



THE ENDGAME

Any Settlement of Firearms Litigation Must Address Three Specific Areas of Gun Industry Conduct and Include a Strict Enforcement Mechanism

Products. Industry must reduce the gratuitous lethality of its products, e.g., high-capacity pistols, pocket rockets, assault weapons, sniper rifles. The industry must also address safety related defects in its products. Changes to excessively lethal products now made by the gun industry must be the first priority.

Distribution. Industry must accept independent standards for distributors and retailers to prevent inappropriate or illegal sales.

Marketing. Industry must agree to stop marketing aimed at children and disclose all risks associated with other marketing, especially "fear-based" marketing, e.g. claims of utility for "self-defense."

Enforcement. Industry must accept independent product health and safety regulation. This would be conducted most effectively by the U.S. Department of the Treasury.

December 1999



The Violence Policy Center is a national non-profit educational organization that conducts research and public education on firearms violence and provides information and analysis to policymakers, journalists, grassroots advocates, and the general public. The Center examines the role of firearms in America, analyzes trends and patterns in firearms violence, and explores new ways to reduce firearm-related death and injury.

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Past studies released by the Violence Policy Center include:

- *Cashing in on the New Millennium: How the Firearms Industry Exploits Y2K Fears to Sell More Guns* (December 1999)
- *Firearms Production in America—1999 Edition* (November 1999)
- *When Men Murder Women: An Analysis of 1997 Homicide Data* (October 1999)
- *Gold Medal Gunslingers: Combat Shooting Targets the Olympic Games* (July 1999)
- *One Shot, One Kill: Civilian Sales of Military Sniper Rifles* (May 1999)
- *Start 'Em Young: Recruitment of Kids to the Gun Culture* (April 1999)
- *License to Kill, and Kidnap, and Rape, and Drive Drunk...* (March 1999)
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- *Target America: Can the Flood of Foreign Assault Weapons Be Stopped?* (March 1998)
- *Where Did You Get That Statistic?—A Firearms and Firearms Violence Bibliography and Research Guide for Advocates Working to Reduce Firearms Violence* (February 1998)
- *That Was Then, This is Now: The NRA and the Gun Industry Talk About Assault Weapons—From Both Sides of Their Mouths* (December 1997)
- *Joe Camel With Feathers: How the NRA with Gun and Tobacco Industry Dollars Uses Its Eddie Eagle Program to Market Guns to Kids* (November 1997)
- *Cease Fire: A Comprehensive Strategy to Reduce Firearms Violence* (Revised, October 1997)
- *Kids Shooting Kids: Stories From Across the Nation of Unintentional Shootings Among Children and Youth* (March 1997)
- *Gun Shows in America: Tupperware® Parties for Criminals* (July 1996)

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Introduction

America's gun violence problem stems directly from the fact that the gun industry remains virtually the last unregulated manufacturer of a consumer product. Although firearms claim more than 30,000 lives every year—far more than all other household and recreational products combined—the industry that manufactures this deadly consumer product remains unregulated.

Three major areas of conduct by the firearms industry must be thoroughly addressed if a settlement of lawsuits filed by major cities is to succeed in having a significant effect in reducing gun violence. In addition, there must be an effective enforcement mechanism to ensure industry compliance.

I. The Products the Gun Industry Produces

A. Stop Innovating for Lethality

Example: Higher-Caliber, Higher-Capacity, Ultra-Concealable Semiautomatic Pistols

America's gun problem is primarily a handgun problem. Handguns exact an inordinate toll on American lives. The vast majority of gun death and injury—in homicides, suicides, and unintentional shootings—is carried out with easily concealable pistols and revolvers. Over the last three decades the gun industry has worked to enhance the lethality of handguns. The handgun market experienced a dramatic shift in 1987 when semiautomatic pistols overtook revolvers as the most popular type of handgun. This had the effect of increasing the capacity of the average handgun from six rounds to 15 rounds.¹ In addition, manufacturers are increasing the concealability of pistols. The average caliber of handgun also increased. Now the industry is combining concealability with increased caliber in a new breed of handgun: the "pocket rocket."

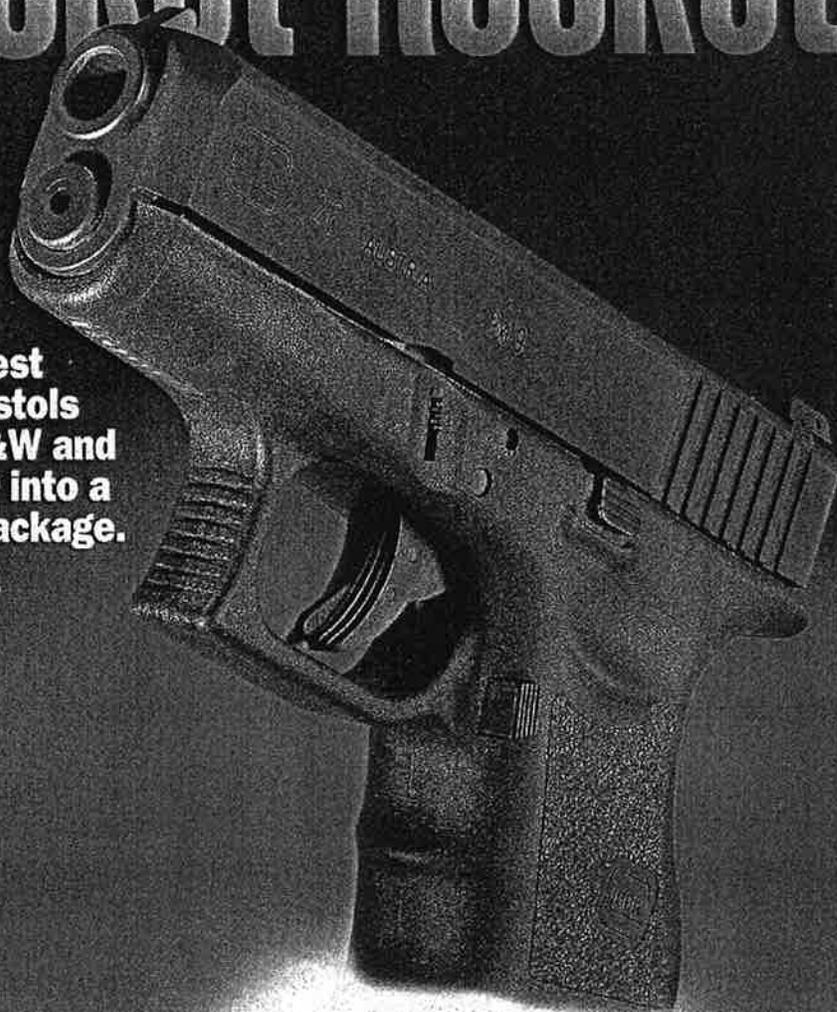
¹ Magazine capacity was limited by statute in 1994 to 10 rounds. Please see high-capacity ammunition magazine section on next page on how such magazines remain commonly available.

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By Jim Grover



"Glock's New Pocket Rockets!," *Guns & Ammo*, January 1996

Example: 50 Caliber Sniper Rifles

The latest, and perhaps most lethal, innovation of the gun industry is the introduction of high-caliber sniper rifles onto the civilian market. Originally designed for military use, the weapon was deployed in the 1991 Persian Gulf War to destroy Iraqi light armored vehicles, missiles, and artillery at very long range. Despite the fact these weapons are ideal tools for terrorists and assassins, they are now freely available in gun shops across America and are subject only to the restrictions that currently apply to bolt-action hunting rifles. One must be 18 years old and not be prohibited from possessing firearms based on a criminal record or history of mental instability.

Example: Lethality Enhancing Accessories

Manufacturers should design their products in ways that discourage or prevent the attachment of lethality enhancing accessories such as laser sights, trigger activators, and silencers. Some manufacturers sell, or have sold, models equipped with laser sights or threaded barrels for the easy attachment of silencers.

B. Stop the Manufacture and Sale of Banned Products

Example: Assault Weapons

Although assault weapons were banned from production in 1994, the gun industry continues to produce and sell these products. The industry has made slight changes in the design of such notorious assault weapons as the TEC-9 (now the AB-10) and the Colt AR-15 (now the Colt Match Target or Bushmaster XM15 Series) and continues to make and sell these weapons. In addition, a flood of imported "sporterized" assault weapons continues to add to America's arsenal of military style firearms.

Example: High-Capacity Ammunition Magazines

Like assault weapons, the production of high-capacity ammunition feeding devices capable of holding more than 10 rounds was banned in 1994. However, prior to the ban taking effect, manufacturers stockpiled hundreds of thousands of high-capacity magazines. In addition to these domestic "grandfathered" high-capacity magazines, the importation of pre-ban high-capacity magazines from around the world continues. In addition, some manufacturers such as Taurus and Intratec continue to manufacture high-capacity pistols equipped with 15- or even 32-round "pre-ban" magazines.

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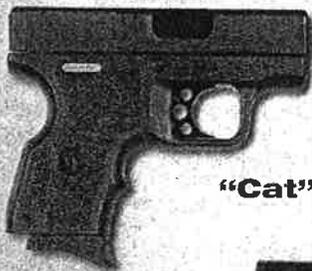


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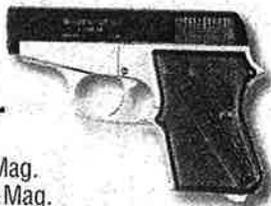


"Cat" -45
45 A.C.P.
Magazine 6+1



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Advertisement, Intratec, American Firearms Industry, January 1997

C. Be Accountable for Product Defects

Example: Firearms with Known Safety Defects

There are many examples of firearms in the hands of consumers that contain design or manufacturing defects which cause serious death and injury. Sturm, Ruger & Company's Old Model single action revolver² has been associated with more than 600 deaths and serious injuries caused by accidental discharges.³ Despite Ruger's knowledge of the defect in the design of the Old Model,⁴ the company still refuses to issue a recall of the guns. The Ruger Old Model is only one example of many firearms now in the hands of consumers that contain serious safety-related defects. The industry must agree to recall products with safety-related defects and develop systems to identify and quickly remedy future safety-related problems.

These are just a few examples of conduct related to product design and manufacture that adds to America's severe gun violence problem. Changing these product-related practices should be the first priority of any settlement.

² "Wild West Legacy: Ruger Gun Often Fires if Dropped, But Firm Sees No Need for Recall," *Wall Street Journal*, (June 24, 1993).

³ The frailties of the design of the Old Model are acknowledged even in the gun press. In a review of Ruger's new "Vaquero" revolver in the October 1993 edition of *Handguns*, the Vaquero's firing mechanism was described as being identical to that currently used in Ruger's updated "Blackhawk" (as the Old Model single action is commonly known) which incorporates a transfer bar safety device. The article explained, "With the original...Blackhawks made before 1973, the firing pin can come into contact with the cartridge primer if the hammer receives a sharp blow. Should this revolver accidentally be dropped, there is a strong possibility that it will land on its hammer, causing the gun to discharge."

⁴ In 1979, the Supreme Court of Alaska upheld an award of punitive damages in a case in which a .41 Old Model single action revolver that the plaintiff was loading slipped out of his hands. When he tried to catch the gun it fired, causing serious injury to his leg. The court's opinion stated that "[the] manufacturer knew that its product was defectively designed and that injuries and deaths had resulted from the design defect, but continued to market the product in reckless disregard of the public's safety...." *Sturm, Ruger & Co., Inc. v. Day*, 594 P. 2d 38, 47 (1979).

II. Gun Industry Distribution Methods

A. Stop Selling to Non-Storefront Dealers

Example: "Kitchen-Table" Dealers

Manufacturers should include in their distribution agreements with wholesalers provisions prohibiting sales to non-stocking, "kitchen-table" gun dealers. Such dealers usually sell guns directly out of their homes. Many of these dealers may be out of compliance with relevant state and local zoning and tax laws. In the early 1990s, the Bureau of Alcohol, Tobacco and Firearms (ATF) documented the role that kitchen-table dealers play in supplying guns to criminals. ATF's Project Detroit identified 13 federal firearms licensees who were knowingly supplying firearms to criminals in the Detroit metropolitan area. Of those 13, eight were "kitchen-table" dealers.

Example: Dealers Who Sell At Gun Shows

Manufacturers should also include in their distribution agreements with wholesalers provisions prohibiting sales to dealers who sell at gun shows. Some manufacturers already include such prohibitions in their distributor agreements. The problems associated with gun shows are well documented and the climate created by competition from unlicensed "hobbyists" encourages dealers to engage in illegal sales.⁵ Furthermore, federal licensees are prohibited from obtaining a dealer's license solely for the purpose of doing business at a gun show. To aid enforcement of this requirement, manufacturers and distributors should require that dealers provide a photograph of their storefront, a requirement that many distributors already enforce.

B. Establish Systems to Identify "Bad Apple" Dealers

Example: Monitor the Volume of Tracing Requests Received for Individual Dealers

Manufacturers should establish a monitoring system to identify distributors and dealers to which a significant number of crime guns are traced. Since manufacturers are the first point of contact for crime gun traces, they are in a good position to keep records that will help to identify distributors and dealers that regularly transfer guns traced to crime scenes. Manufacturers should also monitor buying patterns for specific classes

⁵ See e.g. Violence Policy Center, *Gun Shows in America: Tupperware Parties for Criminals* (1996), and U.S. Department of Justice, U.S. Department of the Treasury, and Bureau of Alcohol, Tobacco and Firearms, *Gun Shows: Brady Checks and Crime Gun Traces*, January 1999.

and models of firearm to identify suspicious buying patterns, e.g. a distributor buys hundreds of Intratec assault pistols at one time. Manufacturers should agree to terminate distributors and dealers where there is evidence that they are knowingly or negligently supplying guns to the criminal market or to underage buyers.

C. Ensure That Dealers Are in Compliance With Federal and Local Laws

Example: Require Proof of Federal, State, and Local Licenses for Each Sale

Federal law requires that dealers comply with all relevant state and local laws. This relatively recent requirement stems from research done in the early 1990s demonstrating that a significant proportion of licensed gun dealers were operating out of their homes, not in compliance with state and local zoning, tax, or business licensing laws, and unknown to local law enforcement. Manufacturers should reinforce the federal law by selling only to distributors that require all dealers purchasing from them to provide a signed copy of the dealer's Federal Firearms License, a copy of a state sales tax permit, and proof of a state and local business license. These are requirements already enforced by many distributors.

III. Gun Industry Marketing Practices

A. Stop Marketing Targeted at Vulnerable Populations

Example: Marketing to Children

Firearm manufacturers should immediately cease marketing campaigns aimed at children. Several manufacturers regularly advertise firearms, including handguns, in publications designed for juveniles such as the Future Farmers of America's *New Horizons* and *Insights*, the National Rifle Association's magazine for junior members under age 20. Such advertising is common despite the fact that it is illegal for juveniles under the age of 18 to possess handguns, and no one under the age of 21 may purchase a handgun from a gun dealer.

Example: Fear-based Marketing

The firearms industry should also immediately cease marketing campaigns designed to induce fear. Examples of such fear-based marketing strategies include the recent effort by the gun industry to use fear of social disruption caused by the Y2K computer bug to drive up gun sales. The gun industry should also cease marketing practices based on unverifiable claims that handguns have utility for self-defense.

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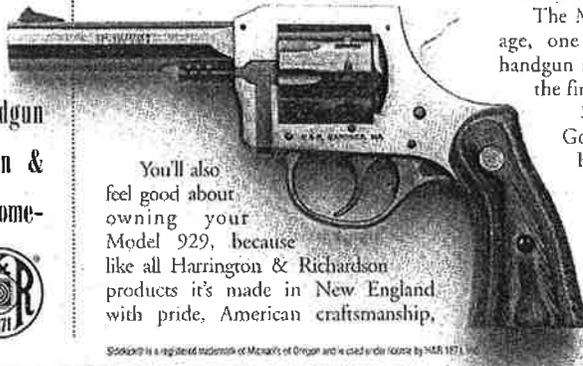


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Letters

InSights wants to hear from you!
Send your comments to: Editor,
InSights, 11250 Waples Mill Rd.,
Fairfax, VA 22030-9400.

PLANNING FOR PERRY

Dear Editor:

I am thinking about attending the National Matches at Camp Perry, Ohio, this year. It will be my first time. Can you send me information on entering? I am 14 and plan to shoot smallbore. Also, are the dates set yet?

Marian Bonner
Toledo, OH

Dear Marian:

Tentative dates are July 24-26 for smallbore three-position and July 27-August 1 for smallbore prone. Programs and entry cards will be available June 1. Write the NRA Competitions Division, 11250 Waples Mill Rd., Fairfax, VA 22030-9400 to request a copy of the 1997 National Rifle and Pistol Cham-

pionships program. Be sure to indicate the phase desired: pistol, smallbore rifle, or highpower rifle.



Photo by NRA Staff

WANTS TO COMPETE

Dear Editor:

I am 15 years old and an NRA junior member. I would like to start competing in highpower and smallbore matches. I own a Remington Model 788 chambered in .308 Win. This rifle has an 18-inch barrel. I also have an AK-type rifle with a 20-inch barrel, chambered in 7.62 mm. My .308 is equipped with a Bushnell 4X-12X scope. Please send me information about how I can enter these competitions.

Aaron Neofotistos
Dracut, MA

Dear Aaron:

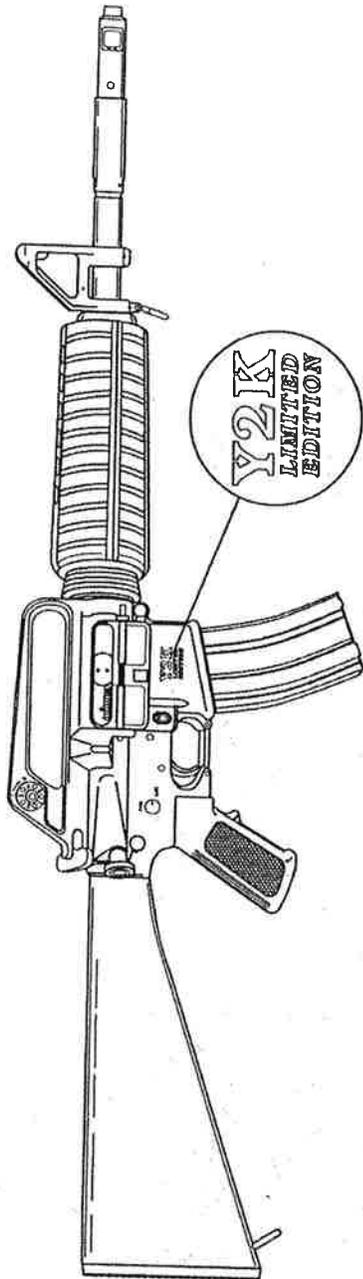
We will send you a sample copy of *Shooting Sports USA*, which will help you find a match in your area. Call or write the contact name listed for that match to obtain

Continued on page 18

InSIGHTS • APRIL 1997

Advertisement, Harrington & Richardson, *InSights*, April 1997

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Advertisement, Bushmaster, S.H.O.T. Business, August 1999

IV. Effective Enforcement Mechanisms

The key to the success of any settlement will be the continuing existence of an effective and vigorous federal enforcement mechanism. Ideally, the entire industry would be subject to federal product health and safety oversight by the Department of the Treasury, the agency most familiar with the firearms industry and its products and practices. Such an approach is embodied in the "Firearms Safety and Consumer Protection Act" (H.R. 920 and S. 534). Short of federal jurisdiction, enforcement must be undertaken by a monitor independent of the gun industry and controlled by a government authority. In any case, supervision must move beyond mere pro forma licensing and paper regulation of industry members to substantive review of products.

