

NLWJC - Kagan

DPC - Box 011 - Folder 008

Crime - Gun Lawsuits

Crime - gun suits

Mt vs Gun Suits 1/4
Cole/Rodham / New Orleans / May/
Kennedy/Turner / Lindray/Reed

use purchasing power over guns -
we can't buy unless ...

New Orleans: childproofing - gov of schedule + str.

Ballistics testing of all weapons - assign code that
allows every weapon to be traced

Costs incurred

Dumping of weapons into cities thru military schemes

Turkelli regulatory - statute

KKT: If Popul was Pres, could get it

But politically - to put ATF in this position

KKT: What could be done on dumping issue?

NO: NOT a part of our suit

NOT certain of strategies

Smart guns - only be authorized users

Gun detection devices?

Enora system?

requires gun wires x 12 (too high?)

2/20

RODHAM/ COLG MEETING

GUN REPORT

BOB RICKER -> SHOOTING COUNCIL - ARSEN OF MANUFACTURERS

GUN SUTWS

SAFETY DEVICES

WORK ON STATING THAT STOP DUMPING IN INNER CITIES

TAX CREDITS FOR SAFE GUNS

THEY WANT CHANGE IN CURRENT REPORTING REQS

SPLIT W/ NRA

R/L SUITS: REPRESENTING IN ADVISING
N ORLEANS, MIAMI, NEWARK, ATLANTA, CINCIN

OTHER CASES -

CHICAGO, BRIDGEPORT

Dumping

Dumping

Other: are
product liab/
safety issues

NY verdict - dumping

(Some favor - w/ Daley - ans. There is his ans)

(We hope you guys - try to rein him in)



Set up mtg: Ricker/ Mayor of N.O/ one of us -
we setting up negotiations

Just know how far to go compressi-ally

someone from left?? B. Boxer??

" " w? Habel??

Portus said: don't bag before NRA starts publicity machine.

Q: Mayors / Daley. Rendell a poss prob.

JC: Do in concentric circles. Set up process now

Daley
would
have to
be in

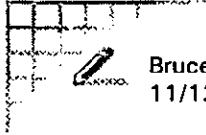
- Bruce C. talked to / was going to talk to Bruce R
Stan/Wendell - will talk to ind. about \$.

Tobacco Need a leader

Need a combis w/ the WHouse

+ Hate Currei - totally disloyal - subverted all we were trying to do.

+ Pitching WHe



Bruce N. Reed
11/12/98 03:47:02 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP

cc:

Subject: chicago tribune

MAYOR ANNOUNCES

**\$358 MILLION LAWSUIT
AGAINST GUNMAKERS**
Chicago becomes second major city
to take gun industry to court

By Ellen Almer
Tribune Staff Writer
November 12, 1998

Mayor Richard Daley this afternoon announced a \$358 million lawsuit against 40 gun makers and sellers, alleging they are "knowingly marketing deadly weapons to gang members."

Flanked by the city's top law enforcement officials, Daley charged several Chicago and suburban gun sellers, along with gun makers such as Smith & Wesson, with committing a "public nuisance" against the City of Chicago.

The suit also seeks an unspecified amount in punitive damages.

Unlike a similar suit filed last month in New Orleans, Chicago's lawsuit, filed today in Cook County Circuit Court, goes after the gun industry's marketing strategy, as opposed to the guns themselves.

"We hold polluters responsible for the environment, and liquor stores for selling to minors. Now we're holding the gun industry responsible" for violent crimes, Daley said.

Halfway through the press conference on the city's West Side, city officials yanked the covering from a large table, revealing

171 guns Daley said were acquired by police during a 3-month undercover investigation.

Daley said police bought most of the guns in suburban gun shops, "whose personnel repeatedly helped them evade gun laws."

Gun sellers know they are selling to people who will resell them to criminals, Daley said, citing the killing of police officer Michael Ceriale, who was shot by a gun that was resold to gang members.

Police Supt. Terry Hillard said gun dealers know they're not selling to deer hunters and mentioned an undercover buy in which a gun dealer described bullets that won't "hit the little girl across the street."

Chicago is only the second major city to take the gun industry to court in a strategy reminiscent of state attorneys general who have sued tobacco companies.

Last month, New Orleans filed suit against 15 gun manufacturers, contending they have failed to design enough safety features into their weapons, thus making them "unreasonably dangerous."

The suit seeks "millions of dollars" to recover city outlays for such things as emergency medical care, hiring of additional police officers and starting youth programs to counteract gun violence.

City lawyers here have been studying a legal approach different than the strategy used in the New Orleans case.


Instead of contending that firearms manufacturers have failed to build safeguards that somehow would prevent their illegal use, Daley's suit argues that manufacturers and distributors fail to take steps to ensure that only those eligible to buy guns obtain them.

▶ Paul J. Weinstein Jr.
11/11/98 11:51:13 AM
.....

Record Type: Record

To: Bruce N. Reed/OPD/EOP

cc: Jose Cerda III/OPD/EOP, Elena Kagan/OPD/EOP

Subject: Re: gun suits 

You know I hate lawsuits. This one smells like Cuomo...I am sure he will get a lot of press on it in the Times and Post. But I wouldn't think that the Justice Department would want to take this case. A lot of pitfalls.

How can you blame gun manufacturers for illegal weapons brought into public housing by tenants and non-tenants. Where is the conspiracy?



Office of the Mayor
Richard M. Daley
Mayor

November 12, 1998

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

**GUN INDUSTRY FLOODS CHICAGO WITH ILLEGAL WEAPONS,
CITY AND COUNTY CHARGE IN LANDMARK \$433 MILLION LAWSUIT
Suburban stores willingly sell guns to undercover "gang members"**

Mayor Richard M. Daley announced today that Chicago and Cook County have filed a \$433 million lawsuit against the gun industry, charging it with flooding Chicago with illegal guns, knowing they will be used to murder, rob and terrorize Chicagoans.

The suit, first of its kind in the nation, was filed today in Cook County Circuit Court. It climaxed a three-month investigation in which Chicago police officers, posing as criminals, bought 171 guns from suburban gun shops, whose personnel repeatedly helped them evade gun laws.

Investigators also revealed that suburban gun stores were the source of many Chicago murder weapons, including the gun used to kill Chicago Police Officer Michael Ceriale last August 15.

"Gun manufacturers and retailers know exactly what they're doing," Mayor Daley said at a news conference at the Homan Square Police Facility, 3340 W. Fillmore St. "They knowingly market and distribute their deadly weapons to criminals in Chicago and refuse to impose even the most basic controls.

"In doing so, they put you, me, our families, our children and our police officers in grave danger."

The mayor added: "If money is the only language they understand, then money is the language we will use to make them understand that they have no business in Chicago.

"We're going to hit them right where it hurts -- in their bank accounts -- and we won't stop hitting until they stop flooding our streets with guns."

Named as defendants in the suit are 12 gun shops in suburbs ringing Chicago, 22 gun manufacturers and 4 gun distributors.

-MORE-

The suit, intended to become a national test case, says the defendants have "created a public nuisance" because they "knowingly design, market and distribute firearms in order to facilitate their illegal entry into and possession in Chicago, where they are illegal to possess, and where they often are used in the commission of crimes.

"Defendants know and foresee that their conduct contributes to crime in Chicago, and creates an unreasonable threat to public health and safety," the lawsuit continues. "The defendants' conduct undermines the City's efforts to protect the public health, safety and welfare through stringent gun control ordinances which make it illegal to possess most types of guns in the City."

Chicago has some of the nation's most restrictive gun laws. They prohibit the private ownership of handguns unless they were registered prior to March 30, 1982. Under Mayor Daley Chicago, has led the nation in the confiscation of handguns, seizing and destroying more than 178,000 in the last 10 years.

Yet guns continue to flood the city because it is ringed by suburban gun shops, whose manufacturers and distributors supply them with many more guns than are necessary to serve a suburban clientele. The gun stores, distributors and manufacturers knowingly supply huge numbers of guns to the illegal Chicago market, the lawsuit contends.

"The gun manufacturers are saturating gun stores just outside Chicago's border with far more guns than the lawful gun market could possibly absorb, because they know there is a large, illegal market for guns in the city," Corporation Counsel Brian Crowe said.

"They know that the guns they're making and selling are being used for criminal purposes," Crowe said. "These guns are designed for easy concealment and for excessive firepower -- for street fighting, not hunting or self-protection."

City officials explained that the gun industry creates a public nuisance in Chicago comparable to a suburban industry spewing poison gas into the city.

"We hold polluters accountable for poisoning the environment," Mayor Daley said. "We hold liquor stores accountable for selling to minors. It's time to hold the gun industry accountable for the direct costs imposed on us."

The Mayor also countered "the myth that most guns used in crimes are stolen -- and therefore gun control is really a matter for police, not for the gun industry.

"In fact," he noted, "most guns used in crimes are purchased legally by straw buyers."

-MORE-

The undercover police officers easily purchased guns at the suburban gun shops, even after implying that they needed them to retaliate against others. The officers made it clear that they lived in Chicago, where handguns are illegal, and that they intended to transfer the guns to others. In many cases a gun buyer made it plain that he was buying the gun for someone who lacked a state Firearm Owners Identification Card.

Mayor Daley said the conduct of the gun shop personnel made it clear that the gun industry knows its products are being used illegally.

"I want to force the gun industry to sit down face-to-face with the family of Michael Ceriale and justify the system that put a gun in the hand of a 16-year-old, so he could shoot that brave young police officer working undercover to fight drug dealers and gangs," Mayor Daley said.

"I want them to sit down face-to-face with police officers all across America and explain why they are selling guns that can shatter police vests -- guns that can pierce the door of a police car -- and guns that can hold a hundred rounds of ammunition in a single clip.

"Let them spend a day, or a week, or a year at Schwab Rehabilitation Hospital, watching children cope with crippling spinal cord injuries because they just happened to get caught in the crossfire of gang-related gun violence."

The Mayor was joined at the news conference by Crowe, Cook County State's Attorney Dick Devine, Chicago Police Superintendent Terry Hillard and Commander Harvey Radney of the police Gang Investigation Section, which conducted the investigation.

The \$433 million in damages is a conservative estimate of gun-related costs incurred since 1994 by the Chicago Police Department, the Chicago Fire Department's emergency medical services, the City Law Department, Cook County Hospital and the Cook County criminal justice system. Last year, 570 people were murdered with guns in Chicago. Nationally, 35,957 people died from firearms in 1995. Of those, 15,835 were homicides.

-MORE-

The 12 gun shops named as defendants are:

Bell's Gun & Sport Shop, 3315 N. Mannheim Rd., Franklin Park
B&H Sports, Ltd., 9725 Southwest Highway, Oak Lawn
Bob's Sports Headquarters, 8017 W. 79th St., Justice
Breit & Johnson Sporting Goods, Inc., 2724 N. Harlem Ave., Franklin Park
Chicago Ridge Gun Shop & Range, Inc., 10349 Southwest Highway, Chicago Ridge
Chuck's Gun Shop & Pistol Range, Inc., 14310 S. Indiana, Riverdale
Gun World, 421 E. Irving Park Rd., Bensenville
Midwest Sporting Goods, 8565 W. Plainfield Rd., Lyons
Sportsmen's Center/Illinois Gun Works, Ltd., 7229 W. Grand Ave., Elmwood Park
Shore Galleries, Inc., 3318 W. Devon Ave, Lincolnwood
The Sports Authority, 7720 S. Cicero Ave., Burbank
Suburban Sporting Goods, 2036 W. North Ave., Melrose Park

Manufacturers named as defendants are Beretta U.S.A. Corp.; Browning Arms Co.; Bryco Arms; Colt Manufacturing Co., Inc.; Davis Industries, Inc.; Glock, Inc.; H&R 1871, Inc.; International Armament Corp. d/b/a Interarms Industries, Inc.; Kel-Tec CNC Industries, Inc.; Lorcin Engineering Co., Inc.; Navegar, Inc. d/b/a Intratec; Phoenix Arms, Inc.; Smith & Wesson Corp.; Sturm, Ruger & Co., Inc.; Sundance Industries, Inc.; Taurus Firearms, Inc.; Hi-Point; Raven Arms, Inc.; Pietro Beretta Sp.A.; Glock GmbH; Carl Walther GmbH; and Forjas Taurus, S.A.

Distributors named as defendants are Jennings Firearms, Inc.; Faber Brothers, Inc.; Riley's, Inc.; and Ashland Shooting Supplies, Inc.

David Kairys of Temple University School of Law in Philadelphia is the City's legal consultant on the suit. The City also received assistance from the Johns Hopkins University Center for Gun Policy and Research; the Center to Prevent Handgun Violence and the Violence Policy Center, both in Washington, D.C.; David W. Stewart, professor of marketing at the University of Southern California; Philip J. Cook, director of the Terry Sanford Institute of Public Policy at Duke University. John Schmidt of the law firm of Mayer, Brown & Platt has volunteered to provide legal assistance to the City and County at no charge, along with other volunteer attorneys from that firm.

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SAFE CITIES

FIGHTING ILLEGAL GUNS



**CITY OF CHICAGO
RICHARD M. DALEY, MAYOR**

SUMMARY OF COMPLAINT

THE CONCEPT OF PUBLIC NUISANCE

I. INTRODUCTION

Chicago, like many other major cities, is faced with a high level of violent crime. One of the major contributors to the level and severity of violent crime in Chicago is the widespread availability of guns. To limit their availability and thereby reduce the level of violent crime, the City has enacted among the strictest gun control ordinances in the United States, essentially banning every type of gun except for shotguns and rifles. However, thousands of illegal guns -- many of them new guns -- still are recovered every year in Chicago. These recovered guns represent only a fraction of the number of illegal guns still on the streets.

The lawsuit alleges that the continuing availability of illegal firearms in Chicago is caused in large part by the practices of gun manufacturers, distributors and dealers, whom the City and County have named as defendants in this lawsuit. The defendants are aware of the high demand for illegal guns in Chicago, and through their marketing and distribution practices, they seek to maintain and supply that demand.

The lawsuit alleges that firearms manufacturers and distributors facilitate the illegal use of firearms. First, they design weapons better suited for criminal than lawful uses. Second, the defendants distribute their guns so as to ensure that they are available to persons who live in areas where guns are impermissible. For instance, the defendants saturate the markets just outside Chicago, where gun control laws are more permissive, knowing that many guns purchased there will be brought into Chicago through an illegal and underground market. For their part, many gun dealers will sell their guns to persons whom any reasonable person would understand intend to possess or use them improperly. Simply by virtue of selling their guns to Chicago residents, a gun dealer should be aware that there is a high probability that the guns will be brought into

Chicago. Nonetheless, dealers rarely concern themselves with their purchasers' residence, and, even though they know that their purchasers are from Chicago, they rarely take any steps to ensure that the guns will be kept by the purchasers outside of Chicago. Dealers will sell guns under other circumstances where they should know that the weapons will be used illegally. For instance, they will sell a large number of guns to an individual within a short period, knowing that the individual intends illegally to transfer the guns to others; they will also illegally sell to individuals who are not licensed to purchase guns. Compounding this problem is the ease with which almost anyone can become a federally licensed gun dealer, and the resulting high number of irresponsible persons selling guns.

The entire gun industry is aware of how their conduct causes guns to continue flooding the streets of Chicago; in fact, that is what they intend. They know that the widespread availability of these illegal weapons threatens the safety and well-being of Chicago's residents, and creates a public nuisance. Yet no standards for responsible sales practices are followed in the industry. Manufacturers and distributors knowingly and eagerly provide more efficient, powerful and dangerous guns to the very persons they know will use them illegally. Their conduct is no different from the tavern that plies a patron with alcoholic drinks and then sends him off to drive home intoxicated. Just as the tavern must pay for irresponsibly putting an intoxicated driver behind the wheel, the defendant members of the gun industry should be held liable for the public nuisance they create by supplying loaded weapons to persons they know will use them illegally.

This lawsuit is not brought for the purpose of limiting the rights of law-abiding citizens to own guns. Rather, it is brought to force those who illegally, irresponsibly and immorally arm criminals to pay for the damage they cause, and to compel them to stop acting with utter disregard

for the safety, health and well-being of the public.

II. PUBLIC NUISANCE AND FIREARMS DISTRIBUTION

The earliest use of the public nuisance doctrine in Illinois appears to be in Village of Des Plaines v. Poyer, 123 Ill. 348 (1888), in which the Illinois Supreme Court held that the common law protects the right “to be free from disturbance and reasonable apprehension of danger to person and property.” Illinois has since adopted the definition of a public nuisance found in the Second Restatement of Torts, defining a nuisance as any “unreasonable interference with a right common to the general public.” E. g., Wheat v. Freeman Coal Mining Corp., 23 Ill. App. 3d 14, 18 (5th Dist. 1974); City of Chicago v. Commonwealth Edison Co., 24 Ill. App. 3d 624, 631 (1st Dist. 1974). The most recent decision of the Illinois Supreme Court in this area defines a public nuisance as “an act or omission which obstructs or causes inconvenience or damage to the public in the exercise of rights common to all.” Village of Wilsonville v. SCA Services, Inc., 86 Ill. 2d 1, 21 (1981).

A claim for nuisance may be predicated either on (1) a violation of an ordinance designed to protect the public from a threat to its health, welfare or safety, see Chicago National League Ball Club, Inc. v. Thompson, 108 Ill. 2d 357, 365-66 (1985), or on (2) other unreasonable actions including negligence. Gilmore v. Stanmar, Inc. 261 Ill. App. 3d 651, 633 N.E.2d 985, 993 (1st Dist. 1994); Restatement (Second) of Torts, § 821B, comment e.

[T]he defendant is held liable for a public nuisance if his interference with the public right was intentional or was unintentional and otherwise actionable under the principles controlling liability for negligent or reckless conduct or for abnormally dangerous activities.

Restatement (Second) of Torts, Sec. 821B, comment e. If the interference was intentional, then it must also have been unreasonable. Id.

Whether the defendant's actions were unreasonable and whether the interference was significant are factual determinations. Gilmore, 633 N.E.2d at 993. The Restatement sets forth the following three circumstances that may sustain a determination that the interference was unreasonable:

- (1) whether the conduct involves a significant interference with the public health, the public safety, the public peace, the public comfort or the public convenience; or
- (2) whether the conduct is proscribed by statute, ordinance or administrative regulation; or
- (3) whether the conduct is of a continuing nature or has produced a permanent or long-lasting effect, and, as the actor knows or has reason to know, has a significant effect upon the public right.

Restatement (Second) of Torts, Sec. 821B.

On both bases, the illegal possession of firearms in the City of Chicago constitutes a public nuisance. First, Chicago's gun control ordinances were enacted to protect the public's health, welfare and safety, and, therefore, the defendants' conduct that causes violations of those ordinances constitutes a nuisance. Second, the defendants knowingly continue their conduct which causes illegal firearms to end up in the City; the effect of their conduct is a long-term injury that significantly interferes with the public health, welfare and safety, and with the public's right to be free from disturbances and reasonable apprehension of danger. Their conduct is unreasonable, and creates a public nuisance.

Liability under public nuisance requires unreasonable conduct by the defendant that gives rise to the public nuisance. When a firearms dealer sells to an individual whom he knows or should know will use that weapon illegally, the conduct gives rise to liability. In fact, there are cases from around the country that impose liability on a theory of negligent sales when a firearms dealer sells a firearm to an individual whom the dealer knows or should know is not permitted to possess the firearm. For example, in Rubin v. Johnson, 550 N.E.2d 324 (Ind. Ct. App. 1990), the court held that a pawn shop was liable for damages caused when it sold a firearm to an individual that it knew or should have known was mentally ill. Similarly, in Kitchen v. K-Mart, 697 So. 2d 1200 (Fla. 1997), the Florida Supreme Court held that a dealer could be held liable for a shooting that occurred after it sold a firearm to an obviously intoxicated buyer. In Jasoves v. United Merchandising Corp., 11 Cal. Rptr. 2d 468 (Cal. App. 1992), the court held that a seller can be held liable when it has reason to know that the purchaser of a firearm is likely to be a danger to himself or others.

While no Illinois court has yet determined a negligent marketing claim to lie, the concept of negligent marketing is available in Illinois. See Pitts v. Vasile, 45 Ill. 2d 49, 52-53 (1955) (adopting negligent marketing as defined in the Second Restatement of Torts, but finding it unproven in the case at bar). Accordingly, if it can be shown that dealers sell firearms when they know or should know that the purchaser is likely to use them illegally -- for example, by bringing a firearm into Chicago in violation of its gun control ordinance, illegally reselling the firearm, or using the firearm to commit a crime -- then a claim of negligent marketing exists.

There are few cases discussing whether a manufacturer can be held liable for public nuisance based on the use of its product. Applying Illinois law, in City of Bloomington v.

Westinghouse Electric Corp., 891 F.2d 611 (7th Cir. 1989), the court held that a defendant-manufacturer could not be held liable for the creation of a nuisance caused by the use of its product by its buyer; however, the court stressed that the manufacturer in that case had not participated in the conduct that gave rise to the nuisance. See id. at 613. The Second Restatement of Torts permits the imposition of liability on a manufacturer if it participates to a substantial extent in creating or carrying on a nuisance. See Restatement (Second) of Torts, § 834 (1977). The City and County allege that firearms manufacturers attempt to appeal to a criminal market through their design and marketing practices, and that they fail to take reasonable measures to discourage their distributors from selling these weapons to persons likely to use them illegally. Such conduct constitutes substantial participation in the creation or carrying on of a nuisance, and should justify the imposition of liability on manufacturers.

Illinois law permits a municipality to sue to abate a nuisance. See 65 ILCS 11-60-2. The remedies available once a nuisance is proved are an injunction and a suit for damages. See Village of Wilsonville v. SCA Services, Inc., 86 Ill. 2d 1, 22 (1981). Accordingly, the City and County can seek an injunction against the defendants' conduct which contributes to the creation of a nuisance, and they may recover damages proximately caused by the nuisance, such as the costs of prosecuting firearms cases and the cost of treating victims of firearms violence.

Illinois courts can enjoin the activities of an out-of-state defendant who is causing an injury in Illinois and who is subject to the jurisdiction of Illinois courts. Mergenthaler Linotype Co. v. Leonard Storch Enterprises, Inc., 66 Ill. App. 3d 789, 792 (1st Dist. 1978) (activities in New York which caused an injury in Illinois could be enjoined by an Illinois court). In this case, an Illinois court may hold out-of-state defendant manufacturers and distributors liable because they

are causing an injury in Illinois, and because they are subject to jurisdiction in Illinois. And courts have found that an out-of-state defendant who was doing business in Illinois, and whose out-of-state actions caused an injury in Illinois, was subject to personal jurisdiction in Illinois. Reidy v. Janmark, 132 F.3d 1200, 1202 (7th Cir. 1997).

The Illinois Supreme Court has stated that manufacturers who “sell[] [their] products in circumstances such that [they] know[] or should reasonably anticipate that they will ultimately be resold in a particular state” are subject to personal jurisdiction in the state where their products are resold. Connelly v. Uniroyal Englebert Belgique, 75 Ill.2d 393, 405-06, 389 N.E.2d 155, 160 (1979), quoting Buckeye Boiler Co. v Superior Court, 71 Cal.2d 893, 902, 458 P.2d 57, 64 (1969). See also Gray v. American Radiator & Standard Sanitary Corp., 22 Ill.2d 432, 176 N.E.2d 761 (1961); Cameron v. Owens-Corning Fiberglass Corp., 296 Ill. App. 3d 978, 990, 695 N.E.2d 572, 580 (4th Dist. 1998) (Cook, J concurring). The manufacturer and distributor defendants know that their firearms are being resold in Illinois, and therefore, they are subject to jurisdiction in Illinois.

III. THE CITY'S INVESTIGATION

The Chicago Police Department recently performed an undercover investigation into the practices of firearms dealers. The investigation revealed conduct by the defendant firearms dealers which exhibits what can only be described as a brazen and utter disregard for local, state, and federal firearms laws. Their investigation confirms the role these dealers play in creating the public nuisance caused by the presence of so many illegal firearms in Chicago.

The defendant dealers readily sell firearms when they know or should know that the purchasers are not permitted to purchase or possess the firearm, or will illegally transfer them to

others. The City's investigation involved undercover Chicago police officers purchasing firearms from dealers located near the City of Chicago, under circumstances where the dealers knew -- and in some cases even acknowledged -- that the firearms would be used illegally. The dealers unabashedly sold firearms to undercover officers posing as persons who were likely to use the firearms illegally, either by bringing the firearms into Chicago in violation of City ordinances, or by reselling or otherwise transferring them. Specifically, the investigation uncovered widespread practices by dealers of: (1) selling to Chicago residents firearms that are illegal in Chicago; (2) selling firearms to individuals who are obviously making the purchase for another individual who is himself prohibited from purchasing firearms, some of whom even admit to the dealers that they are purchasing firearms for others; (3) selling large numbers of guns to a single individual over a short period of time; (4) selling guns to individuals who indicate that they will be using the gun for illegal purposes; (5) selling guns to individuals who demonstrate that they illegally will be concealing the gun on their person; (6) counseling purchasers on how to evade existing firearms regulations; and (7) knowingly selling outlawed guns.

The defendant firearms dealers' actions are driven by their desire to sustain sales of their firearms. The dealers know that a sizeable portion of their sales are to individuals who will use the firearms illegally. The dealers also know that if they refuse to sell firearms to those individuals, then they simply will purchase firearms from another dealer. The defendant dealers knowingly sacrifice public safety in order to sustain their sales. Their unreasonable conduct contributes to the creation of a public nuisance in the City of Chicago and necessitates the imposition of an injunction against them.

The defendant firearms manufacturers and distributors participate in the dealers'

unreasonable conduct by failing to discourage dealers from selling to persons likely to use their products illegally, including establishing standards for responsible conduct and monitoring dealers' sales. The defendant manufacturers and distributors also know that there is a significant illegal market for firearms, and they do not wish to see the dealers limit sales of their products.

IV. CONCLUSION

The defendants' unreasonable conduct contributes to the creation of a public nuisance in the City of Chicago. The City and County are entitled to an injunction prohibiting continuation of their conduct, and to an award of damages for the resulting harm.

News Release



Office of the Mayor
Richard M. Daley
Mayor

November 12, 1998

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

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

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

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

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

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

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

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

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

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

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

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

-MORE-

City Hall, Room 602 121 North LaSalle Street Chicago, Illinois 60602
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The partner then asked the card-carrying officer to buy him one more gun. He did.

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

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

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

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

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

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

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

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

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

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

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

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Office of the Mayor
Richard M. Daley
Mayor

November 12, 1998

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

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

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

December 28, 1997 Ezra Evans, an unemployed 27-year-old who lives at 12007 S. Normal Ave., buys a Smith & Wesson .357 revolver from Chuck's Gun Shop. He buys a total of 13 handguns between August 1997 and July 1998 - seven from Chuck's and six from The Sports Authority, 7720 S. Cicero, Burbank.

August 15, 1998 Chicago Police Officer Michael Ceriale is shot in the abdomen. Police arrest Michael Tolliver, a 16-year-old gang member, and they recover the Smith & Wesson revolver bought by Evans. Ceriale dies a week later.

August 18, 1998 Evans is arrested and charged with gunrunning, a Class 1 felony. He admits that he has been purchasing guns for resale to the Gangster Disciples street gang. Eleven of the 13 guns Evans bought are still on the streets.

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

February 24, 1995 A Bryco 9mm. semi-automatic pistol is sold to Thomas M. Sanders, 27, of 8540 S. Muskegon Ave. Sanders had purchased seven pistols and a shotgun during 1994 and 1995.

March 20, 1996 A 37-year-old janitor is accosted by two men on his way home from work near 52nd and Hermitage. One points a gun at his face. The stick-up men take \$7.90 from the victim.

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

March 18, 1997

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

February 22, 1998

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

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

June 16, 1995

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

August 2, 1996

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

August 19, 1996

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

June 12, 1997

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

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

CHICAGO RIDGE GUN SHOP, 10349 Southwest Highway, Chicago Ridge

November 16, 1996 Victor Jordan Caruth, 36, of 6920 S. King Dr., buys a Bryco Arms Model 59 9mm. semi-automatic pistol. Caruth purchases a total of six handguns during 1996.

December 5, 1996 Ernest Jarrett, 28, is shot three times in the chest with the gun while he is leaving a fast-food restaurant at 435 E. 71st St. The shots were fired from a passing car by someone who threw the gun out and sped away.

April 18, 1998 Two tactical officers from the 12th District respond to a call of a man with a gun at 1200 W. Roosevelt Rd. When they exit their car, a group of gang members begin firing at them. The officers call for help and the offenders are chased into the building. Three teenagers are arrested following a search of the building, which also turns up four of the gang's guns. One of the guns had been purchased by Caruth in 1996.

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

June 30, 1997 An Imez 9mm. pistol is sold to Samuel Hwang, 24, of Skokie.

October 7, 1997 Two 4th District police officers try to make a traffic stop at 87th and Muskegon. The driver flees the stolen 1983 Chevy Caprice on foot. The 9mm. pistol purchased three months previously by Hwang is found on the floor of the car.

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Office of the Mayor
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Mayor

November 12, 1998

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BATTLING THE AVALANCHE OF GUNS: SOME FACTS AND FIGURES

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

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