

**Report of the Executive Director
National Rifle Association - Institute for Legislative Action
to the Board of Directors**

September 23 - 27, 1998
Meeting of the Board of Directors
Herndon, Virginia
Report prepared August 24, 1998

Ladies and Gentlemen of the Board:

The following is an overview of the activities of the Institute for Legislative Action since our last meeting in June, 1998.

INTERNATIONAL AFFAIRS

The NRA had a major victory last April in its opposition to the UN's formally adopting a Declaration on firearms regulation. ILA Director, Tanya Metaksa's speech "Opening Closed Doors" and the appearance of NRA Board member Congressman Bob Barr had a very significant impact and within 24 hours the NRA generated a letter critical of the report from 34 U.S. Senators. Because of this the US delegation adopted this critical position and the report is to be revised.

The Commission did pass a resolution continuing its involvement with firearms regulations and calling for a protocol on illicit firearms traffic. The NRA successfully lobbied for the meetings, on drafting the protocol, to be open to NGOs.

The NRA is now a member of the Congress of Non-Governmental Organizations (CONGO), which has been asked by the UN to organize a "Millennium NGO Forum." The NRA made a presentation to CONGO in New York in July on the lack of democratic openness at the UN. The NRA's position was well received and UN reform will be included in the agenda for the Millennium event. The NRA will work with CONGO and this will enable it to both pursue the issue of openness at the UN and to be aware of any attempt to place firearms on the agenda.

The NRA is continuing to work closely with and support the World Forum on the Future of Sport Shooting Activities (WFSA). The WFSA has become the primary vehicle to respond to one of the UN gun control initiatives. A UN panel, from the Department of Disarmament in New York, has focused on the international regulation of ammunition. The UN will soon request information from ammunition manufacturers. However, the WFSA, which includes most major manufacturers worldwide, has asked its members not to respond individually but to funnel requests for information through the WFSA.

Work has been done on an NRA conference on international gun control. The proposed title would be "The Movement for International Gun Control." It would be a one-day affair and would have speakers from other member groups of the WFSA, with which the NRA has been working.

Regardless of the defeat of the UN Declarations on firearms, the international gun control movement continues to grow at a frightening pace. Bodies as diverse as the International Red Cross, The World Council of Churches and the Vatican are now involved. A global gun control coalition has been formed called, 'PREPCOM'. This body has over seventy member organizations and is being supported by grants from both governments and private foundations. UN efforts are so extensive that it has established a separate office to coordinate the actions of eight of its agencies working on international gun control.

There is now serious talk of a formal international conference on firearms. Switzerland, ironically, has offered to host the meeting in the year 2000. The possibility of this conference poses a grave threat to firearms owners all over the world.

The NRA, through its UN Consultant Tom Mason and ILA staff, will continue to monitor all of these activities and to forcefully defend the rights of firearms owners in the international arena. The NRA has emerged as the lead organization in the worldwide hunting and shooting community. Our developing relationships with other national and international groups, especially in the WFSA, are becoming extremely useful. The international gun control movement may be growing, but we and our fellow organizations are more than up to the challenge.

FEDERAL AFFAIRS -- Mary Kaaren Jolly, J.D., Chief Counsel and Acting Director

Recent Federal Affairs Legislative Accomplishments

The past three months were extremely busy, but the last nine weeks paid off for gun owners across the nation, where victories were the Rule for ILA/Federal Affairs. ILA/Federal Affairs worked around the clock to defeat numerous anti-gun amendments proposed by our foes in the United States Senate and House of Representatives, while our strong supporters, such as Senator Larry Craig (R-ID), Senator Bob Smith (R-NH) and Senator Ben Campbell (R-CO) spoke up for gun owners by introducing amendments to defeat the new Clinton gun tax on NICS, prohibit the FBI from accomplishing back-door registration of gun owners, and defeat Senator Barbara Boxer's (R-CA) amendment on mandatory trigger locks. The following enumerates our recent legislative victories:

- July 16. The House defeated an amendment by anti-gun-rights Congressman Charles Schumer (D-N.J.) who wished to deny in-transit relief to importers who suffered losses when their imported guns -- legal under the 1994 Clinton Gun Ban -- were frozen in transit when the Clinton Administration changed its mind. The vote was a resounding

301-122, under the leadership of Congressman Jim Kolbe (R-AR). In a White House report to Congress, the Administration supported in-transit relief provided in the U.S. House of Representatives Treasury, Postal Service Appropriations bill for FY 1999.

- July 21. When Senator Barbara Boxer (D-CA) offered an amendment to institute a one-size-fits-all safety device mandate, Senator Larry Craig offered a substitute amendment which made safety devices available from FFL dealers and, more importantly, established a federal gun safety education grant program, that qualifies the NRA for eligibility. The Craig Amendment succeeded by an overwhelming 72-28. After Senator Craig's amendment passed, Senator Barbara Boxer's was tabled by a 61 to 39 vote.
- July 21. By a 69 to 31 vote, Senator Bob Smith's (R-NH) amendment succeeded in deleting the gun tax proposed by the Administration, eliminating its bid to keep a central, federal registry of gun purchasers certified as law-abiding and provided a private course of action for illegally harmed victims. In a hearing before the House Judiciary Committee June 11, 1998, Handgun Control, Inc. (HCI), was offered the opportunity to testify in favor of the gun tax/registration scheme, but HCI declined. Tanya K. Metaksa, Executive Director of NRA/ILA testified in strong opposition to the gun tax/ registration scheme on behalf of our organization.
- July 23. The Senate approved a bid for a total appropriation of \$3 million by Senator Orrin Hatch (R-UH) to support NRA-backed Project Exile, a program to prosecute armed criminals. Senator Arlen Specter (R-Pa) had earlier included \$1.5 million for Project Exile at the NRA's request. ILA/Federal Affairs is also looking into other statutory language where funds have been made available for Project Exile.
- July 28. By unanimous consent, Senator Chuck Grassley's (R-IA) amendment to exclude in-line muzzle loaders from the 1968 Gun Control Act was accepted.
- July 28. Senator Diane Feinstein's (D-CA) bid to ban the import of magazines declared legal to import by her own 1994 gun and magazine ban was defeated 54 to 44.
- August 4. Right to Carry Reciprocity, HR 218, as amended by Congressman Bill McCollum, (R-FL) passed the House Judiciary Committee by an overwhelming voice vote. This bill enables law enforcement currently employed or retired, to carry when off-duty and licensed civilians to carry in 30 various states.
- August 4, 9:15 p.m. Congresswoman Sheila Jackson-Lee (D-TX) offered a mandatory trigger lock bill to the U.S. House of Representatives Commerce and State Justice Appropriations bill for FY 1999, only to withdraw it minutes later, on a point of order raised by bill manager, Congressman Hal Rogers (R-KY). While Ms. Jackson-Lee spoke on the House floor she referred to her "good friends at the NRA...." I believe this is what we refer to as the definition of "gross sarcasm."

- Moreover, in the U.S. House of Representatives and U.S. Senate Treasury, Postal Service and General Appropriations bills for FY 99 and the Commerce and State Justice Appropriations bills for FY '99, NRA submitted a series of 6-10 additional amendments - all Second-Amendment-related. These various gun statutes and regulations -- such as the bar to centralized registration of firearm owners -- must be re-codified every year, to retain their mandate. All were accepted by the U.S. House and U.S. Senate.

Regarding other less publicized, but just as important victories, the NRA-ILA Federal Affairs staff worked to maintain the following major firearms-related appropriations provisions from FY 1998, which must continue to be included and/or retained in FY 1999's appropriations bill:

- Retained by the U.S. House Of Representatives for FY'99: No transfers of BATF's functions to other federal agencies.
- Retained by the U.S. House of Representatives for FY'99: Prohibits the Department of Treasury from consolidating or centralizing records of firearms purchases or dispositions.
- Retained by the U.S. House of Representatives for FY'99: Protects and maintains the curios and relics list, prohibits the federal government from changing the definition of curios and relics, and prohibits the removal of any firearms from that list. President Clinton would like nothing better than to reduce the curios and relics list to a few choice firearms.
- Retained by the U.S. House of Representatives for FY'99: Prohibits the electronic retrieval of out-of-business records of FFLs by name or personal identification code.

New Clinton Gun Ban Moxie Part II-- "Sporting Purposes" Study

As referenced above, Chairman Jim Kolbe (R-AZ) introduced an amendment on the floor of the U.S. House of Representative to the Treasury, Postal Service and General Government Appropriations bill for Fiscal Year 1999 to provide compensation for losses incurred to U.S. importers for the denial of entry into the U.S. of certain semi-automatic firearms that met all applicable U.S. laws. Chairman Kolbe eloquently and passionately spoke in support of his amendment. Due to his leadership and personal efforts, Congressman Charles Schumer's (R-NY) efforts to defeat the amendment overwhelming failed by a vote of 301 to 122 in support of the Kolbe amendment. Even the White House did not object to this amendment, although it did not stop Congressman Schumer from trying to attack gun owners and devastate the few importers that were caught, most unfairly, in the President's latest gun ban.

Possible litigation strategies are still being explored to test the legality of the President's foreign imports ban. In addition, we are examining the Administration's bending of the law to suit the goal of banning as many firearms as possible and keeping them away from law abiding American gun owners.

Brady Act Implementation, the Clinton Gun Tax and Citizen Recordkeeping

As noted above, Senator Bob Smith (R-NH) introduced an amendment, a version of Congressman Bob Barr's (R-GA) H.R. 3949, which would prohibit funds from being used for NICS if the system does not immediately destroy all the information received from approved firearms transfers. The amendment also prohibits the implementation of any tax or fee with a connection to NICS. A private cause of action may be brought in Federal District Court by any person who is aggrieved by a violation of this provision. This amendment passed by a resounding 69 to 31 vote.

NRA/ILA's Executive Director, Tanya Metaksa, Federal Affairs staff, and outside counsel, Mark Barnes, met with Congressman Hal Rogers (R-KY), Chairman of the U.S. House of Representatives Commerce, Justice, State Appropriations Subcommittee, Board member Congressman Bob Barr, and other key congressional members, such as Ranking Minority Member, Congressman Alan Mollohan (D-WV) to discuss the legislative strategy for the gun tax amendment on the House side. It was agreed at that time, that although Congressman Bob Barr, Congressman Tom Coburn (R-OK) and Congressman Joe Scarborough (R-FL) each wanted to offer a version of the "No Gun Tax" bill on the floor of the U.S. House of Representatives, it would be best to refrain from offering the amendment in order to avoid a full blown gun fight on matters that they believed the minority would immediately seek to vote such as an extension of the Brady Act, with a permanent three day waiting period and a vote on a Child Access Prevention bill. During the bill debate, Congressman Rogers reacted laudably by tabling all anti-gun amendments.

Although the Commerce, Justice, State Appropriations bill for FY '99, may be veto bait for the President, especially since he held a Rose Garden Ceremony where he pledged to "...oppose any bill which would gut the Brady Act..." Federal Affairs has a number of opportunities to pass this legislation.

In addition, NRA/ILA Federal Affairs drafted a perfecting amendment to the Senate amendment on "No Gun Tax" for gunsmiths, pawnbrokers, and others, wherein BATF can not require pawnbrokers and gun owners, who submit their guns for repair to a gun smith, a manufacturer, or any Federal Firearm Licensee, to undergo a NICS gun check or pay a NICS gun tax. NRA/ILA's outside counsel, Tammy Begun, arranged a meeting with Tanya K. Metaksa, ILA Executive Director and the nation's major pawnbrokers, who were pushing a legislative fix on Capitol Hill, but only for pawnbrokers. The meeting was very successful and the pawnbrokers are now working with ILA to support mutually beneficial language to ensure that a NICS check is only conducted when an actual change of title occurs. We are working closely with the

Chairmen of the U.S. House and Senate Subcommittees on State, Justice, Commerce Appropriations to include this perfecting amendment in the bill which will be sent to the President and signed into law, later this session.

National Right To Carry

On August 5, the U.S. House Judiciary Committee passed H.R. 218 - the "Community Protection Act of 1998" by a voice vote. (If a roll call vote had been taken of the committee members in attendance the outcome would have been an overwhelming 18 to 4 vote for Right To Carry)! The Federal Affairs staff and outside counsels, Mark Barnes and Tammy Begun, made a tremendous effort keeping our Members on the House Judiciary Committee informed and prepared to argue against any dramatic opposition from either Ranking Member John Conyers (D-MI), Congressman Charles Schumer (D-NY), Congresswoman Sheila Jackson Lee (D-TX), or Congressman Martin Meehan (D-MA). Although ILA/Federal Affairs expected great opposition from these and other anti-gun members of the Judiciary Committee, it did not materialize due to the hard work by ILA/Federal Affairs and LEAA, the endorsement of FOP and a huge grassroots response from our NRA members. H.R. 218 passed with minor objection. Tanya K. Metaksa, Executive Director of ILA wrote a letter to the members on the House Judiciary Committee expressing ILA's strong and enthusiastic support for Mr. McCollum's H.R. 218. The letter also emphasized that passage of National Right to Carry legislation is one of the leading safety and security issues for law enforcement, law-abiding citizens, and NRA/ILA/Federal Affairs.

H.R. 218 exempts qualified active and retired law enforcement officers from state and local prohibitions regarding the carrying of concealed firearms. H.R. 218 allows persons, not prohibited by Federal law, who carry a valid license or permit from their home state, the right to carry a handgun in another state with the same or similar right to carry laws should the state wish to be recognized as a state that would accept other states' right to carry permits or licenses

Kids, Schools and Firearms

In response to the Oregon school shooting, Senators Gordon Smith (R-OR) and Ron Wyden (D-OR) introduced legislation that would encourage states to hold students in jail or a juvenile detention facility, for a period of up to 72 hours for psychological evaluation if they bring a gun to school. Companion legislation was similarly introduced in the House of Representatives by Peter DeFazio (D-OR) and Jennifer Dunn (R-WA). The Senators, however, offered a slightly "radical" version of their legislation as an amendment to the FY '99 Commerce, Justice, State Appropriations Bill. Instead, it encouraged states to detain students for at least 24 hours by local law officials, without the parents or guardians knowledge (a definition that poses civil liberties concerns).

The Senate passed the Smith/Wyden amendment by voice vote. The House version of the spending bill, however, passed without either the Smith/Wyden or DeFazio/Dunn language.

The House and Senate measures will be reconciled in conference committee. There are still unresolved questions about the statutory language in its current form. We will continue to monitor this legislation as it develops through conference process and work with committee staff in an effort to address and remedy our concerns.

District of Columbia Gun Ban

Federal Affairs is continuing to work with interested Representatives and Senators to reform the District of Columbia's firearms laws. As always, the dangers of everyday life in D.C. continue to focus the attention of legislators and staff on the futility of laws which deny them an effective means of self-protection. In fact, in the wake of the tragic Capitol shootings one Senior House Member of Congress publicly expressed his desire to keep a loaded .357 Magnum in his desk.

The most likely vehicle for reform would be an amendment to the D.C. Appropriations bill for Fiscal Year 1999, but, it is more likely that a free-standing bill could be introduced at the beginning of the next session of Congress.

Civilian Marksmanship Program (CMP)

The CMP, formerly known as the Director of Civilian Marksmanship Program (DCM), has reached the two year mark as a private non-profit organization. The Director, Colonel David Willis was appointed a year ago this September 15, 1998 and by some accounts has done a superb job of cleaning up after the recent tornado that demolished several of the CMP buildings that house computers, trophies, paperwork, etc. Col. Willis, by all accounts has done an equally superb job of directing the 1998 National Matches at Camp Perry. Competitors from Maine to California have praised his work and acknowledged that the '98 Matches were the best run, smoothest, and more comprehensive than any prior Matches held at Camp Perry. These two aspects of the program do not, however, convey the entire, exhausting work that must be accomplished by the CMP.

Federal Affairs staff participated at the Palma Matches this August. We met with most of the NRA employees and volunteers, (including Col. Gilchrist, Director of Competitions, NRA, who does a tremendous job at Camp Perry during the National Matches), the CMP staff, match participants, the Army and Marine Shooting Teams, and other Ohio National Guard based at Camp Perry. Until one has first-hand knowledge of all the effort that is expended at the National Matches, it is difficult to comprehend the devotion of the NRA employees and volunteers who represent NRA. NRA/ILA/Federal Affairs has much to be proud of at Camp Perry and especially of the fine example the CMP has exhibited for the youth of our nation to follow and for the adults of our nation to lead.

Federal Affairs would anticipate some high-level Hill activity in this area if Col. Willis' contract is not extended, or if the Board of the CMP does not take decisive action to appoint a

new potential director, as soon as possible. In the event that Col. Willis, for whatever reasons, decides not to continue as the CMP director, Federal Affairs is standing ready to assure that either of these potential situations be acted upon promptly and with deliberation to maximize the CMP's effectiveness, continuation and historical role of the marksmanship program.

Class Action Reform

The U.S. House of Representatives, Committee on the Judiciary, favorably reported H.R. 3789, the "Class Action Jurisdiction Act of 1998". The bill was approved by a 17-12 party line vote. H.R. 3789 would give federal courts jurisdiction over class action suits by reducing the existing stringent standards for full diversity of members of the class. The bill would erase the \$75,000 amount in controversy now needed for federal courts to get diversity jurisdiction in class action cases. Congressman Jerry Nadler (D-NY) offered an amendment to exclude class action claims against firearm manufacturers from the bill's coverage. This amendment was defeated by a voice vote, after Federal Affairs spent significant time preparing and educating our friends on the House Judiciary Committee concerning the unfairness and discriminatory treatment of excluding one product or one industry from the purview of the bill.

Product Liability Reform

NRA/ILA staff worked closely with the U.S. Senate to ensure that gun control advocates, who want the firearms industry to be held responsible for gun related injuries or deaths, did not succeed in offering an anti-gun amendment to the Jay Rockefeller (D-WV) Product Liability Bill, S. 2236. Senators Dianne Feinstein (D-CA) and Bob Torricelli (D-NJ) made a great deal of noise and attracted some media attention with their amendment to exempt firearms from the benefits of the compromise product liability legislation. During a press conference by notable anti-gunners trying to gain support for their amendment, Senator Torricelli singled out the NRA and chastised us for not being supportive of their measure. Fortunately, their efforts fell on deaf ears and mute votes in the Senate.

ILA/ Federal Affairs and SAAMI sent a joint letter to Senate Majority Leader Trent Lott (R-MS) noting our strong opposition to the Feinstein-Torricelli amendment. A similar letter to Senator Lott's Republican colleagues was sent by Senator Larry Craig (R-ID) as well. In addition, ILA/Federal Affairs sent a letter to our friends on the House side appraising them of our position on this bill and related developments. The Senate then took final action to exclude the anti-gun amendment.

S. 2236, in its final form, would have covered manufacturers and sellers of firearms and ammunition. The Feinstein-Torricelli would have excluded firearms from the provisions of S. 2236 in the same manner as tobacco and breast implants were excluded from the benefits of the bill.

Under the threat of a presidential veto, President Clinton said that he would sign S. 2236 only if it passed without any amendments. A cloture vote was taken on S. 2236 -- without the anti-gun amendment. The attempt to invoke cloture, a method to cut off debate and process the bill, fell short by a vote of 51-47 (60 votes are needed to invoke cloture). Seeing no end to the delaying tactics on this bill, Senator Trent Lott (R-MS) pulled the bill from the Senate calendar. This issue will resurface in the next session of Congress beginning in January, 1999.

Commission on the Advancement of Federal Law Enforcement (LEC)

Robert E. Sanders, Esq., of Florida was appointed by Speaker of the House, Newt Gingrich (R-GA), to the Commission on the Advancement of Federal Law Enforcement in May of 1998, with the help of Federal Affairs and outside counsel. He was sworn in and took office as a Commissioner on May 18, 1998, the date of the commission's first public hearing. Sanders has more than 40 years of experience with the investigation, prosecution and defense of offenses involving violations of federal firearms, explosives and arson laws.

Attorney General Janet Reno and Secretary of the Treasury Robert Rubin were the first witnesses to appear before the Commission. Each discussed global law enforcement policy goals, pledged the full cooperation of their respective departments with the Commission's work and stressed the need to institutionalize close coordination between federal, state and local law enforcement agencies.

The following organizations and individuals have been invited to present their views to the Commission:

- National Rifle Association of America, ILA/Federal Affairs
- National Association of Criminal Defense Lawyers
- Law Enforcement Alliance of America
- National Association of Treasury Agents (NATA)
- David B. Kopel, Research Director, Independent Institute, Golden, CO.

The staff of the Commission met with Congressmen Barr (R-GA), Bartlett (R-MD) and Senator Grassley (R-IA), the main proponents of the legislation creating the Commission.

Plans are being made to hear from the heads of agencies in late Fall - probably to start in November. In preparing for that, the Commission is paring down the number of agencies to a manageable figure. Research has disclosed that there are at least 32 separate agencies which have some "law enforcement" responsibilities and there are approximately 43,000 federal employees occupying jobs which have some "law enforcement" duties. This does not include the Inspector General Corps and staffs. The annual direct salary cost for law enforcement is in the neighborhood of \$2.2 billion. The major agencies are, of course, within Justice (FBI, DEA, INS, U.S. Marshals, Bureau of Prisons) and Treasury (BATF, Customs, Secret Service and IRS). There are several others being considered for inclusion for study by the Commission such as the

Report of the Executive Director
National Rifle Association - Institute for Legislative Action
to the Board of Directors
Report Prepared December 22, 1998

January 23-24, 1999

Arlington, Virginia

Mr. President, and Members of the Board and Executive Council,

The following report is an overview of the activities of the Institute for Legislative Action since the last Board meeting in September, 1998.

LEGAL ISSUES

Litigation Against the Industry

The cities of Chicago and New Orleans have filed suit against various manufacturers, trade associations and dealers in the firearms industry, seeking to follow the model set by state attorneys general in tobacco litigation. The suits seek to recoup health care and criminal justice-related costs incurred as a result of armed crime and gunshot wounds. Other cities including New York, Los Angeles, Boston, Baltimore, San Francisco, Tampa and Miami are reportedly considering similar suits.

The two suits already filed take different approaches. The New Orleans suit was filed first, and reflects a legal theory advocated by Handgun Control, Inc. attorney Dennis Henigan. The suit maintains that the industry is negligent in failing to include various safety devices on handguns, ranging from heavy trigger springs to loaded chamber indicators to personalization or "smart gun" technology which allows the firearm to be discharged only by an authorized user. The claim is obviously frivolous in that the devices mentioned are either commonly available (as in the case of manual safeties or heavy triggers) to suit consumer preferences, or still in development (as in the case of "smart gun" technology). In fact, a very similar HCI-sponsored suit (*Dix v. Beretta U.S.A. Corp.*) was defeated the same week the New Orleans suit was announced, and that defeat has reportedly caused some mayors to rethink their plans to join the litigation.

The Chicago lawsuit follows an even more outlandish theory of "negligent oversupply," alleging that the firearms industry knowingly produces more firearms than can be absorbed by the lawful stream of commerce. (The "negligent oversupply" theory is being pioneered in the *Hamilton v. Accu-Tek* case scheduled to begin trial in New York in January 1999.) Many

commentators have noted that the same theory could be deployed against virtually any industry; for instance, cardiac care advocates could sue egg and dairy producers on the basis that their products contain more cholesterol than can be absorbed in the nation's collective bloodstream and that the industry should therefore be held liable for social costs incurred by heart disease. The idea of suing a highly-regulated industry for its success in producing a lawful product in as large a quantity as can be lawfully sold is, once again, frivolous.

While the industry's preference at this point is to have minimal public NRA involvement, ILA stands ready to assist on both legal and legislative fronts in defeating this initiative by anti-gun advocates. One attractive option would be to expand the Project Exile initiative -- targeting armed street criminals for federal prosecution -- to cities undertaking or considering lawsuits. This would, in essence, force a responsible and effective anti-crime program on those cities whether they want it or not. We are involved with other Congressmen on legislation to specifically prohibit such frivolous lawsuits against the gun industry.

NRA v. Reno

The FBI's response to the passage of the prohibition on record retention (which merely supplemented the already explicit prohibitions contained in the Brady Act itself and the Firearms Owners' Protection Act) was to decrease the retention period from 18 months to 6 months. Obviously, this response is unacceptable.

Consequently, on November 30, the NRA filed a lawsuit, *National Rifle Association of America, Inc., et al. v. Janet Reno*, in the U.S. District Court for the District of Columbia. In the suit, the NRA, the Law Enforcement Alliance of America (LEAA), and five "John or Jane Doe" NRA and LEAA members who bought firearms on November 30 and seek to preserve their privacy, seek a declaratory judgment that the federal record-keeping system is unlawful and invalid, as well as preliminary and permanent injunctions and a writ of mandamus requiring that records be destroyed upon approval of the transaction, as specified in the Brady Act itself.

A hearing was held on December 17, 1998 in U.S. District Court but the judge has not issued a ruling at the date of this submission.

INTERNATIONAL AFFAIRS

International gun control efforts are still increasing in number and scope. The NRA continues to respond effectively with its own efforts and by supporting the work the World Forum on the Future of Sport Shooting Activities (WFSA) which it played a major role in founding. NRA international affairs are conducted by its UN Consultant Tom Mason, at the direction of ILA Federal Affairs and the Executive Director's office.

In late August the NRA attended, as a United Nations Non-Governmental Organization (NGO), a meeting convened to draft an "international protocol on firearms" in Buenos Aires,

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JUN 30 1999

Washington

*minutes
of the meeting of the
board of directors
of the*
**NATIONAL RIFLE
ASSOCIATION**

May 3, 1999



**REPORT
of the
EXECUTIVE VICE PRESIDENT
to the
BOARD OF DIRECTORS
NATIONAL RIFLE ASSOCIATION OF AMERICA**

Denver, Colorado

May 3-4, 1999

Mr. President, Members of the Board and Executive Council:

The Report of the Executive Vice President is given at each meeting of the NRA Board of Directors to provide information on the work of the NRA staff in carrying out the affairs and programs of the National Rifle Association and in implementing the resolutions and decisions approved by the NRA Board. This report is given in three parts. The reports of the two staff officers appointed by the Executive Vice President, the Executive Directors of General Operations and the Institute for Legislative Action, have been distributed. This Report of the Executive Vice President provides information on the activities of the NRA staff which are not part of GO or ILA.

Since our last report, the following highlights actions that have been taken and progress made in a number of areas:

* Within the Membership Division, the manufacturer's recruitment program is continuing to grow with the added participation of Marlin, Colt, Springfield, and Winchester - - for a total of 50 companies that will include NRA membership applications in the packaging of over 1 million firearms in 1999. This joint marketing effort should prove fruitful over the long-term given on-going legislative threats targeting gun shows, private firearms sales, product liability lawsuits, NICS, and other high-profile issues.

* NRA RACING has become a reality with Spears Manufacturing featuring NRA's logo on its cars and trucks. Other owners have volunteered to run our decals on their vehicles and the International Hot Rod Association is currently running NRA membership ads free-of-charge in its bi-weekly publication. By the 2000 Annual Meetings in Charlotte, we hope to have NRA cars on race tracks from coast to coast.

* The PROJECT-2000 team, partnered with Palm Coast Data in building NRA's membership data base, completed the Requirements Document on February 22, 1999. The estimated completion date for PROJECT-2000 is the end of October, 1999. The team is now reviewing and identifying the types of reports necessary for marketing analysis, along with building a conversion file and fixing data anomalies of the current GS/2000 computer system.

NRA.org Gets a Facelift for the Millennium

Mercury Group gave NRA's existing web site a facelift this year to update information, make the site more user friendly and upgrade the visual impact of NRA's message. Studies show that close to half of the U.S. population is surfing the net. And, 94% of the news media now routinely use the internet to research stories, obtain background information and find out information in a crisis situation. In addition, every page of the NRA's updated web site now offers visitors the opportunity to either give a gift, volunteer or sign up for NRA membership. The upgraded web site went on-line on March 5, 1999. Visits to the new nraHQ site that first week logged in at 8,600. By the third week of March, visits quadrupled with 36,000 visitors logging on to the site.

President Heston Draws Record Crowds, Garners Positive Ink for NRA

Since January, NRA President Charlton Heston has delivered four major speeches to rave reviews and positive media response. Mr. Heston spread the NRA's message in speeches before the Conservative Political Action Committee (CPAC), the Harvard Law School Forum, the Inland Press Association and Yale University. In addition to posting on nraLIVE, Mr. Heston's speeches have been covered by a variety of print and broadcast media, including C-SPAN.

Of particular interest is the Harvard Law School Forum speech. Mercury Group immediately posted a video of Mr. Heston's speech on nraLIVE. Within a few weeks, the speech has reached millions of people via the internet, radio, television, fax and mail.

Heston Stumps for ILA Issues

Mercury Group assisted ILA by making arrangements and drafting copy for Mr. Heston to appear at several venues. Heston spoke at the 1999 SHOT Show in Atlanta to solidify support against onerous lawsuits filed against gun manufacturers. He presented a video, produced by Mercury Group, to further illustrate ILA's message. Mercury Group also staffed Mr. Heston's whistle-stop campaign in support of Missouri's right to carry bill and his testimony before the Louisiana state legislature regarding Project Exile and lawsuits against gun manufacturers.

Denver Promotion Increases Attendance

To ensure maximum attendance and exposure for the NRA's Annual Meetings, several advertising and promotional efforts were launched. Advertising included outdoor boards, newspaper ads and radio commercials. Mercury Group distributed registration information on the meetings to outdoor writers in a five-state area and provided area television stations with public service materials. In addition all broadcast and print media were sent information for community calendar promotions. Mercury Group joined ILA Comm. in setting up and staffing the press office at the Annual Meetings.

**NATIONAL RIFLE ASSOCIATION OF AMERICA
MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS
MAY 3, 1999**

The Board of Directors and the Executive Council of the National Rifle Association of America convened at 9:00 a.m. in the Grand Ballroom of the Adams Mark Hotel, Denver, Colorado on Monday, May 3, 1999. First Vice President Kayne B. Robinson presided.

The Chair called the meeting to order and recognized Ms. Susan Howard for the opening prayer and to lead the Body in the Pledge of Allegiance to the Flag.

At the request of the Chair, the Secretary called the roll. The following members of the Board of Directors and Executive Council were present:

BOARD OF DIRECTORS

SANFORD M. ABRAMS
THOMAS P. ARVAS
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ALLAN D. CORS
DAVID G. COY
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D. CYNTHIA JULIEN
NEAL KNOX
HERBERT A. LANFORD, JR.
MICHAEL A. LEE
BILL MILLER
JIM NICHOLSON
TED NUGENT
DAVID A. OLIVER
JOSEPH E. OLSON
LANCE OLSON
ERNIE PADGETTE
BARBARA A. PHILLIPS
JAMES W. PORTER II
PETER J. PRINTZ
JAMES D. RAMM
TODD J. RATHNER
EDIE P. REYNOLDS
KAYNE B. ROBINSON
WAYNE ANTHONY ROSS
CARL T. ROWAN, JR.
DON SABA
HAROLD W. SCHROEDER
ROBIN L. SHARPLESS
JOHN C. SIGLER
MICHAEL SLAVONIC, JR.
KIRK W. STANLEY
BRUCE E. STERN

HARRY D. THOMAS
JOHN J. THOMPSON
MILES UGARKOVICH, JR.
DWIGHT D. VAN HORN
ROBERT L. VIDEN, JR.
HAROLD L. VOLKMER
HOWARD J. WALTER
DAVE WORKMAN

EX OFFICIO

JAMES J. BAKER
EDWARD J. LAND, JR.
WAYNE R. LaPIERRE, JR.
WILSON H. PHILLIPS JR.
CRAIG D. SANDLER

EXECUTIVE COUNCIL

WARREN L. CHEEK
ROBERT K. CORBIN
HOWARD W. POLLOCK
JAMES E. REINKE

Also present for the meeting were Mr. Stephen N. Shulman of O'Connor & Hannan, L.L.P.; several members of the executive and administrative staff; and guests.

The following members received an Excused Absence: Mr. J. Alvin Badeaux; Congressman Bob Barr; Senator Larry E. Craig; Ms. Cathy Gilronan; Mr. Charlton Heston; Ms. Sue King; Lt. Col. Oliver L. North; Mr. Richard D. Riley; Mr. Phillip A. Williams; and Congressman Donald E. Young.

The Chair announced that Mr. Don Saba of Tucson, Arizona was elected as the 76th Director and called for the new Board members to come forward to be sworn in by the Secretary: Mr. Sanford M. Abrams; Mr. Raymond W. Cahen; Mrs. Patricia A. Clark; Mr. Allan D. Cors; Mr. H. T. Davison; Ms. Diana M. Dunigan; Lt. Philip Hemphill; Mr. Todd J. Rathner; Mr. Carl T. Rowan, Jr.; Mr. Don Saba; Mr. Robin L. Sharpless; Mr. Kirk W. Stanley; Mr. John J. Thompson; and Mr. Howard J. Walter.

The new Board members were sworn in by the Secretary and were presented their NRA Director's pin by First Vice President Robinson.

The Chair requested approval of the minutes of the January 23 – 24, 1999 meeting of the Board of Directors. The motion to accept the minutes as presented was made and seconded from the floor and carried.

The Chair called Mrs. Maryann Carter forward to present her check to the President of the NRA Foundation, Second Vice President Sandra S. Froman, on behalf of the NRA Foundation. The resources are to be used for the youth of our nation. Mrs. Carter also presented a check to Mr. James J. Baker for the NRA Institute for Legislative Action to be used in defense of our rights.

The Chair called Mr. Gary Crets of Services Financial forward to present their third annual \$10,000 scholarship donation to the NRA Foundation. Second Vice President Sandra S. Froman accepted the gift.

The Chair called Mrs. Maryann Carter forward to present the Carter-Knight Freedom Award posthumously to Mrs. Alice H. Bull. Mrs. Bull's grandson, Torsten Bull, received the award. Mr. Leland Bull, son of Alice, presented a check for \$5,000 from Alice's estate and a check in the amount of \$500 from himself and his family to Second Vice President Sandra S. Froman for the Alice H. Bull Endowment for Youth and Collegiate Sports in the NRA Foundation. Mr. Bull also presented a check for \$5,000 from his mother's bequeaths to the NRA Whittington Center. That check was accepted by Chief Kayne B. Robinson, Chairman of the NRA Whittington Center.

The Chair gave a brief oral Report. Those remarks are attached to and made a part of these minutes.

The Chair called for the Report of the Second Vice President, which was presented by Ms. Sandra S. Froman. A copy of the Report is attached to and made a part of these minutes.

The Chair called for the Report of the Executive Vice President, which was presented by Mr. Wayne R. LaPierre, Jr. A copy of the Report is attached to and made a part of these minutes.

The Chair called for the Report of the Executive Director of General Operations, which was presented by Mr. Craig D. Sandler. A copy of the Report is attached to and made a part of these minutes.

The Chair called for the Report of the Executive Director of the NRA Institute for Legislative Action, which was presented by Mr. James J. Baker. A copy of the Report is attached to and made a part of these minutes.

The Chair recognized Ms. Marion P. Hammer, who:

“MOVED, The following Resolution relating to the gun manufacturer liability suits.

‘WHEREAS, the firearms industry is among the most highly regulated in the nation with Federal control of lawful importation, manufacture, distribution, retail sale of all types of firearms and ammunition; and

WHEREAS, the continued existence of the firearms industry is at risk from the threat of more than 100 lawsuits filed by big city mayors allied with tort lawyers; and

WHEREAS, the stated purpose of these various lawsuits is to bankrupt or eliminate all levels of lawful commerce in firearms, or to extort huge settlements and extort political concessions which are unacceptable to both industry and the nation’s consumers of firearms and related products; and

WHEREAS, these lawsuits are so egregious that two of the leading newspapers in the nation have the following to say:

[The] lawsuit is wrong headed and ill-advised. It represents an abuse of the tort liability system and a dangerous extension of the tactic employed in similar lawsuits against the tobacco industry of using potentially bankrupting lawsuits to force makers of legal but unpopular products to quit.

Chicago Tribune, November 14, 1998

In their get-rich-quick dreams, the lawyers are hoping the gunmakers will be cowed into surrendering without the tort sharks ever having to argue, let alone prove, a case in court. The mayors

probably should have thought twice before letting their reputations be used as chum for this fishing expedition.

Wall Street Journal, November 16, 1998; and

WHEREAS, unlawful commerce in firearms constitutes a series of felonious acts prosecutable under existing law; and

WHEREAS, possession and use of all categories of firearms and ammunition by violent felons, drug users, fugitives and other categories of prohibited persons are prosecutable under existing Federal and state law; and

WHEREAS, these lawsuits are neither designed nor connected in any way with the issues of crime, safety, or law enforcement; and

WHEREAS, these lawsuits are unbridled attempts at intimidation and constitute an abuse of the courts which ultimately serves as a subterfuge for an attack on private ownership of firearms; and

WHEREAS, the actions of those bringing the suits are in contravention of the rights of individual peaceable Americans to possess and use firearms under the Second Amendment of the United States Constitution; now, therefore, be it

RESOLVED, that the Board of Directors of the National Rifle Association of America at its meeting in Denver, Colorado on May 3, 1999, declares a unity of purpose between consumers and a regulated lawful industry and pledges its full commitment to aggressively act to stop these assaults on the Second Amendment; and, be it further

RESOLVED, that the text of this resolution be spread upon the minutes of the meeting.””

The motion was seconded from the floor and carried unanimously.

The Chair called for the Report of the Secretary, which was presented orally by Mr. Edward J. Land, Jr.

The Chair recognized Mr. Howard W. Pollock who requested that those Resolutions presented at the Annual Meeting of Members on Saturday, and not considered, be referred to the Bylaws & Resolutions Committee. Without objection, the Chair so ordered.

**Report of the Executive Director
National Rifle Association – Institute for Legislative Action
to the Board of Directors
Report Prepared March 31, 1999**

May 3-4, 1999

Denver, CO

Mr. President, and Members of the Board and Executive Council,

The following report is an overview of the activities of the Institute for Legislative Action since the last Board meeting in January, 1999.

INTERNATIONAL AFFAIRS

The United Nations, and others, persist in pursuing international gun control, but the NRA and the world firearms community, through the World Forum on the Future of Sport Shooting Activities (WFSA), are responding effectively. New initiatives will be handled in this arena by the addition of two widely experienced ILA staff with full-time responsibilities in international affairs.

UN Convention

January 25th and 26th the NRA and the Sporting Shooter Association of Australia (SSAA) attended a UN meeting in Vienna, Austria on a firearms "protocol." The "Firearms Protocol" (FAP) is part of a larger treaty called the "Convention Against Transnational Organized Crime," or "TOC." TOC work has gone on for several years and the FAP is only a part of it. The FAP was added to the TOC when it became apparent to Japan, the main UN advocate of gun control, that they could not get a "Universal Declaration of Principles" on firearms. As mentioned in prior reports, stopping the "Universal Declaration" has been one of the major accomplishments of the NRA.

The FAP is still in draft form. Most issues are unresolved and many more may emerge. Generally, gun control advocates want a broad instrument affecting domestic firearms law — others, including the NRA, want a narrow measure that focuses specifically on illicit trafficking. Current issues include international marking and "record keeping" (registration) requirements and questions of whether the protocol covers state to state transfers. The Board will be fully briefed as the process continues --the FAP will be discussed in April, June, October and at meetings scheduled into 2000. The intent is to have FAP/TOC ready for adoption at the UN's Millennium Assembly in the fall of 2000.

Consider this incredible possibility: the Protocol and the 2001 Conference may be the most important historical events ever to occur affecting hunting and sport shooting. It is unprecedented.

We have never, I repeat never, had a situation where the "world" is literally going to legislate, to make law, which will effect vital aspects of hunting and sport shooting. We must be at the table when events take place. We must lead. We must step into the breach. We have no choice.

FEDERAL AFFAIRS -- Chuck Cunningham, Acting Director

In the opening months of the 106th Congress, Federal Affairs tackled both new and ongoing issues, with particular emphasis on the lawsuits against the firearms industry and the problems resulting from illegal elements of the implementation of the National Instant Background Check System (NICS) by the Clinton-Gore Administration. In addition, Federal has undertaken aggressive lobbying against a whole array of anti-gun legislation and has developed support for pro-gun initiatives, both of which are detailed below.

Industry Lawsuits

Barr-Craig and other Anti-Litigation Bills

The main response to the municipal lawsuits against the firearms industry has been H.R. 1032, the Firearms Heritage Protection Act, sponsored by NRA Director Rep. Bob Barr (with 55 cosponsors as of this writing), and a companion Senate bill by NRA Director Sen. Larry Craig. H.R. 1032 was introduced on March 9 and Senator Craig's bill will be introduced immediately following the Easter recess.

Those bills would prohibit all causes of action against the firearms and ammunition industry based on criminal or unlawful uses of these lawful and non-defective products by third parties. The Barr bill was introduced at a well-attended March 9 news conference attended by Rep. Barr, Rep. Virgil Goode (D-Va.) and a coalition of supportive organizations including the Law Enforcement Alliance of America, the Southern States Police Benevolent Association, Americans for Tax Reform (headed by longtime Republican insider Grover Norquist), and Coalitions for America, a conservative coalition.

Federal Affairs is also seeking an appropriations rider prohibiting the U.S. Justice Department from expending funds to file, support, or otherwise participate in these suits. While there are currently no signs of DOJ participation, it should be remembered that in April of 1997, Attorney General Janet Reno said that she had determined "that the federal government does not have an independent cause of action" against the tobacco industry --yet President Clinton announced just such a lawsuit in this year's State of the Union message.

Federal Affairs continues to organize coalitions among business and industry groups which are coming to recognize the threat that “defectless product” liability suits pose to their members, including the automobile, alcohol, and meat industries. A variety of other legislative approaches and opportunities may present themselves as a result of those discussions.

Pro-Litigation Bills

Anti-gun members of the House and Senate have joined the fray by introducing legislation to support lawsuits against the firearms industry.

Implausibly suggesting that contingency fee lawyers and their municipal clients may not have enough financial incentive to sue, Senators Richard Durbin (D-Ill.), Frank Lautenberg (D-N.J.) and Charles Schumer (D-N.Y.) introduced S. 560 the “Gun Industry Accountability Act,” with House companion legislation introduced by Rep. Harold Ford, Jr. (D-Tenn.). This bill would allow states and localities which successfully sue the firearms industry to recover a portion of federal costs such as Medicaid expenses for treatment of shooting victims; the remainder of such damages would go, of course, to the federal government. The Federal government is also given the option of joining such suits and recovering federal damages in their entirety.

Senators Barbara Boxer (D-Ca.) and John Chafee (R-R.I.) were joined by Schumer, Lautenberg and a number of others in introducing S. 686 the “Firearms Rights, Responsibilities and Remedies Act of 1999,” which purports merely to preserve victims’ rights of redress in the courts. In reality, the bill creates a new cause of action allowing anyone who incurs any costs as a result of the “actual or threatened unlawful use of a firearm” or the “unintentional discharge of a firearm” to sue any and all manufacturers, dealers or importers who “knew or reasonably should have known that its design, manufacturing, marketing, importation, sales, or distribution practices would likely result in gun violence.” Unsurprisingly, there is no requirement that the defendant’s products actually be linked to the specific violent act or unintentional discharge in question.

Brady Act Implementation

The Administration’s budget for Fiscal Year 2000 seeks to remove last year’s language prohibiting collection of a user fee or “gun tax” and mandating destruction of records of approved purchasers.

NRA’s litigation on this matter is still in the courts. In January, Federal District Judge James Robertson denied NRA’s request for a preliminary injunction. His ruling focused on the FBI’s argument that the maintenance of approved records is a normal procedure in computer operations, and completely ignored the plain language of the Brady Act mandating that no records generated by the system be collected at a federal facility.

and development of media policy and mediation schedule. Overall, the involvement of the Udall Institute has been positive, revealing, in particular, the USFS's willingness to finally bring closure to this matter.

Federal Affairs' lobbying and legislative team continues to monitor and revisit this matter on an ongoing basis with the Arizona delegation and the U.S. House and U.S. Senate authorizing committees. By the time the Board meets, we will be able to report more fully on the status of the CERCLA decision, as well as on any further developments concerning the facilitated resolution process.

STATE & LOCAL REPORT -- Randy Kozuch, Director

State and Local has concentrated most of its efforts this session on passing legislation to protect the firearms and ammunition industry against lawsuits filed by cities and counties seeking to bankrupt the industry. We have compiled a highly persuasive packet of research fact sheets, news articles from across the country, and bullet point argument cards to provide to legislators to educate them on the issue. State and Local is continuing its on-going work to push for additional right-to-carry laws, as well as needed reforms to existing laws, protections for existing shooting range facilities from closure due to certain noise ordinances or nuisance actions aimed at shutting them down, and preemption statutes to get lawful gun owners out from under the jigsaw puzzle of conflicting local gun laws. On the flipside, as in past years, the anti-gun crowd has come at us full force with the introduction of numerous trigger lock and safe storage mandates, gun bans, extreme domestic violence measures, licensing and registration requirements, one-gun-month proposals, attacks on gun shows, and threats to existing states preemption statutes. Below is a synopsis of where legislation stands in the states for far this session.

Preemption of Municipal Lawsuits

The following is a breakdown of NRA-ILA's efforts to pass legislation preventing cities and counties from engaging in reckless lawsuits against the firearms industry. In February, Georgia became the first state to enact such legislation, since then South Dakota and Arkansas have been added to the list. Wyoming passed a bill encouraging the state's Attorney General to intervene on behalf of manufactures and dealers should lawsuits be filed. Alaska, Colorado, Florida, Kansas, Michigan, Minnesota, Montana, Nevada, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, West Virginia and Wisconsin all have legislation pending. State and Local is also working with legislators in a handful of other states to have legislation drafted and introduced this session.

Right to Carry

On the right-to-carry front, legislation to either clean-up existing laws or create new provisions for carrying concealed is pending in California, Colorado, Connecticut, Delaware, Kansas, Idaho, Maine, Maryland, Michigan, Montana, Nebraska, New Jersey and Ohio. The

NATIONAL RIFLE ASSOCIATION OF AMERICA
REPORT OF THE AUDIT COMMITTEE

DENVER, COLORADO

May 3, 1999

The Audit Committee met in the Executive Conference Room, on the Sixth Floor North, of the NRA National Headquarters on Friday, April 9, 1999. The meeting was called to order at 9:36 a.m. by Chairman Donn C. DiBiasio. Committee members present were Donn C. DiBiasio, Chairman, Herbert A. Lanford, Jr., Vice-Chairman of the Committee, committee member Howard W. Pollock and James H. Warner, Recording Secretary. Also present, at the invitation of the Committee, were Wilson H. Phillips Jr., NRA Treasurer, Rick Tedrick, NRA Managing Director of Finance, Beth Cunigan, Managing Director of NRA Financial Services, Sharon Bartholomew, NRA Manager of Accounting Operations, Karl R. Sening, the NRA Engagement Partner of the firm of PricewaterhouseCoopers, and Caroline Williams, the NRA Engagement Manager of the firm of PricewaterhouseCoopers.

Chairman DiBiasio introduced the Agenda. Mr. Sening then asked the Committee members to review the document entitled "Presentation to the Audit Committee," dated April 9, 1999, which had been prepared by PricewaterhouseCoopers in preparation for this meeting. Using this document, Mr. Sening first reviewed, briefly, the organization chart for the audit firm. He then discussed the Summary Explanation of Financial Statements.

Mr. Phillips then made a presentation explaining the arrangement of the financial statements. He made three points. First, the Combined Financial Statements is required by accounting rules. In a combined statement, he said, transactions between related entities disappear. Second, he pointed out that the accountants had issued an unqualified, or a "clean" opinion, and that this opinion is in a different format than in the past. Finally, Mr. Phillips addressed the balance sheet. Here he noted that the first item of significance was the drop in cash and equivalents, which reduced due to the completion of the National Firearms Museum. Prepaid expenses increased due to advertising paid for in December 1998, and run in 1999. He stated that cash has been tight, but that fund raising is going much better than was anticipated.

Mr. Pollock asked about the long term effect of municipal lawsuits, and the law suit initiated by a Director.

Mr. Phillips explained that our role in the mayors' suits has been public relations support. However, this has been a great fund raising issue for us. We are spending time and money on pre-emption.



BOB BARR
7TH DISTRICT
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CONGRESS OF THE UNITED STATES
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COMMITTEES:
JUDICIARY
BANKING AND FINANCIAL SERVICES
GOVERNMENT REFORM
Subcommittee on Criminal Justice,
Drug Policy, and Human Resources
VICE CHAIRMAN

October 21, 1999

The Honorable Wayne LaPierre
Executive Vice-President
National Rifle Association
11250 Waples Mill Road
Fairfax, Virginia 22030-7400

IN RE: Anti-gun Lawsuits

Dear Wayne:

The lawsuits against gun manufacturers are, I believe, among the most significant legal proceedings of this century. If these lawsuits are allowed to succeed, by the industry caving in, settlement or verdict, not only will the gun control liberals have succeeded where they could not succeed directly by legislation -- in gutting the Second Amendment -- but they will have dramatically and permanently changed the face of commercial activity and our judicial system in America.

However, I am not sure many others in the Congress, in the country generally, and even in the firearms industry, take these lawsuits with the degree of seriousness they deserve.

For example, it has been nearly eight months since I introduced HR 1032, which would protect the firearms industry against these potentially decimating civil lawsuits. To date, I have received absolutely zero interest, much less support, from the firearms industry. We have only 89 cosponsors. We have not been able to schedule hearings. The reason we have been unable to schedule hearings is because our leadership -- which as you know, has never been enthusiastic about moving any firearms-related issues forward -- is hearing nothing about the importance of such hearings to those most directly affected: the firearms industry.

I know you and the leadership of the NRA **do** understand the importance of these lawsuits.

I therefore would ask a favor.

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Mr. Wayne LaPierre
October 21, 1999
Page 2

I need to know if the firearms industry is serious about fighting these lawsuits. If they are, we need some help; I need some help; here in the Congress. We can help the industry through our efforts here in the Congress. However, if those in the industry are not serious about defending against these lawsuits, or if they do not wish my help or that of others in the Congress who want to help them, then I need to know that so I can expend my efforts on more productive pieces of legislation.

I would therefore request that, in your leadership capacity with the NRA, you convene a meeting of representatives of the firearms industry, so we can hear directly from the firearms industry, what their strategy is, how important these lawsuits are to them, whether they wish any help from me or other pro-industry Members of Congress, and if they will give us some support so we can move this issue forward. It is important that we hold this meeting before the end of this Session of the Congress, and that is the reason I request such a meeting to be held within the next two weeks.

Looking forward to hearing from you, and as always with admiration and deep appreciation for your work and your support, I remain

your friend,

BOB BARR
Member of Congress

cc: The Honorable Charlton Heston
The Honorable Kayne Robinson
Mr. James Baker, NRA/ILA

BB:cg

**REPORT
of the
EXECUTIVE VICE PRESIDENT
to the
BOARD OF DIRECTORS
NATIONAL RIFLE ASSOCIATION OF AMERICA**

Las Vegas, Nevada

January 16, 2000

Mr. President, Members of the Board and Executive Council:

The Report of the Executive Vice President is given at each meeting of the NRA Board of Directors to provide information on the work of the NRA staff in carrying out the affairs and programs of the National Rifle Association and in implementing the resolutions and decisions approved by the NRA Board. This report is given in three parts. The reports of the two staff officers appointed by the Executive Vice President, the Executive Directors of General Operations and the Institute for Legislative Action, have been distributed. This Report of the Executive Vice President provides information on the activities of the NRA staff which are not part of GO or ILA.

The following highlights actions that have been taken and progress made, as well as a detailed program/activities report for 1999 for all operating divisions.

* The NRA Infomercial promoting membership - - both the original "Banned" version featuring England and Australia and the new iteration of "Canadian Banned" - - continues to receive outstanding feedback from members and non-members alike, generating comment at gun and sports shows and through calls from gun owners joining our ranks. I am sending you the Canadian version of the infomercial for your use in your communities and note that a segment exposing gun bans in California is in production phase and will be incorporated into the video to dramatize to the nation's gun owners that America is not immune to the global gun ban agenda.

* To further the impact of NRA's new infomercial, Mercury Group booked interviews for Charlton Heston on *Entertainment Tonight* and with *TV Guide*. Based on *TV Guide*'s circulation of over 13 million and *Entertainment Tonight*'s viewership of over 2.9 million households, publicity generated allowed NRA's message to reach a sizeable new audience.

* With the November end-of-month report, NRA membership stands at 3,041,308 as a result of successful direct mail, telemarketing, and targeted infomercial broadcasts that capitalize on today's highly charged political climate. Recruitment programs at all levels - - manufacturers, dealers, retailers, gun show promoters, and affiliated clubs - - continue to experience significant gains. With the enlistment of NRA's new telemarketing partner, InfoCision Management Corporation of Akron, Ohio, we look forward to significant membership gains on that front in 2000.

Gustavo Mendez v. Ron Cochran, et al.: This is a tort suit, pending in United States District Court for the Southern District of Florida, against Beretta arising out of the accidental shooting of a child. One of the NRA current employees, who was a former employee of Beretta, was subpoenaed as a witness. The OGC prepared an Objection to Subpoena.

Jadlowski, John: At the request of the President's Office, the OGC responded to a consumer complaint filed with the New York Attorney General's Office, arising out of the NRA Credit Card Affinity Contract with Household Bank of Nevada.

Kasler v. Lungren: California Supreme Court: This case involves California's so-called "assault weapon" statute. Colt, as manufacturer of the AR15 Sporter, is the litigant. The case has progressed at a snail's pace. Plaintiffs' first amended complaint for injunction, mandamus and/or certiorari was filed in the Superior Court in Sacramento on February 24, 1993. In January, 1994, a writ of mandamus was filed in the Court of Appeal from an order dissolving the preliminary injunction against the attorney general. On April 23, 1994, the Court of Appeal, pending a final decision, granted the stay against the add-on provisions of the act. Oral argument finally occurred on December 20, 1997. On March 4, 1998, the court voided a portion of the statute as violative of the California constitution's separation of powers requirement. The court also opined that the statute is violative of equal protection because the statute's classification of certain firearms as so-called assault weapons is irrational. The decision is reported at 61 Cal.App.4th 1237, 72 Cal.Rptr.2d 260 (1998). On April 10, 1998, the attorney general filed in the California Supreme Court a petition for review, which was granted on May 20, 1998. The NRA filed an amicus curiae brief on October 26, 1998. The brief was prepared by Bob Dowlut. Michael Patrick Murray, a former law professor, a member of the California Bar, and a former employee of NRA General Counsel's Office, reviewed and signed the brief at no cost to NRA.

Mayors Lawsuits in Various Cities: The Office of General Counsel presented ILA with an extensive memorandum opining that the complaints based on product liability and public nuisance should fail. The memorandum also presented causes of action against the units of local government. An earlier memorandum was prepared on August 7, 1998, in anticipation of such lawsuits. The Office of General Counsel is monitoring the lawsuits against the gun industry, with respect to the implications for NRA.

Morial et al. vs. Smith & Wesson et al.: At the request of ILA, the OGC prepared a memorandum regarding the Louisiana Products Liability Act and its application to the facts averred in the complaint.

NRA v. Reno: U.S. District Court for the District of Columbia: This is a challenge to the Justice Department's record retention for 6 months of approved gun purchasers under the National Instant Criminal Background Check System (NICS). On January 26, 1999, the court denied the motion for a preliminary injunction. It opined that waiting for 6 months before destroying the records was reasonable. The government filed a motion to dismiss or, in the alternative, for

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions except with respect to person, prohibited by section 922 (g) or (n) of title 18, United States Code State law, from receiving a firearm. Sec. 103(I), Public Law 103-159, 107 Stat. 1542 (Nov. 30, 1993).

Despite this seemingly clear language, the FBI continues to retain records on lawful gun purchases for a period of up to 180 days. (A proposed regulation to reduce that time period to 90 days has never been finalized.) NRA's lawsuit against the Justice Department over this matter remains under appeal from the decision earlier this year in which Federal District Judge James Robertson, without even a nod to the above language, held that the "Audit Log" does not amount to a system of registering gun transactions.

As was the case with H.R. 2122 and the earlier Craig and Hatch amendments to the Senate juvenile justice bill, the draft compromise gun provisions from the juvenile justice conference committee contained language prohibiting the FBI from charging a fee for background checks, required immediate destruction of records on approved purchases, and required the system to comply with the Privacy Act provisions relating to the accuracy of the system and the rights of individuals to correct inaccurate information.

Federal Affairs is continuing to pursue other investigations of NICS matters, including the General Accounting Office study previously reported. ILA Executive Director James Jay Baker, along with the principal officers of the National Shooting Sports Foundation, National Association of Arms Shows, National Alliance of Stocking Gun Dealers, and Sporting Arms and Ammunition Manufacturers' Institute, also sent a letter to the FBI urging the establishment of a two-year, twelve-person advisory committee on NICS. The commission would be chartered "to improve the accuracy, efficiency, and overall functioning" of NICS. FBI has indicated that it will support the creation of an advisory committee and this effort is currently underway.

Industry Lawsuits

Federal Affairs continues to seek cosponsors for Rep. Bob Barr's (R-GA) bill (H.R. 1032) banning all causes of action against the firearms and ammunition industry based on criminal or unlawful uses of these lawful and non-defective products by third parties. The bill currently has 90 cosponsors including top members of the Republican leadership and eleven Democrats. A Senate bill will be introduced during the second session of the 106th Congress.

Gun "Carve out" Amendments

Meanwhile, legislation introduced to encourage such lawsuits has generally languished but occasionally breaks out onto center stage. In particular, "Carve out" amendments -- a type of amendment that deprives a particular industry of some benefit conferred on a larger class of businesses -- has been the weapon of choice of anti-gun and anti-tobacco advocates. Such "carveouts" are strongly opposed by advocates of legitimate tort reform (including NRA).

First, the House considered a bill (H.R. 1875) to reform federal jurisdictional rules over class-action lawsuits. The bill would generally have put more class-action suits in federal court as opposed to state courts, in order to prevent "jurisdiction shopping" by plaintiffs' lawyers. Rep. Sheila Jackson-Lee (D-TX) offered an amendment to exclude the firearms industry from the benefits of the bill. Bill sponsor Rep. Bob Goodlatte (R-VA) spoke forcefully against this or any other industry-specific Carve out, and the Jackson-Lee Amendment was defeated on a vote of 162-266.

Similarly, at a House Judiciary Committee markup of a bill (H.R. 2366) protecting small businesses from certain destructive product liability claims, Rep. Zoe Lofgren (D-CA) offered an amendment to exempt the firearms industry from the bill's benefits. The amendment was defeated on a 16-11 vote.

Finally, an amendment to a major bankruptcy reform bill was threatened to be offered by Senator Carl Levin (D-MI). The amendment would forbid firearms companies in particular from using bankruptcy proceedings as protection against debts arising from such suits.

Ironically, if a verdict were returned holding the firearms industry negligent in its practices, victims of armed crime or gun accidents would be more likely to recover money through bankruptcy proceedings under current law than if the amendment were adopted. Under the Levin Amendment, any company unable to pay such a verdict would be liquidated and its assets sold to cover the judgment. Thus, any later plaintiffs would find the bones already picked clean. This speaks volumes as to the true intent of the lawsuits and the motives of those supporting them.

Due to the press of appropriations bills at the end of the session, the bankruptcy bill was taken off the Senate floor, but anti-gun groups such as the Violence Policy Center have nonetheless claimed that the bill was killed by NRA. In truth, the bill will be the pending business on the Senate floor when it convenes in January 2000.

Department of Housing and Urban Development (HUD) Issues

Due apparently to the political ambitions of the Secretary of Housing and Urban Development, Andrew Cuomo, HUD has increasingly used its ties to anti-gun big-city governments to take a lead role in the Clinton-Gore Administration's anti-gun policies.

HUD Gun Surrender Program

The President announced in September that HUD would spend up to \$15 million on gun turn-in programs. The proposal was particularly shameless since just a year earlier, a National Institute of Justice research paper described these programs as a crime control approach that "doesn't work," adding that the programs "fail to reduce gun violence in cities."

Since the proposal only involved money that had already been appropriated and was available at the discretion of local housing authorities, the possibilities for congressional action

**Report of the Executive Director
National Rifle Association – Institute for Legislative Action
to the Board of Directors
Report Prepared April 7, 2000**

May 22, 2000

Charlotte, NC

Mr. President, and Members of the Board and Executive Council,

The following report is an overview of the activities of the Institute for Legislative Action since the last Board meeting in January 2000.

FEDERAL AFFAIRS -- Charles H. Cunningham, Director

Introduction

The early months of the second session of the 106th Congress saw no major legislative debates, though outside events continued to keep the firearms issue front and center. In particular, the anniversary of the Columbine High School attack; the shooting of a classmate by a troubled Michigan first-grader; the heated exchanges between the White House and the NRA leadership; and the capitulation of Smith & Wesson to blackmail disguised as litigation, kept all eyes focused on the gun control debate.

Gun Show and Juvenile Justice Legislation

Gun Shows

As reported previously, the Senate and House went through an extensive debate in May and June of 1999 concerning legislation for background checks for firearms sales by non-licensees at gun shows. The outcome was Senate passage of S. 254, a juvenile justice bill containing the Lautenberg amendment which would destroy gun shows as we know them; and the defeat in the House of H.R. 2122, a far less restrictive alternative -- especially after its modification by the Dingell Amendment. The House did, however, pass H.R. 1501, a juvenile justice bill with few gun-related provisions, which nonetheless provided a vehicle for the formation of a conference committee.

As of this writing, the conference committee has held no further official meetings, but discussions continue regarding the content of a final bill should circumstances require it.

The key point of contention remains, as previously reported, the time period allowed for resolution of "delayed" background checks. While the Senate legislation allowed the same three

business days for completion of a check that is allowed under the Brady Act, the Dingell Amendment had limited that time period to 24 consecutive hours for background checks originating from gun show transactions. NRA remains adamant that a 24-hour period is the only marginally acceptable delay that allows for the unique short-term nature of gun shows, while continuing to press for reforms to NICS operations that would ensure that such checks are truly instant.

As previously reported, while the Senate conferees know that the Senate language can never pass the House, they also suspect that the compromise language might not be able to pass the Senate. The House conferees are just as clearly aware that virtually no language, including the compromise proposal, can be passed in the House, given the House's previous bipartisan rejection of the even less restrictive language of H.R. 2122 -- which limited background checks to 24 hours and even decriminalized handgun possession in Washington, D.C. Any proposal that can win the support of anti-gun House members will just as certainly alienate pro-Second Amendment advocates.

White House Action

Given the situation as described, the Clinton-Gore administration continues to shamelessly politicize tragedy. Clinton has shamelessly exploited each passing tragedy, with the media uncritically glossing over such outrageous comments as his claim that "even a callous, irresponsible drug dealer with a six-year-old kid in the house [might] leave a child trigger lock on a gun." (CNN, "Burden of Proof," 3/8/2000)

Clinton claims to favor some resolution of the issue, but all the suggestions he has put forth, such as the holding of "delayed" firearms transactions in some form of escrow by local police, are obviously unworkable and unacceptable. Additionally, the President has called for the inclusion of language holding adults liable for crimes committed with unsafely stored firearms --a matter that was never even considered by either chamber in the course of juvenile justice debate.

Apparently convinced that the stalemate over the issue works to the benefit of anti-gun Democrats, the Democratic leadership in the House has become ever more intransigent, to the point where Minority Leader Dick Gephardt (D-MO) and Minority Whip David Bonior (D-MI) signed a letter to the conference chairman, Senator Orrin Hatch (R-UT) demanding that any language passed in the conference committee be at least as strict as the Senate-passed version.

Clinton has hosted a series of White House events intended to highlight the issue. Among those was a meeting between the President and the leaders of the conference committee; however, following that meeting, both Senator Hatch and Rep. Henry Hyde (R-IL), the Republican conference leaders from the respective houses, expressed their continuing concern that the issue cannot, and should not, be resolved on the White House's terms.

Motions to Instruct

Democratic House members continued to use "motions to instruct" to highlight their position. A motion to instruct is a parliamentary device that becomes available after a conference committee has been seated for a certain period of time without producing a final bill. These motions are not

binding and serve the primary purpose of allowing Members to speak at length on the floor and cast recorded, but largely meaningless votes on the issue at hand.

Most recently, on March 15, anti-gun Rep. Zoe Lofgren (D-CA) offered a motion demanding that the conference committee meet immediately and finish its work before the April 20 anniversary of the Columbine tragedy. The motion passed, in part due to its very general terms and to the presence of several Members who were absent during a previous, similar vote last fall.

At this writing, several pro-Second Amendment lawmakers are planning a counterattack with motions of their own. We will advise you in Charlotte as to the outcome of these efforts.

Industry Lawsuits

The multiple frivolous lawsuits against the firearms industry continue to complicate the legislative picture. Federal Affairs continues to follow all possible avenues to address this critical threat to Second Amendment rights.

Smith & Wesson Agreement

The agreement by Smith & Wesson to a laundry list of anti-gun demands (see attached fact sheet) affected everyone involved in the manufacture, sale, purchase and regulation of their products. Perhaps worse yet, S&W agreed to be bound by the terms of future, stricter agreements negotiated by other firms -- an open-ended surrender modeled on a provision rejected by tobacco companies in their own settlement talks.

In addition to the general threat that anti-gun legislators will seek to codify the terms of the agreement as federal law, Federal Affairs is particularly concerned about three aspects of the agreement:

- ◆ S&W agreed to engage in legislative advocacy shoulder to shoulder with those who extracted the agreement -- i.e., the Department of Housing and Urban Development and the Treasury Department. This provision may lead to violations of laws forbidding lobbying activities by federal agencies.
- ◆ S&W agreed to be monitored by an oversight commission made up of two representatives from cities & counties, one from states, one from ATF, and one from S&W itself. In addition to ATF's lack of any statutory authorization to participate in monitoring a private agreement, the makeup of the commission is hardly likely to favor the best interests of gun owners.
- ◆ Not technically or formally part of the agreement, but announced only hours later, government agencies may attempt to give preferential procurement treatment to firearms produced by manufacturers which sign the agreement. While rewarding S&W's ill-advised decision, this poses a threat that law enforcement agents may be burdened with firearms

selected not for effectiveness but for political correctness -- a stance strongly opposed by the Fraternal Order of Police. But the "preference" threats appear at this point to be mostly a rhetorical device put forward in desperation to obtain even one more signatory to the Smith & Wesson deal.

Federal Affairs is currently considering its best options to address these issues. Fortunately, other manufacturers do not currently find the agreement appealing, as indicated by public statements made by representatives of Glock, Beretta, Browning, Colt, Taurus and other firms.

Gun "Carveout" Amendments

Meanwhile, legislation introduced to foster such lawsuits has generally languished but occasionally breaks out onto center stage. In particular, "carveout" amendments -- a type of amendment that deprives a particular industry of some benefit conferred on a larger class of businesses -- have been the weapon of choice of anti-gun and anti-tobacco advocates. Such "carveouts" are strongly opposed by advocates of legitimate tort reform.

For example, an amendment to a major bankruptcy reform bill was offered on February 2 by Senator Carl Levin (D-MI). The amendment would forbid firearms companies in particular from using bankruptcy proceedings as protection against debts arising from the current type of junk lawsuits.

Fortunately, this anti-gun ploy fell through, as even many Senators who normally support anti-gun legislation felt that the federal bankruptcy code is no place for politically motivated carveouts. Following a vigorous debate, the Levin amendment was defeated, 29-68.

Firearms Heritage Protection Act

Federal Affairs continues to seek cosponsors for Rep. Bob Barr's (R-GA) "Firearms Heritage Protection Act of 1999" (H.R. 1032) banning all causes of action against the firearms and ammunition industry based on criminal or unlawful uses of these lawful and non-defective products by third parties. The bill currently has 95 cosponsors including top members of the Republican leadership. Senator Hatch has introduced companion legislation, S. 2270, on the other side of Capitol Hill; that bill also addresses the problem of privacy of instant check records, described below.

Department of Housing and Urban Development (HUD) Issues

Due to the naked political ambition of the Secretary of Housing and Urban Development, Andrew Cuomo, HUD has increasingly used its ties to anti-gun big-city governments to take a lead role in the Administration's anti-gun policies.

HUD Gun Surrender Program

The President announced in September that HUD would spend up to \$15 million on gun turn-in programs. The proposal was particularly shameful since just a year earlier, a National Institute of Justice research paper described these programs as a crime control approach that “doesn’t work,” adding that the programs “fail to reduce gun violence in cities.”

HUD Lawsuit

As of this writing, the HUD-instigated lawsuit by local housing authorities against the firearms industry had not yet been filed. However, HUD’s lead role in the blackmail of Smith & Wesson and the purchase preference issue (see above) serve to reinforce the need to take legislative steps to end the role of this agency in the firearms arena. Discussions continue with congressional leadership and appropriations staff about “riders” on other language to curtail HUD’s anti-gun activities.

Brady Act Implementation

Federal Affairs continues to work to ensure that the operation of NICS proceeds smoothly and complies with the law which created it. In particular, the FBI’s ongoing retention of records on approved purchases continues to be a violation of the privacy rights of gun owners.

General Accounting Office (GAO) Study

On February 29, the General Accounting Office (GAO) released a report on the FBI’s implementation and operation of NICS. The study, performed at the request of Sen. Craig Thomas R-WY, in Sen. Thomas’ words, “paints a sobering picture of a failure by federal agencies to enforce existing gun laws as Congress intended. The result is that the Second Amendment rights of law-abiding citizens are being infringed upon while too often criminals seep through without consequence.”

The GAO report (<http://www.gao.gov/new.items/g100064.pdf>) shows that the system failed to provide “instant” checks instantly 28% of the time, adversely affecting nearly 1.2 million law-abiding citizens. Nearly one-quarter of the citizens who appealed had their denials reversed. Those wrongful denials, GAO reports, were caused by FBI examiner error in 42% of the cases.

With regard to the actual prohibited persons whom the system was intended to block, during first 13 months of NICS operation, the FBI notified the Bureau of Alcohol, Tobacco and Firearms (BATF) that 3,353 prohibited persons had received guns. GAO’s audit shows, however, that BATF is investigating only 3% of those cases of illegal firearms possession. As of the end of last September, 31,292 NICS denials had been referred to BATF field offices, but BATF officials told GAO that almost half of those cases were closed without prosecution or even investigation.

And the few prohibited persons whose cases are referred for prosecution can generally expect easy treatment. In preparing their report, GAO investigators visited U.S. Attorneys Offices in four cities—Atlanta, Dallas, Denver and Seattle—during the Fall of 1999 to examine prosecutions of Brady Act-related cases. In Atlanta, they found the U.S. Attorney had received three cases and “declined them because of lack of jury appeal.” In Denver, two cases had been received and declined. The U.S. Attorney in Seattle had received not one Brady case for prosecution.” In Dallas, 14 Brady cases were received by the U.S. Attorney, who accepted 13 for prosecution.

On a more technical note, GAO reports that “[a]lthough NICS has been operational for 15 months, it has yet to be authorized as secure in accordance with Justice’s own requirements, and attempts to do so have been delayed.” According to Justice Department officials, “the completion of security testing was overshadowed by more urgent issues directly impacting the system’s ability to function; therefore, security testing was delayed.”

This lack of security is doubly troubling since the Department of Justice has exempted the FBI’s NICS operation from certain provisions of the Privacy Act of 1974. The Privacy Act sets rules that federal agencies must follow regarding records containing personally identifiable information. When asked for “estimated costs of adhering to the Privacy Act,” Bureau officials refused to provide an estimate, saying only that the costs to ensure citizens’ privacy “would be considerable.”

One aspect of the system’s operation that has been troubling from the start has been the amount of downtime experienced. The FBI has specified a system availability—defined as the time that the system is operating satisfactorily—requirement of 98%, but during its first year of operation, NICS failed to meet that standard in eight out of 12 months.

Through September 1999, the FBI identified more than 360 unscheduled outages associated with NICS. During its first year of operation, more than 215 hours of downtime occurred. No estimate was provided on how many millions of dollars small firearms retailers may have suffered in lost sales due to NICS “crashes.”

NICS Record Retention

On its face, the FBI’s retention of records on approved gun purchasers violates the Brady Act itself:

(I) Prohibition Relating To Establishment of Registration Systems With Respect To Firearms -
No department, agency, officer, or employee of the United States -

(1) require that any record or portion thereof generated by the system established under this section may be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions except with respect to person, prohibited by section 922 (g) or (n) of title 18, United States Code State law, from receiving a firearm. Sec. 103(I), Public Law 103-159, 107 Stat. 1542 (Nov. 30, 1993).

Despite this seemingly clear language, the FBI continues to retain those records for up to 180 days. (A proposed regulation to reduce that time period to 90 days has never been finalized.) NRA's lawsuit against the Justice Department over this matter was argued orally March 17 before a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit.

Federal Affairs will continue to take all possible opportunities to pass language prohibiting the FBI from charging a fee for background checks, requiring immediate destruction of records on approved purchases, and requiring the system to comply with the Privacy Act provisions relating to the accuracy of the system and the rights of individuals to correct inaccurate information. That language was included in Senator Hatch's anti-lawsuit bill, S. 2270.

ATF "Demand Letters"

In February, the Administration announced a "targeted enforcement" effort under which dealers to whom more than a certain number of firearms (generally 10) were traced from crimes in a specified period of time (generally three years) would be subjected to heightened scrutiny.

The scrutiny took the immediate form of letters from ATF's National Tracing Center to selected licensees, demanding that the licensee provide information on all secondhand firearms that passed through his or her inventory in 1999.

Since the "targeting" of the initiative did not take into account the overall volume of business conducted by licensees, these letters appear to have been issued mainly to older, larger dealers who are more likely to have sold a large number of firearms; a dealer with 10 firearms traced out of 1,000 sold would receive a letter, while a dealer with 9 firearms traced out of 11 sold would not.

Moreover, ATF is basing the issuance of the letters on highly dubious statutory authority, a subsection of the Gun Control Act which was first enacted in 1968, and amended in 1986, only to allow ATF to request information from licensees in order to complete a specific gun trace in connection with a bona fide criminal investigation. ATF's use of the statute to engage in generalized fishing expeditions through dealers' records is clearly not what the authors of the provision had in mind.

Due to the targeting of the letters at well-established dealers, congressional attention was aroused as licensees contacted their legislators. Senator Pete Domenici (R-NM), a senior member of the Appropriations Committee, quickly wrote a strongly worded letter to ATF Director Bradley Buckles to question the Bureau's statutory authority, its method of selecting the recipients, and the impact of the demands on small businesses. Following ATF's response to Sen. Domenici's inquiry, Federal Affairs will assess its options for a legislative remedy.

In the meanwhile, NRA Director Sanford Abrams, one of about 50 licensees who received an even harsher letter that accused his business of failing to comply with trace requests and demanded an even more extensive set of business records, has filed suit against ATF. The complaint seeks declaratory and injunctive relief against the Bureau to prevent the Bureau from using the records demanded in violation of anti-gun registration statutes and to bar any sanctions against his

business for refusal to comply. On April 13, 2000, the U.S. District Court for the District of Maryland ruled against the BATF, granting a permanent injunction against the collection of gun owner data in the guise of enforcement. NRA funded the Abrams suit and we are exploring strategies to ensure that the court's strong opinion -- while binding only in the Maryland district -- be given nationwide force and effect.

Project Exile

Finally, after a seven-year "waiting period," the Clinton Administration finally claims it wants to vigorously prosecute armed felons and drug dealers. The Clinton Justice Department did not have a sudden epiphany or change of heart; rather, they saw the polls that show the majority of American people favor tough prosecution of violent criminals rather than new gun restrictions. President Clinton's FY2001 budget proposal includes \$15 million for 100 new U.S. Attorneys and 20 firearms law enforcement teams, and \$200 million for a Community Prosecution program, of which \$150 million shall be for grants to States and local government to address gun violence "hot spots." Senator Schumer and Representative Carolyn McCarthy have also introduced legislation that mirrors Bill Clinton's Budget requests but does little to actually force federal, state and local prosecutors to practice common sense enforcement.

Although the budget request is couched as a serious effort to prosecute violent gun criminals, that is only lip service to mask an overzealous prosecution and enforcement program aimed at gun dealer and purchaser paperwork violations, rather than armed violent criminals. To make sure the money is spent on the prosecution of violent criminals and drug dealers with guns, we have prepared language as an amendment to the budget which says the funding can only be used to prosecute felons, drug dealers and violent criminals with guns.

Congressional Republicans have become focused on increased gun law enforcement. Congressman Bill McCollum (R-FL), Chairman of the House Judiciary Crime Subcommittee, introduced H.R. 4051, Project Exile: the Safe Streets and Neighborhoods Act of 2000, on March 22. The bill would establish a grant program that provides incentives for states to enact mandatory minimum sentences for certain firearms offenses. Rep. McCollum, joined by other Republican House leaders, held a press conference on March 23 to unveil the bill and criticized the Clinton Administration's lack of enforcement. McCollum also held a hearing on the bill on Thursday, April 6 where Virginia Governor Jim Gilmore and Virginia Attorney General Mark Earley described the success of Virginia's Project Exile. On April 11, 2000 the House overwhelmingly passed HR 4051 by a vote of 358- 60.

We also continue to monitor the gun law enforcement provisions in the Juvenile Justice bill. Should the conference decide to report a bill, Republican leaders will demand inclusion of Project Exile-type language. We also continue to monitor several Exile-like federal and state prosecution programs throughout the country to ensure that violent, gun-toting criminals are being prosecuted and not set free to prey on innocent victims.

gathering election information to include in the 2000 Political Preference Charts, which will appear in the November/December issues of the NRA's magazines. There are 5960 state legislators up for election this fall along with the Governor's offices in Delaware, Indiana, Missouri, Montana, New Hampshire, North Carolina, North Dakota, Utah, Vermont, Washington and West Virginia, 9 Lt. Governors and 10 Attorneys General.

PUBLIC AFFAIRS -- Bill Powers, Director

Based on the media activity in the first quarter of 2000, the debate over gun ownership, crime, and the Second Amendment this year can be expected to far exceed 1999 in both volume and intensity.

As the year began, the White House, anti-gun lawmakers, and gun ban groups sought to portray gun rights defenders in Congress as facilitators of gun violence for not bringing forward the juvenile justice legislation which is pending in conference committee. However, even the national media acknowledged what most Americans already understood -- that the legislation before Congress would have little effect on criminal access to guns or the random acts of gun violence that propelled the debate in 1999. However, in early March, the tragic shooting death of a little girl in a Michigan elementary school gave anti-gunners the media spotlight they needed to exploit the issue and attack their political opponents and the NRA.

Predictably and shortly after this tragedy, President Clinton went on national television and wagged his finger at Congress for not passing the juvenile justice legislation --as if trigger locks or background checks at gun shows could have made a difference in the life of a 7-year-old boy abandoned by his parents and living in a crack-house.

NRA EVP Wayne LaPierre immediately responded to the President's egregious rhetoric in the national news media. NRA also produced and ran a series of television advertisements featuring NRA President Charlton Heston that highlights the Clinton-Gore Administration's abysmal record of federal gun law enforcement against armed violent criminals and makes the point that it was the White House and anti-gun Democratic leaders in Congress that defeated the juvenile justice legislation in the U.S. House of Representatives.

The ad campaign put NRA and these issues at the top of every news report in the country throughout the month of March, and ILA Public Affairs staff took thousands of interview requests during this period. NRA news makers -- NRA President Charlton Heston, Wayne LaPierre, and NRA-ILA Executive Director Jim Baker appeared on national television on a daily basis to speak out on behalf of law-abiding gun owners. This communications campaign climaxed with Wayne LaPierre appearing opposite President Clinton on Sunday, March 12 on ABC's "This Week" and the following Sunday, March 19 with Mr. Heston on "This Week" and Wayne LaPierre on NBC's "Meet the Press."

This quarter, a great deal of media attention was focused on state level legislation. While ILA Public Affairs is inherently limited by geography, a handful of staff is responsible for media response nationwide -- through careful coordination with state liaisons and local organizations, ILA

Public Affairs provided a relevant presence for NRA and gun owners where it was needed. The last quarter was also highlighted by several additional major news events and coverage, detailed below.

Smith & Wesson's Gun Control Agreement with the White House

ILA Public Affairs ensured a speedy and vigorous distribution of NRA's position on the Smith & Wesson deal so that lawmakers, gun owners, and other members of the gun industry understood clearly what was at stake. The news release distributed by ILA Public Affairs quoted NRA-ILA Executive Director Jim Baker as saying, "This is a futile act of craven self-interest. In their rush to liquidate an inconvenient asset, executives at Tomkins PLC are jeopardizing an entire U.S. industry and undermining a Constitutionally guaranteed right. Lawmakers and citizens should be outraged at this unwelcome intrusion into the legislative process."

The Wildlife and Sport Fish Restoration Programs Improvement Act of 2000

ILA Public Affairs coordinated with ILA's Conservation, Wildlife and Natural Resources Division to highlight for journalists the administrative abuses and mismanagement of Pittman-Robertson Trust Fund moneys by the U.S. Fish & Wildlife Service. NRA voiced support for Rep. Don Young's corrective legislation, H.R. 3671, when it was introduced in February and ILA Public Affairs promoted this legislation to not only the national news media but also to hunting and outdoors publications nationwide.

"Junk" Lawsuits Against Gun Makers

NRA-ILA's successful campaign to pass lawsuit preemption legislation continues in 2000. ILA Public Affairs worked with the news media at the state level to clarify NRA's role in protecting both the Second Amendment and tax-payer rights through this legislation. ILA Public Affairs outlined NRA-ILA's latest strategy in combating these lawsuits in a February 16 news release announcing NRA's support of a lawsuit against the city of Cincinnati based on the state's "good government" laws.

Though lawsuit preemption legislation may not be an option in the District of Columbia, Wayne LaPierre did not sit idly by when D.C. Mayor Anthony Williams announced on January 20 that the nation's capital would itself attack lawful gun makers with a reckless lawsuit. On the same day that the city announced its lawsuit, Wayne LaPierre, who was scheduled to speak at the C - PAC conference, took the opportunity to issue a challenge through the news media covering the event, "We're going to make D.C. safe again for tourism and for its citizens. We challenge the mayor to join us in walking the halls of Congress to ask for fifty federal prosecutors to enforce the existing federal gun laws here in Washington."

ILA Public Affairs also highlighted an important victory over anti-gun Senators with the 68-29 defeat of the Levin Amendment to the Senate Bankruptcy Reform Bill. In the news release distributed by ILA Public Affairs, Jim Baker explained, "Under the Levin Amendment, gun makers who are facing devastating legal costs from fighting multiple tax-payer-funded junk lawsuits would be denied the option of restructuring through bankruptcy and driven out of business. Offering this



FACT SHEET



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3/20/00

The Smith & Wesson Sellout

On April 27, 1999, President Bill Clinton officially declared his Administration's war on American gun owners by identifying his enemy: "another culture in our country, that I think has gotten confused about its objectives [the] huge hunting and sport shooting culture in America."

Smith & Wesson, Inc., a British-owned company, recently became the first to run up the white flag of surrender and run behind the Clinton-Gore lines, leaving its competitors in the U.S. firearms industry to carry on the fight for the Second Amendment. Of course, there is no Second Amendment in Britain, where subjects are barred from owning handguns and many long guns.

In an act of craven self-interest, on March 17, 2000, Smith & Wesson (S&W) signed an agreement with the Departments of the Treasury and Housing and Urban Development in order to be dropped as a defendant in a handful of reckless lawsuits filed by municipalities against the firearms industry. Only a day after the settlement was announced, HUD Secretary Andrew Cuomo and the mayors of Atlanta, Detroit and Miami moved to shore up the S&W maneuver by promising to contort their procurement policies and purchase only the company's guns.

The media instantly portrayed the settlement as an agreement by S&W to adopt gun safety measures. In fact, the settlement doesn't merely alter the design of S&W handguns—it elevates S&W to the role of self-appointed arbiter of national gun policy.

Distributors and dealers who want to continue to sell S&W products will be forced to agree to a wish list of gun-prohibitionist demands such as: 14-day waiting periods, bans of affordable self-defense handguns, paying for anti-gun advertising, to name a few.

"I'm not willing to be a pawn in a political chess game," S&W CEO Ed Schultz is quoted in the March 27, 2000, edition of *Newsweek*. Yet by signing this sweeping agreement, Schultz has become exactly that, manipulated by the Administration into executing a "settlement" that is widely portrayed as a political victory for the White House.

Yet the agreement dispenses with only a third of the municipal lawsuits, and binds only two federal agencies and two state attorneys general from filing suits in the future. The remaining city suits are unaffected, and other state and federal agencies can continue to threaten the industry at will. The price of S&W's maneuver falls primarily on others—lawful firearm dealers, distributors, other manufacturers and law-abiding American citizens.

Here are just some of the terms of the S&W/Clinton-Gore Administration agreement:

CONSUMER IMPACT . . .

- Prohibited from buying more than one handgun in a 14-day period.
- Prohibited from buying a firearm without passing an unspecified safety test.
- Prohibited from buying a self-defense handgun that did not meet arbitrary accuracy standards.
- Prohibited, if under age 18, from even walking into the firearms section of a sporting goods store unless accompanied by a parent or guardian.

DEALER IMPACT . . .

- Prohibited from selling legal semi-automatic rifles, commonplace ammunition magazines and firearms that do not meet the difficult standards established in the agreement.
- Prohibited from selling firearms at any gun show where any legal private sale is conducted.
- Required to include with every firearm sold, a false written statement in large bold-face type that hundreds of children die each year from firearm accidents.
- Required to carry \$1-million in liability insurance and perform tasks properly handled by law enforcement to comply with the edicts of a new "Oversight Commission."

MANUFACTURER IMPACT . . .

- Prohibited from marketing any firearm in a way that appeals to young shooters and hunters.
- Required to dedicate 1% of revenues to a propaganda campaign promoting the dangers of gun ownership.
- Required to support legislative efforts to reduce firearms misuse and development of "smart" gun technology.
- Required to "ballistically fingerprint" every firearm, thus setting up backdoor national firearms registration.
- Required to meet certain unproven design standards for handguns sold only to civilians—guns sold to military and police would be exempted, thereby showing the intent is not to make guns safer or better, but to impose standards that will ultimately eliminate sales to private citizens.
- Required to manufacture pistol with positive, manually-operated safety devices *as determined by BATF standards applying to imported handguns*. BATF has repeatedly handed down politically-driven misinterpretations of the "sporting purposes" importation law, to prohibit many semi-auto rifles and handguns.

CONCLUSION:

FACT SHEET

Sold as getting S&W out from under reckless litigation, the true intent of this agreement is to force down the throats of an entire lawful industry anti-gun policies rejected by the Congress, rejected by legislatures across America, and rejected by the judges who have dismissed their lawsuits in whole or in part nearly without exception.

The Smith & Wesson Settlement

On April 22, 1997, Smith & Wesson announced a settlement with the American Civil Liberties Union (ACLU) and the National Rifle Association (NRA) regarding their lawsuit against the company.

This settlement has been widely criticized by gun rights advocates, who argue that it is a surrender to the anti-gun lobby. The settlement requires S&W to pay \$10 million to the ACLU and the NRA, and to agree to certain restrictions on its marketing and advertising.

The settlement also requires S&W to provide training to law enforcement agencies on the proper use of firearms. This training is intended to reduce the number of civilian deaths caused by police officers. The settlement also requires S&W to provide training to judges on the proper use of firearms. This training is intended to reduce the number of wrongful convictions.

The settlement also requires S&W to provide training to the general public on the proper use of firearms. This training is intended to reduce the number of accidental deaths caused by firearms.

The settlement also requires S&W to provide training to the military on the proper use of firearms. This training is intended to reduce the number of civilian deaths caused by military personnel.

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**Report of the Executive Director
National Rifle Association – Institute for Legislative Action
to the Board of Directors
Report Prepared December 11, 2000**

February 3-4 2000

Arlington, VA

Mr. President, and Members of the Board and Executive Council,

The following report is an overview of the activities of the Institute for Legislative Action since the last Board meeting in September 2000.

FEDERAL AFFAIRS--Chuck Cunningham, Director

Introduction

As of this writing, the 106th Congress has yet to adjourn; a late controversy over appropriations bills left the Congress recessed for the elections with some bills unfinished. However, at this point, with the winner of the presidential election finally resolved, it appears likely that the Senate and House leaders and appropriators are going to reach an agreement on the remaining spending measures and leave town the week before Christmas.

National Instant Check Implementation

Federal Affairs continues to work to ensure that the operation of National Instant Check System (NICS) proceeds smoothly and complies with the law which created it. In particular, the FBI's ongoing retention of records on approved purchasers continues to be a violation of the privacy rights of gun owners. The continued unreliability and inaccuracy of the system also burdens gun buyers with unjustified delays.

Early in the year, ILA Executive Director James Jay Baker, along with the principal officers of the National Shooting Sports Foundation, National Association of Arms Shows, National Alliance of Stocking Gun Dealers, and Sporting Arms and Ammunition Manufacturers' Institute, sent a letter to the FBI urging the establishment of a two-year, twelve-person advisory committee on NICS. The commission would be chartered "to improve the accuracy, efficiency, and overall functioning" of NICS. The FBI declined to create such a committee, citing other ongoing efforts to allow for industry feedback.

Federal Affairs continued to pursue other investigations of NICS matters throughout the year.

General Accounting Office (GAO) Study

On February 29, the General Accounting Office (GAO) released a report on the FBI's implementation and operation of NICS. The study, performed at the request of Sen. Craig Thomas (R-WY), in Sen. Thomas' words, "paints a sobering picture of a failure by federal agencies to enforce existing gun laws as Congress intended. The result is that the Second Amendment rights of law-abiding citizens are being infringed upon while too often criminals seep through without consequence."

The GAO report shows that the system failed to provide "instant" checks 28% of the time, adversely affecting nearly 1.2 million law-abiding citizens. A high rate of denials turned out to be wrongful, caused by FBI examiner error in 42% of the cases. The audit also showed that BATF investigates few of the individuals wrongfully allowed to purchase firearms, and the few prohibited persons whose cases are referred for prosecution can generally expect easy treatment from U.S. Attorneys.

Senate Judiciary Committee Hearing

One aspect of the system's operation that has been troubling from the start has been the amount of downtime experienced. In May, a NICS outage of nearly four full business days (which coincided with the "Million" Mom March) in Washington provoked the ire of Senate Judiciary Committee Chairman Orrin Hatch (R-UT), who held hearings on NICS on June 21.

At the hearing, former Senator Bob Dole, who in 1988 sponsored the first legislation to facilitate development of the instant check, testified on the need for future system improvements, such as expanding the system's hours of operation, creation of a redundant backup system, and earmarking funds for directly relevant criminal history record upgrades, as well as allowing the FBI to use the various commercial background check databases created and employed by the private sector.

Senator Richard Durbin (D-IL) followed Dole. Predictably, the anti-gun Senator's testimony suggested that any inadequacies of the system were due to a lack of funding, and he endorsed federal reimbursements of states which act as points of contact (PoCs) for background checks. Durbin also suggested that additional categories of prohibited persons be enacted, such as the ban on sales to intoxicated persons proposed by Sen. Barbara Boxer (D-CA) as an appropriations amendment in 1999 but dropped in a conference committee.

David Loesch, Assistant Director of the FBI for Criminal Justice Information Services (CJIS), testified that the most serious NICS outages were caused by software crashes in other CJIS databases, such as the Interstate Identification Index (III). A failure in III was responsible for the extended May 11 outage. These databases are linked together to answer NICS queries, and a failure in any database will bring down the entire system. Mr. Loesch also testified that state PoCs should be reimbursed for their costs in conducting checks.

Finally, Ms. Robin Ball, owner of Sharp Shooting Indoor Range in Spokane, Washington, testified to the effect of NICS outages on her business. As a licensed firearms dealer, Ms. Ball stated that customers unfairly blame NICS outages on dealers rather than on federal or state agencies, and the dealer's reputation suffers by word of mouth. She also testified that the system's outages and delays could have a negative impact on self-defense, citing a customer in one of her training courses who was concerned about being able to buy a firearm for protection against an abusive, criminal ex-husband.

NICS PoC Reimbursement Bill

Prior to the June 21 hearing, Senator Patrick Leahy (D-VT) had circulated a draft bill to authorize reimbursement of PoC states' background check expenses, as several of the hearing witnesses suggested. At the hearing, Sen. Hatch announced that he would cosponsor the bill.

Following the hearing, ILA sent a letter to Senator Hatch, and later to all "A"-, "B"-, and "C"-rated Senators, expressing our concerns over this proposal. Essentially, the proposal would have poured significant money into state coffers without taking any steps to ensure that the states operate their systems appropriately. Instead, ILA suggested that any reimbursement be tied to the following general requirements:

1. *High levels of service to gun buyers.* Systems should be reliably available throughout normal business hours in the retail firearms industry, including availability for sales by licensees exhibiting at gun shows on weekends. Systems should be capable of processing a very high percentage of transactions within a short period of time to provide for truly instant checks (especially for temporary events such as gun shows). Any system outages should be covered by procedures that put as little burden as possible on firearms sellers.
2. *Safeguards for due process and privacy.* Systems should not be eligible for federal funding if they trample the procedural rights of gun buyers and gun owners by retaining records on buyers who are not found to be disqualified from possessing firearms, or if (as in Colorado) they deny sales based on unresolved arrest data rather than on final disqualifying dispositions of cases.
3. *Prompt availability of state records to the FBI.* Any federal reimbursement for states wishing to act as a PoC should be conditioned on their upgrading and transmitting all disqualifying records -- and only disqualifying records -- to the NICS database. This would address states such as Vermont, whose program manager admitted at the June 21 Senate hearing that Vermont does not provide relevant records to the FBI for use by other states. Any federal funds provided to Vermont or similarly situated states should be focused on upgrading their criminal history and other records, and the transmittal of those records.

Despite those concerns, the bill was introduced the day after the hearing as S. 2769, the "NICS Partnership Act of 2000," but was never considered in committee or by the Senate.

NICS Record Retention

On its face, the FBI's retention of records on approved gun purchasers in an "Audit Log" violates the Brady Act itself:

(I) Prohibition Relating To Establishment of Registration Systems With Respect To Firearms—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof generated by the system established under this section may be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions except with respect to person, prohibited by section 922 (g) or (n) of title 18, United States Code State law, from receiving a firearm. Sec. 103(I), Public Law 103-159, 107 Stat. 1542 (Nov. 30, 1993).

Despite this seemingly clear language, the FBI continues to retain those records for up to 180 days. (A proposed regulation to reduce that time period to 90 days has never been finalized.) NRA's lawsuit against the Justice Department over this matter was dismissed on July 11 by a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit.

The 2-1 decision in favor of the Justice Department employed each and every ambiguity in the Brady Act's wording to give the government maximum discretion. The fact that the Act specifies the FBI must "destroy all records of the system with respect to" an approved background check was taken to mean "destroy at some time," since immediate destruction was not specified.

The court even went so far as to rule that the Audit Log is not a gun registration system because it is not "comprehensive" and only contains names of recent gun buyers rather than all gun owners.

In a scathing dissent, a Reagan appointee, Judge Sentelle, noted that there was no statutory authority in the Brady Act or anywhere else for the creation of an "Audit Log," and took the Attorney General to task for violating the ban on recording NICS records at any facility:

There is no exception for an audit log, and there is no exception for a six-month grace period. Congress has simply forbidden her to do it. She is doing it anyway. The regulation must fall. There is no ambiguity ..."

A request for a rehearing by the full Circuit Court has been rejected, but ILA plans to file an appeal to the U.S. Supreme Court. Needless to say, a decision will take months. In the meantime, Federal Affairs will continue to explore every possible avenue to pass language prohibiting the FBI from charging a fee for background checks, requiring immediate destruction of

records on approved purchases, and requiring the system to comply with the Privacy Act provisions relating to the accuracy of the system and the rights of individuals to correct inaccurate information. That language was included in Senator Hatch's anti-lawsuit bill, S. 2270.

Veterans' Disqualification

In June, the Veterans' Benefits Administration (VBA) announced that as a result of BATF NICS regulations defining "incompetent" persons as those who "because of injury or disease lack the mental capacity to contract or manage their own affairs," they had provided NICS with information on 88,898 veterans, spouses, parents and children who had been determined to fit that definition.

The problem with this action is that a VBA determination of incompetence –often undertaken as an administrative convenience for the benefit of an injured or ill patient – is not an "adjudication" by a court as intended by the Gun Control Act. Rep. Bob Stump (R-Ariz.), chairman of the Veterans' Affairs Committee, has asked for a Congressional Research Service study of this issue and we will report to the Board on its findings.

Industry Lawsuits

Federal Affairs continues to follow all possible avenues to address the critical threat that the gun industry lawsuits pose to Second Amendment rights.

Smith & Wesson Agreement

As discussed in the previous report, Federal Affairs is particularly concerned about three aspects of the agreement signed between Smith & Wesson and two federal departments:

- S&W agreed to engage in legislative advocacy shoulder to shoulder with those who extracted the agreement -- i.e., the Department of Housing and Urban Development (HUD) and the Treasury Department. This provision may lead to violations of laws forbidding lobbying activities by federal agencies.
- S&W agreed to be monitored by an oversight commission made up of two representatives from cities and counties, one from states, one from BATF, and one from S&W itself. In addition to BATF's lack of any statutory authorization to participate in monitoring a private agreement, this makeup of the commission is hardly likely to favor the best interests of gun owners.
- Not technically or formally part of the agreement, but announced only hours later, government agencies may attempt to give preferential procurement treatment to firearms produced by manufacturers which sign the agreement. While rewarding S&W's ill-advised decision, this poses a threat that law enforcement agents may be burdened with firearms selected not for effectiveness but for political correctness -- a stance strongly opposed by

the Fraternal Order of Police (FOP) and Law Enforcement Alliance of America (LEAA). But the "preference" threats appear at this point to be mostly a rhetorical device put forward in desperation to obtain even one more signatory to the Smith & Wesson deal.

The latter two items were the subject of ongoing legislative activity in 2000. First, Rep. John Hostettler (R-IN) offered an amendment at a House Armed Services Committee markup of a major Defense Department reauthorization bill; the amendment prohibits any purchase preferences by DoD based on whether companies have signed agreements related to their design, marketing or operating practices. The amendment passed overwhelmingly, with support from a number of the pro-gun (primarily Southern) Democrats who have traditionally served on that committee, and was enacted into law when President Clinton signed the bill.

Later, Rep. Hostettler offered repeated amendments to several appropriations bills. The first of these, to the Treasury-Postal appropriations bill, barred expenditure of funds for the "Communities for Safer Guns Coalition," which was the name given by HUD Secretary (and gun czar) Andrew Cuomo to those cities pledging to purchase firearms from Smith & Wesson or other companies signing similar agreements. Unfortunately, the "Coalition" is not a specific federal program within HUD, so the amendment -- narrowly drawn for parliamentary reasons -- would not have prohibited Secretary Cuomo from engaging in the same activities under a different title. Reluctant to expend political capital for a purely symbolic gesture, NRA took no position on this amendment. Nonetheless the amendment passed by a narrow 218-207 margin.

The second Hostettler amendment would have prohibited the expenditure of funds for enforcement of the March 17 Smith & Wesson agreement. This amendment was so narrowly drawn that it would not have affected any agreement with any other company, or even any agreement with Smith & Wesson on another date. Since NRA's goal in addressing this issue is neither to destroy Smith & Wesson by name, nor to save them from the consequences of the agreement they signed, NRA preferred to wait and address the broader issue at a later date, and again took no position. This amendment was defeated by a 206-219 vote. Rep. Hostettler later offered similar amendments to the Commerce-Justice-State and Treasury-Postal appropriations bills, which were defeated by similar margins.

Finally in the House, Rep. Virgil Goode (I-VA) offered an amendment to the Treasury-Postal appropriations bill at our request. This amendment prohibits any preferences in the purchase of firearms or ammunition by Treasury agencies, based on whether the manufacturer has signed an agreement related to its design, marketing or business practices specifically relating to the manufacturing, importing, or dealing in firearms or ammunition. The amendment was adopted by voice vote. At the full committee markup, Rep. Nita Lowey (D-NY) offered an amendment to remove the Goode language, but following opposition by senior committee members of both parties, the Lowey amendment was defeated on a voice vote. Despite several threats, Rep. Lowey opted not to try again on the House floor.

F. ARA

**REPORT
of the
EXECUTIVE VICE PRESIDENT
to the
BOARD OF DIRECTORS
NATIONAL RIFLE ASSOCIATION OF AMERICA**

Arlington, Virginia

February 3-4, 2001

Mr. President, Members of the Board and Executive Council:

The Report of the Executive Vice President provides information on the work of the NRA staff in carrying out the affairs and programs of the National Rifle Association and in implementing the resolutions and decisions approved by the NRA Board. This report is given in three parts to include the reports of the two staff officers appointed by the Executive Vice President, the Executive Directors of General Operations and the Institute for Legislative Action. The following report gives you a quarterly update and annual report on the progress made by NRA Divisions which are not part of GO or ILA.

The following highlights actions that have been taken and progress made, as well as a detailed program/activities report for 2000 for all operating divisions.

EXECUTIVE SUMMARY

* Membership in the NRA grew remarkably during the year 2000 with a January 1, 2001, total of 4,329,111 members - an increase of almost 1.3 million members since December 1, 1999. This phenomenal growth was a result of the expanded use of direct mail, media, telemarketing, internet and direct response efforts. Renewal rates during this period also reached all-time highs, as did levels of membership in almost every membership category.

* Booth space sales for the 2001 Annual Meeting in Kansas City is selling at a brisk pace and currently stands at about 90% sold out. This year's show will consist of 825 booth spaces sold to approximately 360 exhibitors. Preparations are currently underway on advertising and promotions that will include, print, internet, radio, television and direct mail.

* The total gross revenue in Catalog Sales has exceeded \$1.3 million through the end of October. This represents 171% of the projected revenue for the entire year while Catalog Sales continues to operate with a positive margin less all expenses. Affinity/Licensing revenue remains above projections. Insurance Royalties, Hotel Discounts and Holiday Card Program have all generated above projected revenue to-date.

* Palm Coast Data and NRA teams continue to work with IBM on the first phase of a Business Contingency plan (the Gap analysis), designed for any business interruption or disaster recovery in regard to membership processing. The first phase of this project was completed by IBM in September, 2000. At the same time that the Business Contingency plan was being

JAN 16 2001

Bob Barr, M.C.
Washington Office

- Audiences across America got a first-hand look at the aftermath of gun registration and confiscation in Australia, where NRA videographers interviewed the victims of home invasions and documented the frightening rise in violent crime that results from disarming honest citizens.
- As the 2000 elections approached, and many labor union members felt torn between voting with their unions or voting for their rights, another NRA documentary introduced viewers to many lifelong Democrat union members who, for the first time in their lives, planned to vote against their unions to “vote freedom first.”

In 2000, nearly 315,000 Americans joined or contributed to the NRA in response to the infomercials. Reports from shows and exhibits personnel reveal that the infomercials are having a profound and positive impact on other membership promotions, as well.

OFFICE OF NRA GENERAL COUNSEL

LITIGATION/JUDICIAL MATTERS

The OGC handled approximately 47 litigation/judicial matters, including, but not limited to, the following:

Commonwealth v. John Parker: Mr. Parker called the NRA on two occasions and left voice mails threatening to kill NRA employees. A criminal complaint was filed with the Fairfax County Police and the OGC cooperated with the prosecution of the criminal case which resulted in a felony conviction.

Emerson, Timothy (Texas): The court struck down on Second and Fifth Amendment grounds the federal statute that forbids the possession of a firearm or ammunition while under a civil restraining order: *United States v. Emerson*, 46 F. Supp.2d 598 (N.D. Tex. 1999). The OGC drafted several amicus curiae briefs for various entities, including the NRA and CORE. Oral argument occurred on June 13, 2000. Thus far the court has not issued an opinion.

Florida v. J. L.: The Florida Supreme Court refused to establish a firearm exception to the 4th Amendment's proscription against unreasonable searches and seizures. *J.L. v. State*, 727 So.2d 204 (Fla. 1998). The state's petition for a writ of certiorari was granted by the U.S. Supreme Court on November 1, 1999. The OGC filed three amicus curiae briefs with the U.S. Supreme Court, on behalf of various entities, supporting the decision of the Florida Supreme Court. The U.S. Supreme Court on March 28, 2000, unanimously upheld the decision of the Florida Supreme Court. The Supreme Court refused to create a firearm exception to the 4th Amendment.

Henry Gatson v. NRA, et al.: In January 1999, recently paroled convicted murderer Henry Gatson filed suit against the NRA and a certain Mr. Doug Heard in the Supreme Court of the State of New York, County of Monroe, alleging defamation. Mr. Gatson claims that the NRA's CrimeStrike Program defamed him when it opposed his parole. On March 1 1999, Plaintiff filed an Amended Complaint in the Supreme Court of the State of New York, County of Monroe, against the NRA and Mr. Heard. The Amended Complaint made a claim for six million dollars (\$6,000,000.00). On May 26, 1999, the NRA was served with a (second) Amended Complaint. The (second) Amended Complaint made a claim for nine million dollars (\$9,000,000.00).

NRA's commercial general liability insurance carrier, Travelers, is defending the action. The OGC informed Traveler's retained counsel that it was the NRA's desire that counsel file a Motion to Dismiss in regard to this lawsuit. Motions to Dismiss for lack of jurisdiction have been filed based on plaintiff's failure to properly serve the defendant.

The NRA's Motion to Dismiss was granted. The Court granted an Order denying plaintiff's motion to reinstate his action against the NRA and granting the NRA's Motion to Dismiss the Second Amended Complaint. The case is still pending against the other defendants.

Now, the statute of limitations has run on Mr. Gatson's \$9,000,000.00 defamation claim against the NRA. While, the plaintiff may try to serve the NRA again, his claim is now time barred.

Mayors' Lawsuits: At the request of the Chief of Staff, the Office of General Counsel is monitoring the lawsuits against the gun industry, with respect to the implications for NRA. OGC has written memoranda on every aspect of this issue, including the implications of the Smith & Wesson settlement. At the National Firearms Law Seminar, a paper on this subject was presented by an OGC attorney.

LEGISLATIVE MATTERS

The OGC handled approximately 288 legislative matters, including, but not limited to, the following:

FEDERAL

The OGC analyzed the following Federal legislation: H.R. 35, H.R. 57, H.R. 59, H.R. 69, H.R. 85, H.R. 87, H.R. 109, H.R. 227, H.R. 238, H.R. 315, H.R. 331, H.R. 399, H.R. 417, H.R. 422, H.R. 593, H.R. 594, H.R. 902, H.R. 920, H.R. 1032, H.R. 1049, H.R. 1062, H.R. 1086, H.R. 1245, H.R. 1280, H.R. 1342, H.R. 1423, H.R. 1512, H.R. 1641, H.R. 1702, H.R. 1723, H.R. 1726, H.R. 1903, H.R. 2008, H.R. 2009, H.R. 2010, H.R. 2081, H.R. 2109, H.R. 2127, H.R. 2281, H.R. 2377, H.R. 2421, H.R. 2443, H.R. 2729, H.R. 2732, H.R. 2813, H.R. 3020, H.R. 3057, H.R. 3139, H.R. 3472, H.R. 3473, H.R. 3481, S. 9, S. 44, S. 141, S. 142, S. 145, S.

149, S. 254, S. 319, S. 420, S. 443, S. 457, S. 534, S. 538, S. 637, S. 726, S. 735, S. 936, S. 969, S. 973, S. 1080, S. 1081, S. 1101, S.B. 1744, S.B. 1845.

Smith & Wesson Settlement: At the request of the EVP's Office, the OGC provided a written legal analysis of the Smith & Wesson settlement agreement including legal analysis of the of Anti Deficiency Act as it relates to the Smith & Wesson settlement agreement and legal analysis of federal and state procurement laws as they relate to the Smith & Wesson settlement agreement.

Transfer to Minors and Possession by Minors: At the request of ILA, the OGC prepared a summary of federal law regarding the transfer of a firearm to a minor and the possession of a firearm by a minor.

STATE AND LOCAL

The OGC drafted state law summaries for the following states: AK, AL, AR, AZ, CA, CT, DC, DE, FL, GA, IL, IN, MA, MD, MO, MT, NB, NY, OH, OK, PA, TN, TX, VA, WA, WI.

The OGC analyzed the following state legislation:

Alabama- H.B. 183, S.B. 119
Arizona- H.B. 2095, H.B. 2133, and draft bill regarding firearm discharge
California- A.B. 295, S.B. 15, S.B. 130
Colorado- H.B. 1208, H.B. 1242, H.B. 1243, H.B. 1272, S.B. 84, S.B. 108, S.B. 125, S.B. 154, S.B. 205, S.B. 1214
Connecticut- draft bill 1167, H.B. 5059
Florida- H.B. 997, H.B. 1431, S.B. 2, S.B. 308
Idaho- H.B. 444
Indiana- S.B. 45, S.B. 156, S.B. 222
Iowa- S.B. 728, S.B. 2190
Kansas- H.B. 2469, H.B. 2949, H.B. 2958
Louisiana- H.B. 204, H.B. 1639
Maine- H.B. 2484
Maryland- H.B. 16, H.B. 74, H.B. 166, H.B. 384, S.B. 211
Mississippi- H.B. 1415, S.B. 2519, S.B. 2680, S.B. 2853, S.B. 3091
New York- S.B. 6770
Ohio- H.B. 256, LSC 123 0770-a, LSC 123 0803-1a, LSC 123 0803-a, S. 526
Rhode Island- H. 5976, S. 693
South Carolina- Bill 43, H.B. 3420
Tennessee- H.B. 585, H.B. 1828, H.B. 2526, S.B. 62, S.B. 73
Utah- S.B. 79
Vermont- S.70

Virginia- H.B. 2713, H.B. 2714

Wisconsin- L.R.B. 3182, S.B. 6, S.B. 425

50 State Summary of Penalties for "Negligent Storage" of Firearms: On behalf of ILA, the OGC provided a summary of the state laws on firearms storage and the penalties for violations.

Interstate Transportation Brochure: Reviewed and made changes.

ILA Lobbyist Registration and Reporting: OGC continued to research the laws relating to the registration and reporting of lobbyist in all fifty states, and assisted NRA-ILA on a daily basis in complying with those laws by filing timely and accurate lobbyist activity reports. OGC provided on-demand legal advice regarding registration, termination, and reporting of lobbyist and lobbying activities. Assisted and monitored paralegal's efforts to register NRA lobbyist for upcoming year in various state and local jurisdictions throughout the country.

Model Legislation on Defectless Products Liability: At the request of ILA State & Local, the OGC drafts proposed legislation designed to prevent lawsuits against firearm and ammunition manufacturers for damages caused by negligent or criminal misuse of firearms.

Model Language for Manufacturer Protection Bills: At the request of ILA State & Local, the OGC drafted model language for use in state bills to protect firearm manufacturers from civil lawsuits.

State Concealed Weapons Reciprocity: Conduct detailed legal analysis and research into State Reciprocity. Prepare legal memorandum detailing the various State Formal Reciprocity provisions from all fifty states. Review and proof ILA's version of Reciprocity Agreement. Draft advisory opinion as to changes which should be made to ILA's Reciprocity Agreement Pamphlet to insure better accuracy.

AGENCY AND REGULATORY/EXECUTIVE MATTERS

The OGC handled approximately 28 agency and regulatory/executive matters, including, but not limited to, the following:

FEDERAL

Federal Election Commission v. NRA (MUR 4865): There is an FEC complaint dated December 7, 1998, filed with the FEC by NRA Director Weldon H. Clark by way of a letter dated November 24, 1998, seeking "an independent investigation into the business affairs of the National Rifle Association with emphasis on Federal elections and the Arena PAC." Clark's letter contains numerous exhibits from present and former NRA directors and from NRA members. A response was

**Report of the Executive Director
National Rifle Association – Institute for Legislative Action
to the Board of Directors
Report Prepared December 11, 2000**

February 3-4 2001

Arlington, VA

Mr. President, and Members of the Board and Executive Council,

The following report is an overview of the activities of the Institute for Legislative Action since the last Board meeting in September 2000.

FEDERAL AFFAIRS--Chuck Cunningham, Director

Introduction

As of this writing, the 106th Congress has yet to adjourn; a late controversy over appropriations bills left the Congress recessed for the elections with some bills unfinished. However, at this point, with the winner of the presidential election finally resolved, it appears likely that the Senate and House leaders and appropriators are going to reach an agreement on the remaining spending measures and leave town the week before Christmas.

National Instant Check Implementation

Federal Affairs continues to work to ensure that the operation of National Instant Check System (NICS) proceeds smoothly and complies with the law which created it. In particular, the FBI's ongoing retention of records on approved purchasers continues to be a violation of the privacy rights of gun owners. The continued unreliability and inaccuracy of the system also burdens gun buyers with unjustified delays.

Early in the year, ILA Executive Director James Jay Baker, along with the principal officers of the National Shooting Sports Foundation, National Association of Arms Shows, National Alliance of Stocking Gun Dealers, and Sporting Arms and Ammunition Manufacturers' Institute, sent a letter to the FBI urging the establishment of a two-year, twelve-person advisory committee on NICS. The commission would be chartered "to improve the accuracy, efficiency, and overall functioning" of NICS. The FBI declined to create such a committee, citing other ongoing efforts to allow for industry feedback.

Federal Affairs continued to pursue other investigations of NICS matters throughout the year.

West Virginia: Pro-gun state Delegate Shelley Moore Capito succeeds retiring pro-gun Congressman Bob Wise by defeating pro-gun former state Senator Jim Humphreys in WV-2. No change in makeup.

Wisconsin: No change in makeup.

Wyoming: No change in makeup.

Summary: Republicans maintained control of the U.S. House of Representatives by a 221-212-2 margin. Accordingly, Dennis Hastert will remain Speaker of the House and Jim Sensenbrenner is expected to become the new chairman of the House Judiciary Committee. We effectively have gained about five votes in this legislative body. Our gains came in CT-2, MI-8, MN-2, NY-1, PA-4 and VA-1 while our losses came in UT-2 and WA-2. Partial gains were won in both FL-8 and PA-19 where successors to the retiring Republican congressmen in these districts are solidly pro-gun unlike their predecessors. Also, based on the defeat of several liberal Republican congressmen and the new GOP freshman class, the strength of the pro-gun position has been increased within the House Republican Conference which will result in less dissension in tough times. Thus, our strength and influence in the U.S. House has actually improved despite the closeness of elections for the Presidency and Congress. The U.S. House will again serve as our backstop for potential anti-gun actions in the U.S. Senate.

Observations and Comments

Our effectiveness in the 2000 election cycle was enhanced for the following important reasons: (1) early targeting and planning; (2) more, better-written, task-specific mail which was delivered earlier than ever before; (3) better communications and smoother operations relating to our political preference charts; (4) close coordination between our Federal Affairs and Grassroots divisions; (5) intense focus of attention, energy, and resources on only competitive races and swing states; (6) voter contact well beyond our membership, including licensed hunters, concealed carry license holders, and subscribers to gun and hunting publications; (7) few mistakes made needing correction or clarification, reducing confusion at the grassroots; (8) the transformation or reframing of the gun control issue on enforcement of current law versus passage of new law provided comfort and confidence in candidates and party officials; (9) the help of Clinton-Gore-Bradley-O'Donnell to incite our members and other gun owners and sportsmen; and (10) finally and most importantly, the generosity and support of our membership to make our political activities a reality in this critical election.

STATE & LOCAL AFFAIRS --Randy Kozuch, Director

NRA members, grassroots volunteers, and our Association's staff have proven their skills and grit, working this year for passage of an unprecedented number of new "junk" lawsuit preemption laws, further revisions to current Right-to-Carry laws, improvements in states firearm preemption statutes, and adding new laws protecting our nations shooting range facilities from being shut down. Additionally, NRA-PVF was heavily involved in most every area of the country in state

elections, lining up a full court press in the way of statewide mailings, bumper stickers, postcard mailings, phone banks and monetary support.

LAWSUIT PREEMPTION

Topping the list of legislative priorities this year was the passage of further laws protecting the firearms and ammunition industry against "junk" lawsuits aimed at bankrupting them. NRA-ILA is proud to report that 23 states have enacted such laws in just two legislative cycles, eight of which were added this year. Those states are: **Alabama, Colorado, Idaho, Kentucky, Michigan, South Carolina, Utah and Virginia.**

RIGHT TO CARRY IMPROVEMENTS

Each year, NRA-ILA continues to push for improvements in Right-to-Carry statutes. This year the pro-gunners in the Tennessee Legislature pushed through an important change requiring businesses and other entities prohibiting firearms to provide a specific notice posted in a conspicuous place for all patrons to see. The vagueness of the statutory notice provision had caused uncertainty for the state's carry permit holders. In late December, during Michigan's lame duck session, NRA-ILA successfully passed much needed revisions to its limited issue carry law. The new revisions will ensure that qualified, law-abiding citizens in all of Michigan's 83 counties have the opportunity to apply and receive a carry permit. Under the current system, only three counties regularly issue permits. By standardizing the process and creating a 'shall issue' system more citizens will now be able to obtain permits. Although the legislature had finished work on this bill, as this report was being written, the measure had yet to reach the Governor's desk for final approval. The expected signing of this bill will bring the total number of states with good "Right-to-Carry" laws to 32.

RANGE PROTECTION

South Carolina added a law protecting shooting range facilities against noise and nuisance actions. More than half the states (40) now have these types of laws.

CALIFORNIA

As a result of a massive grassroots effort by NRA members and the California Rifle & Pistol Association, AB 273, which sought to severely restrict, license and tax prospective handgun buyers, met its defeat at the end of August. Anti-gun Assemblyman Jack Scott (D-Altadena), the bill's chief sponsor, worked fervently to gather enough votes from members of his own party in an effort to gain the bill's passage on the closing days of the legislative session. However, in the end, the combination of tens of thousands of phone calls from gun owners (initiated by two statewide NRA-ILA mailings), opposition by members of California's law enforcement community, and a final parliamentary maneuver orchestrated by longtime NRA supporter, Assemblyman Rod Wright (D-Los Angeles), paved the way for AB 273's defeat.

**MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS
OF THE
NATIONAL RIFLE ASSOCIATION OF AMERICA
MAY 21, 2001
KANSAS CITY MARRIOTT DOWNTOWN**

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TAXPAYER FUNDED RECKLESS LAWSUITS AGAINST THE FIREARMS INDUSTRY

UPDATED -- 5/01/01

	PLAINTIFF	DATE FILED	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PRE-EMPTION	CASE STATUS	LAWYERS/LAW FIRMS
1	New Orleans, LA	10/30/98	15 manufacturers, distributors, 5 dealers, 3 associations	Defective design, negligent distribution	YES -- passed 4/99	State Supreme Court reversed lower courts decision 4/3/01 & DISMISSED all claims. Mayors request to reconsider denied 4/30/01	Gauthier, Downing, Labarre, et al -- see note 1
2 3	Chicago & Cook County, IL	11/12/98 amended 4/7/99	22 manufacturers and distributors, 12 dealers	Negligent distribution, defective design, nuisance	NO	Both cases CONSOLIDATED & DISMISSED, appealed to Illinois appellate court.	City Counsel, States Attorney--Schiff, Hardin & Waite-- see note 3
4	State of Illinois	11/14/00	4 manufacturers, 8 distributors	Public nuisance	NO	Motion to dismiss filed on Jan. 29, 2000	States Attorney
5	Miami-Dade County, FL	1/27/99	26 manufacturers and distributors, 3 associations, 2 dealers	Defective design, deceptive advertising, negligent distribution	YES -- SB 412 signed by Gov. Bush 5/1/01	DISMISSED at trial court, DISMISSED at Appellate Court 2/14/01, appealed to State Supreme Court	Zevnik, Horton, Guibord, McGovern, Palmer & Folgnani -- see note 1
6	Bridgeport, CT	1/27/99 amended 4/22/99	21 manufacturers and distributors, 12 dealers, 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance, conspiracy, unjust enrichment	NO	DISMISSED at trial court 12/10/99, appealed 12/29/99, oral argument has been heard, awaiting decision.	Updike, Kelly & Spellacy, P.C. see note 2

	PLAINTIFF	DATE FILED	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PRE-EMPTION	CASE STATUS	LAWYERS/LAW FIRMS
7	Atlanta, GA	2/5/99	14 manufacturers and distributors, 3 associations	Defective & negligent design, conspiracy, negligent distribution	YES – passed 2/99	Motion to dismiss DENIED, Supreme Ct. denied a writ of mandamus requested by defendants based on the lawsuit preemption statute 2/16/01.	City Attorney
8	Cleveland, OH	4/8/99	17 manufacturers and distributors, 3 associations	Defective design, nuisance, unjust enrichment	NO	Motion to dismiss DENIED 3/14/00.	Climaco, Lefkowitz, Peca, Wilcox & Garofoli Co., L.P.A. -- Gauthier, Downing, LaBarre, et al – City Director Of Law
9	Detroit, MI- consolidated with Wayne County	4/26/99	24 manufacturers and distributors, 11 dealers	Negligent distribution, nuisance	YES – passed 6/2000 – On 3/30/01 court ruled the retroactive application of the statute was unconstitutional	DISMISSED negligence claim, DENIED public nuisance claim DENIED lawsuit preemption statute claim 3/23/01	Charfoos & Christensen, P.C.— City Attorney
10	Wayne County, MI consolidated with Detroit	4/26/99	24 manufacturers and distributors, 11 dealers	Negligent distribution, nuisance	YES – passed 6/2000 – On 3/30/01 court ruled the retroactive application of the statute was unconstitutional	DISMISSED negligence claim, DENIED public nuisance claim DENIED lawsuit preemption statute claim 3/23/01	Thurswell, Chayet & Weiner P.C.-- Thomas, Garvey, Garvey & Sciotti, -- City Attorney – see note 1
11	Cincinnati, OH	4/28/99	16 manufacturers and distributors, 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance	NO	DISMISSED, and AFFIRMED by Court of Appeals, to be heard in Supreme Court.	Waite, Schneider, Bayless & Chesley Co., L.P.A.—City Attorney – see note 1

	PLAINTIFF	DATE FILED	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PRE-EMPTION	CASE STATUS	LAWYERS/LAW FIRMS
12	St. Louis, MO	4/30/99	25 manufacturers and distributors, 2 dealers, 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance, conspiracy, unjust enrichment	NO	No ruling at this time	City Attorney
13 14 15 16 17 18 19	CITIES OF NORTH CA Oakland, Berkeley, Sacramento, East Palo Alto, San Francisco, Alameda County, San Mateo County	5/25/99 Case consolidated with cities below.	28 manufacturers, 6 distributors and dealers, 3 associations	Negligent distribution, nuisance, defective design, deceptive advertising, fraudulent business practices	NO	Motion to dismiss DENIED 9/15/00.	Milberg Weiss Bershad Hynes & Lerach – Lieff, Cabraser, Heimann & Bernstein, LLP – Each City Attorney – see notes 1 & 3
20 21 22 23	CITIES OF SOUTH CA Los Angeles, Compton, West Hollywood, Inglewood	5/25/99 Case consolidated with cities above.	39 manufacturers, 5 distributors, 5 dealers, 3 associations	Negligent distribution, nuisance, defective design, deceptive advertising, fraudulent business practices	NO	Motion to dismiss DENIED 9/15/00.	Milberg Weiss Bershad Hynes & Lerach – Lieff, Cabraser, Heimann & Bernstein, LLP – Bushnell, Caplan & Fielding, LLP – McCue & McCue – Cohen, Milstein, Hausfeld & Toll, P.L.L.C. – Each City Attorney – see notes 1 & 3
24	County of Los Angeles, CA	8/6/99	28 manufacturers, 6 distributors and dealers, 3 associations	Negligent distribution, nuisance, defective design, deceptive advertising, fraudulent business practices	NO	Motion to dismiss DENIED 9/15/00.	Milberg Weiss Bershad Hynes & Lerach – Lieff, Cabraser, Heimann & Bernstein – Cohen, Milstein, Hausfeld & Toll – Each City Attorney – see notes 1 & 3

	PLAINTIFF	DATE FILED	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PRE-EMPTION	CASE STATUS	LAWYERS/LAW FIRMS
25	Camden Co., NJ	5/2/99	22 manufacturers	Negligent distribution, defective design, assault and/or battery, economic interference	NO	U.S. District Ct. DISMISSED 12/5/00, appealed 1/3/01	County Attorney – See note 1
26	Boston, MA	6/3/99	29 manufacturers and distributors, 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance, unjust enrichment	NO	Motion to dismiss DENIED 7/13/00, the 3 trade associations filed a separate motion dismiss for lack of jurisdiction which was DENIED 11/20/00.	Lieff, Cabraser, Heimann & Bernstein, LLP – Brown Rudnick Freed & Gesmer, P.C. -- Sullivan, Weinstein & McQuay, P.C. -- Cohen, Milstein, Hausfeld & Toll – Gen. Counsel of Boston Public Health Commission -- see note 1
27	City of Newark, NJ	6/9/99	28 manufacturers, 2 distributors, 2 associations	Negligent distribution, defective design, deceptive advertising, nuisance, unjust enrichment	NO	No ruling at this time	Brown & Brown PC – Newark Corporation Counsel
28	City of Camden, NJ	6/21/99	19 manufacturers and 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance, unjust enrichment	NO	No ruling at this time	County Attorney— See note 1
29	City of Gary, IN	8/27/99	21 manufacturers & distributors, 3 assoc., 5 dealers	Negligent distribution & marketing, negligence, nuisance	NO	DISMISSED 1/23/01, 1st amended complaint DISMISSED 3/13/01- appealed.	Meyer, Lyles & Godshalk, P.C. -- Charles H. Graddick – see note 1

	PLAINTIFF	DATE FILED	DEFENDANTS	ALLEGED WRONGS	LAWSUIT PRE-EMPTION	CASE STATUS	LAWYERS/LAW FIRM
30	City of Wilmington, DE	9/29/99	12 manufacturers, 3 associations	Negligent distribution, marketing, design, inadequate warnings, nuisance, fraud, unjust enrichment, civil conspiracy	NO	DISMISSED in part, and DENIED in part allowing liability, nuisance, fraud, conspiracy claims to go forward	Climaco, Lefkowitz, Peca, Wilcox & Garofoli Co., L.P.A. – Gauthier, Downing, LaBarre – City Attorney
31	Wash., D.C.	1/20/00	25 manufacturers, 4 distributors	Negligent distribution, strict liability, public nuisance	NO	Oral argument on motion to dismiss set for 5/13/01.	Wilmer, Cutler & Pickering -- Washington Lawyers Committee For Civil Rights And Urban Affairs -- City Attorney
32	Philadelphia PA	4/11/00	14 manufacturers and distributors	Negligent distribution, public nuisance	YES – passed 12/99	U.S. District Ct. DISMISSED 12/20/00, appealed to 3 rd Cir. Ct. of Appeals	Lieff, Cabraser, Heimann & Bernstein, LLP -- Cohen, Milstein, Hausfeld & Toll – Kohn, Swift & Graf PC – Booth & Tucker, LLP ---City Attorney – see note 3
33	City of New York	5/20/00	24 manufacturers and distributors, 3 trade associations	Negligent distribution, public nuisance, deceptive advertising	NO	No ruling at this time	City Attorney -- Gail Rubin, Joan Weiner Margiotta, Daniel McCray See note 1
34	State of New York	6/26/00	25 manufacturers and distributors	Negligent distribution, public nuisance	NO	No ruling at this time	NY Attorney General

**INDIVIDUALS OR ASSOCIATIONS FILING LAWSUITS WITH ANTI-GUN ORGANIZATION ASSISTANCE
(PARTIAL LISTING)**

	PLAINTIFF	DATE FILED	DEFENDANTS	ALLEGED WRONGS	LAWSUIT PRE-EMPTION	CASE STATUS	LAWYERS/LAW FIRM
35	NAACP	7/16/99	109 manufacturers and distributors	Negligent distribution, defective design, deceptive advertising	NO	No ruling at this time	Weitz & Luxenberg -- Elisa Barnes -- Dennis Courtland Hayes & Deborah Lui, (NAACP) see notes 1 & 4
36	Ceriale v. S&W et al	1999	20 Manufacturers, 3 distributors	Public nuisance, negligent distribution, design, & marketing	NO	Motion to dismiss DENIED	Despres, Schwartz & Geoghan MacArthur Justice Center -- of counsel
37	Hamilton v. Accu-Tek	1999	49 Manufacturers	Negligent distribution, defective design, fraud	NO	DISMISSED 4/26/01	Elisa Barnes, Mark Elovitz

NOTES:

1. The Center to Prevent Handgun Violence (CPHV) Legal Action Project is directly representing plaintiff.
2. The Center to Prevent Handgun Violence (CPHV) Legal Action Project is assisting plaintiff.
3. Professor David Kairys, Temple University School of Law
4. Educational Fund to End Handgun Violence, Joshua M. Horwitz, Esq., Carolyn M. Morrisette, Esq.

OF THE 34 TAXPAYER FUNDED RECKLESS LAWSUITS AGAINST THE FIREARMS INDUSTRY

- 9 have received a full dismissal on all issues presented by plaintiffs, 1 of which has been affirmed by an appellate court.
- 7 have been denied the motion to dismiss.
- 3 have received a partial dismissal on some of the issues complained of by plaintiffs.
- 12 are directly represented by HCI's, Center to Prevent Handgun Violence, Legal Action Project

FOR NRA INTERNAL USE ONLY. PLEASE SEE VINCENT GAY OR CHRISTOPHER CONTE IN ILA LEGISLATIVE COUNSEL FOR UPDATES OR ADDITIONAL DETAILS.

TAXPAYER FUNDED RECKLESS LAWSUITS AGAINST THE FIREARMS INDUSTRY

UPDATED 8/15/01, PREPARED BY ILA OFFICE OF LEGISLATIVE COUNSEL.

	PLAINTIFF	DATE FILED	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PRE-EMPTION	CASE STATUS	LAWYERS/LAW FIRMS
1	New Orleans, LA	10/30/98	15 manufacturers, distributors, 5 dealers, 3 associations	Defective design, negligent distribution	YES – passed 4/99	State Supreme Court reversed lower courts decision 4/3/01 & DISMISSED all claims. Mayors request to reconsider denied 4/30/01. Mayor has appealed to US Supreme Court to reinstate.	Gauthier, Downing, Labarre, et al – see note 1
2 3	Chicago & Cook County, IL	11/12/98 amended 4/7/99	22 manufacturers and distributors, 12 dealers	Negligent distribution, defective design, nuisance	NO	Both cases CONSOLIDATED & DISMISSED, appealed to Illinois 1 st Dist. App. court. Briefs have been filed.	City Counsel, States Attorney--Schiff, Hardin & Waite-- see note 3
4	State of Illinois	11/14/00	4 manufacturers, 8 distributors	Public nuisance	NO	Motion to dismiss filed on 1/29/01. Argument set for 8/15/01.	State Attorney General
5	Miami-Dade County, FL	1/27/99	26 manufacturers and distributors, 3 associations, 2 dealers	Defective design, deceptive advertising, negligent distribution	YES -- SB 412 signed by Gov. Bush 5/1/01	DISMISSED at trial court, DISMISSED at Appellate Court 2/14/01, appealed to State Supreme Court. Briefs are being filed.	Zevnik, Horton, Guibord, McGovern, Palmer & Folgnani – see note 1
6	Bridgeport, CT	1/27/99 amended 4/22/99	21 manufacturers and distributors, 12 dealers, 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance, conspiracy, unjust enrichment	NO	DISMISSED at trial court 12/10/99, appealed 12/29/99, oral argument has been heard, awaiting decision.	Updike, Kelly & Spellacy, P.C. see note 2

	PLAINTIFF	DATE FILED	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PRE-EMPTION	CASE STATUS	LAWYERS/LAW FIRMS
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8	Cleveland, OH	4/8/99	17 manufacturers and distributors, 3 associations	Defective design, nuisance, unjust enrichment	NO	Motion to dismiss DENIED 3/14/00.	Climaco, Lefkowitz, Peca, Wilcox & Garofoli Co., L.P.A -- Gauthier, Downing, LaBarre, et al – City Director Of Law
9	Detroit, MI-consolidated with Wayne County	4/26/99	24 manufacturers and distributors, 11 dealers	Negligent distribution, nuisance	YES – passed 6/2000 – On 3/30/01 court ruled the retroactive application of the statute was unconstitutional	DISMISSED negligence claim, DENIED public nuisance claim DENIED lawsuit preemption statute claim 3/23/01	Charfoos & Christensen, P.C.—City Attorney
10	Wayne County, MI consolidated with Detroit	4/26/99	24 manufacturers and distributors, 11 dealers	Negligent distribution, nuisance	YES – passed 6/2000 – On 3/30/01 court ruled the retroactive application of the statute was unconstitutional	DISMISSED negligence claim, DENIED public nuisance claim DENIED lawsuit preemption statute claim 3/23/01	Thurswell, Chayet & Weiner P.C.-- Thomas, Garvey, Garvey & Sciotti, -- City Attorney – see note 1
11	Cincinnati, OH	4/28/99	16 manufacturers and distributors, 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance	NO	DISMISSED, and AFFIRMED by Court of Appeals, appealed to Supreme Court. Briefs are being filed.	Waite, Schneider, Bayless & Chesley Co., L.P.A.—City Attorney – see note 1

	PLAINTIFF	DATE FILED	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PRE-EMPTION	CASE STATUS	LAWYERS/LAW FIRMS
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13 14 15 16 17 18 19	CITIES OF NORTH CA Oakland, Berkeley, Sacramento, East Palo Alto, San Francisco, Alameda County, San Mateo County	5/25/99 Case consolidated with cities below.	28 manufacturers, 6 distributors and dealers, 3 associations	Negligent distribution, nuisance, defective design, deceptive advertising, fraudulent business practices	NO -- (however see product liability protection at CA. CIV. CODE § 1714.4)	Motion to dismiss DENIED 9/15/00. Discovery ongoing. *See Merrill v. Navegar which may influence outcome.	Milberg Weiss Bershad Hynes & Lerach – Lieff, Cabraser, Heimann & Bernstein, LLP – Each City Attorney – see notes 1 & 3
20 21 22 23	CITIES OF SOUTH CA Los Angeles, Compton, West Hollywood, Inglewood	5/25/99 Case consolidated with cities above.	39 manufacturers, 5 distributors, 5 dealers, 3 associations	Negligent distribution, nuisance, defective design, deceptive advertising, fraudulent business practices	NO -- (however see product liability protection at CA. CIV. CODE § 1714.4)	Motion to dismiss DENIED 9/15/00. Discovery ongoing. *See Merrill v. Navegar which may influence outcome.	Milberg Weiss Bershad Hynes & Lerach – Lieff, Cabraser, Heimann & Bernstein, LLP – Bushnell, Caplan & Fielding, LLP -- McCue & McCue -- Cohen, Milstein, Hausfeld & Toll, P.L.L.C.-- Each City Attorney – see notes 1 & 3
24	County of Los Angeles, CA	8/6/99 Case consolidated with cities above.	28 manufacturers, 6 distributors and dealers, 3 associations	Negligent distribution, nuisance, defective design, deceptive advertising, fraudulent business practices	NO	Motion to dismiss DENIED 9/15/00. *See Merrill v. Navegar which may influence outcome.	Milberg Weiss Bershad Hynes & Lerach – Lieff, Cabraser, Heimann & Bernstein -- Cohen, Milstein, Hausfeld & Toll -- Each City Attorney – see notes 1 & 3

PLAINTIFF	DATE FILED	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PRE-EMPTION	CASE STATUS	LAWYERS/LAW FIRMS	
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26	Boston, MA	6/3/99	29 manufacturers and distributors, 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance, unjust enrichment	NO	Motion to dismiss DENIED 7/13/00, the 3 trade associations filed a separate motion dismiss for lack of jurisdiction which was DENIED 11/20/00.	Lieff, Cabraser, Heimann & Bernstein, LLP – Brown Rudnick Freed & Gesmer, P.C. -- Sullivan, Weinstein & McQuay, P.C. -- Cohen, Milstein, Hausfeld & Toll – Gen. Counsel of Boston Public Health Commission -- see note 1
27	City of Newark, NJ	6/9/99	28 manufacturers, 2 distributors, 2 associations	Negligent distribution, defective design, deceptive advertising, nuisance, unjust enrichment	NO	No ruling at this time	Brown & Brown PC – Newark Corporation Counsel
28	City of Camden, NJ	6/21/99	19 manufacturers and 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance, unjust enrichment	NO	Attempts have been made by defendants to remove the suit to federal court without success.	County Attorney— See note 1
29	City of Gary, IN	8/27/99	21 manufacturers & distributors, 3 assoc., 5 dealers	Negligent distribution & marketing, negligence, nuisance	NO	DISMISSED 1/23/01 for failure to state a claim for which relief can be granted & 1st amended complaint DISMISSED 3/13/01- appealed.	Meyer, Lyles & Godshalk, P.C. -- Charles H. Graddick –see note 1

PLAINTIFF	DATE FILED	DEFENDANTS	ALLEGED WRONGS	LAWSUIT PRE-EMPTION	CASE STATUS	LAWYERS/LAW FIRM	
30	City of Wilmington, DE	9/29/99	12 manufacturers, 3 associations	Negligent distribution, marketing, design, inadequate warnings, nuisance, fraud, unjust enrichment, civil conspiracy	NO	DISMISSED in part, and DENIED in part allowing liability, nuisance, fraud, conspiracy claims to go forward.	Climaco, Lefkowitz, Peca, Wilcox & Garofoi Co., L.P.A. – Gauthier, Downing, LaBarre – City Attorney
31	Wash., D.C.	1/20/00	25 manufacturers, 4 distributors	Negligent distribution, strict liability, public nuisance	NO	Oral argument on motion to dismiss heard 5/13/01.	Wilmer, Cutler & Pickering -- Washington Lawyers Committee For Civil Rights And Urban Affairs -- City Attorney
32	City of Philadelphia	4/11/00	14 manufacturers and distributors	Negligent distribution, public nuisance	YES – passed 12/99	U.S. District Ct. DISMISSED 12/20/00, appealed to U.S. 3 rd Cir. Ct. of Appeals. Briefs are being filed.	Lieff, Cabraser, Heimann & Bernstein, LLP -- Cohen, Milstein, Hausfeld & Toll – Kohn, Swift & Graf PC – Booth & Tucker, LLP ---City Attorney – see note 3
33	City of New York	5/20/00	24 manufacturers and distributors, 3 trade associations	Negligent distribution, public nuisance, deceptive advertising	NO	No ruling at this time. Discovery is ongoing at this time. * See Hamilton v. AccuTek which will likely influence outcome.	City Attorney -- Gail Rubin, Joan Weiner Margiotta, Daniel McCray See note 1
34	State of New York	6/26/00	25 manufacturers and distributors	Negligent distribution, public nuisance	NO	DISMISSED 8/10/01	NY Attorney General

NOTES:

1. The Center to Prevent Handgun Violence (CPHV) Legal Action Project is directly representing plaintiff.
2. The Center to Prevent Handgun Violence (CPHV) Legal Action Project is assisting plaintiff.
3. Professor David Kairys, Temple University School of Law
4. Educational Fund to End Handgun Violence, Joshua M. Horwitz, Esq., Carolyn M. Morrisette, Esq.

OUT OF ALL THE TAXPAYER FUNDED RECKLESS LAWSUITS AGAINST THE FIREARMS INDUSTRY:

- 9 have received a full dismissal on all issues presented by plaintiffs, 1 of which has been affirmed by a federal appellate court.
- 7 have been denied the motion to dismiss.
- 3 have received a partial dismissal on some of the issues complained of by plaintiffs.
- 12 are directly represented by Brady Center to Prevent Gun Violence, Legal Action Project (formerly known as Center to Prevent Handgun Violence, Legal Action Project). The Brady Center to Prevent Gun Violence boasts of their involvement in 25 of these reckless lawsuits.

FOR NRA INTERNAL USE ONLY. PLEASE CALL ILA LEGISLATIVE COUNSEL FOR UPDATES OR ADDITIONAL DETAILS.

**Report of the Executive Director
National Rifle Association – Institute for Legislative Action
to the Board of Directors
Report Prepared March 18, 2002**

April 29-30, 2002

Rosslyn, VA

Mr. President, and Members of the Board and Executive Council,

The following report is an overview of the activities of the Institute for Legislative Action since the last Board meeting in November 2001.

FEDERAL AFFAIRS — Chuck Cunningham, Director

Introduction

Since the last Board meeting in January, Federal Affairs' activities have been focused on oversight of various federal agencies' response to last year's terrorist attacks, as well as various regulatory and legislative efforts including, lawsuit reform, and a major debate on campaign finance reform.

Administrative Oversight

Much of our time has been spent trying to get administrative and legislative attention to a host of issues brought about by the continuing failure of the Bureau of Alcohol, Tobacco and Firearms (BATF) to abandon its Clinton-era preoccupation with ever-increasing data collection from traces and inspections of lawful firearms dealers, and its invariable tendency to take the most restrictive possible interpretation of federal gun laws on such issues as machine gun enforcement, face-to-face gun transfers by licensed dealers, and tax collection.

The Bureau's inertia was compounded by outright blundering, as in the case of the new Form 4473 (Firearms Transaction Record), redesigned last October to ask several new questions intended to weed out gun purchases by illegal or nonresident aliens. BATF announced the new form in October 2001 and told dealers that as of February 19, 2002, only the new form could be used to record gun sales.

BATF failed to send the forms to the vast majority of dealers in time for the change, resulting in a virtual ban on most dealer gun sales for a number of days. Finally, after telling

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**Bob Barr, M.C.
Washington Office**

dealers for years that photocopies were unacceptable for recording transactions, BATF was forced to display flexibility by letting dealers use faxed copies of the new form or even letting them download the form via the Internet. Federal Affairs, working with ILA's Executive Director, is conducting another round of meetings and communications with Bush Administration officials to raise these issues to a heightened level.

Terrorism, Aliens and Airline Security Legislation

In the aftermath of the September 11 terrorist attacks, there has been considerable attention to the issue of gun possession by nonimmigrant aliens.

Aliens and Instant Check Privacy

In early December, it was revealed by leaks to the media that the FBI had attempted in October, 2001 to use the "Audit Log," maintained by the National Instant Criminal Background Check System (NICS), to determine whether any of the government's suspected terrorist detainees had bought, or tried to buy, firearms from licensed dealers.

Upon learning of the plan, U.S. Justice Department officials blocked it on the grounds that for sales to people who weren't otherwise prohibited from gun ownership, this was an unlawful use of the records, which were limited for use (under the FBI's own regulations) only to check the accuracy and reliability of the system and to monitor dealer compliance.

Anti-gun congressmen and newspaper editorial pages harshly attacked Attorney General Ashcroft over this issue, including very heated questioning at a Senate Judiciary Committee hearing that had originally been called for oversight on the terrorist alien detention issue. Ashcroft held to his position that DoJ was simply complying with existing laws and regulations and declined to offer an opinion of whether the law should be changed.

Nonetheless, anti-gun congressmen introduced bills tailored to exploit the situation and to achieve their longstanding goal of using NICS as a gun buyer registration system. Sen. Chuck Schumer's (D-NY) S. 1788 would require records of approved sales to be kept for at least 90 days, allow them to be used for any criminal or civil investigation, and allow them to be shared with BATF. This bill would be a boon to anti-gun plaintiffs' lawyers, who would use the "civil investigation" provision to subpoena gun sales records in support of their cases. No action has been scheduled on this bill.

NICS Changes for Nonimmigrant Aliens

In early February, Attorney General Ashcroft announced changes to NICS that were intended to better screen gun purchases attempted by illegal aliens. Previously, NICS would only detect an illegal alien trying to buy a firearm if the person's alien status was reflected in a criminal record that had been recorded by the system in its own right.

Under the new process, all gun buyers will be asked their country of citizenship, and those indicating non-U.S. citizenship will undergo an immediate immigration status query based on data at the Immigration and Naturalization Service.

Nonimmigrant Alien Regulations

On February 5, BATF announced restrictive new rules on possession of firearms by visitors to the United States. The new rules implement a 1998 law that prohibits possession or purchase of firearms by most non-immigrant aliens such as tourists, students and temporary workers. There are exemptions for licensed hunters, law enforcement officers on official business and certain other foreign officials. The rules went into effect on February 19, 2002, however, all foreign visitors (other than law enforcement officers and foreign government officials) seeking to bring a firearm into the U.S. were required to apply for an import permit from BATF's Imports Branch.

Since the NRA has no objection in principle to restrictions on nonresident aliens, our concerns have centered on the rulemaking process, in which BATF failed to consult with organizations representing the hunters and sport shooters who would be most affected, and on the poor internal coordination within the Treasury Department, which left many foreign shooters with confused or conflicting advice. Since approval of import permits can take several months, Federal Affairs was very concerned that visitors coming to the U.S. for legitimate purposes in the next few months (such as for winter sporting clays tournaments, the March Safari Club convention, and spring bear hunting) could be prevented from bringing firearms into the United States.

A number of members of the House Appropriations Subcommittee on Treasury, Postal Service and General Government asked BATF director Bradley Buckles about the implementation of this rule at a hearing on February 28. Questions included whether BATF had consulted with affected parties on the rule, whether the Customs Service had been properly notified for enforcement purposes, and whether BATF planned to streamline the form and process for permit applications. Mr. Buckles admitted that the consultation and notification were not what they should have been, and showed a willingness to work toward a more reasonable process for visiting shooters.

Fortunately, it seems, as of this writing, that the Imports Branch has been able to expedite approval of permits to the satisfaction of early visitors. Since the rules were put into effect on a temporary "emergency" basis and also as a notice of a proposed final rule, with a public comment period through May 6, Federal Affairs will be working with ILA's Legislative Counsel to file NRA comments suggesting a number of improvements to the rule.

Aviation Security

The new aviation security law includes language that would allow arming airline pilots for the defense of their cockpits. While Federal Affairs advocated adoption of the original Smith-Burns-Murkowski amendment, the final watered-down language allows for pilots to be armed only if approved by both the airline and the Secretary of Transportation.

Despite overwhelming support from pilots, Homeland Security Director Tom Ridge and Transportation Secretary Norman Mineta have stated their opposition to the use of firearms for cockpit defense, though Federal Aviation Administration (FAA) continues to wade through more than 6,000 favorable responses submitted in response to the public comment period. Federal Affairs will work to ensure that our nation's pilots have the option to defend their passengers and their aircraft from terrorists by any means necessary.

Gun Show Legislation

McCain-Lieberman-Schumer Gun Show Bill

The McCain-Lieberman-Schumer gun show regulation bill (S. 890) still poses a threat of anti-gun action occurring anytime in the U.S. Senate. Although Senate Majority Leader Tom Daschle promised Sen. Jack Reed (D-RI) a speedy vote on his even more restrictive bill (S. 767), there are mixed reports as to whether Daschle actually plans to keep that promise. Continuing strife between different factions of the anti-gun movement clouds the picture as well, with Sen. Reed devoting considerable Senate floor time late last year to denouncing the McCain bill.

The newest anti-gun lobby, "Americans for Gun Safety" (AGS), an upstart group funded by Monster.com billionaire and former Handgun Control Board Member Andrew McKelvey, has run new weekly ads in Capitol Hill newspapers attempting to wrap themselves in the mantle of Homeland Security claiming that as Governor of Pennsylvania, Homeland Security Director Ridge signed a bill mandating background checks at gun shows. In fact, the bill signed by Ridge (Act 17 of 1995) was NRA-supported legislation which streamlined and improved Pennsylvania's laws while continuing a longstanding requirement for dealer transfers of certain firearms. Federal Affairs circulated responses to the AGS ads among the Capitol Hill community and friends in the media.

Instant Check Implementation

While there have been no new developments since the last Board meeting regarding the Administration's plan to reduce the retention period for records of successful background checks on law-abiding gun buyers, there have been several other developments involving NICS, including a series of important announcements on February 13. (These are in addition to the alien record check announced that day and reported separately above.)

“Broken Records” Study

First, Americans for Gun Safety’s non-profit “educational” arm, the Americans for Gun Safety Foundation, released a study on January 16 claiming to discover that databases used for NICS checks were inadequate because of states’ failure to maintain up-to-date criminal history records.

In talking points sent to Capitol Hill and in a response op-ed for the media, the NRA noted that we have been pointing out inadequacies in criminal history databases since 1987—while at the same time, most of the senior staff at AGS were Clinton Administration officials or staff members for anti-gun legislators, and failed to undertake any action to improve the system. The Administration’s response was to announce on February 13 that \$35 million in grants would be available, to be targeted to states that need assistance in improving criminal history records.

General NICS Process Changes

The final NICS improvement announced on February 13 is that NICS queries that receive a “delay” response from the NICS call center will no longer result in an indefinite wait for a call back from a NICS examiner. Instead, the call center operator will immediately transfer the call directly to a NICS examiner employed directly by the FBI, in the hope that this will allow a speedy and immediate follow-up in those cases (about 20% of NICS calls) where the data to determine the buyer’s status is available in the system but requires interpretation by a live human being.

In the long run, FBI hopes to further reduce waiting times and error rates by running all of NICS from within FBI instead of the outsourced call centers that are currently used. Federal Affairs believes these changes are being implemented with an honest intention to improve a highly problematic system, and will continue to monitor progress on this front.

Firearms Industry Lawsuits

Federal Affairs continues to pursue all possible avenues to address the critical threat that the gun industry lawsuits pose to Second Amendment rights.

Commerce Committee Bill

Since the last Board meeting, Federal Affairs has continued its drive to build cosponsorship of H.R. 2037, Rep. Cliff Stearns’ (R-FL) “Lawful Commerce in Arms Act,” allowing Congress to address the lawsuits using its power to eliminate restraints on trade. With 215 cosponsors (including 43 Democrats) to date, this bill shows strong bipartisan and leadership support. In fact, 69 of the cosponsors of H.R. 2037 are recipients of contributions from the American Trial Lawyer Association PAC. At this writing, Federal Affairs is expecting that Rep.

Stearns' subcommittee will mark up and favorably report the bill to the House Energy and Commerce Committee during the week of April 8. Of the 57 members of the full committee, 34 are cosponsors of H.R. 2037.

Firearms Heritage Protection Act

Federal Affairs also continues to seek cosponsors for Rep. Bob Barr's (R-GA) "Firearms Heritage Protection Act of 2001" (H.R. 123) banning all causes of action against the firearms and ammunition industry based on criminal or unlawful uses of these lawful and non-defective products by third parties. The bill currently has 61 cosponsors and Federal Affairs hopes to exceed the past record of 98 in the 106th Congress.

Senate Bill

Federal Affairs also anticipates Senate activity on this front. Sen. Zell Miller (D-GA) and NRA Director Larry Craig (R-ID) will be introducing a Senate version of the Barr bill in April. Also, Sen. Bob Smith (R-NH) has introduced a bill (S. 1996) that would cap attorney's fees and institute a "loser pays" rule under which unsuccessful plaintiffs in certain actions against the firearms industry would have to pay the industry defendants' legal bills and court costs.

Education Bill

The Administration's education bill, H.R. 1, moved forward with the adoption of one gun-related amendment, passed by both the House and Senate as a minor revision of the current "Gun-Free Schools Act" mandating expulsion of armed students. This is not to be confused with the "Gun-Free School Zones Act" that prohibits possession and discharge of firearms on or near school grounds. This provision includes a requirement for an annual report of gun-related incidents including the types of firearms involved; NRA preferred a more complete and less propaganda-prone approach that would count all incidents involving any kind of weapon. On a more positive note, the provision also makes clear that a home school is not considered a "school" for purposes of this provision, even if it would be considered as such under state law. The President signed the bill on January 8.

Department of Housing and Urban Development (HUD) Issues

As previously reported, Federal Affairs staff met with HUD officials regarding the termination of a number of gun control initiatives undertaken by the previous Secretary and self-appointed gun czar, Andrew Cuomo. The new HUD team's preference not to involve itself in extraneous issues was demonstrated by the publication of a Federal Register notice that terminated a Cuomo initiative allowing expenditure of "drug elimination" funds to finance gun turn-in programs. House and Senate amendments specifically restoring the gun turn-in programs failed, and the drug elimination program was eliminated in its entirety as well.

TAXPAYER FUNDED RECKLESS LAWSUITS AGAINST THE FIREARMS INDUSTRY

UPDATED 4/8/02, PREPARED BY ILA OFFICE OF LEGISLATIVE COUNSEL.

	PLAINTIFF	DATE FILED, Court, Case#	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PREEMPTION	CASE STATUS ☆ = case closed	LAWYERS/LAW FIRMS
1	New Orleans, LA	10/30/98 Louisiana Supreme Court 2000-CA-1132	15 manufacturers, distributors, 5 dealers, 3 associations	Defective design, negligent distribution	YES – passed 4/99	State Supreme Court reversed lower courts decision 4/3/01 & DISMISSED all claims. Mayors request to reconsider denied 4/30/01. US Supreme Court DENIED CERT on 10/9/01. ☆	Gauthier, Downing, Labarre, et al – see note 1
2 3	Chicago & Cook County, IL	11/12/98 amended 4/7/99 IL App. Ct. 1 st Jud. Dist. 00-3541	22 manufacturers and distributors, 12 dealers	Negligent distribution, defective design, nuisance	NO	Both cases CONSOLIDATED & DISMISSED, appealed to Illinois 1 st Dist. App. court. Briefs have been filed.	City Counsel, States Attorney--Schiff, Hardin & Waite-- -- see notes 2 & 3
4	State of Illinois	11/14/00 Cir. Ct. Cook County 00-CH-016394	4 manufacturers, 8 distributors	Public nuisance	NO	Motion to dismiss filed on 1/29/01. Argument 1/10/02. DISMISSED.	State Attorney General – see note 2
5	Miami-Dade County, FL	1/27/99 FL Supreme Ct. SC-01861	26 manufacturers and distributors, 3 associations, 2 dealers	Defective design, deceptive advertising, negligent distribution	YES -- SB 412 signed by Gov. Bush 5/1/01	DISMISSED at trial court 12/13/99, DISMISSED at Appellate Court 2/14/01, appealed to State Supreme Court 3/31/01. Grant of cert denied 10/24/01, no rehearing allowed. ☆	Zevnik, Horton, Guibord, McGovern, Palmer & Folgnani – see note 1
6	Bridgeport, CT	1/27/99 amended 4/22/99 CT Supreme Court SC-16465	21 manufacturers and distributors, 12 dealers, 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance, conspiracy, unjust enrichment	NO	DISMISSED at trial court 12/10/99, appealed 12/29/99, transferred to CT. Sup. Ct., oral argument heard 3/21/01. Trial Court decision AFFIRMED on 10/1/01 City has said it will not appeal to	Updike, Kelly & Spellacy, P.C. – see note 1

						US Sup. Ct. ☆	
	PLAINTIFF	DATE FILED, Court, Case#	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PREEMPTION	CASE STATUS	LAWYERS/LAW FIRMS
7	Atlanta, GA	2/5/99 Court of Appeals, GA A01A2521	14 manufacturers and distributors, 3 associations	Defective & negligent design, conspiracy, negligent distribution	YES - passed 2/99	Motion to dismiss DENIED in part, Supreme Ct. denied a writ of mandamus requested by defendants based on the lawsuit preemption statute 2/16/01. Appealed to Court of Appeals. DISMISSED 2/13/02 citing lawsuit preemption statute.	City Attorney - see note 2
8	Cleveland, OH	4/8/99 US Dist. Ct. N. Dist. Of OH 1:99-CK-1134	17 manufacturers and distributors, 3 associations	Defective design, nuisance, unjust enrichment	NO	Motion to dismiss DENIED 3/14/00. Stay is pending a decision in the Cincinnati case.	Climaco, Lefkowitz, Peca, Wilcox & Garofoli Co., L.P.A. - Gauthier, Downing, LaBarre, et al - City Director Of Law - see note 2
9	Detroit, MI (consolidate d with Wayne County)	4/26/99 MI Ct. of Appeals	24 manufacturers and distributors, 11 dealers	Negligent distribution, nuisance	YES - passed 6/2000 - On 3/30/01 court ruled the retroactive application of the statute was unconstitutional	DISMISSED negligence claim, DENIED public nuisance claim DENIED lawsuit preemption statute claim 3/23/01. Defendants appealed. No ruling yet.	Charfoos & Christensen, P.C.—City Attorney - see note 1
10	Wayne County, MI (consolidate d with Detroit)	4/26/99 MI Ct. of Appeals	24 manufacturers and distributors, 11 dealers	Negligent distribution, nuisance	YES - passed 6/2000 - On 3/30/01 court ruled the retroactive application of the statute was unconstitutional	DISMISSED negligence claim, DENIED public nuisance claim DENIED lawsuit preemption statute claim 3/23/01. Defendants appealed. No ruling yet.	Thurswell, Chayet & Weiner P.C.— Thomas, Garvey, Garvey & Sciotti, -- City Attorney - see note 1
11	Cincinnati, OH	4/28/99 Supreme Ct.,	16 manufacturers and distributors, 3	Negligent distribution, defective design,	NO	DISMISSED , and AFFIRMED by Court of	Waite, Schneider, Bayless

	OH	OH 00-1705	associations	deceptive advertising, nuisance		Appeals, appealed to Ohio Supreme Court. Briefs filed. Oral argument was heard 10/2/01. Waiting for opinion.	& Chesley Co., L.P.A.—City Attorney – see note 1
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PLAINTIFF	DATE FILED, Court, Case#	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PREEMPTION	CASE STATUS	LAWYERS/LAW FIRMS
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12	St. Louis, MO	4/30/99 City of St. Louis Circuit Ct. 992-01209	25 manufacturers and distributors, 2 dealers, 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance, conspiracy, unjust enrichment	NO	A motion to dismiss was filed 10/5/00. Plaintiffs and defendants have moved this case from court to court. Remanded to MO Cir Ct 9/25/01.	City Attorney –see note 1
13 14 15 16 17 18 19	CITIES OF NORTH CA Oakland, Berkeley, Sacramento, East Palo Alto, San Francisco, Alameda County, San Mateo County	5/25/99 Case coordinated with cities below. Superior Court, San Diego. JCCP # 4095	28 manufacturers, 6 distributors and dealers, 3 associations	Negligent distribution, nuisance, defective design, deceptive advertising, fraudulent business practices	NO -- (however see product liability protection at CA. CIV. CODE § 1714.4)	Motion to dismiss DENIED 9/15/00. Discovery ongoing. *See Merrill v. Navegar which may influence outcome.	Milberg Weiss Bershad Hynes & Lerach – Lleff, Cabraser, Heimann & Bernstein, LLP – Each City Attorney – see notes 1 & 3
20 21 22 23	CITIES OF SOUTH CA Los Angeles, Compton, West Hollywood, Inglewood	5/25/99 Case coordinated with cities above. Superior Court, San Diego. JCCP # 4095	39 manufacturers, 5 distributors, 5 dealers, 3 associations	Negligent distribution, nuisance, defective design, deceptive advertising, fraudulent business practices	NO -- (however see product liability protection at CA. CIV. CODE § 1714.4)	Motion to dismiss DENIED 9/15/00. Discovery ongoing. *See Merrill v. Navegar which may influence outcome.	Milberg Weiss Bershad Hynes & Lerach – Lleff, Cabraser, Heimann & Bernstein, LLP – Bushnell, Caplan & Fielding, LLP – McCue & McCue – Cohen, Milstein, Hausfeld & Toll, P.L.L.C.- - Each City Attorney – see notes 1 & 3

24	County of Los Angeles, CA	8/6/99 Case coordinated with cities above. JCCP # 4095	28 manufacturers, 6 distributors and dealers, 3 associations	Negligent distribution, nuisance, defective design, deceptive advertising, fraudulent business practices	NO -- (however see product liability protection at CA. CIV. CODE § 1714.4)	Motion to dismiss DENIED 9/15/00. *See Merrill v. Navegar which may influence outcome.	Melberg Weiss Bershad Hynes & Lerach - Lieff, Cabraser, Heimann & Bernstein - Cohen, Milstein, Hausfeld & Toll - - Each City Attorney - see notes 1 & 3
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	PLAINTIFF	DATE FILED, Court, Case#	DEFENDANTS	ALLEGED CLAIMS	LAWSUIT PREEMPTION	CASE STATUS	LAWYERS/LAW FIRMS
25	Camden Co., NJ	5/2/99 US Dist. Ct, Dist. Of New Jersey 99-CV-2518	22 manufacturers	Negligent distribution, defective design, assault and/or battery, economic interference	NO	U.S. District Ct. DISMISSED 12/5/00, appealed to U.S. 3 rd Cir. Ct. App. 1/3/01. Argument heard 9/4/01. DISMISSED 11/16/01.	County Attorney – – see note 1
26	Boston, MA	6/3/99 Superior Court, Suffolk County 99-2590	29 manufacturers and distributors, 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance, unjust enrichment	NO	Motion to dismiss DENIED 7/13/00, interlocutory appeal denied 9/19/00, the 3 trade associations filed a separate motion dismiss for lack of jurisdiction - DENIED 11/20/00. Discovery completed 1/19/02. Trial was scheduled to begin 9/24/02. The city dropped its suit saying it was too expensive for the city - 3/27/02. ☆	Lieff, Cabraser, Heimann & Bernstein, LLP – Brown Rudnick Freed & Gesmer, P.C. – – Sullivan, Weinstein & McQuay, P.C. – Cohen, Milstein, Hausfeld & Toll – Gen. Counsel of Boston Public Health Commission – see note 1
27	City of Newark, NJ	6/9/99 Superior Ct. of NJ, Essex County ESX-L-6059- 99	28 manufacturers, 2 distributors, 2 associations	Negligent distribution, defective design, deceptive advertising, nuisance, unjust enrichment	NO	DISMISSED products liability & unjust enrichment claims but DENIED dismissal of negligent marketing & distribution claim 12/11/01. Appealed, argument set for June 2002.	Brown & Brown PC – Newark Corporation Counsel – see note 2
28	City of Camden, NJ	6/21/99 Superior Ct. of NJ, Camden County CAM-4510-99	19 manufacturers and 3 associations	Negligent distribution, defective design, deceptive advertising, nuisance, unjust enrichment	NO	Oral argument on a motion to dismiss was set for 2/22/01. Procedural tactics have slowed the case.	County Attorney— See note 1
29	City of Gary, IN	8/27/99 Lake Superior Ct.	21 manufacturers & distributors, 3 associations	Negligent distribution & marketing, negligence, nuisance	NO	DISMISSED 1/23/01 for failure to state a claim for which relief can be granted & 1st amended	Meyer, Lyles & Godshalk, P.C. --

		45-D05-0005-CT-243	assoc., 5 dealers	nuisance		complaint DISMISSED 3/13/01. Appealed on 4/13/01. Waiting for ruling.	Charles H. Graddick - see note 1
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PLAINTIFF	DATE FILED, Court, Case#	DEFENDANTS	ALLEGED WRONGS	LAWSUIT PREEMPTION	CASE STATUS	LAWYERS/LAW FIRM
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30	City of Wilmington, DE	9/29/99 Del. Superior Ct., New Castle County 99-C-09-283	12 manufacturers, 3 associations	Negligent distribution, marketing, design, inadequate warnings, nuisance, fraud, unjust enrichment, civil conspiracy	NO	DISMISSED in part, and DENIED in part allowing liability, nuisance, fraud, conspiracy claims to go forward. Discovery ongoing.	Climaco, Lefkowitz, Peca, Wilcox & Garofoli Co., L.P.A. - Gauthier, Downing, LaBarre - City Attorney - see note 2
31	Wash., D.C.	1/20/00 DC Superior Ct., Civ. Div. 00-000428	25 manufacturers, 4 distributors	Negligent distribution, strict liability, public nuisance	NO	Oral argument on motion to dismiss heard 4/13/01. Waiting for court to rule.	Wilmer, Cutler & Pickering - Washington Lawyers Committee For Civil Rights And Urban Affairs - City Attorney - see note 1
32	City of Philadelphia	4/11/00 Ct. of Common Pleas, Phila. County 00-1442	14 manufacturers and distributors	Negligent distribution, public nuisance	YES - passed 12/99	U.S. District Ct. DISMISSED 12/20/00, appealed to U.S. 3 rd Cir. Ct. of Appeals. DISMISSED 1/11/02.	Lieff, Cabraser, Heimann & Bernstein, LLP - Cohen, Milstein, Hausfeld & Toll - Kohn, Swift & Graf PC - Booth & Tucker, LLP - City Attorney - see notes 2 & 3
33	City of New York	5/20/00 US Dist. Ct., ED NY 1:00-CV- 3641	24 manufacturers and distributors, 3 trade associations	Negligent distribution, public nuisance, deceptive advertising	NO	Defendants did not file a motion to dismiss. Discovery is ongoing at this time. * See Hamilton v. AccuTek which will likely influence outcome.	City Attorney - Gail Rubin, Joan Weiner Margiotta, Daniel McCray - see note 1
34	State of New York	6/26/00 NY Superior Ct. NY	25 manufacturers and distributors	Negligent distribution, public nuisance	NO	DISMISSED 8/10/01 by trial court. Appealed.	NY Attorney General - see note 2

		County 402586/00					
35	Jersey City v. Smith & Wesson et al	3/28/02 Sup. Ct. Of NJ, Hudson County.	12 manufacturers, 2 dealers, 3 trade associations	Public nuisance	NO	Complaint just filed on 3/28/02.	- see note 1

NOTES:

1. The Brady Center to Prevent Gun Violence is directly representing plaintiff.
2. The Brady Center to Prevent Gun Violence is assisting plaintiff.
3. Professor David Kairys, Temple University School of Law
4. Educational Fund to End Handgun Violence, Joshua M. Horwitz, Esq., Carolyn M. Morrisette, Esq.

municipalities and 2 State Attorneys General filed suit. Many of these cases were consolidated into single actions thus bringing the number of actual cases to 23. The gun ban lobby, anti-gun lawyers and other sources neglect to include the State of Illinois case within the conspiracy. It is however a case coordinated by them and funded by taxpayer money.

ALL THE RECKLESS LAWSUITS AGAINST THE FIREARMS INDUSTRY:

11 have received a full dismissal at trial level on all issues presented by plaintiffs, 3 of these have been decided at the highest level and are now closed (see ☆).

5 have been denied the motion to dismiss. Of these five the city of Boston dropped its suit on 3/27/02. The city alleges continuation of the suit was getting expensive, but defendants have said discovery failed to produce anything useful that plaintiff's could use against the manufacturers during a trial.

4 have received a partial dismissal on some of the issues complained of by plaintiffs.

In the remaining 3 cases, the court has not yet ruled on the motion to dismiss, or as in the case of City of New York, the defendants did not file a motion to dismiss and are already in discovery. The Jersey City suit was filed recently.

The Brady Center to Prevent Gun Violence boasts of their direct assistance to 25 plaintiffs.

FOR NRA INTERNAL USE. PLEASE CALL ILA LEGISLATIVE COUNSEL FOR UPDATES OR ADDITIONAL DETAILS.