



Legal Action

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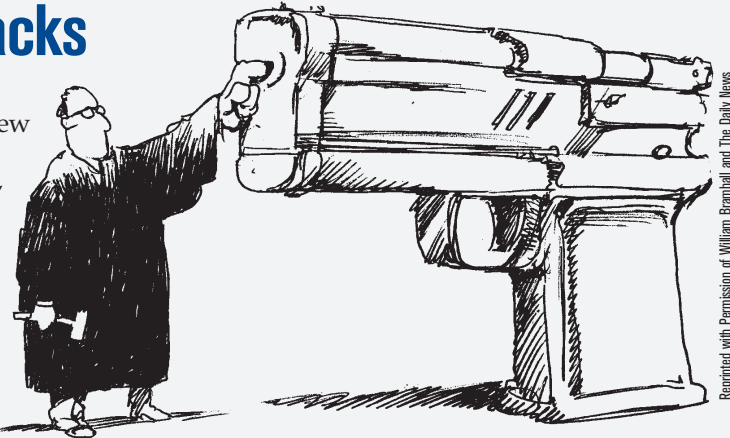
New York City's Lawsuit Overcomes Gun Lobby Attacks

In the first legal test of the new federal statute limiting the liability of the gun industry, a federal judge has given the green light to New York City to proceed with its lawsuit against the industry despite the new law.

Last October, President Bush signed the deceptively-named "Protection of Lawful Commerce in Arms Act" (PLCA). It is more like a "Lethal Commerce in Arms" Act. A transparent favor to the National Rifle Association and the gun industry, the statute imposes new limits on the legal liability of the gun industry. The Brady Center and Brady Campaign fought this legislation for six years, joined by more than 200 organizations representing law enforcement, crime victims, the legal community, and others. Once the bill finally passed, the Center's Legal Action Project vowed to fight the law in court, arguing, alternatively, that exceptions within the bill permit specific cases to go forward and that the law itself is unconstitutional.

Judge Jack Weinstein ruled in December of last year that New York City's lawsuit against 11 major gun manufacturers and 25 distributors could go forward. The City had argued that gun manufacturers and distributors — by marketing firearms through high-risk gun dealers that are supplying most of the crime guns recovered on the streets of New York — violated New York State's criminal public nuisance statute. The court held that by "knowingly violat[ing] a State or Federal statute applicable to the sale or marketing" of firearms, defendants fit squarely within an exception to the liability protections in the PLCA.

At the time that defendants filed their motion to dismiss the case based on the PLCA, New York City had been poised



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to go to trial to expose the corrupt pipeline that funnels firearms from gun manufacturers to street criminals in urban settings across the United States.

New York City planned to introduce into evidence ATF crime gun trace data to show the high volume of crime guns recovered in New York that were sold through a small group of gun dealers in mostly southern states (what NYPD Commissioner Kelly calls an "iron pipeline"). In addition, industry insiders were prepared to testify that gun manufacturers and distributors have been well aware of this crime gun diversion pipeline for more than a decade, but chose to maintain the status quo rather than take any steps to curb it.

After Judge Weinstein ruled the New York City case could go forward, the City, under the leadership of Mayor Michael Bloomberg, took additional steps to expose this pipeline of illegal guns. In May 2006 the City filed a new lawsuit against 15 gun dealers, in five states, that had been linked to hundreds of crime guns recovered on the street. Each of the dealers was caught red-handed on videotape during undercover "sting" operations run by City investigators selling guns in obvious straw purchasing situations. During the stings, each dealer sold one or more firearms to a male purchaser that entered the store with a female companion who was there simply to fill out the paperwork for the required Brady background check. The male in each

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Legal Action

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The Brady Center to Prevent Gun Violence is a nonprofit, education, research, and legal advocacy organization established in 1983 to reduce the tragic toll of gun violence in America.

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Where do crime guns come from? That is the question the gun lobby wants no one to ask.

For years the NRA has been telling the American people that strong gun laws cannot affect criminal access to guns because criminals get their guns “on the street” or on the “black market.” This, of course, begs the question: How do guns get “to the street” or the “black market” in the first place?

Unlike the illegal drug market, illegal guns do not start out in clandestine factories. They are not smuggled into our country across its borders. Virtually every illegal gun starts out in the legal market, sold by a licensed dealer. We now know that every year many thousands of guns are rapidly diverted from these licensed dealers to the illegal market, where they supply juveniles and criminals. Incredibly, almost 60 percent of the Nation’s crime guns originate with only one percent of licensed gun dealers. Through negligence and outright corruption, this relatively small number of dealers supplies the gun traffickers and their “straw buyers” who poison our cities with illegal guns.

On March 30 of this year, the 25th Anniversary of the tragic shootings of President Ronald Reagan and his Press Secretary Jim Brady, the Brady Center and the Brady Campaign announced our new Campaign Against Illegal Guns. We are determined to stop the illegal gun market at its source by attacking the “bad apple” dealers and the manufacturers who

supply them. Punishing gun criminals while ignoring the dealers who supply them is like bailing water from a sinking boat without fixing the holes in the hull.

The Center’s Legal Action Project will play a key role in this new Campaign. First, we will fight in court to ensure that corrupt and irresponsible dealers, and the manufacturers who supply them, are held legally accountable to the victims of their conduct.

The gun industry’s greed, together with the NRA’s extremist ideology, makes for a noxious alliance that is the gun criminal’s best friend.


To do this, we must overcome the new federal statute passed last year to limit the liability of the gun industry. As we report in this issue of *Legal Action*, the industry suffered a serious setback when we helped to win a federal court ruling that New York City’s lawsuit against the industry can go forward despite the new legislation.

Second, we have launched *Gun Industry Watch*, a new effort to systematically monitor the gun industry and expose its complicity in feeding the illegal market. Our goal is to destroy the NRA mythology about the origins of the illegal market. In our report, *Without A Trace*, we expose the concerted effort of the gun lobby and the Bush Administration to hide from the public crime gun data that establishes the link between the gun industry and the illegal market. In two subsequent reports, we tell the sordid

stories of Trader Sports of California and Valley Gun of Maryland, two rogue gun dealers who were able to flout our gun laws for years because the enforcement power of the Bureau of Alcohol, Tobacco, Firearms and Explosives has been so weakened by statutory constraints supported by the gun lobby.

There could not be a more critical time to make sure the American public knows the truth about guns and crime. The gun lobby is pushing federal legislation on two fronts to protect rogue gun dealers. First, Rep. Lamar Smith (R-TX) has introduced a bill, H.R. 5005, to make it a criminal offense to disclose the crime gun data that identifies the gun dealers contributing the most guns to the illegal market. Second, Rep. Howard Coble (R-NC) has offered legislation, H.R. 5092, that would make it even more difficult for ATF to revoke the licenses of dealers who violate our gun laws.

The gun industry’s greed, together with the NRA’s extremist ideology, makes for a noxious alliance that is the gun criminal’s best friend. The industry will do anything to keep open the profitable pipeline of guns to criminals. The NRA will go to any length to oppose sensible government regulation to shut the pipeline down. In the final analysis, though, it is an alliance built on ignorance and deception. Ultimately, it cannot survive the truth. And we intend that the truth be told — and heard.


Dennis A. Henigan
Legal Action Project Director

Brady Center Investigative Reports Expose Rogue Gun Dealers

In a new series of investigative reports, Legal Action Project attorneys are exposing the sordid tales of the most dangerous gun dealers in America. The first two reports focus on two dealers that are the worst of the worst — Valley Gun of Baltimore, Maryland and Trader Sports of San Leandro, California. These gun shops have supplied thousands of guns to criminals and rank in the top 0.05 percent of dealers in crime guns traced to their stores.

The Brady Center reports garnered significant media coverage and are playing a crucial role in Congressional debates in Washington. Congress is considering an NRA-backed bill, H.R. 5092, that would protect rogue dealers by making it virtually impossible for the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to revoke their licenses. It also allows them to continue operating even if their licenses have been revoked, through years of legal appeals.

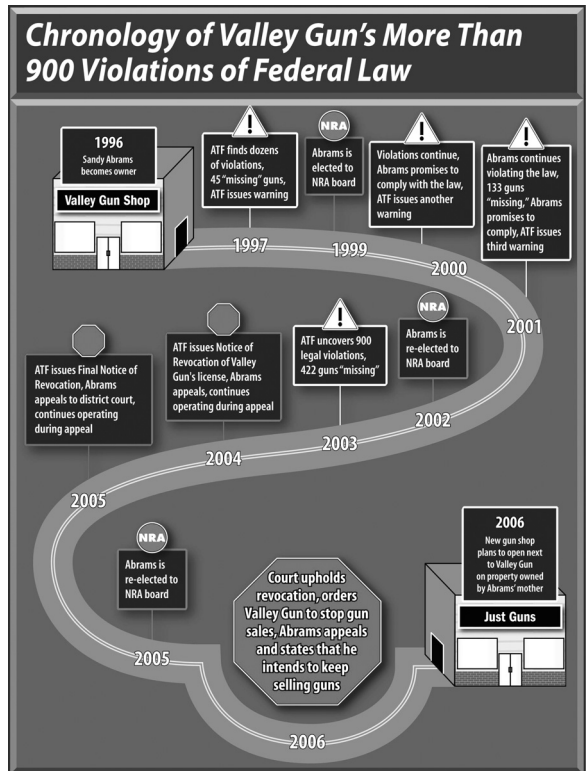
Federal gun laws are already so weak that dealer license revocations are a rare event. In 2003, for example, ATF inspectors found violations of the Gun Control Act at 1,812 gun dealers, averaging over 80 violations per dealer. Yet ATF sought to revoke licenses for only 54 dealers that year, due in part to weak federal gun laws generally requiring

years of repeated violations before a license may be revoked. H.R. 5092 would further undermine ATF's already dangerously weak enforcement powers, protecting lawbreaking gun dealers like Valley Gun and Trader Sports.

Death Valley

Valley Gun of Baltimore is owned by Sanford Abrams, an NRA Board Member and gun lobby spokesperson. The Brady Center's report, *Death Valley*, tells the story of his gun shop, which was caught red-handed in 2003 violating federal gun laws over 900 times (available at www.bradycenter.org/gunindustrywatch). Law enforcement has traced hundreds of crime guns to Valley Gun, with 483 firearms traced to crime from 1996 to 2000. Valley Gun ranks 37 out of nearly 80,000 firearms dealers nationwide in crime gun sales, and its guns have been linked to numerous homicides and assaults.

Inspections of Valley Gun by ATF found repeated violations of federal gun laws, including



hundreds of firearms that disappeared from the store with no record of sale and two cases where the store was caught selling guns illegally. ATF uncovered these violations in inspections from 1997 through 2003, repeatedly warning Abrams to stop violating the law.

After ATF began exposing Valley Gun's violations of federal law, the NRA rewarded Abrams by electing

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case selected and paid for the gun while the woman filled out the federal forms.

Fearing the use of ATF crime gun trace data in New York's lawsuit, the gun lobby pressed Congress for new restrictions on the use of such data as evidence in civil lawsuits. Each year since 2003 Congress has passed a rider to ATF's spending bill, now referred to as the "Tiahrt rider," after its primary sponsor Rep. Todd Tiahrt (R-KS). The riders have imposed increasingly strong restrictions on public and law enforcement access to ATF trace data.

Judge Weinstein, after ruling that the City's lawsuit could go forward despite the PLCA, took up the separate question of whether the City would be barred from using this crime gun trace data at trial by the latest version of the Tiahrt rider. On April 28, 2006, the court ruled that the rider only prohibited the use of trace data revealed in future disclosures to law enforcement agencies. It did not apply to data already released to New York City. Once again, Brady Center lawyers representing the City helped thwart the gun lobby's secrecy agenda.

Both rulings by Judge Weinstein allowing the New York City case to go forward are currently on appeal before the United States Court of Appeals for the Second Circuit. The Brady Center continues to represent New York City during this appeal. *City of New York v. Arms Technology, Inc.*, No. 1:00-cv-3641 (U.S. District Court for the Eastern District of New York), and 05-6942-cv(L), 05-6964-cv(XAP) (U.S. Court Of Appeals For The Second Circuit). ●

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him to its Board of Directors and working to shield him from responsibility for his illegal conduct. Although the NRA has repeatedly claimed that the government should “fully enforce existing federal gun laws,” and that failure to do so is “evil” and a “moral crime,” it has repeatedly come to Abrams’ legal defense.

With help from NRA counsel, Abrams repeatedly sued the federal government in an effort to continue operating despite his store’s massive violations of federal law. In response, the U.S. Department of Justice warned that Abrams’ store has “endangered the public by failing to account for hundreds of weapons.” The Justice Department explained that Valley Gun’s repeated violations of the law and “shoddy record keeping” have jeopardized law enforcement’s ability to “ensur[e] that firearms used in crimes can be traced and the criminals who use them brought to justice....”

Despite the NRA’s attempts to help Abrams maintain his dealer’s license, on May 5, 2004, ATF notified Abrams it was revoking the shop’s license. Weak federal gun laws, however, allowed Abrams to continue selling guns at the store through 2006, despite nearly a decade of legal violations.

Following court-ordered termination of his shop’s license, Abrams announced his intention to evade revocation, by selling the inventory of Valley Gun as his personal collection. Although it is a federal crime to engage in the business of selling firearms without a license, in June 2006, the Bush Administration Justice Department said that Abrams could sell 700 firearms from Valley Gun’s former inventory as his personal gun collection. Abrams then announced that he would be selling these guns to a new store, Just Guns, opening right next door to Valley Gun. Property records show that Just Guns will open on property owned by Lucille Abrams, Sandy Abrams’ 80-year-old mother.

Trading in Death

In the case of another rogue gun dealer, the Brady Center report *Trading in Death* tells the tale of Trader Sports, a notorious San Francisco Bay-area gun shop responsible for the sale of hundreds of crime guns. Trader Sports is the second largest supplier of crime guns of any retailer in the nation. In 2005 alone, 447 crime guns were traced to the shop, meaning that law enforcement recovered crime guns sold by Trader Sports at an average rate of more than one per day. Moreover, in 2000, ATF records show that this one shop accounted for nearly half of all crime guns recovered in Oakland.

An average of one of every eight guns sold by Trader Sports was recovered in crime. In 2006, after 30 years and thousands of violations of federal gun laws, ATF finally revoked Trader Sports’ firearms license.

The shop’s owner, Anthony Cucchiara, had been charged with breaking firearms laws regulating gun dealers for almost as long as those laws have existed. ATF documented his first violations in 1970, two years after the federal Gun Control Act imposed legal requirements relating to gun sales and record keeping for licensed gun dealers.

After years of warnings to correct hundreds of legal violations, ATF first attempted to revoke Cucchiara’s license in 1978. ATF spent years fighting off Cucchiara’s efforts to keep his license, successfully defending its actions all the way to the Supreme Court. Then suddenly and inexplicably, in 1983, the federal government agreed to give him his license back on a promise to obey the law.

With Cucchiara free to resume gun sales, his store continued supplying criminals with firearms. In one case, in 1991, Trader Sports paid \$400,000 to settle a suit filed by the widow of a man killed with an assault rifle bought at the store. The

suit, *Ellingsen v. Trader Sports* (No. 654015-1, Cal. Super. Ct., Alameda Co.), in which the Legal Action Project provided assistance, charged that the gun store violated federal law by selling the assault weapon, along with three ammunition magazine clips and 100 rounds of ammunition, to a “straw purchaser” who filled out the federal transfer form for a 19 year-old who could not produce identification required by federal law. Less than a month later, the buyer fired the rifle on the Nimitz freeway in California to make the car in front of him go faster. Larry Ellingsen, returning with his wife, Sharon, from their 29th wedding anniversary celebration, was killed instantly. Sharon Ellingsen’s successful suit against Trader Sports charged that the gun store’s knowing sale to a “straw purchaser” led directly to her husband’s death.

Despite the settlement in the *Ellingsen* case, Trader Sports’ dangerous conduct continued unabated. In a civil lawsuit brought by the Brady Center for California municipalities against Trader Sports in 1999, a California Superior Court judge analyzed Trader Sports’ “high risk sales practices” and found that “The high numbers of traces linked to Traders...are overwhelming indicators of gun trafficking....”

After years of inspections revealing thousands of legal violations, ATF sought to revoke Trader Sports’ license in 2004, yet Trader Sports continued operating until 2006 by taking advantage of weaknesses in federal gun laws. In 2006, a court ordered the shop to cease operations and it was forced to liquidate its remaining firearms inventory.

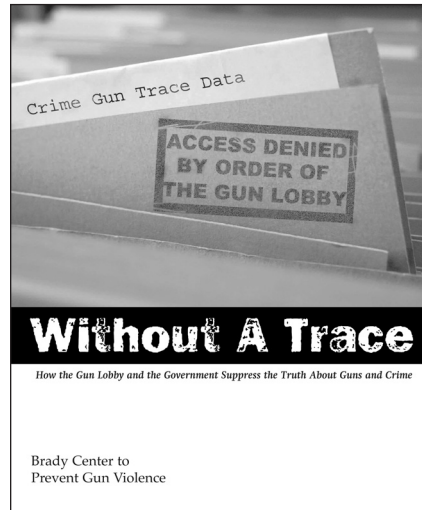
These two Brady Center reports have exposed the record of reckless gun dealers who profit from the supply of firearms to criminals, as well as the NRA’s efforts to gut law enforcement’s ability to shut them down. ●

Brady Center Report Attacks Gun Lobby's Efforts to Suppress Truth About Guns and Crime

The Brady Center released a report this spring documenting a concerted effort by the gun lobby, its allies in Congress, and the Bush Administration to suppress crime gun trace data. The report, *Without A Trace: How the Gun Lobby and the Government Suppress the Truth About Guns and Crime*, authored by Legal Action Project attorneys (available at www.bradycenter.org/gunindustrywatch), explains the gun lobby's goal of suppressing the truth about guns and crime to shield the industry from negative public attention and possible legal liability. Thanks to this report, the complicity of gun dealers in supplying the illegal gun market is a secret no more.

Without a Trace first tells the story of efforts during the Clinton Administration to expand the tracing of crime guns confiscated by law enforcement authorities. Over the last ten years, law enforcement agencies nationwide have recovered more than two million crime guns. In an effort to identify who sold those illegal guns and to help solve gun crimes, the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) traces crime guns from the gun manufacturer, down through the distributor, and then to the dealer until it identifies the sale of a particular gun to a member of the public. At the same time that it tracks the individual sales history of each crime gun, ATF records the information it learns from traces in a comprehensive computer database.

As ATF developed its crime gun database, it released to law enforcement agencies, scholars, the press, local and state governments, and the public, numerous reports analyzing the patterns of crime gun sales, as well as portions of the trace database itself. Reports on crime gun trace data revolutionized our



understanding of the illegal gun market and how it is supplied. They established that strong gun laws have a profound impact on access to guns by criminals in the illegal market, and they identified the gun manufacturers, distributors, and dealers most responsible for supplying the illegal market.

Crime gun trace data has also provided powerful evidence of the gun industry's complicity in fueling the illegal market, showing that thousands of guns move quickly from a relatively small number of licensed gun dealers into the illegal market.

Crime gun trace data has also provided powerful evidence of the gun industry's complicity in fueling the illegal market, showing that thousands of guns move quickly from a relatively small number of licensed gun dealers into the illegal market. Indeed, almost 60 percent of the crime guns traced in a given year were sold by only one percent of the licensed firearms dealers, while about 85 percent

of gun dealers had no traces at all. These findings were threatening to the gun industry, since the illegal market is supplied primarily not by stolen guns and "street sources," but by a small number of reckless gun dealers who facilitate gun trafficking through straw purchases, large-volume gun sales and outright corruption. The industry was particularly worried that the trace data would be used in civil lawsuits against gun manufacturers. Gun-ravaged cities like New York, for example, argue persuasively that gun makers could simply refuse to supply this relatively small number of high-trace dealers and instead use dealers with few links to crime guns.

Without a Trace also documents how the gun lobby's Congressional allies, primarily Rep. Todd Tiahrt (R-KS), have worked behind the scenes to attach riders to ATF's spending bills to ensure, first, that ATF could no longer release trace data to the public and, second, that the data could not be used as evidence in court. Legislation was also introduced (H.R. 5005) by Rep. Lamar Smith (R-TX) in the House of Representatives on March 16 which would make the Tiahrt riders permanent. H.R. 5005 would even go so far as to make it a crime — a crime — for law enforcement to share this data with the public or each other.

The more the public understands about crime guns, the more it also understands the integral role of reckless gun dealers in supplying the illegal market. The gun lobby, and particularly the gun industry, feels threatened by this knowledge because it supports the need for tighter federal regulation of gun dealers and gun sales to curb the flow of guns into criminal hands. It knows that the truth may lead to action for sensible new laws to choke off the supply of illegal guns. ●

Brady Center Fights Gun Industry Efforts To Deny Victims Their Day In Court

Legal Action Project attorneys are fighting the efforts of negligent gun companies to use the “Protection of Lawful Commerce in Arms Act” (PLCA) to deny gun violence victims their day in court. Judges will decide whether the PLCA provides unprecedented, sweeping protection to negligent gun companies — or whether, as the bill’s chief sponsor, Sen. Larry Craig, argued, it is “narrow” legislation that “will not bar the courthouse doors to victims who have been harmed by the negligence or misdeeds of anyone in the gun industry.”

For six years, the Brady Center and Brady Campaign fought against passage of legislation that, we argued, negligent gun companies would use to immunize themselves from the consequences of their actions and deprive industry victims of their day in court. To gain the support necessary to pass the PLCA, its Congressional supporters vehemently denied that it would protect wrongdoers. Sen. Craig stated on the Senate floor: “If manufacturers or dealers break the law or commit negligence, they are still liable.” The legislation, he stated, “will not prevent a single victim from obtaining relief for wrongs done to them by anyone in the gun industry.”

VICTORY!

On June 22, 2006, Judge Jacqueline Allen of the Philadelphia Court of Common Pleas denied defendants’ motions to dismiss the cases brought by the families of Anthony Oliver and Faheem Thomas-Childs. Judge Allen ruled that despite passage of the “Protection of Lawful Commerce in Arms Act,” the cases will proceed — allowing plaintiffs an opportunity to begin discovery against defendants Sturm Ruger, Phoenix Arms, and Lou’s Loans.

Nonetheless, within hours of the bill’s enactment, negligent gun sellers and manufacturers began filing motions to dismiss valid lawsuits brought against them. They sought to have victims thrown out of court before a judge or jury could hear damning evidence that industry defendants are accountable. The question of whether the PLCA allows negligent gun companies to escape liability for injuries and deaths caused by their wrongdoing was argued by Brady Center attorneys recently in three cases: *Oliver v. Lou’s Loans*, et al., No. 1836 (Pa. Ct. Com. Pleas), *Arnold v. American Security et al.*, No. 3118 (Pa. Ct. Com. Pleas), and *City of Gary v. Smith & Wesson Corp.*,

No. 45D02-9908-CT-0355 (Lake Superior Court, East Chicago, Indiana).

In *Oliver*, Lou’s Loans, a pawn shop in Upper Darby, Pennsylvania, and gun manufacturer Phoenix Arms, moved for dismissal of the lawsuit brought against them by the family of slain 14 year-old Anthony Oliver, Jr. Lou’s Loans is the top supplier of crime guns in Pennsylvania and one of the top crime gun suppliers in the nation. Lou’s Loans and Phoenix Arms argued that the PLCA prohibits courts from imposing tort liability even if their negligence contributed to Anthony’s death through the sale of a .25 caliber Phoenix Arms handgun to a gun trafficker.

In *Arnold*, the family of 10 year-old Faheem Thomas-Childs, who was shot and killed as he walked through the gates of his elementary school, brought suit against Philadelphia gun dealer American Security and gun manufacturer Sturm Ruger. The dealer sold the murder weapon in a straw sale to gang members (for which the store’s clerk charged an additional “handling fee”), but has since shut down. The remaining defendant, Sturm Ruger, argued that the PLCA requires the suit against it to be dismissed, even though Ruger continued to supply American Security when it was known that

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Why The Protection Of “Lethal” Commerce In Arms Act Is Unconstitutional

Brady Center attorneys are asking courts to strike down the PLCA as unconstitutional. Here is a thumbnail sketch of our arguments:

- Congress’s direction that state courts dismiss lawsuits that are fully supported by existing state law infringes on state sovereignty in violation of the Tenth Amendment, and violates Separation of Powers principles. The PLCA also violates the Tenth Amendment by dictating to states what branch of government they must use to impose liability on gun companies. The Act permits state legislatures to pass legislation providing liability for violations of state statutes, while barring state courts from otherwise imposing liability for the same conduct according to state common law.
- Under defendants’ reading, the PLCA takes the unprecedented action of singling out one class of people – gun violence victims – to be utterly deprived of a remedy against those who wrongfully caused their injuries or deaths, thus violating their right to due process of law and to their First Amendment right to petition the government. The unfair treatment of gun violence victims also violates the guarantee of equal protection of the laws.
- The PLCA is not a rational exercise of Commerce Clause powers: it purports to protect the gun industry from the threat of litigation-induced extinction without any factual basis that such a threat exists.

Unanimous Victory for Public Safety: Store Guns Unloaded and Locked

On June 30, 2006, the Massachusetts Supreme Judicial Court ruled unanimously that homeowners have a legal duty to secure their guns against access by potentially violent adults. The court cleared the way for a lawsuit by Joanne Jupin, mother of fallen police officer Lawrence Jupin. The Legal Action Project, with the assistance of the law firm Crowell & Moring, LLP, filed an *amicus* brief on behalf of the Brady Center, the International Brotherhood of Police Officers, the Massachusetts Million Mom March, and Stop Handgun Violence, in support of Jupin. The brief was cited by the Court in its opinion.

The case arose from the theft by Jason Rivers of a .357 caliber handgun from his father Willis' collection of 30 guns, stored in a poorly-secured wood box at the home of Sharon Kask. Willis was Kask's live-in boyfriend. Kask knew of the guns, and how and where they were stored. She also knew of Rivers' mental instability,

and that he had a key to her house that allowed him 24-hour access.

Jason Rivers used that gun to shoot Westminster Police Officer Lawrence Jupin in the leg, hand and face, just after midnight on May 10, 1999, as Jupin tried to apprehend Rivers along Massachusetts Route 31. Jupin slipped into a coma and died three and a half years later. Rivers was diagnosed a paranoid schizophrenic and ruled incompetent to stand trial.

In November 2003, the stretch of Route 31 where Jupin was shot was renamed the "Lawrence Jupin Memorial Highway."

The Massachusetts High Court ruling now permits Joanne Jupin to sue Sharon Kask for breaching her duty of reasonable care to Officer Jupin.

The Court held, "we conclude that a homeowner who permits guns to be stored on her property and allows unsupervised access to that property by a person known by her to have a history of violence and mental instability, has a duty of reasonable care to ensure that the guns are properly

secured." See *Jupin v. Kask*, No. SJC-09538 slip op. (Mass. Sup. Jud. Ct. June 30, 2006).

The *Jupin* decision is the latest in a series of landmark state court rulings establishing the potential liability of gun owners and homeowners for failure to safeguard guns against theft. In recent years similar rulings have been issued by the Supreme Courts of Indiana, Kansas, and Montana. ●

NRA Blocks Popular SF Gun Ban; City Vows Appeal

On June 12, 2006, California Superior Court Judge James L. Warren invalidated a referendum in San Francisco that banned handguns within the city limits. *Paula Fiscal v. City and County of San Francisco*, No. CPF-05-505960 (Cal. Super. Ct. June 12, 2006). Judge Warren ruled that the ordinance, which passed with 58 percent of the vote, was preempted by state gun laws.

The National Rifle Association sued to block the law the day after it passed.

Judge Warren said that the California State Assembly has legislated extensively in the area of gun regulation, and therefore "occupied the field" under California state law. "[E]xtramunicipal concerns tip the scales in favor of statewide regulation of residential and business handgun possession," Judge Warren said.

San Francisco City Attorney Dennis Herrera announced his office would appeal the decision.

Herrera told the San Francisco Chronicle that the people of San Francisco "acted within their authority to restrict handgun possession and firearm sales within the limits of their own city."

Less than three weeks after Judge Warren's decision, on June 28, a 16-year-old San Francisco Mission High School student was shot in the back and critically wounded at his bus stop. By July 11, the San Francisco Chronicle reported that "San Francisco's homicide count for 2006 is running ahead of the pace set last year, when the city recorded the highest number of killings in a decade." ●

Brady Center Fights Gun Industry Efforts To Deny Victims Their Day In Court

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it had a long history of selling guns used in crime.

In *City of Gary*, the Indiana Supreme Court has already ruled that defendant gun manufacturers and dealers who supply the criminal gun market could be found to have knowingly violated Indiana's public nuisance statute. Nonetheless, those defendants moved to dismiss the case, arguing that the PLCA overrides Indiana law and requires dismissal.

In each of the cases, we argued that the PLCA does not apply to the specific claims brought by the plaintiffs. The PLCA allows victims to bring lawsuits against gun companies for their injuries if they were caused by the gun companies' violation of a law dealing with the sale of firearms. In these cases, the gun dealers and manufacturers supplied criminal shooters, which plaintiffs argued was a violation of state public nuisance laws, and so should not be protected by the PLCA.

We also argued that even if the PLCA applied, it should be struck down as unconstitutional. The U.S. Department of Justice filed papers defending the constitutionality of the legislation in each of the cases. ●

Guns at Work?

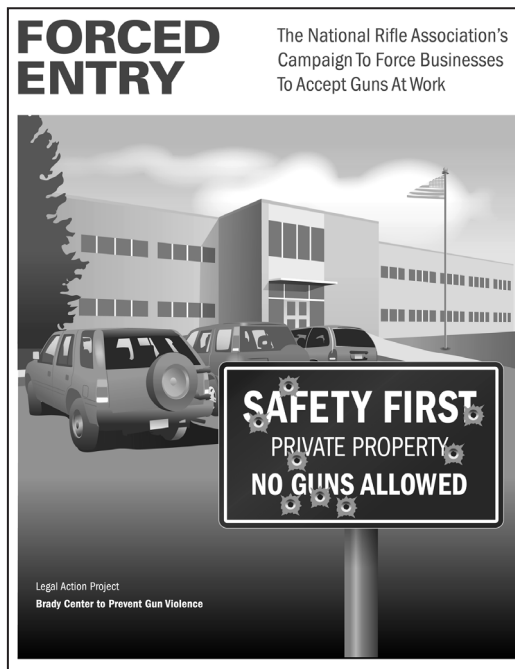
A New NRA Campaign Threatens Workplace Safety

The National Rifle Association has launched a 50-state campaign to pass "take-your-guns-to-work" laws that would turn companies into criminals if they barred guns on their private property. The Brady Center's report, *Forced Entry: The National Rifle Association's Campaign to Force Businesses to Accept Guns at Work*, (available at www.bradycampaign.org/action/workplace/) blows the whistle on the NRA's strategy and explains how it tramples property rights and threatens the safety of employees and consumers. The NRA's campaign conflicts with companies' federal obligation to provide a safe workplace and will expose employers to lawsuits because it establishes the right of employees to sue employers to overturn no-weapons policies.

Forced Entry has helped to alert and mobilize the business community, spawning articles on the dangerous laws in several industry magazines and newspapers. The report has been sent to every company in the Fortune 500. Thus far, the report has helped to stop "take-your-guns-to-work" laws in nine states where the NRA had introduced the bills.

Gun violence in the workplace is a serious national problem: 77 percent of workplace homicides are committed with firearms and murder is the leading cause of injury-related death for women in the workplace. A May 2005 study published in the American Journal of Public Health found that workplaces where guns were permitted were five to seven times more likely to be the site of a homicide compared to workplaces where guns are prohibited.

The NRA's Marion Hammer, who suffered defeat in Florida when the legislature failed to pass a take-your-guns-to-work law this year, vowed that the fight would not be over "until I say it is." Nonetheless, it is clear that more and more business and professional organizations are gearing up to oppose the NRA's campaign. In addition, a federal lawsuit filed in Oklahoma by ConocoPhillips and other companies has temporarily blocked implementation of that state's law while the court decides whether the law conflicts with the company's constitutional rights or must give way to the overarching federal duty to provide a safe workplace. ●



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