants' conduct undermines the City's efforts to protect the public health, safety and welfare through stringent gun control ordinances which make it illegal to possess most types of guns in the City. The defendants are aware that despite these stringent restrictions, there is a profitable market for illegal firearms in Chicago. For their own financial benefit, and through their design and marketing efforts, they spur demand in Chicago for illegal weapons; they then distribute massive quantities of these weapons in a manner that makes them readily available for use in the City, in violation of law. Defendants have created and are responsible for this public nuisance, which the City and the County by this action seek to abate. The City seeks to enjoin the defendants from continuing conduct which facilitates the illegal entry of firearms into the City, and, with the County, seeks to recover the costs they have incurred as a result of the possession and use of illegal guns in Chicago and in Cook County that

are manufactured, distributed and sold by defendants.

PARTIES

2. The City is a body politic and corporate organized and existing under the laws of the State of Illinois and located in Cook County, Illinois.

3. The County is a body politic and corporate, organized and existing under the laws of the State of Illinois, which operates the criminal justice system responsible for prosecuting firearms crimes in the City, and which operates the Cook County Bureau of Health, which is responsible for the treatment of firearms violence in the City.

4. The following defendant manufacturers manufacture, distribute or sell firearms that are found illegally in Chicago on a continuous and ongoing basis:

a. Defendant Beretta U.S.A. Corp. ("Beretta") is a corporation organized and existing under the laws of the State of Maryland with its principal place of business in Maryland, and imports firearms manufactured by defendant Pietro Beretta Sp. A., a corporation organized and existing under the laws of Italy with its principal place of business in Italy.

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

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

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

e. Defendant Davis Industries, Inc. ("Davis") is a corporation organized and

existing under the laws of the State of California with its principal place of business in California.

f. Defendant Glock, Inc. (“Glock”) is a corporation organized and existing under the laws of the State of Georgia with its principal place of business in Georgia, and imports firearms manufactured by defendant Glock GmbH, an Austrian corporation with its principal place of business in Austria.

g. Defendant H&R 1871 Inc. (“H&R”) is a corporation organized and existing under the laws of the State of Massachusetts with its principal place of business in Massachusetts.

h. Defendant International Armament Corp. d/b/a Interarms Industries, Inc. (“Interarms”) is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Virginia, and imports firearms manufactured by defendant Carl Walther GmbH, a German corporation with its principal place of business in Germany.

i. Defendant Lorcin Engineering Co., Inc. (“Lorcin”) is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

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

k. Defendant Phoenix Arms (“Phoenix”) is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

l. Defendant Smith & Wesson Corp. (“Smith & Wesson”) is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Massachusetts.

m. Defendant Sturm, Ruger & Company, Inc. (“Sturm Ruger”) is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Connecticut.

n. Defendant Sundance Industries, Inc. (“Sundance”) is a corporation organized and existing under the laws of the State of California with its principal place of business in California.

o. Defendant Taurus International Manufacturing, Inc. (“Taurus”) is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida, and imports firearms manufactured by defendant Forjas Tauras, S.A., a Brazilian corporation with its principal place of business in Brazil.

p. Defendant Hi-Point Firearms is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business in Ohio.

q. Defendant Raven Arms, Inc. is a corporation organized and existing under the laws of the State of California, with its principal place of business in California.

r. Defendant Kel-Tec CNC Industries, Inc. (“Kel-Tec”) is a corporation organized and existing under the laws of the State of Florida, with its principal place of business in Florida.

5. The following defendant distributors distribute or sell firearms that are found illegally in the City of Chicago on a continuous and ongoing basis:

a. Defendant Jennings Firearms, Inc. is a corporation organized and existing under the laws of the State of California, with its principal place of business in California.

b. Defendant Faber Brothers, Inc. is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business in Illinois.

c. Defendant Riley's, Inc. is a corporation organized and existing under the laws of the State of Indiana, with its principal place of business in Indiana.

d. Defendant Ashland Shooting Supplies, Inc. is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business in Mississippi.

6. The following defendant dealers sell firearms in the State of Illinois that are used illegally in the City of Chicago on a frequent, continuous and ongoing basis:

a. Defendant Universal Firearms, Ltd., d/b/a Bell's Gun & Sport Shop, is a corporation, organized and existing under the laws of the State of Illinois, with its principal place of business at 3315 North Manheim Road, Franklin Park, Illinois.

b. Defendant B&H Sports, Ltd. is a corporation, organized and existing under the laws of the State of Illinois, with a place of business at 9725 Southwest Highway, Oak Lawn, Illinois.

c. Defendant Bob's Sports Hdq., Inc. is a corporation, organized and existing under the laws of the State of Illinois, with its principal place of business at 8017 West 79th Street, Justice, Illinois.

d. Defendant Breit & Johnson Sporting Goods, Inc. is a corporation, organized and existing under the laws of the State of Illinois, with its principal place of business at 2724 North Harlem Avenue, Franklin Park, Illinois

e. Defendant Chicago Ridge Gun Shop & Range, Inc. is a corporation, organized and existing under the laws of the State of Illinois, with its principal place of business at 10349 Southwest Highway, Chicago Ridge, Illinois.

f. Chuck's Gun Shop & Pistol Range is owned by defendants John Riggio, Jr., Elizabeth Riggio, and Jim Riggio, with its principal place of business at 14310 South Indiana, Riverdale, Illinois.

g. Defendant Gun World, Inc. is a corporation, organized and existing under the laws of the State of Illinois, with its principal place of business at 421 East Irving Park Road, Bensenville, Illinois.

h. Defendant Midwest Sporting Goods Co. is a corporation, organized and existing under the laws of the State of Illinois, with its principal place of business at 8565 West Plainfield Road, Lyons, Illinois.

i. Defendant The Sportsman's Center/Illinois Gun Works, Ltd. is a corporation, organized and existing under the laws of the State of Illinois, with its principal place of business at 7229 West Grand Avenue, Elmwood Park, Illinois.

j. Defendant Shore Galleries, Inc. is a corporation, organized and existing under the laws of the State of Illinois, with its principal place of business at 3318 West Devon Avenue, Lincolnwood, Illinois.

k. Defendant The Sports Authority, Inc. is a corporation, organized and existing under the laws of the State of Delaware, with a place of business at 7720 South Cicero, Burbank, Illinois.

l. Suburban Sporting Goods is a sole proprietorship, owned by defendant

Donald R. Beltrame, with its principal place of business at 2036 West North Avenue, Melrose Park, Illinois.

7. Each of these defendants are subject to the jurisdiction of the Illinois courts by virtue of their doing or transacting business in Illinois, and/or their commission of a tortious act in Illinois.

VENUE

8. Venue is proper in this court because one or more of the defendants resides in Cook County and the transaction or some part of the transaction out of which the cause of action arose occurred in Cook County.

THE PRESENCE OF ILLEGAL FIREARMS IN THE CITY OF CHICAGO CONSTITUTES A PUBLIC NUISANCE

9. The City of Chicago, like most major cities in the United States, is faced with high levels of violent crime. Many of the violent crimes that occur in the City of Chicago are committed with firearms that are possessed and used illegally.

10. The widespread availability and use of firearms is a national problem. Firearms are the instrumentalities most commonly used in homicides. Firearms were used to commit 69% of all homicides in 1995, and were used to commit 68% of all homicides in 1996. They are involved in the deaths of approximately 34,000 persons each year. In 1995, there were 35,957 deaths attributable to firearms. The high level of gun violence has had a particularly drastic impact on young persons. Between 1984 and 1987, the firearm death rate for ages 15-19 increased by 10-14%. From 1987 to 1989, the rate of increase more than doubled, to between 23

and 25%. In 1990, 82% of all homicides of persons aged 15-19 were committed with firearms. Homicide is the second-leading cause of death for youths aged 15-19.

11. In Chicago, there were 570 homicide victims in 1997 who were killed with firearms, 50 of whom were under the age of 17. In 1996, there were 597 homicide victims who were killed with firearms, 66 of whom were under the age of 17. The number of homicides committed with firearms was as high as 692 in 1994, when 86 of the victims were under the age of 17.

12. In Chicago, during 1997, there were 8,866 robberies, 4,390 aggravated batteries and 3,963 aggravated assaults in which handguns were used. That same year, 147 robberies were committed in Chicago with a firearm other than a handgun.

13. Absent effective enforcement of gun control laws, firearms are readily available to anyone who wishes to use them.

- a. A recent survey showed that 17% of adolescents have at one time carried a concealed gun. Approximately 29% of 10th grade boys had at one time carried a concealed gun, and 23% of 7th grade boys had at one time carried a concealed gun.
- b. A recent survey showed that 70% of all inmates felt that they could easily obtain a firearm upon their release. Approximately 54% of them said they would obtain a firearm from the illegal street market if they wanted one. The survey showed that 41% of high school students believe that they could easily obtain a gun, and 37% of them would obtain a firearm from the illegal street market, if they wanted one.

- c. A recent survey showed that 45% of arrestees obtained their guns in the illegal firearms market.

14. The deaths and injuries and interference with public safety and health caused by firearms include, in addition to increased levels of street crime, other widely recognized consequences of easily available guns.

- a. The presence of guns in the home is highly dangerous. It is now generally recognized in the field of public health that introducing a gun into the home is dangerous to the people who live there and to their family, friends, and associates, because it is demonstrably much more likely to be used against them than against an intruder or aggressor. Such uses include intentional shootings (often of a spouse), suicides, and accidental shootings (most often involving children).
- b. Statistically significant studies that control for the relevant variables have demonstrated that the homicide of a household member is almost three times more likely in homes with guns than in homes without them. A suicide is five times more likely; for homes with teenagers, a suicide is ten times more likely.
- c. The dangers of guns in the home and the consequences of widespread availability without restraints or limits were long ago, are today, and will continue to be specifically known to defendants. For example, almost 30 years ago a staff report of the U.S. Commission on the Causes and Prevention of Violence, entitled "Firearms and Violence in American

Life” (1968), noted an increasing number of deaths and injuries and concluded:

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

15. In an effort to reduce the level of ready availability of those firearms that are most frequently used in crimes and to protect the public’s health, safety and welfare, the City of Chicago has enacted gun control ordinances that are among the strictest of any municipality in the country. Such laws have been shown to substantially reduce the number of homicides, suicides, and accidents by firearms as long as residents of the jurisdiction imposing the restriction cannot legally purchase those firearms elsewhere.

16. The Municipal Code of the City of Chicago (“Municipal Code”) places strict requirements and prohibitions on the possession, use and transfer of firearms in Chicago. Various provisions of the Municipal Code concerning the possession, use and transfer of firearms include the following:

- a. Prohibitions on carrying firearms on the person or transporting them in a vehicle if not broken down in a non-functioning state. Municipal Code, Secs. 8-20-010 & 015.
- b. Requirements that all lawful firearms in the City of Chicago be registered, and prohibitions on the ownership or possession of a registerable firearm by anyone other than the person who holds a valid registration certificate for such firearm. Municipal Code Sec. 8-20-040.
- c. Prohibitions on the registration -- and thus the possession -- of a variety of firearms, including (i) sawed-off shotguns, (ii) machine guns, (iii) short-

barreled rifles, (iv) handguns other than those which were registered prior to March 30, 1982 and which contain load indicator devices and safety mechanisms, such as trigger locks, to hinder their use by unauthorized users, (v) firearm mufflers or silencers, and (vi) assault weapons, as defined in Sec. 8-20-030. Municipal Code, Sec. 8-20-050.

- d. Prohibitions on the issuance of a registration certificate to any person who does not possess a valid Illinois Firearm Owner's Identification Card, has been convicted of one or more of certain enumerated crimes, and is not otherwise ineligible to possess a firearm, and requirements concerning information that must be provided in any application for a registration certificate. Municipal Code, Sec. 8-20-060.
- e. Requirements that a firearms owner notify the Chicago Police Department immediately if his firearm is lost or stolen, and, if he wishes to sell or transfer the firearm, that he notify the Chicago Police Department no less than 48 hours prior to its sale or transfer. Municipal Code, Sec. 8-20-140(a).
- f. Prohibitions on the sale or transfer of firearms within the City of Chicago, except through a licensed weapons dealer as defined in the Municipal Code. Municipal Code, Sec. 8-20-170(a).
- g. Prohibitions on selling or giving away any pistol, revolver or other firearm which can be carried or concealed on the person without a license to do so. Municipal Code, Sec. 4-144-010.
- h. Prohibitions on the purchase any deadly weapon (as set forth in Sec. 4-144-010) which can be concealed on the person, without first securing from the superintendent of the police a permit to do so. Municipal Code, Sec. 4-144-070.

17. These ordinances are designed to limit the number of firearms present in the City of Chicago that are not likely to be used for sport, hunting or self-defense, and which serve no practical purpose other than use in the commission of crimes and in other ways that endanger the public health, and to ensure that guns do not fall into the hands of persons who are likely to use or possess them illegally.

18. The State of Illinois prohibits persons not in law enforcement from carrying concealed firearms on their persons. Illinois law also prohibits carrying a firearm in a vehicle unless it is inaccessible or broken down in a nonfunctioning state. These laws are intended to

protect the public's health, safety and welfare.

19. Despite the City's strict gun control ordinances, there are thousands of illegal firearms in existence in the City of Chicago, and more firearms continue to be brought into and maintained illegally in the City each year.

- a. In each of the years 1994-1997, the City of Chicago Police Department recovered an average of approximately 17,000 illegal firearms within the City. These illegal firearms represent only a fraction of the illegal firearms in the City.
- b. Many of the illegal firearms recovered, as well as illegal firearms not recovered, have been and continue to be used in the commission of crimes in Chicago, causing deaths and injuries to Chicago's residents, and creating a sense of fear among the City's residents.
- c. Approximately 87% of all firearms used in crimes in Chicago are handguns. Handguns are especially attractive to criminals because they can be readily concealed.
- d. Firearms that are used illegally in Chicago tend to be recently purchased and are relatively new. Fifty-seven percent of recovered firearms were originally sold within three years of recovery. Elsewhere in the state and nation, a smaller proportion of firearms used in crimes are that new. Firearms used in crimes are very rarely reported stolen prior to their illegal use. Approximately 10.49% of firearms recovered by the Chicago Police Department have been reported stolen.

20. The existence of illegal firearms in the City of Chicago constitutes a public nuisance because it violates ordinances designed to protect the public from a threat to its health, welfare and safety.

21. The existence of readily available and easily concealable firearms in the City of Chicago also constitutes a public nuisance because it creates an unreasonable and significant interference with public health, welfare and safety and the public's ability to be free from disturbance and reasonable apprehension of danger to person and property.

22. Many of the firearms illegally possessed in Chicago are used in the commission of violent crimes. For example, the following firearms originally were purchased in such a fashion as to put the defendant dealers on reasonable notice that the purchaser was not obtaining firearms for his own, lawful use.

Bell's Gun & Sport Shop

- * During the period August 1994 and June 1996, Stanley Malone, who is a resident of Bellwood, Illinois, purchased a total of fourteen pistols from Bell's and from Suburban Sporting Goods. Stanley Malone purchased six of those fourteen pistols from Bell's. Of those six pistols, Stanley Malone purchased five of them between November 1995 and June 1996: two Lorcin .380 caliber semi-automatic pistols on November 8, 1995, two Lorcin .380 caliber semi-automatic pistols on June 1, 1996, and an Intratec Model AB-10 9mm semi-automatic pistol on November 29, 1995. Stanley Malone purchased the majority of his firearms at the request of gang members, making a profit of about \$60 per firearm. On August 5, 1996,

Gregory Malone, and reportedly a member of the Black P Stone Rangers, a street gang, used one of the Lorcin .380 caliber semi-automatic pistols purchased by Stanley Malone, to shoot and injure both Dahveed Dean and Ites Chapman, both Chicago residents.

B&H Sports, Ltd.

- * On March 18, 1997, James Smith, a Chicago resident, purchased a Smith & Wesson 9mm semi-automatic pistol from B&H; the firearm is one of eight handguns Smith purchased during the period 1995-97. Smith was a member of the New Breed street gang. On February 22, 1998, an internal dispute among members of that gang let to a shootout in a car wash at 4438 West 5th Avenue. Three men were shot -- one fatally. Numerous semi-automatic firearms were used during the shootout, including the Smith & Wesson 9mm pistol that Smith purchased from B&H on March 18, 1997.
- * Between August 6, 1994 and February 24, 1995, Thomas Sanders, a resident of Chicago, purchased seven firearms, five of them from B&H, then doing business as The Gunslinger. On March 20, 1996, Steven Walters and Muhammed Gibson used the Bryco Model 48, .380 caliber semi-automatic pistol that Sanders purchased from B&H to rob Angelo Powell at gunpoint. The Bryco used in the armed robbery was recovered, but the other seven firearms that Thomas Sanders purchased have not been recovered.

Bob's Sports Hdq., Inc.

- * On March 18, 1996, L.C. McKinley, a Chicago resident, purchased a Bryco-Jennings .380 caliber semi-automatic pistol from defendant Bob's. On April 20, 1997, it was used by Christopher Faulkner, a Chicago resident and a member of the Black Disciples street gang, to shoot at three Chicago residents whom he believed to be members of a rival gang. Faulkner stated that the gun was a Black Disciples gun which the gang maintained in an alley hiding spot with additional ammunition for use by members.

Breit & Johnson Sporting Goods, Inc.

- * On or about July 19, 1996, defendant Riley's Inc. sold a Taurus Model 85 .38 caliber revolver to Breit & Johnson. On or about February 21, 1998, Robert Sawicki, a Chicago resident, purchased the firearm from Breit & Johnson. On May 19, 1998, Robert Sawicki used the firearm to shoot and kill Juel Marifjeren at the CTA's train stop located at 151 West Congress.

Chicago Ridge Gun Shop & Range, Inc.

- * On November 16, 1996, Victor Caruth, a Chicago resident, purchased a Bryco Arms Model 59 9mm semi-automatic pistol, one of six handguns he purchased in 1996. On December 5, 1996, that same firearm was used to shoot Ernest Jarrett three times in the chest from a passing car. The firearm was then thrown from the car.

Chuck's Gun Shop & Range, Inc. and The Sports Authority in Burbank

- * Between August 1997 and July 1998, Ezra Evans, a resident of Chicago, purchased a total of thirteen firearms, seven from Chuck's and six from The Sports Authority. He purchased the first nine of those thirteen firearms for a man known as "Little G," whom Evans believed to be a member of the Gangster Disciples street gang, and whom he believed controlled the narcotics traffic in the Chicago Housing Authority building located at 3835 South Federal. Evans purchased the final four of the thirteen firearms for a man Evans knew as "Kojak," whom he believed to be a member of the Gangster Disciples street gang, and whom he believed controlled the narcotics traffic at the Chicago Housing Authority building located at 3737 South Federal. Kojak paid Evans \$150 for those four firearms. On or about August 15, 1998, a 16-year old member of the Gangster Disciples, Michael Tolliver, allegedly shot and fatally wounded Officer Michael Ceriale, a Chicago Police Department officer, with the Smith & Wesson .357 caliber revolver Evans had purchased from Chuck's and given to Little G.
- * On August 19, 1996, Renard Johnson, a resident of the Ida B. Welles Chicago Housing Authority Development in Chicago, purchased a Cobray "Full Metal Jacket" 9 mm machine pistol from Chuck's. This firearm is one of three 9mm handguns Johnson purchased in 1996. The Cobray machine pistol Johnson purchased on August 19, 1996, is one of several firearms used by five members of the Black Disciples on June 12, 1997, as

they fired on and injured a group of men while driving through a neighborhood controlled by a rival gang.

Illinois Gun Works, Ltd.

- * On June 16, 1995, Shaundra Oliver purchased a Bryco Arms 9mm semi-automatic pistol from Illinois Gun Works. During the previous seven months, Oliver had purchased 14 firearms -- 10 semi-automatic pistols and 4 revolvers -- from two gun stores. When the Chicago Police Department recovered the Bryco Arms 9mm pistol, they learned from Oliver that she frequently purchased guns for a friend of hers who is a convicted drug dealer.

DEFENDANT DEALERS' UNREASONABLE CONDUCT CREATES A PUBLIC NUISANCE IN CHICAGO AND IN THE COUNTY OF COOK

23. Defendant dealers sell firearms even when they know or should know that the firearms will be used or possessed illegally in Chicago.
 - a. Defendant dealers are required to obtain the residences of anyone who purchases firearms from them.
 - b. When a firearms dealer knows that a Chicago resident has purchased a handgun, assault weapon or any other firearm that is illegal to use or possess in Chicago, he knows that there is a reasonable likelihood that that purchaser will take the gun back into the City of Chicago, where it is illegal to possess or use that firearm.
 - c. Defendant dealers sell firearms to Chicago residents even when the

purchasers' words and/or behaviors indicate that they intend to possess or use the firearms illegally.

24. Defendant dealers sell firearms to persons whom they know or have reason to believe will illegally transfer or resell those firearms because they are not licensed firearms dealers and hence are not subject to federal, state or local regulation.

- a. Defendant dealers make many multiple sales of firearms, in which one person purchases more than one gun at the same time or within a short period of time, that they know or should know are for purposes of transfer or resale.
- b. Defendant dealers sell firearms to Chicago residents even when the purchasers' words and/or behavior indicate that they intend to transfer or resell the firearms illegally.

25. Despite their knowledge that Chicago residents purchase guns outside the City of Chicago and then bring them back into the City, and their knowledge both of the harm done in Chicago and of Chicago's strict gun control ordinances, defendant firearms dealers make no meaningful effort to prevent or limit the traffic of firearms into Chicago, but instead choose to profit from such traffic. They do not refuse to sell to Chicago residents and do not require proof that Chicago residents intend to maintain the firearms outside Chicago. They do not notify the Chicago Police Department of sales to residents of Chicago.

26. Frequently, Chicago residents and others will purchase multiple or single firearms at once or within a short period of time, with the intention of providing some or all of them to other Chicago residents who would not themselves be eligible to purchase a firearm under

federal, state or local laws. These purchases are known as “straw purchases.” Straw purchases are common; only 22% of firearms recovered by the Chicago Police Department are recovered from the original purchaser. Defendant gun dealers consciously fail to take any action to prevent violations of law when Chicago residents and others make multiple purchases of guns, or otherwise purchase guns in a manner that would make it plainly foreseeable that the purchaser is not buying those weapons for himself, but instead for purposes of illegal resale. Defendant dealers are aware that these multiple purchasers are one way in which guns are provided to persons who are not eligible to possess them or who do not wish to be identified as a purchaser of a firearm in official records, and who are likely to use the firearms that they obtain in the commission of crimes.

27. A recent investigation by the Chicago Police Department revealed that the defendant gun dealers sell guns to Chicago residents under circumstances where they know or should know that the purchaser will possess the weapons illegally in the City of Chicago, and when they know or should know that the purchaser will use the guns for illegal purposes in the City of Chicago or transfer the guns to others who will likewise possess or use the guns illegally in the City of Chicago or elsewhere. By so acting, the defendant dealers aid and abet violations of Chicago’s gun control ordinance.

28. This investigation involved undercover members of the Chicago Police Department and other authorized investigators making firearms purchases from the defendant dealers. In each case, the undercover officers identified themselves as Chicago residents. In each case, the firearms purchased are illegal to possess in the City of Chicago. In no case did any defendant dealer take any action to prevent a violation of Chicago’s gun control ordinance.

Some of the specific instances of the conduct by the defendant dealers that intentionally and recklessly facilitates the illegal possession and use of firearms are set forth below.

A. Bell's Gun & Sport Shop

* On September 2, 1998, Officer 1 entered Bell's Gun & Sport Shop to purchase firearms and ammunition. Officer 1 asked a sales clerk about an expensive firearm, and when he balked at its estimated \$2,000 price, the sales clerk told him that for the same amount of money he could buy a semi-automatic pistol, put laser sights on it, get a bullet-proof vest, some boxes of ammunition and a Benelli survival shotgun with a pistol grip.

* Officer 1 then inquired about a Kel-Tec semi-automatic pistol. The sales clerk explained that "pre-fabricated" bullets were of the type that contains gel and small fragments that cause the bullet to explode upon impact, expending all of its energy in the target. The advantage of that type of bullet, he explained, is that it "doesn't go through the target and hit a little girl on the next block, because then you've bought it." Officer 1 purchased those bullets, and the sales clerk then suggested that he share the bullets with some friends so as to split the cost.

* Officer 1 also purchased an Intratec 9mm semi-automatic, telling the clerk he was interested in purchasing a firearm with a larger capacity magazine.

* Officer 1 suggested that the clerk include both guns and the ammunition he was purchasing on the same purchase order, and said he would pick them up together. The sales clerk recommended that he always purchase guns separately from ammunition because "it's nobody's business." Officer 1 agreed to purchase the ammunition separately at that time.

* On September 8, 1998, Officer 1 returned to Bell's to pick up the items he had purchased on September 2, and inquired about two similar models of Beretta 25 cal. semi-

automatic pistols. After deciding to purchase the smaller of the two models, which was smaller than his full hand, Officer 1 quietly asked the sales clerk to recommend a "throw-away" 9mm or .380 caliber firearm. The sales clerk told him that one should not buy a "throw-away" gun from a gun store. Instead, he said, one should buy one from a second party, such as a friend, so that if it is recovered and ATF questions the friend from whom you bought it, then the friend can call and let you know that you will soon be approached by ATF. The sales clerk said that it is even better to buy the gun with cash from someone who does not have a license. In that case, you write a certified letter addressed to yourself in which you document things about the person from whom you purchased the gun; if you need to go to court, then your lawyer will bring you to court with your wife and kids and open the letter in order to prove that you bought the gun in good faith. Otherwise, he said, if something happens and you need to pin the blame on someone else, then you go home and burn the certified letter.

* Officer 1 then left Bell's with the weapons he had purchased from Bell's on September 2.

* On September 15, 1998, Officer 1 returned to Bell's to retrieve the firearm he had purchased on September 8. At that time, he informed the same sales clerk that he wanted to purchase four or five more guns. The sales clerk said that he was reluctant to sell Officer 1 any more guns for a while because purchasing more than one handgun at one time necessitates submitting forms to ATF and the Illinois State Police. He said that the FBI will start being notified in November, and that he does not believe the FBI when they say they will not do anything with the information. The sales clerk suggested that Officer 1 not buy any more guns until October 1, at which time he should buy a rifle or a shotgun at the same time that he buys a

handgun, thereby obviating the need for a multiple purchase form. The sales clerk went on to say:

I don't care about the shitheads. I let them buy as many guns at a time as they want and then when the forms get sent out they eventually get caught. But I look at you like me so I'm telling you how to stay out of trouble. Don't buy any more guns until after October 1st, and buy them all before the end of November.

- * Officer 1 did not purchase any additional guns that day.

- * On September 2, 1998, Officers 2 and 3 entered Bell's. Officer 2 asked a sales clerk if he could buy a Tec-9. The sales clerk said that he could get Tec-9's and have them available by September 5. Officer 2 asked the sales clerk to obtain two Tec-9's for him.

- * Officer 2 then asked to see a Smith & Wesson semi-automatic pistol. After the sales clerk handed Officer 2 the pistol, Officer 2 handed the pistol to Officer 3, who dry-fired it and then said to Officer 2 that he wanted that pistol. Officer 2 then added the pistol to his own purchase order.

- * On September 8, 1998, Officers 2 and 3 returned to Bell's to retrieve the three guns they had ordered on September 2. After bringing the three guns to the counter, the same sales clerk who had sold them the guns on September 2 examined Officer 2's FOID card. Officer 2 then began to browse around the range area. While he was browsing, Officer 3 attempted to hand the sales clerk \$600. The sales clerk asked Officer 3 if he had a FOID card; Officer 3 responded that he did not have one. The sales clerk told him that he could not take money from Officer 3 because ATF "would be all over us. They are in here all the time trying to trick us." When Officer 2 returned to the counter, the sales clerk asked him for the balance due. In the sales clerk's presence, Officer 3 handed \$600 to Officer 2; Officer 2 added \$24 and then handed

all the money to the sales clerk to complete the transaction.

* Officer 3 then carried and maintained control of all three weapons while Officer 2 continued to browse around the store.

* Officer 2 then told the sales clerk that he was interested in purchasing Intratec 22's. Officer 2 asked Officer 3 if he wanted one for himself. Officer 3 said that he did want one. The sales clerk wrote up a purchase order for two Intratec 22's.

* On September 11, 1998, Officer 2 returned to Bell's and retrieved the two weapons he had purchased on September 8.

* On November 2, 1998, Officers 2 and 7 picked up a Smith & Wesson Model 442 revolver and a Smith & Wesson Model C59 9mm they had ordered on October 6.

* On September 14, 1998, Officers 4 and 5 entered Bell's to purchase firearms. Officer 5 asked a sales clerk about purchasing Ruger 9mm semi-automatic pistols. Officer 5 inquired about the price differences for pistols with different color finishes, and asked if he could get a discount if he bought two of the pistols. When Officer 5 said he would purchase two of the pistols, the sales clerk requested that he produce his FOID card. Instead of Officer 5 showing a FOID card, Officer 4 showed her FOID card and driver's license. Officer 5 told Officer 4 to give the sales clerk \$200 for his deposit on the two pistols.

* On September 29, 1998 Officers 4 and 5 went to Bell's to pick up the previously ordered firearms. When they arrived they were told by the sales clerk that the store's FFL license had not been reinstated, so he could not complete the purchase.

* On October 6, 1998, Officer 4 returned to Bell's after learning from the ATF that the store's license still had not been reactivated. When she arrived the sales clerk told her

that the license had been reinstated and that he could sell her the guns. She stated that her "old man" (Officer 5) wanted to buy more guns and that they would be back the next day to get more. The clerk again said that it would not be a problem. She paid the balance and left with the two pistols she had ordered on September 14.

* On October 27, 1998, Officers 4 and 5 returned to Bell's to purchase more firearms. Officer 5 stated that he wanted to purchase three Lorcin L-9 9mm semi-automatic pistols and three Lorcin L-380 .380 caliber semi-automatic pistols. The sales clerk prepared the purchase order using Officer 4's FOID card. Officer 5 stated that because the sales clerk would not give him a discount on the firearms, Officer 5 would have to "mark them up" on his end.

* On November 6, 1998, Officer 4 picked up from Bell's the six firearms she had ordered on October 27.

B. B&H Sports, Ltd.

* On August 10, 1998, Officer 6 entered B&H Sports, Ltd. ("B&H") and expressed an interest to the sales clerk in buying two 9mm handguns. While writing up the purchase order for two handguns for Officer 6, the sales clerk asked Officer 6 what he did for a living. Officer 6 responded that he hung out on the street. The sales clerk asked what occupation he should list for Officer 6 on the forms. Officer 6 told the sales clerk to write that he was in "sales."

* While the sales clerk was still filling out the forms for Officer 6, Officer 6 told the sales clerk that he had lost his 9mm gun on Saturday. The sales clerk asked if Officer 6 had been caught with it. Officer 6 responded that he had not been caught with it; rather he had run and he thought the police had gotten it. The sales clerk responded that as long as you did not get caught with it you have nothing to worry about. Officer 6 told the sales clerk that the police are stupid,

and that it would take forever for them to figure out who he was.

* While the sales clerk was still writing up the forms, Officer 6 related that he believed he had figured out who had “ratted me out,” and that he had to “settle up with him.” After the sales clerk told Officer 6 to return in three days to pick up the guns, Officer 6 told the sales clerk to save some “ammo” because he would need it. The sales clerk responded that they had plenty of ammo.

* On August 14, 1998, Officer 6 returned to B&H with Officer 2. The same sales clerk with whom Officer 6 had dealt on August 10 told Officer 6 that the two handguns he had ordered were not the same color, as Officer 6 had requested. Officer 6 said that if the guns were different colors, then they would not be as impressive when he “draw[s] down on them.” Officer 6 rejected the two mismatched handguns, and instead purchased four Lorcin .380 semi-automatic pistols. In writing up the purchase order, the sales clerk back-dated the form to reflect an August 10 purchase date.

* Officer 6 also inquired about an Olympic Arms Model OA-96 .223 caliber pistol with laser sights and a 30-round high capacity clip. In discussing the use of the laser sight, Officer 6 asked whether if he put the “dot” on someone’s stomach the bullet would hit him in the chest. The sales clerk responded that it would.

* The sales clerk asked Officer 6 if he was purchasing the guns for himself. Officer 6 responded that since he was paying for them it was for him to determine what to do with them.

* Officer 2 said he needed something for his “spot” (a street term for drug sale location), and that he needed a size that females can hide easily. Officer 2 told Officer 6 that he needed the guns for that night in “the Green.” Officer 6 offered to rent the four Lorcins to

Officer 2 for four hours for \$200. Officer 2 counter offered to rent the four Lorcins for the price of the Olympia machine pistol Officer 6 had ordered. Officer 6 then told the sales clerk that he would get \$100 from Officer 2 to complete the deal on the rental.

- * Officer 6 got \$100 from Officer 2 and gave it to the sales clerk.

- * Officer 2 told the sales clerk that he wanted to buy a machine gun with a laser like the Olympia Arms weapon that Officer 6 had just purchased. The sales clerk responded that he could put money down then and pick it up in three days. Officer 2 said that he needed the guns immediately because he had "business to tend to," and the police had gotten one of his shotguns the night before in Cabrini Green. Officer 2 added that he should get a shotgun, but he wanted the machine gun and the laser. The sales clerk told Officer 2 that he could put a laser on a shotgun for him, but that he had to remember that shotguns fire high, so if anyone comes at him, he should "just go down." Officer 2 declined the offer because he "can take care of more business with a machine gun."

- * Officer 2 gave the sales clerk a \$100 deposit.

- * On August 19, 1998, Officer 2 returned to B&H with Officer 3. Officer 2 told the same sales clerk with whom he had dealt on August 14, that Officer 6 owed him money and was likely on the run. Officer 2 stated that Officer 6 had to be dealt with before he left town, and said he needed to "get a Tec for his ass." Officer 3 agreed that they had to "take care of business today." The sales clerk recommended an Intratec 9mm assault weapon that could fire 100 rounds per load, telling them, "You made a good choice; this will take care of business."

- * The sales clerk then added the Intratec 9mm assault weapon Officer 2 had just selected to the purchase order he had created on August 14.

- * Officer 2 left B&H with the weapons they had purchased.
- * On August 24, 1998, Officer 2 returned to B&H and purchased from the same sales clerk three Intratec 9mm AB-10's, a Cobray 9mm M-11, and a laser for the Cobray.
- * On September 1, 1998, Officer 2 returned to B&H to pick up the weapons he had ordered on August 24. During the course of that same conversation, Officer 2 inquired as to a Model Thunder 5 .410/45 caliber revolver. The sales clerk told him that the gun was powerful enough to shoot through a car door or any other door with ease. Officer 2 purchased that firearm, along with two other firearms.
- * The sales clerk told Officer 2 that while he did not have any problem with Officer 2 buying as many guns as he did, the City of Chicago did. He said that Officer 2 had to be careful because ATF knows when you buy so many firearms at one time. The sales clerk said that Officer 2 should not keep the guns at his home address (in Chicago). He said that if ATF or the Chicago Police Department show up at his house, he should tell them that his guns are at a relative's house in the suburbs. For his part, the sales clerk said that he would tell ATF or the Chicago Police Department that Officer 2 is a collector.
- * Officer 2 left B&H with the four firearms he had ordered on August 24.
- * On September 9, Officers 2 and 3 ordered two additional firearms from B&H. During the course of the transaction, Officer 3 told the sales clerk that he could not get a FOID card for a variety of reasons. Nonetheless, the sales clerk allowed Officer 3 to examine a firearm on display. Officer 3 stated that he wanted the firearm. Officer 3, who did not have a FOID card, gave the sales clerk \$350 as a deposit for the two additional firearms.
- * On September 14, 1998, Officers 2 and 3 returned to B&H to retrieve the two

weapons they had ordered on September 9. Officer 3, who told the sales clerk that he still did not have a FOID card, said that he wanted a Hi-Point 9mm semi-automatic rifle with a laser red-dot scope. The sales clerk added the Hi-Point to the September 9 purchase order. When paying for the balance owed on the three firearms, Officer 2 told Officer 3 that Officer 3 had to give Officer 2 the money for the Hi-Point, since the gun was for him anyway. Officer 3 gave Officer 2 the money, which Officer 2 then gave to the sales clerk.

* On September 17, 1998, Officers 2 and 3 entered B&H. After telling the sales clerk that he still did not have an FOID card, Officer 3 asked about an AK-47; the clerk handed it to Officer 2, who cocked and dry fired the gun. The clerk then started to hand him another similar gun. Officer 2 told the clerk to give it to Officer 3. The clerk refused to hand it to Officer 3, but instead told Officer 2 to give it to him. In the clerk's presence, Officer 2 gave Officer 3 the weapon. Then they switched weapons and dry fired them. When told of the prices, Officer 2 said "I ain't got the loot (money) for that right now. After I make a few stops, no problem. I'll be up in here buying damn near everything."

* The officers then looked at Smith & Wesson pistols. The clerk explained that these weapons were suitable to carry in your pocket or waistband. Officer 2 asked Officer 3 in the presence of the clerk if he wanted the gun. Officer 3 responded that he wanted it.

* Officer 2 then asked to see a .40 caliber semi-automatic pistol. Officer 2 gave it to Officer 3 who stated that he wanted that one, not the smaller Smith & Wesson. The clerk began making up a receipt for the three guns. Officer 2 stated to Officer 3 "[y]ours is \$393, give me \$300." The clerk twice asked Officer 2 if he was borrowing the money from Officer 3. Officer 2 got a phone call on a cell phone, just as the store got a call. While Officer 2 was

on the phone, Officer 3 give the sales clerk the cash for the deposit. Officer 2 then returned to the counter, giving Officer 3 the phone, and signing and dating the store copy receipt.

* Officers 2 and 3 entered B&H Sports on September 21, 1998, to pick up guns they had ordered on September 17, 1998. Officer 2 told a sales clerk that he had not purchased those guns from him because the clerk was not available on September 17, and he had needed to get the guns by September 21, 1998. The clerk said that he understood that Officer 2 was "a businessman."

* While Officer 2 was filling out the Form 4473, he observed a female with an FOID card and a male browsing and talking to a different sales clerk. The male whispered in the female's ear, and shortly thereafter the female asked to see a .357 revolver. The male handled the gun and then shook his head. The female handed the gun back to the clerk. The male then whispered in her ear again, and she asked if they carried Glocks. The clerk handed a Glock 9mm semi-automatic pistol to the female. The male held out two fingers, and she stated that she wanted two of them. Officer 2 observed that the woman buying the guns was a Chicago resident. She also ordered a taser.

* Officer 2 entered B&H Sports on September 28, 1998, and told the clerk that he was waiting for Officer 3. Officer 2 stated that he did not think Officer 3 had mailed in his application for a FOID card. The clerk then asked about Officer 2's weekend. Officer 2 stated that he'd had a big loss that weekend and needed to replace some guns. The clerk then asked whether Officer 2 thought it was the cops who got the missing guns.

* Officer 2 examined several Glocks. When Officer 2 started to leave, the sales clerk told him to tell Officer 3 that he had some "good stuff in I know he'd want," and that

Officer 2 should bring Officer 3 when he picks up the Glocks.

* On November 4, 1998, Officers 2 and 7 entered B&H in order to purchase more firearms. Officer 2 informed the sales clerk that Officer 3, had been arrested in Minnesota. Officers 2 and 7 then purchased two Glocks, one Armalite Model AR-180 .223 caliber rifle, and one Cobray Model M-11 9mm rifle.

* On November 9, 1998, Officers 2 and 3 returned to B&H to pick up the firearms ordered on November 4. Officer 2 asked the sales clerk whether Officer 3 could apply for a FOID card in Illinois even though he was just "locked up" in Minnesota. The sales clerk replied that he could not do so. Officer 2 told Officer 3 that he and Officer 7 needed to get FOID cards so that Officer 2 did not need to continue purchasing all the firearms, given the time he spends in Minnesota. Officer 3 then asked to see the firearms which Officer 7 had picked out on November 4. Officer 3 paid the balance of the money owing on the four firearms. Officer 2 told Officer 3 to take the Armalite and the Cobray, and said that he himself would first drop off the Glocks. Officers 2 and 3 then exited B&H separately with the two pairs of firearms.

* On September 1, 1998, Officer 1 ordered three firearms from B&H. During the course of the transaction, a sales clerk warned Officer 1 that no handguns should be visible when he answers his door, and that he should not keep all of his handguns in one place. He told Officer 1 that Chicago is tough on people with handguns. The sales clerk also told Officer 1 that he could buy as many guns as he wanted at the same time.

* On September 14, 1998, Officer 1 returned to B&H to retrieve a revolver he had ordered on September 9, and inquired about a Savage Model 516, .308 Winchester caliber bolt action pistol. At that time, an on-duty uniformed Cook County Sheriff entered the store and

asked Officer 1 about his need for the Savage Model 516. The Sheriff said that the gun looked like a sawed-off shotgun. The sales clerk said that since it was manufactured that way, as opposed to sawed off after manufacture, it was legal. The sales clerk then instructed another sales clerk to distract the Sheriff and get him away from Officer 1. When Officer 1 told the sales clerk that he wanted to take the Savage Model 516 that day, rather than wait 72 hours, the sales clerk revised the September 9 purchase order so as to add the Savage Model 516.

C. Bob's Sports Hdq., Inc.

* On October 29, 1998, Officers 2 and 7 entered Bob's to purchase firearms. Officer 2 ordered a Cobray .380 caliber semi-automatic pistol, and then asked Officer 7 if he wanted to purchase one as well. Officer 7 said he wanted Bryco .380 caliber semi-automatic pistol to replace the one he unfortunately no longer had. The sales clerk then wrote up the purchase order for the two firearms using only Officer 2's name and FOID card.

* On November 5, 1998, Officer 2 picked up the two weapons he had purchased from Bob's on October 29.

D. Breit & Johnson Sporting Goods, Inc.

* On August 17, 1998, Officer 4 purchased a Hi-Point Model C 9mm semi-automatic pistol and a Jennings Model J-25 semi-automatic pistol from Breit & Johnson Sporting Goods. She picked them up on September 3.

* On August 21, 1998, Officer 2 purchased two Ruger 9mm semi-automatic pistols from Breit & Johnson Sporting Goods. During the transaction, Officer 2 examined the guns by putting them inside his waistband and telling the sales clerk that they can be concealed under his shirt. Officer 2 picked up the two Rugers on September 3.

* On October 8, 1998, Officers 2 and 3 entered Breit & Johnson to purchase firearms. Officer 3 expressed an interest in purchasing small semi-automatic pistols. When he told the sales clerk that he did not have a FOID card, the sales clerk said that while the sales clerk could not hand him a firearm to examine, he could hand it to Officer 2, who could in turn hand it to Officer 3. In this way, Officer 3 examined different firearms. They purchased two .380 caliber pistols.

* On November 5, 1998, Officer 2 picked up from Breit & Johnson the two firearms he had ordered on October 8. The sales clerk suggested that Officer 2 put the firearms in the trunk of his car in case he was stopped by the police.

E. Chicago Ridge Gun Shop & Range, Inc.

* On August 10, 1998, Officer 4 ordered a Taurus Model PT-25, .25 caliber semi-automatic pistol from Chicago Ridge. Officer 4 told a sales clerk that she wanted a small, inexpensive semi-automatic pistol that she could easily conceal in a purse or on her person.

* On August 14, 1998, Officer 4 returned to Chicago Ridge with Officer 5. While picking up the Taurus she had ordered on August 10, Officer 5 asked to examine a Lorcin 9mm. When Officer 5 told the sales clerk that he did not have a FOID card, the sales clerk said he could not examine the gun. The sales clerk said that Officer 4 instead could examine it. Eventually the sales clerk did allow Officer 5 to handle the gun. Officer 5 asked questions about the gun, and asked if he could see a better quality gun. Officers 4 and 5 both examined a Helwan 9mm, and agreed to buy it. Officer 5 then said that he wanted a Ruger .45 caliber handgun. Officer 4 put down the deposit on the guns, and Officer 5 then hugged her and thanked her for the present. Officer 5 then carried away the Taurus that Officer 4 had ordered on August 10.

* On August 24, 1998, Officer 4 returned to Chicago Ridge to retrieve the two weapons she and Officer 5 had ordered on August 14.

* On August 19, 1998, Officers 2 and 3 entered Chicago Ridge to purchase firearms. Officer 2 told the sales clerk that he needed something cheap that would get the job done. Officer 2 examined a Lorcin .380 caliber pistol, putting it in his pocket and in his waistband. He told Officer 3 that no one would be able to tell that they were carrying those weapons. Officer 2 handed it to Officer 3, who dry-fired it. Officer 2 asked for two of that model in black, but was told that they only had one in black. Officer 2 then asked to see a Phoenix .25 caliber pistol. After the sales clerk gave it to him, Officer 2 gave it to Officer 3, who dry-fired it and stated that it could get the job done. Officer 2 told the sales clerk that they would purchase both firearms.

* On August 24, 1998, Officer 2 returned to Chicago Ridge to retrieve the firearms he had ordered on August 19. During this transaction, Officer 2 asked about purchasing an additional two Intratec 9mm semi-automatic pistols. Officer 2 asked if he could convert the two semi-automatic pistols into automatics. The sales clerk said that it was possible, but he would not discuss it because converting them to automatic involved what he said would be automatic jail time. Officer 2 then requested and received a discount on the purchase of the two Intratec 9mm semi-automatic pistols.

* On August 10, 1998, Officer 1 ordered a Lorcin 9mm pistol. He picked up the firearm on September 1.

F. Chuck's Gun Shop & Pistol Range

* On August 14, 1998, Officers 4 and 5 entered Chuck's in order to retrieve a

Bryco-Jennings Model J-38 .380 caliber semi-automatic pistol which Officer 4 had purchased on August 10. During this transaction, Officer 5 stated that he wished to purchase two handguns, even though he did not have a FOID card. A sales clerk told him that he could not purchase the guns without a FOID card, but that he could apply for one. Officer 5 stated that he could not apply for one. Officer 4 then offered to buy them for him. Another sales clerk told her that she could not sell Officer 4 the guns because it would be a "straw purchase," that could get her in trouble with the law. After speaking to the manager, the sales clerk said that while Officer 4 could not buy the two guns that day, because they were really for Officer 5, she could come back the next day and buy them. Officer 4 left with the Bryco-Jennings pistol.

* On August 19, 1998, Officer 4 returned to Chuck's to order the two handguns she and Officer 5 had examined on August 14. The sales clerk gave her an ATF Form 4473, and asked her if she was the actual buyer of the gun. Officer 4 said she was the actual buyer. The sales clerk agreed to sell her the two handguns. The sales clerk also told Officer 4 that if she waited five days to pick up the guns, then she did not have to contact ATF about the purchase. Officer 4 said she would wait five days.

* On September 1, 1998, Officer 4 returned to Chuck's to pick up the two guns she had purchased on August 19. The sales clerk told her that if she waited a week to pick up each gun, then they would not need to notify ATF; otherwise, ATF would come to your home to see your guns, especially if you live in the City of Chicago. Officer 4 left with the Accu-Tek 9mm handgun she had previously ordered, and also ordered a Rossi Model 677, .357 caliber revolver. The sales clerk did not check Officer 4's FOID card in connection with this new purchase.

* On September 9, 1998, Officer 4 returned to Chuck's to pick up the two handguns

she had ordered previously. After the sales clerk advised her that she would have to contact ATF if she picked up both handguns, Officer 4 left with only the Lorcin semi-automatic pistol.

Officer 4 immediately reentered Chuck's with Officer 5. Officer 5 said that he wanted to get another gun. After he decided to purchase a Taurus Model M445 revolver, the sales clerk asked Officer 4 for her FOID card. The purchase order was written in Officer 4's name.

* On September 21, 1998, Officer 4 picked up previously purchased firearms. The store clerks all greeted her by name.

* On August 19, 1998, Officer 2 ordered two handguns from Chuck's. Officer 2 told the sales clerk that he wanted a gun that was cheap and concealable. The sales clerk recommended that Officer 2 purchase a holster so that he could carry the guns inside his pants and under his shirt. Officer 2 declined to purchase the holster because he found that he could conceal them in his pockets. The sales clerk told Officer 2 that if he picked up both guns at the same time, they would have to contact ATF, but that if he picked up one gun in three days and the other in one week, then they would not have to contact ATF. Officer 2 said he would pick them up separately.

* On August 24, 1998, Officer 2 returned to Chuck's to retrieve the two handguns he had ordered on August 19. He was told again by a different sales clerk that if he picked up the guns at different times, then they would not have to contact ATF. Officer 2 left Chuck's with a Davis Model P380 .380 caliber pistol.

* On September 1, 1998, Officer 2 returned to Chuck's to pick up a handgun he had previously ordered. During the course of that transaction, Officer 2 told a sales clerk that he wanted to buy both a Smith & Wesson Model 65 .357 caliber revolver and an Intratec Model

AB-10 9mm semi-automatic pistol. The sales clerk told another clerk to give Officer 2 a discount because he is a good customer.

* On September 9, 1998, Officer 2 returned to Chuck's to pick up one of the weapons he had previously purchased. While there, Officer 2 ordered three additional handguns -- two semi-automatic pistols and a .357 revolver.

* On September 14, 1998, Officer 2 returned to Chuck's and picked up three handguns he had ordered on September 9.

* On September 15, 1998, Officer 2 returned to Chuck's and ordered two Smith & Wesson .357 caliber revolvers and one AK-47 semi-automatic rifle.

* On September 9, 1998, Officer 1 ordered two handguns at Chuck's. While filling out the paperwork, the sales clerk asked Officer 1 where he lived. The sales clerk said that because Officer 1 lived in Chicago, he should pick up the guns separately.

* On September 17, 1998, Officer 1 told a sales clerk at Chuck's that he would like to see some rifles. Officer 1 asked to see a number of different assault-type rifles, and compared their features, design, magazine capacity, and caliber. The clerk stated that while the store had several AK-47's after the ban, they sold quickly, and they did not have any AK-47's in stock. Officer 1 asked if they could get one, and the clerk said if he gave him his name, he could order one for him.

* Officer 1 then looked at a Smith & Wesson 9mm semi-automatic pistol and asked about magazine capacity. Officer 1 declined an offer of ammunition stating he liked to buy ammunition separately from guns. Officer 1 then ordered a Ruger, Mini-14 Ranch Rifle with a 30 round magazine.

* The sales clerk asked Officer 1 where he lived. Officer 1 responded that he lived in Chicago. The clerk offered to write the rifle up on a separate purchase order so that he can register the rifle, but that he cannot register the handgun. Officer 1 responded that she should just write them up together.

* On September 22, 1998, Officer 1 returned to Chuck's and picked up two of the firearms previously picked out.

* On October 6, 1998, Officer 1 returned to Chuck's and picked up another firearm he had previously ordered.

G. Gun World

* On October 27, 1998, Officers 2 and 7 entered Gun World in order to purchase firearms. Both officers asked questions about and expressed interest in various firearms. They eventually ordered four semi-automatic pistols and one semi-automatic rifle. Officer 7 informed the sales clerk that he did not have an FOID card. The sales clerk said that if they picked up all the firearms at one time, then he would have to notify ATF, and if someone else gets caught with the firearms, then ATF will want to talk to Officer 2 and to Gun World. Officer 2 stated that he was not concerned because the guns would be kept by Officers 7 and 3. The sales clerk asked whether Officer 2 was buying the firearms for himself; when Officer 2 responded by asking what difference it made, the sales clerk said that it mattered because he could not sell them to him unless he noted on the ATF Form 4473 that he was purchasing the firearms for himself. The sales clerk went on to say that Officer 2 could do whatever he wanted with the firearms, but that the sales clerk at least had to explain these procedures to him. Officer 7 told Officer 2 to place a deposit of \$1,000 for the firearms.

* On October 27, 1998, Officer 1 entered Gun World for the purpose of purchasing firearms. Officer 1 stated that he needed to buy several firearms as gifts. He purchased six North American Arms .22 derringers, an Intratec 9mm semi-automatic pistol, and a Winchester shotgun.

* On October 29, 1998, Officer 1 entered Gun World and purchased from a Gun World sales clerk a drum magazine for an AK-47, with a 75-round capacity. He ordered an H & K Model 91, .308 caliber semi-automatic rifle, with flash suppressor, bayonet and bayonet lug, a scope and an extendable stock.

* On October 30, 1998, Officer 1 picked up the firearms he had ordered on October 27.

* On November 3, 1998, Officer 1 told the sales clerk at Gun World that he no longer wished to purchase the H&K Model 91 he had ordered on October 29. Instead, he applied the deposit he had placed on that firearm to the purchase of an H&R Model R-99 revolver, a North American Arms Model Guardian semi-automatic pistol and a Kel-Tec Model P-11 9mm semi-automatic pistol, all of which he took with him that day.

* On October 27, 1998, Officers 4 and 5 entered Gun World to purchase firearms. Officer 5 told the sales clerk that he wanted to purchase an inexpensive, concealable 9mm firearm. After Officer 5 decided to buy a Kel-Tec P-40, .40 caliber semi-automatic pistol, Officer 4 presented her FOID card, and the sales clerk put Officer 4's name and FOID number on the purchase order.

* On November 3, 1998, Officers 4 and 5 returned to Gun World to pick up the firearms they had ordered on October 27. Officer 5 presented the receipt, examined the

purchased firearms and paid the balance of the purchase price. Officer 4 presented her FOID card for the purchase.

H. Midwest Sporting Goods

* On September 30, 1998, Officer 1 purchased from Midwest Sporting Goods one Professional Ordnance Model Carbine-15, .223 caliber semi-automatic pistol, and one Encom Model America Mark IV, 45 ACP semi-automatic pistol.

* On October 16, 1998, Officer 1 entered Midwest Sporting Goods in Lyons, Illinois, to purchase firearms. Officer 1 purchased a Taurus 9mm pistol and a Taurus .25 caliber pistol. Officer 1 also purchased an Uzi Carbine .9mm, as well as a 10 1/8 inch Uzi pistol barrel. The Uzi had an Acupoint scope mounted on it and a folding stock, and it was capable of accepting a flash suppressor. The sales clerk said that since they could not legally deliver the Uzi to him in Cook County, they would have to write up the purchase order on the forms of the Midwest Sporting Goods' Downers Grove store, and he would have to pick up the firearm at the Downers Grove store. The sales clerk used a blank purchase order with the Downers Grove masthead, and he called the Downers Grove store and asked them to call in his FOID number. When Officer 1 said that he wanted to purchase a pistol barrel for the Uzi, the sales clerk told him that since it was illegal to put the pistol barrel on the Uzi, he should write up the pistol barrel as a separate purchase from Midwest's Lyons store (the one he was in at the time) rather than the Downers Grove store from which he was technically buying the Uzi. The sales clerk also advised Officer 1 that he should have all of the purchases written up on separate orders so as to avoid ATF scrutiny. He went on to state that they offer that suggestion for good customers. In contrast, he said, he did not offer the same advice to Officer 2, "that black guy" who "seemed

suspicious to me.”

* On October 19, 1998, Officer 1 picked up the Uzi from Midwest Sporting Goods’ Downers Grove store. A store employee advised Officer 1 to put the Uzi in his trunk, because he would be arrested if caught with it in Cook County.

* On October 23, 1998, Officer 1 picked up the Taurus 9mm semi-automatic pistol he had ordered on October 16.

* On October 24, 1998, Officer 1 attended a gun auction at Midwest Sporting Goods. At the auction he purchased the following: a Colt Model AR15A2, .223 caliber semi-automatic rifle, with a 16 inch barrel, equipped with a flash suppressor, a “Shorty” telescoping stock, and a bayonet lug (he also purchased a Model M8A1 bayonet with scabbard); a Norinco Model NMH91, semi-automatic rifle, equipped with a bipod and three 30-round magazines; an RG Model 24, .22 caliber revolver; and a double action .38 caliber revolver.

* On October 26, 1998, Officer 1 picked up the Colt, the Norinco and the bayonet he had purchased at the auction on October 24.

* On October 27, 1998, Officer 1 picked up the Taurus .25 caliber semi-automatic pistol he had ordered on October 16.

* On November 5, 1998, Officer 1 picked up from Midwest two revolvers he had purchased at the auction on October 24.

* On October 16, 1998, Officer 2 entered Midwest Sporting Goods to purchase firearms. Officer 2 purchased a Beretta Model 950BS .25 caliber semi-automatic pistol, a Smith & Wesson Model 642 revolver, and a Smith & Wesson Model 457 .45 caliber semi-automatic pistol. He told the sales clerk that he was purchasing the Beretta for one of his “ladies,” and the

sales clerk assured him that it was small enough for her small hands. During the course of this transaction, Officer 2 observed two strangers clearly making a straw purchase, with the person for whom the firearm was being sold even saying to his straw purchaser in the store that he would give him \$100 for the purchase.

* On October 27, 1998, Officers 2 and 7 picked up from Midwest Sporting Goods the three firearms previously ordered on October 16.

* On September 30, 1998, Officer 4 entered Midwest Sporting Goods to purchase firearms. She informed the sales clerk that she was looking for a firearm that was concealable, yet powerful. The sales clerk told her that it was illegal to carry a handgun in Chicago, and that even though they are supposed to tell Chicagoans that it is illegal, 90% of the people who purchase guns in his store are from Chicago. The sales clerk told Officer 4 that the questions on the ATF Form 4473 were stupid, but that she had to answer them anyway. The sales clerk then recommended to her that she have separate purchase orders for each of the two firearms and pick them up separately so that the store did not need not inform ATF of a multiple purchase.

* On October 27, 1998, Officers 4 and 5 picked up a Smith & Wesson Chief's Special .45 caliber semi-automatic pistol from Midwest Sporting Goods, which was ordered on October 7. The purchase order had been written up in Officer 4's name, using her FOID card. The sales clerk showed the firearm to Officer 5, rather than Officer 4, and Officer paid the balance of the purchase price.

I. The Sportsman's Center/Illinois Gun Works, Ltd.

* On August 11, 1998, Officer 4 entered The Sportsman's Center and ordered a Phoenix Arms .22 caliber semi-automatic pistol. Officer 4 told the sales clerk that she liked the

gun's safety feature because she did not want the gun to fire while in her purse. Officer 4 and the sales clerk discussed that Officer 4 lived on Chicago's south side. When she said she would be interested in purchasing more guns later, he told her that she should call if she wanted more guns, and he would check to see if they were in stock.

* On August 17, 1998, Officer 4 returned to The Sportsman's Center to pick up the handgun she had previously ordered. She also purchased an additional four firearms.

* On September 2, 1998, Officer 4 returned to The Sportsman Center and picked up the four guns she had previously ordered. She was not asked to show her FOID card. Officer 4 then asked if she could purchase a Tec-9. The sales clerk told her that while it was illegal to sell them in Elmwood Park, he did have two available, and he sold her one of them.

* On September 8, 1998, Officer 4 returned to The Sportsman Center and picked up the Tec-9 she had ordered on September 2. She told him she was interested in purchasing the second Tec-9, and he said he would call her about it as soon as he was able to find the paperwork. He continued: "That damn county doesn't want me to [sell the Tec-9], but they can't control what this area or me decides to do. They're trying, but they can't stop us." Officer 4 left with the Tec-9. She was not asked to show her FOID card.

* On October 28, 1998, Officers 4 and 5 entered The Sportsman's's Center to purchase firearms. Officer 5 asked the sales clerk questions about and examined certain firearms. Officer 5 placed one of the firearms in his waistband and in his pocket, and he asked whether it was visible. Officer 5 negotiated the price of the two pistols he had selected, and he gave to the sales clerk money for the deposit. The sales clerk wrote the purchase order using Officer 4's FOID card.

* On November 3, 1998, Officers 4 and 5 returned to The Sportsman's Center to pick up the guns they had ordered on October 28. Officer 5 handed the receipt to the sales clerk, and the sales clerk explained to Officer 5 how to store the firearm using the bag provided. Officer 4 filled out the Form 4473.

* On August 21, 1998, Officer 2 purchased three handguns at The Sportsman's Center. He first examined a Smith & Wesson 9mm semi-automatic handgun, putting it in his waistband. He ordered that gun, and then told the sales clerk that he wanted to buy two smaller handguns for "my females," who did not have FOID cards. He ordered two additional Beretta .22 caliber semi-automatic pistols.

* On September 2, 1998, Officer 2 returned to The Sportsman's Center with Officers 3 and 7 to pick up the three semi-automatic pistols Officer 2 had ordered on August 21. Officer 2 then handed Officer 7 one of the guns, telling him it was for him. Officer 3 then took another of the guns, saying it appeared that one was for him. Officer 7 placed the gun in his pocket before leaving the store. The sales clerk then told a fellow store employee that the three officers were crazy gang-bangers. He was told not to worry about it.

* On October 28, 1998, Officers 2 and 7 entered The Sportsman's Center to pick up firearms previously ordered and to purchase additional firearms. Officer 2 stated that he wished to pick up a firearm that Officer 3 had already paid for, but that he had left his receipt at home. The sales clerk asked for Officer 2's FOID card, and, using his card, retrieved the firearm and gave it to Officer 2. Officer 7 said he wished to purchase two Phoenix Arms, Raven Model .25 caliber semi-automatic pistols. After Officer 7 told the sales clerk that he did not have an FOID card, the sales clerk used Officer 2's FOID card to make the sale. Officer 7 paid the deposit on

the firearms.

* On November 3, 1998, Officers 2 and 7 picked up the two firearms they had ordered on October 28. Officer 7 handed the sales clerk the receipt, and the sales clerk showed to Officer 7 the firearms they were picking up. Officer 7 asked to examine a Mossberg shotgun. The sales clerk said he could not handle it because he does not have a FOID card, but that the sales clerk could show it to him. Officer 7 said he was going to get it, but he needed to see it first. Officer 7 said he wanted to purchase the Mossberg Model 500 12-gauge shotgun and a Davis Model P380 .380 caliber semi-automatic pistol. The sales clerk wrote up a purchase order using Officer 2's FOID card. During the course of this transaction, Officer 2 went to a tavern next door, where the part-owner of The Sportsman's Center worked. Officer 2 told the part-owner that he was upset that the sales clerk had refused to allow Officer 7 to handle the Mossberg shotgun, which he and Officer 7 were planning to "run [] to Minnesota with the ones we pickin' up now." The part-owner explained that the sales clerk was actually a part-owner also, and that if the officers came back the next day, then he would take care of it.

* On November 6, 1998, Officer 2 picked up the two firearms he had ordered from The Sportsman's Center on November 3. In handing Officer 2 the two firearms, the sales clerk asked if Officer 2 wanted to put the Davis pistol in the same box as the Mossberg shotgun, or whether he wanted to just put it in his pocket. Officer 2 put the Davis in his pocket and walked out with the Mossberg.

* On September 8, 1998, Officer 1 returned to The Sportsman's Center and picked up a Phoenix Arms .25 caliber semi-automatic pistol he had ordered on September 2.

J. Shore Galleries, Inc.

* On August 12, 1998, Officer 6 entered Shore Galleries and ordered a Taurus 9mm pistol. Officer 6 picked up the weapon on August 18.

* On August 12, 1998, Officer 1 purchased a Kel-Tec 9mm semi-automatic pistol and a belt clip attachment from Shore Galleries. During the course of the transaction, the sales clerk demonstrated to Officer 1 how he could conceal the pistol inside his waistband and draw the gun quickly. Officer 1 picked up the Kel-Tec pistol on August 25.

* On August 21, 1998, Officer 2 ordered two Glock 19 9mm pistols from Shore Galleries. He picked them up on September 3.

K. The Sports Authority

* On September 4, 1998, Officers 2 and 3 purchased two Smith & Wesson Model 910 9mm semi-automatic pistols from The Sports Authority in Burbank. During the transaction, the two officers made it clear that Officer 2, who had a FOID card, was purchasing one gun for himself and one for Officer 3, who did not have a FOID card. While the sales clerk did not allow Officer 3 to handle any guns, he did not hesitate to sell both guns to Officer 2, even though he knew one was being purchased for Officer 3. In fact, Officer 3 provided money to Officer 2 representing his share of the price for his weapon. That same day, Officer 1 purchased two Smith & Wesson revolvers from The Sports Authority.

* On September 10, 1998, Officers 1 and 2 picked up the two guns they each had ordered on September 4.

L. Suburban Sporting Goods

* On September 3, 1998, Officer 4 purchased a Jennings 9mm semi-automatic pistol from Suburban Sporting Goods.

* On September 8, 1998, Officer 4 returned to Suburban Sporting Goods and picked up the pistol she had purchased on September 3. The sales clerk who gave her the gun did not ask for her FOID card or driver's license.

* On September 9, 1998, Officers 4 and 5 ordered an Intratec .25 caliber semi-automatic pistol from Suburban Sporting Goods. During the course of the transaction, the two officers made it clear that the weapon was being purchased for Officer 5. However, Officer 4 presented her FOID card to place the order, and the sales clerk did not ask for Officer 5's FOID card.

* On September 14, 1998, Officers 4 and 5 returned to Suburban Sporting Goods and picked up the Intratec pistol they had ordered on September 9. At that time, the sales clerk asked Officer 5 if he was interested in purchasing anything else. Officer 5 examined an Intratec Model AB-10 9mm semi-automatic pistol and a Norinco Model T54 9mm semi-automatic pistol. After placing the Norinco in his waistband and under his shirt, Officer 5 ordered both guns. Officer 5 left the store with the Intratec .25 caliber pistol they had previously ordered. The sales clerk did not ask to see either officer's FOID card or driver's license.

* On November 2, 1998, Officers 4 and 5 entered Suburban Sporting Goods in order to purchase firearms. Officer 5 asked questions about and examined several firearms. He ordered two Bryco .38 caliber semi-automatic pistols, one Lorcin 9mm semi-automatic pistol and one Norinco 9mm semi-automatic pistol. Officer 5 gave the sales clerk the money for the deposit. However, the sales clerk wrote up the purchase order using Officer 4's FOID card.

* On November 6, 1998, Officer 4 picked up the four firearms she had ordered on November 2. The sales clerk at that time did not ask to see her FOID card.

* On September 15, 1998, Officer 1 purchased a Davis Industries, Model P380, .380 caliber semi-automatic pistol from Suburban Sporting Goods. During this transaction, Officer 1 looked at several pistols, examining the serial numbers and asking the sales clerk whether they could withstand "a little metal work." He informed the sales clerk that the Davis Industries pistol was one with which he could work.

* On September 21, 1998, Officer 1 entered Suburban Sporting Goods to pick up the Davis Industries .380 caliber semi-automatic pistol.

* The sales clerk told Officer 1 that he had not yet found him a Tec-9. When Officer 1 returned to police head quarters, he called the store and asked the clerk to put a "hold" on the Uzi .45 caliber, semi-automatic pistol and the Auto Ordnance, Thompson Deluxe Model 1927 A1 .45 caliber rifle, which he had seen earlier.

* On September 22, 1998, Officer 1 returned to Suburban Sporting Goods, and asked to see the Uzi pistol and the Thompson rifle. Officer 1 stated he was hoping he could buy them from the former owner, because he wanted them as soon as possible. The clerk said he could have them on September 25.

* Later that night, Officer 1 called the store and asked the clerk to include the High Standard Shotgun in the order. The clerk said he would add it to the sales receipt on September 25.

* On September 29, 1998, the sales clerk added the High Standard shotgun to the receipt and to the house copy. Officer 1 filled out the Form 4473, and paid the balance for the guns. The sales clerk told Officer 1 that he was still looking for a Tec-9.

* On October 30, 1998, Officer 1 entered Suburban Sporting Goods with a Tec-9 he

had purchased from Gun World. He purchased a flash suppressor for the Tec-9, and the sales clerk installed it onto the end of the Tec-9's barrel. Officer 1 also purchased a Choate pistol grip for a Winchester shotgun, which he brought into the store from his car. The sales clerk installed the pistol grip onto the shotgun.

* On September 30, 1998, Officer 2 entered Suburban Sporting Goods, and told the sales clerk that he was "looking for a little street protection for [him]self." Officer 2 was shown a .357 magnum revolver, a Beretta 9MM, and a .38 caliber Smith & Wesson. The sales clerk commented that the Smith & Wesson would fit in his pocket. Officer 2 said he would be back in a few days with a partner who needed an FOID card.

* On October 1, 1998, Officers 2 and 9 went to Suburban Sporting Goods to purchase firearms. Initially, they ordered three Intratec Model AB-10 9mm semi-automatic pistols. Through their conversation, Officers 2 and 9 made it clear that they were purchasing one firearm each for them and one for their friend (Officer 3), who was not present. The purchase order was written up based only on Officer 2's FOID card. The officers left the store, but immediately returned and Officer 2 purchased an Uzi .45 caliber semi-automatic rifle.

* On October 6, 1998, Officer 2 went to Suburban Sporting Goods and picked up the three guns he ordered on September 30.

* On October 19, 1998, Officers 2 and 9 purchased four firearms at Suburban Sporting Goods under circumstances clearly indicating that Officer 2 was purchasing one firearm for Officer 9 and one firearm for Officer 3, who was not present.

* On November 2, 1998, Officers 2 and 7 returned to Suburban Sporting Goods and

picked up three Intratec Model AB-10 9mm semi-automatic pistols and an Uzi Model Carbine .45 caliber rifle ordered on October 19.

* On November 2, 1998, Officers 2 and 7 picked up firearms previously purchased at Suburban Sporting Goods, and ordered two additional Phoenix Arms Model Raven .25 caliber semi-automatic pistols. It was Officer 7 who stated that he wanted to purchase those firearms, and when the sales clerk asked Officer 7 for his FOID card, Officer 7 instructed Officer 2 to present his FOID card. The order was placed using Officer 2's FOID card.

* On November 6, 1998, Officer 2 picked up the two Phoenix Model Ravens he had ordered on November 2,

29. The undercover investigation's results are confirmed by the frequent and ongoing use of firearms sold by each of the defendant dealers in crimes occurring in the City of Chicago. The Chicago Police Department routinely traces firearms that it recovers in the City of Chicago that have been used in the commission of a crime. This trace data has been placed on a database and is monitored by the Chicago Police Department. It discloses that firearms sold by each of the defendant dealers are regularly recovered and found to have been used illegally in the City of Chicago on a continuous, on-going and frequent basis.

30. The defendant dealers' practices have caused a large underground market for illegal firearms to flourish in the City of Chicago. Chicago residents can easily obtain illegal firearms through this market in contravention of law. The market is supplied by means such as straw purchases, multiple sales and other purchases from firearms dealers of firearms that are illegal in Chicago.

31. The defendant gun dealers know that many of the firearms they sell are used or

possessed illegally, and into the underground market, where they will be obtained by persons who will use or possess their firearms illegally.

32. The defendant gun dealers' actions and omissions in selling firearms to Chicago residents that are illegal in the City of Chicago unreasonably facilitate violations of City ordinances, and contributes to physical harm, fear and inconvenience to Chicago residents, and is injurious to the public health and safety of Chicago residents.

GUN MANUFACTURERS AND DISTRIBUTORS ENGAGE IN CONDUCT THAT UNREASONABLY CREATES A NUISANCE IN CHICAGO AND IN COOK COUNTY

33. All of the defendant manufacturers produce firearms that are regularly recovered by the Chicago Police Department because they have been possessed and illegally used in the City of Chicago:

34. In the period from January 1, 1994 through June 30, 1998, at least 3933 firearms marketed by defendant Lorcin were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.

- * In the period from January 1, 1994 through June 30, 1998, at least 3745 firearms marketed by defendant Colt were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 4482 firearms marketed by defendant Bryco were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 3561 firearms marketed by defendant Smith & Wesson were recovered by the Chicago Police

Department and found to have been possessed and used illegally in the City of Chicago.

- * In the period from January 1, 1994 through June 30, 1998, at least 3435 firearms marketed by defendant Taurus were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 3125 firearms marketed by defendant Davis were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 2387 firearms marketed by defendant Sturm Ruger were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 2246 firearms marketed by defendant H&R were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 2012 firearms marketed by defendant Beretta were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 1775 firearms marketed by defendant Raven were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period January 1, 1994 through June 30, 1998, at least 1993 firearms

marketed by defendant Interarms were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.

- * In the period from January 1, 1994 through June 30, 1998, at least 1081 firearms marketed by defendant Intratec were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 1032 firearms marketed by defendant Hi-Point were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 834 firearms marketed by defendant Phoenix were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 722 firearms marketed by defendant Glock were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 671 firearms marketed by defendant Browning were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.
- * In the period from January 1, 1994 through June 30, 1998, at least 41 firearms

marketed by defendant Kel-Tec were recovered by the Chicago Police Department and found to have been possessed and used illegally in the City of Chicago.

- * In the period between January 1, 1994 and June 30, 1998 at least 432 firearms marketed by defendant Sundance were recovered by the Chicago Police Department and found to have been used illegally.

35. The tracing information in the possession of the Chicago Police Department indicates that firearms distributed by each of the defendant distributors are regularly recovered and found to have been used illegally in the city of Chicago on a continuous, on-going and frequent basis.

A. Defendant Gun Manufacturers And Distributors Knowingly Exploit The Market For Illegal Weapons

36. Defendant manufacturers and distributors knowingly oversupply or “saturate the market” with their products in areas where gun control laws are less restrictive, knowing that persons will illegally bring them into the jurisdictions where they are illegal and then possess or illegally resell them. The defendant manufacturers and distributors ship many more firearms to these jurisdictions than their residents demand for their own use or that are shipped to comparable jurisdictions not near jurisdictions with strong gun control laws. In this way, the defendant gun manufacturers and distributors maximize their profits while disclaiming any knowledge of or responsibility for where their products end up or how they are used. In particular, the defendant gun manufacturers and distributors knowingly oversupply or saturate the market with their guns in the areas surrounding Chicago which have less restrictive gun

control laws, knowing and foreseeing that many of these guns will be purchased by Chicagoans who will take them back into Chicago, where they will possess them illegally. Defendant manufacturers and distributors know or should know that those guns are often used to injure or kill Chicago residents, or are otherwise used in the commission of crimes.

37. The defendant gun manufacturers and distributors know or should know that a substantial number of the guns they manufacture and distribute are used illegally in the City of Chicago. The existence of an underground market for guns has been documented in the public record for a number of years. It is common knowledge in the firearms industry, and defendant manufacturers and distributors are specifically aware, that these firearms make their way into Chicago, either by way of a “primary purchase” from a licensed dealer or a “secondary” acquisition, where the person who purchased the gun from a licensed dealer then transfers it to someone else without recording the transaction. After the secondary acquisition, the firearm can be transferred again and again in unrecorded transactions.

38. Firearms manufactured and marketed by defendant manufacturers and distributors end up in areas including Chicago where they are not permitted by law. These defendants have knowledge of and have themselves created and maintained this market structure knowing and intending this result. The defendant manufacturers and distributors know and foresee that thousands of their products are possessed illegally in the City of Chicago, many of which are used in the commission of crimes.

39. The fact that these guns end up in the City of Chicago is not accidental. The defendant manufacturers and distributors know that there is a significant market for firearms in higher crime areas such as the City of Chicago, where these guns are likely to be used for

criminal purposes, and they know that they can augment their profits by supplying these markets for illegal firearms. They also know the harm that is caused by the existence and use of these firearms in Chicago.

40. A disproportionate share of the firearms that are used in Chicago illegally are relatively new guns which are recovered from persons other than those who have purchased them, and which have not been reported stolen. This reflects a strong connection between the primary market for firearms and the illegal use of firearms.

41. The defendant gun manufacturers and distributors distribute substantial quantities of their firearms through low-end retailers such as pawn shops and gun stores that are known to be frequented by criminals and gang members. Selling their products through these retailers ensures that their guns are readily available to meet the demand of those who want them for criminal purposes.

42. The defendant gun manufacturers and distributors should know and foresee that many of the firearms they sell end up in the underground market in Chicago, where they will be obtained by persons who will use and possess them illegally.

B. Defendant Manufacturers And Distributors Do Not Discourage Dealers From Selling Their Firearms Irresponsibly

43. The defendant gun manufacturers are on notice that they sell potentially dangerous instrumentalities that are frequently used in crimes, but make no meaningful efforts to supervise, regulate or impose standards on the distribution practices of either the distributors or the dealers who channel their products to the public. Defendant distributors also fail to supervise, regulate or impose standards on the gun dealers to which they supply firearms, despite

knowing and foreseeing that those dealers will sell those firearms to persons who will possess them illegally and/or use them in the commission of crimes.

44. The defendant manufacturers and distributors know that there is an absence of meaningful regulations of dealers and the ease with which almost anyone can become a federally licensed firearms dealer ("FFL").

a. Under 18 U.S.C. Sec. 921, an application for a license *shall* be approved if the following conditions are met:

- i. applicant is at least 21 years old,
- ii. applicant has not willfully violated any provision of that chapter or regulation issued pursuant to that chapter,
- iii. applicant has not willfully failed to disclose any material information required or made any false statement in connection with the application,
- iv. applicant has a premises from which he has or will conduct business subject to the license, and
- v. applicant is not under indictment and has not been convicted of certain crimes, is not a fugitive from justice, does not unlawfully use and is not addicted to certain drugs, and has not been adjudicated as mentally defective or been committed to a mental institution.

In other words, if one is over 20 years old, is not a criminal, does not use illegal drugs and is not mentally defective, he is entitled to be a federally licensed firearms dealer. See also 27 C.F.R. Sec. 178.47.

b. There are approximately 75,000 federally licensed firearms dealers in the United

States.

45. The defendant gun manufacturers and distributors fail to supervise, regulate or set standards for dealers' conduct, instead relying on the mere fact that the dealers are licensed by the federal government.

46. The defendant firearms manufacturers and distributors fail to train them adequately and to encourage them to engage act lawfully and responsibly.

47. The defendant manufacturers and distributors choose not to supervise, regulate or standardize the distributors and dealers because such a practice would limit sales of their products to a significant illegal market, and thereby reduce their sales.

48. Robert Hass, the former Senior Vice-President of Marketing and Sales for defendant Smith & Wesson, said the following in a sworn statement concerning gun manufacturers' failure to promote responsible practices by distributors and dealers:

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

49. The defendant gun manufacturers and distributors' failure to supervise, regulate, impose standards or otherwise concern themselves with the distributors and dealers' conduct

facilitates the creation of an illegal secondary market.

C. Defendant Manufacturers Design Their Firearms To Stimulate Demand For Illegal Firearms By Persons Who Will Use Or Possess Them Illegally

50. Defendant manufacturers design and advertise their guns to appeal to the significant market for illegal firearms, including to those who wish to use them for criminal purposes. The defendant manufactures and distributors know or should know that they market firearms designed to be unreasonably attractive for criminal uses. In particular, defendants market weapons the design of which stresses concealability, or other design features, which make these weapons unreasonably attractive to criminals. In particular:

- a. Defendant Intratec markets the TEC-DC9, which is a compact, lightweight, semi-automatic assault weapon. The TEC-DC9 can accept a large-capacity, 32-round detachable magazine, and can be readily modified to be fully automatic. The TEC-DC9 is fitted with a sling swivel which allows a shoulder strap to be attached to the weapon, enhancing mobility and the ability to spray bullets from the hip. The TEC-DC9 is also manufactured with Tec-Kote, a finish that provides, as advertised, “resistance to fingerprints.” Intratec slightly modified the Tec-DC9 by eliminating the external threading aspect of the barrel, and now markets it as the Intratec-AB10. These weapons are designed to appeal to those who wish to use firearms for criminal purposes. Intratec has advertised its 9mm TEC-9 as an “assault-type pistol” that “deliver[s] more gutsy performance and reliability than any other gun on the market.” The Intratec advertisement also promotes “Tec-Kote,” a finish it applies to its firearms that provides a natural

lubricity to increase bullet velocities and has "excellent resistance to fingerprints."

These features of Tec-Kote serve no legitimate sport or hunting purpose and are designed to appeal to criminals who wish to be better armed than other criminals or law enforcement officers and who do not wish to have their fingerprints lifted from their weapons. Defendant Intratec considers the reputation of weapons such as the TEC-9 as being preferred by criminals to be a marketing advantage.

Intratec's marketing and sales director has been quoted as saying the following:

"I'm kind of flattered [by condemnations of the TEC-9]. It just has that advertising tingle to it. Hey, it's talked about, it's read about, the media write about it. That generates more sales for me. It might sound cold and cruel, but I'm sales oriented."

Larry Rohter, Pistol Packs Glamour and Reputation As A Menace, New York Times, March 10, 1992, at A1. At least 130 Tec-DC9's and at least 270 AB-10's were recovered in Chicago between January 1994 and June 1998.

- b. Defendant Beretta markets the Model 950 BS, which is a 25 ACP single-action semi-automatic pistol. It has a 2.5 inch barrel length and an overall length of 4.7 inches, a height of 3.4 inches and a weight of 9.9 ounces, making it small, light and very concealable. It has a 6-round magazine capacity, and it costs approximately \$200. This model also is available in a .22 caliber version, which has an 8-round magazine capacity. At least 490 of these firearms were recovered in Chicago between January 1994 and June 1998.
- c. Defendant Browning markets the Hi-Power model, a 9mm semi-automatic pistol which has a ten bullet magazine capacity, yet has a barrel length of only 4.75

inches, an overall length of 7.75 inches, is only 1 3/8 inch wide and only 5 inches in height. This powerful handgun still is small enough to be kept concealed inside a waistband and under a shirt. At least 118 of these firearms were recovered in Chicago between January 1994 and June 1998. Browning also markets a Boa 380 Model, which is a .380 caliber semi-automatic pistol which accepts a 13-round magazine. With an overall length of 6.75 inches, a barrel under 4 inches in length, 4.75 inches in height, and a weight of only 23 ounces, it is a small and concealable firearm.

- d. Defendant Bryco markets the Jennings Model 48, which is a .380 caliber semi-automatic pistol. It has a 7-round magazine capacity, and costs just over \$100. It has a 4 inch barrel, and a 6.7 inch overall length. It has a combat-style trigger guard, which enables the user to more easily employ a second hand in firing the weapon, which contributes to steadier and more accurate firing. It costs only about \$85, and at least 875 of these firearms were recovered in Chicago between January 1994 and June 1998. Bryco's .380 caliber Bryco Model 38 is a semi-automatic pistol, has a six-round magazine capacity, and costs about \$100. It has a 2.8 inch barrel length and a 5.3 inch overall length. It weighs 16 ounces, making it even more concealable than the Model 48. At least 542 of these firearms were recovered in Chicago between January 1994 and June 1998.
- e. Defendant Colt markets the Mustang .380 Pocketlite, a small semi-automatic 380 ACP pistol. This firearm has a barrel length of only 2.75 inches, and an overall length of 5.5 inches, and it weighs only 18.5 ounces, making it easily concealable,

and, as its name suggests, it fits easily in a pocket. The Mustang Pocketlite is part of Colt's Model-380 series of five .380 caliber pistols, which are compact, lightweight and yet high-powered. At least 98 firearms of the Mustang series were recovered in Chicago between January 1994 and June 1998.

- f. Defendant Davis markets the Model P-380, which is an .380 caliber semi-automatic pistol. This firearm has only a 2.8 inch barrel length, a 5.4 inch overall length, and it is only 4 inches in height. It has a five-round magazine capacity. The somewhat smaller magazine size makes this firearm even more concealable. This firearm retails for approximately \$98. At least 334 of these firearms were recovered in Chicago between January 1994 and June 1998.
- g. Defendant Glock markets the Model 17, which is a 9mm semi-auto pistol. The firearm, which has a polymer frame, has a barrel length of 4.5 inches and an overall length of 7.32 inches. It weighs only 22 ounces without a magazine. It has a ten round magazine capacity, but can accept up to a 30-round magazine. At least 245 of these firearms were recovered in Chicago between January 1994 and June 1998. Glock also markets the Model 26, a 9mm semi-automatic pistol with a 3.5 inch barrel and a total weight of only 22 ounces. This firearm accepts a 10-round magazine.
- h. Defendant H&R markets the Model 732 revolver. This firearm is a .32 S&W caliber revolver which accepts six rounds and has only a 2.5 inch barrel, making it concealable. At least 578 of these firearms were recovered in Chicago between January 1994 and June 1998.

- i. Defendant Hi-Point markets the Model CF-380. This firearm is a 380 ACP semi-automatic pistol with a barrel length of only 3.5 inches, and yet has a capacity of 8 shots. It has a retail price of about \$100. At least 939 of these firearms were recovered in Chicago between January 1994 and June 1998.
- j. Defendant Interarms markets various firearms from companies including Rossi, Star and Walther. It markets the Firestar M40, a .40 S&W caliber semi-automatic pistol, which has a barrel length of only 3.39 inches, an overall length of only 6.5 inches, and has a 6-round capacity. It markets the Rossi Model 68, a .38 spl caliber revolver with either a 2 or 3 inch barrel length, and an overall length of either 6.5 or 7.5 inches. The smaller options make this small-frame firearm even more concealable. In fact, it is advertised as “designed for maximum carrying comfort.” It markets the Walther TPH, a .22 lr caliber semi-automatic pistol, has a only 2.3 inch barrel length and an overall length of less than 5.5 inches, and it weighs only 14 ounces. It has a capacity of six rounds. Its size and weight make it extremely concealable; in fact, it is advertised as being “[c]onsidered the ultimate hideaway, undercover, backup gun available anywhere.”
- k. Defendant Lorcin markets the Model L-25, a .25 caliber semi-automatic pistol. It has a seven-round magazine capacity and is similar in size to the Davis .25 and the Phoenix Raven, making it a small and concealable weapon. It costs less than one hundred dollars. At least 1040 of these firearms were recovered in Chicago between January 1994 and June 1998. Lorcin also markets the Model L-380, a .380 caliber semi-automatic pistol with a magazine capacity of seven. It has a

barrel length of 3.5 inches, a combat-style trigger guard, and it sells for approximately \$150. At least 2216 of these firearms were recovered in Chicago between January 1994 and June 1998.

- l. Defendant Phoenix markets the Model Raven, a .25 caliber semi-automatic pistol. It has an approximately 2.5 inch barrel length and an overall length of 4.75 inches. It weighs 15 ounces and has a 6-round magazine capacity, making it small and concealable. It is a hammerless pistol, meaning that it is easier to withdraw from a pocket for quick firing, without risking snagging on clothing. It costs less than \$100. At least 704 of these firearms were recovered in Chicago between January 1994 and June 1998.
- m. Defendant Raven markets the Model MP-25. This .25 caliber semi-automatic pistol has a barrel length of under 2.5 inches, an overall length of 4.75 inches and weighs only 15 ounces, making it extremely concealable. It accepts a 6-round magazine. At least 1185 of these firearms were recovered in Chicago between January 1994 and June 1998.
- n. Defendant Smith & Wesson markets the Model 36, which is a .38 caliber small frame revolver with only a 2 inch barrel and a 6 5/16 inch overall length, and weighs only 19.5 ounces. It has a 5-round capacity. It is small and concealable. It is single and double-action. Double-action means the trigger pull itself cocks the hammer and rotates the cylinder, obviating the need for cocking before firing. At least 498 of these firearms were recovered in Chicago between January 1994 and June 1998.

- o. Defendant Sturm Ruger markets the Model P89. This firearm is a 9mm semi-automatic pistol with a 10 round magazine capacity. It has a 4.5 inch barrel and an overall length of under 8 inches and a 5.5 inch height. It also has a combat-style trigger guard. At least 48 of these firearms were recovered in Chicago between January 1994 and June 1998. Sturm Ruger also markets the Ruger Mini-14 Ranch Rifle, which is a .223 Rem. caliber semi-automatic rifle with an 18.5 inch barrel.
- p. Defendant Sundance markets the Model A-25 and the Model Boa, clones of the Raven MP-25. Both of these models are .25 caliber semi-automatic pistols with a 2.47 inch barrel length, a 4.8 inch overall length, and they accept a 7-round magazine. At least 203 of the Model A-25 and at least 152 of the Model Boa were recovered in Chicago between January 1994 and June 1998.
- q. Defendant Taurus markets the Model PT-92AF. This firearm is a 9mm semi-automatic pistol, with a 4.92 inch barrel and an overall length of 8.54 inches. The firearm has double action, which eliminates the need for manual cocking and makes the firearm easier to shoot rapidly. It also has a large magazine capacity of 10 rounds. At least 200 of these firearms were recovered in Chicago between January 1994 and June 1998. The Model 82 is a .38 caliber revolver double-action, with a medium frame and a six-shot capacity. It comes in either a 3 inch or 4 inch barrel. At least 674 of these firearms were recovered in Chicago between January 1994 and June 1998.
- r. Defendant Kel-Tec markets the Kel-Tec Sub 9 as a semi-automatic rifle

chambered for the 9mm Luger cartridge. It has a barrel length of 16.1 inches. By changing the grip assembly and bolt stop, the Sub 9 will accept must double high capacity magazines. By rotating the barrel upwards and back, the Sub 9 can instantly be reduced to a size of 7x16 inches. The reapplication of the barrel to the shooting position can be achieved in less than one second. According to Kel-Tec's own description, the Sub 9 "will deliver much higher muzzle energy and penetrating than the relatively short barreled pistol. Further, the Sub 9 has greatly extended range compared to a handgun or shotgun."

51. Defendant manufacturers' marketing strategy includes supplying firearms to those who desire them for criminal purposes. They recognize the existence of a significant criminal market for guns, and they design and advertise their guns to stimulate demand in and appeal to that market.

52. Defendant manufacturers distribute their firearms in such a manner as to provide access to their firearms by persons who live in areas where there exist strict gun control laws, by persons who would not qualify to purchase firearms from a reputable dealer, and by others who desire to use firearms for criminal purposes. These distribution methods include using dealers located in or around high crime areas where there is a greater demand for firearms, using dealers who will sell their firearms to persons whom they know or reasonably should know will use or possess them illegally, and saturating the market just outside areas where there are strict gun control laws.

53. Defendant manufacturers and distributors' marketing strategy intentionally and recklessly causes thousands of illegal firearms to end up in Chicago. The existence of these

illegal firearms in Chicago facilitates the violation of City ordinances, and contributes to physical harm, fear and inconvenience to Chicago residents, and is injurious to the public health and safety of Chicago residents.

DEFENDANTS' CONDUCT CONSTITUTES A PUBLIC NUISANCE

54. The residents of Chicago and Cook County have a common right to be free from conduct that creates an unreasonable jeopardy to the public's health, welfare and safety, and to be free from conduct that creates a disturbance and reasonable apprehension of danger to person and property.

55. Defendants intentionally and recklessly design, market, distribute and sell firearms to persons whom defendants should know will bring those firearms into Chicago, causing thousands of firearms to be possessed and used in Chicago illegally, which results in a higher level of crime, death and injuries to Chicago citizens, and a higher level of fear, discomfort and inconvenience to the residents of Chicago. Their conduct thereby causes a significant and unreasonable interference with the public health, safety, welfare, peace, comfort and convenience, and ability to be free from disturbance and reasonable apprehension of danger to person and property.

56. Defendants' conduct in designing, marketing, distributing and selling firearms to Chicago residents or to persons whom defendants know will use them illegally in Chicago causes thousands of illegal firearms to be possessed and used in Chicago.

57. Defendants' conduct in designing, marketing, distributing and selling firearms to Chicago residents or to persons whom defendants know will cause those firearms to end up in Chicago is of a continuing nature.

58. Defendants' ongoing conduct produces an on-going nuisance, as thousands of firearms which they cause to be illegally used and possessed in Chicago will remain in the hands of persons who will continue to use and possess them illegally for many years. As a result of the continued use and possession of many of these firearms, residents of Chicago will continue to be killed and injured by those firearms, and the public will continue to fear for their health, safety and welfare, and will be subjected to conduct that creates a disturbance and reasonable apprehension of danger to person and property.

59. The defendants know that their conduct will have an on-going detrimental effect upon the public's health, safety and welfare, and the public's ability to be free from disturbance and reasonable apprehension of danger to person and property.

60. Defendants' conduct in designing, marketing, distributing and selling firearms to Chicago residents or to persons whom defendants know or reasonably should know will cause those firearms to end up in Chicago constitutes a significant and unreasonable interference with public health, safety and welfare and the public's ability to be free from disturbance and reasonable apprehension of danger to person and property.

61. Defendants know or should know that their conduct causes an unreasonable invasion of the public right to health, safety and welfare and the public's ability to be free from disturbance and reasonable apprehension of danger to person and property.

62. Defendants owe a duty of care to the residents of Chicago and Cook County to exercise reasonable care to prevent their firearms from ending up in the hands of persons who use and possess them illegally in the City of Chicago in light of the direct, foreseeable and serious consequences of their actions:

- a. Defendants' conduct in designing, marketing, distributing and selling firearms to Chicago residents or to persons whom defendants know or reasonably should know will cause those firearms to end up in Chicago creates a strong likelihood that these illegal firearms will cause deaths and injuries to Chicago residents and otherwise significantly and unreasonably interfere with public health, safety and welfare, and with the public's right to be free from disturbance and reasonable apprehension of danger to person and property.
- b. It is reasonably foreseeable to the defendants that their conduct will cause deaths and injuries to Chicago residents and otherwise significantly and unreasonably interfere with public health, safety and welfare, with the public's right to be free from disturbance and reasonable apprehension of danger to person and property, and with the City of Chicago's ability to enforce its gun control ordinances.
- c. The burden on the defendants of taking measures to stem the flow of illegal weapons into Chicago is not undue. The only burden on defendants would be the loss of sales to those likely to use or possess the weapons illegally.
- d. The prevalence of illegal firearms in the City of Chicago not only causes deaths and injuries, it also creates a palpable climate of fear among Chicago residents, particularly in certain areas where guns are even more prevalent and where they tend to be used more frequently. The defendants' conduct undermines the City's efforts to limit the number and types of firearms in the City, and makes it easier for criminals to arm themselves, constituting a dangerous threat to the public. Stemming the flow of illegal guns into the City by prohibiting sales to persons

who are likely to bring them into Chicago illegally will help to alleviate this problem; it will save lives and prevent injuries, and it will make the City of Chicago and County of Cook a safer place to live.

63. The defendants' conduct is the direct and proximate cause of deaths and injuries to Chicago residents and a significant and unreasonable interference with public safety and health and the public's right to be free from disturbance and reasonable apprehension of danger to person and property.

64. The defendants' conduct, if unabated, will continue to threaten the health, safety and welfare of the City's residents, creating an atmosphere of fear that tears at the residents' sense of well-being and security. The City and the County have a clearly ascertainable right to abate conduct that perpetuates this harm.

65. The presence of illegal firearms in the City of Chicago proximately results in significant costs to the City and County in order to enforce the law and to treat the victims of firearms crime. In particular, the City and the County provide emergency medical services and health care to victims of firearms violence; the City and County prosecute those who have used firearms illegally; the County funds the criminal justice system in which such prosecutions take place; and the County detains and imprisons those who have used firearms unlawfully.

66. Monetary damages will not adequately compensate the City and the County for the harm that it will continue to suffer if the defendants' conduct continues. Therefore, the City and the County have an inadequate remedy at law. Moreover, the harm that the City's residents will continue to suffer in the absence of an injunction is irreparable.

WHEREFORE, the City of Chicago and the County of Cook hereby request trial by jury

and that this Court adjudge and decree that defendants are liable for creating a public nuisance, enter judgment for the City of Chicago and the County of Cook, Illinois and against defendants, and award the City of Chicago and the County of Cook the following:

1. Allocated monetary damages attributable to each defendant to compensate the City of Chicago for the costs that it bears as a result of the public nuisance, in amount to exceed \$358.1 million. The damages the City of Chicago seeks are comprised of the following to include the years 1994-98. These costs include:

- a. Chicago Police Department's program costs (excluding Office of Emergency Communications) attributable to gun violations, approximately \$75,700,260 for 1997;
- b. Chicago Police Department's Office of Emergency Communications costs, approximately \$1,282,047 for 1997;
- c. Chicago Fire Department's Emergency Medical Services costs, approximately \$605,461 for 1997; and
- d. City of Chicago Law Department's costs of prosecuting violations of City's gun control ordinances, approximately \$526,773 for 1997

2. Monetary damages to compensate the County of Cook, Illinois for the costs that it bears as a result of the defendants' conduct, in an amount to exceed \$75,000,000 million. The damages that the County of Cook, Illinois seeks are comprised of the following elements:

- a. The Cook County Bureau of Health's costs to treat victims of firearms violence in Cook County from 1994-98 - in excess of \$50,000,000

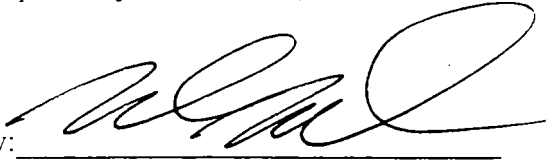
million; and

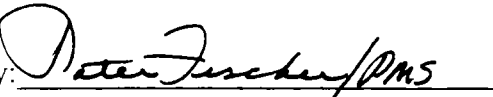
- b. Cook County's costs to prosecute and defend the criminal use of a firearm from 1994-98 - in excess of \$25,000,000.
3. Punitive damages against each defendant in a sufficient amount to punish and deter conduct that intentionally and recklessly endangers the people of Chicago.
4. Permanent injunctive relief of the following sort to abate the public nuisance caused by the defendants:
 - a. Prohibit the sale to Chicago residents of firearms that are illegal in the City of Chicago, unless the purchaser can prove that he has a legal place to maintain the firearm outside the City of Chicago;
 - b. Prohibit the sale of firearms to Chicago residents under circumstances that put the dealer on notice that the firearms will not be used for the purchaser's personal use or otherwise will not be used for legal purposes;
 - c. Prohibit defendant dealers from selling any firearm to an individual who has purchased a firearm within the previous thirty (30) days;
 - d. Require firearms manufacturers and distributors to systematically monitor the sales of dealers through which they distribute their firearms to ensure that they are being sold legally and responsibly, and to terminate shipments of firearms to dealers who do not enforce standards and practices that prevent sales to persons whom the dealer has notice will not use them lawfully and responsibly;
 - e. Require firearms manufacturers and distributors to provide adequate

training to the firearms dealers through which they distribute their firearms to ensure the dealers' compliance with federal, state and local laws;

- f. Require firearms manufacturers, distributors and dealers to cease shipments to dealers in proximity to Chicago of firearms that by their design are unreasonably attractive to criminals;
- g. Require defendant manufacturers and distributors to participate in a court-ordered study of lawful demand for firearms and to cease sales in excess of lawful demand;
- h. Require defendant manufacturers to market personalized firearms that can only be used by the lawful purchaser;
- i. Authorize the City of Chicago to monitor on an on-going basis the dealers' compliance with the injunction order and with federal, state and municipal laws.

Respectfully submitted,

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Dated: November 12, 1998

JL.

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