

commerce ... Convicted felons will simply use a friend, a family member or a girlfriend to buy a gun for them. The felon provides the money for the gun, selects the gun, and directs the purchase. The



straw purchaser just fills out all of the required paperwork, posing as the buyer ... If those firearms are traced, the [felon] does not want their name reflected as the purchaser of the gun ... Straw purchasers are not traffickers. They are pawns of the traffickers. They are frequently people desperate for money or drugs. Gun traffickers typically pay straw purchasers \$50 to \$100 per gun or provide them with a \$20 to \$50 rock of crack cocaine in exchange for their services.”⁴

Firearms are also diverted by unscrupulous FFLs that are willing to sell guns “off the books” to purchasers without conducting background checks. Finally, in a small number of cases, firearms are stolen from gun stores. Currently, there are no federal laws regulating how dealers must store and secure firearms in their shops.

There are additional avenues for criminals to obtain firearms (i.e., thefts from private homes or transactions through unregulated sellers at gun shows), but given the current state of the gun market, criminals don’t need an alternative to FFLs. As civil rights lawyer David Kairys puts it, “The market makes new handguns so easily available...that it makes no sense to steal one. New guns have no traceable history and are so cheap that they can be thrown away after each use.”⁵

THE ROLE OF GUN MANUFACTURERS IN FIREARMS DIVERSION

In any industry, it is inevitable that manufacturers will not be able to control the distribution of every one of their products. That said, industries that produce dangerous products such as guns have a special responsibility to make reasonable efforts to prevent the misuse of their products.

The gun industry is sufficiently aware of the problem of illegal firearms diversion and what it needs to do to solve it. For example, in the 1980s and 1990s, gun manufacturers discovered through a market study that the legal market for 9-millimeter handguns was saturated.⁶ Yet they continued—and still continue—to produce these handguns in large quantities, and distribute them to areas with weak gun laws. It should not be surprising that 9-millimeters have become a weapon of choice for criminals that commit gun homicides.

There is little doubt that the gun industry understands how its actions encourage criminal activity. One advertisement for a gun even went as far as to list one of its features as “excellent resistance to fingerprints.”⁷ This would obviously be irrelevant if purchasers were planning on using the gun legally.

Perhaps the most obvious failure of the gun industry to prevent firearm violence is its blatant refusal to self-police its network of dealers. Research shows that few manufacturers and distributors require their dealers to use known marketing safeguards to prevent the illegal diversion of firearms.⁸

Several other industries that sell dangerous products have self-regulated for years.⁹ For example, drug companies have aggressively moved to stop the diversion of narcotics by identifying doctors who over-prescribe certain drugs, providing incentives for sales staff to turn in crooked pharmacists, and strengthening security to deter theft. Certain retail alcohol sellers participate in a program in which they agree to be secretly “shopped” by an underage purchaser to determine whether their employees are checking IDs. And so on...

Firearms manufacturers could easily monitor the activities of FFLs and track their sales—every time a crime gun is recovered a trace request is sent to the manufacturer with the weapon’s serial number. The pieces for an effective regulatory regime are already in place; they just aren’t being used.

WHAT MARKETING SAFEGUARDS HAVE PROVEN EFFECTIVE?

Research has proven that marketing safeguards are effective in practice. Manufacturers who require FFLs to use safeguards have a significantly lower percentage of guns that end up being used in crimes as opposed to those who do not.¹⁰

The following are examples of procedures that have been successful in deterring straw purchases and “off the books” sales by FFLs:

- All firearms sales are videotaped and these videos are maintained for an extended period of time.
- A computerized log of crime gun traces relating to the retailer is maintained in-house. When a customer who has a prior trace at that retailer attempts to purchase a firearm, the sale is electronically flagged. The dealer has the discretion to stop the sale.
- The dealer posts clearly visible signage to alert customers of their legal responsibilities at the point of sale.
- Customers are prohibited from making in-store calls on their cell phones.
- The dealer requires criminal background checks for all employees that sell or handle firearms in the store.
- The dealer conducts daily and quarterly audits to make sure no firearms are missing.
- The dealer prohibits all sales based on “default proceeds,” which are permitted by law when a background check has not returned an approve/deny result within three days.
- The dealer keeps all firearms in customer-accessible areas in locked cases or secured to gun racks.

Unfortunately, self-regulation remains voluntary, and there is no indication that the gun industry will take such sensible steps. Given the difficulty of passing legislation to force manufacturers to regulate themselves, there is a need for a new approach.

WHAT IS “BUYER POWER” AND WHY DOES IT MATTER?

Cities wield important power over the gun industry. In the aggregate, municipal governments are some of the largest purchasers of guns nationally due to their need to outfit local law enforcement departments. Firearms manufacturers and distributors understand the importance of this critical



market segment and give it substantial attention. This gives cities considerable “buyer power” in their dealings with the gun industry.



“Buyer power” is defined as the leverage held by large purchasers of a single product. If a single buyer purchases a substantial percentage of the total amount of a good produced, the sellers must shift the price and characteristics of the product—as well as their business practices—toward the buyer’s preferences.

This presents a unique opportunity for cities to curb the violence caused by gun trafficking. A city purchasing firearms for its law enforcement department can create incentives for firearm manufacturers to ensure that their retailers are using all available procedures to prevent illegal firearms diversion. Given cities’ buying power, firearm manufacturers would be obliged to listen and change their policies to compete for this valuable market share. Manufacturers and cities could then work together in a collaborative, positive fashion.

PARTNERING WITH MUNICIPAL OFFICIALS

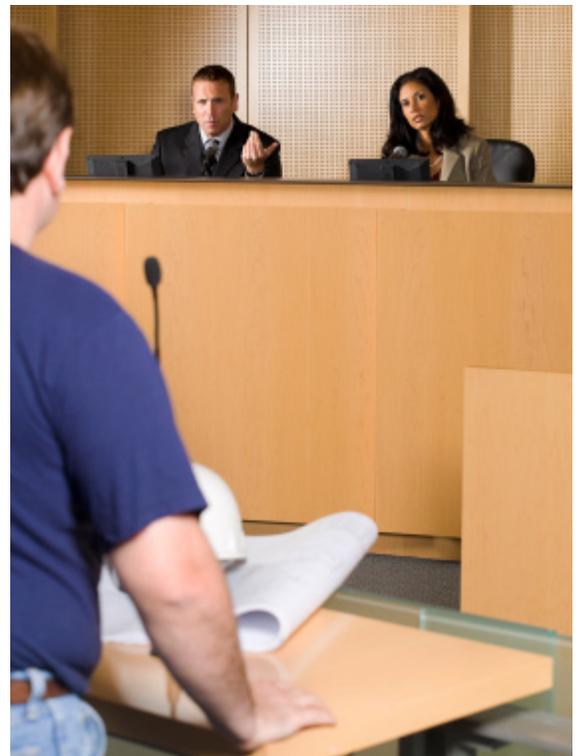
The key is for grassroots activists to convince their municipal officials to use their buyer power to push the gun industry to self-regulate.

Over 550 mayors from more than 40 states have already answered the call by joining together to create Mayors Against Illegal Guns (MAIG), a coalition committed to reducing gun crime. In April 2008, MAIG announced the creation of the “Responsible Firearms Retailer Partnership” with Wal-Mart, the nation’s largest retail seller of firearms.¹¹ This agreement outlined a ten-point code of conduct that Wal-Mart adopted to hinder illegal firearms diversion (the marketing safeguards included in the code are similar to those listed above under “What Marketing Safeguards Have Proven Effective?”).

If implemented on a wider scale, such business practices have the potential to significantly curb gun trafficking. The key lies with community activists who are committed to stopping gun violence. If groups of concerned citizens are willing to work together to convince municipal officials to use their buyer power to force gun manufacturers to police their own distribution networks, we can fight gun trafficking without the use of legislation.

WHAT CAN YOU DO?

There are many ways to get your voice heard within your community and gain support for the buyer power initiative. The first step is to contact the offices of the mayor and council members in your city or town.



Here is a sample letter you can use for that purpose:

But don't stop there. Follow up your letter with a phone call to your elected officials' offices. If you can get a group of activists together, you can even set up a meeting with them and/or their staff to discuss the "buyer power" strategy face to face.

You can also attempt to raise the issue in your community by sending a Letter to the Editor to your local newspaper. Here is a template:

TO THE EDITOR:

The trafficking of firearms to criminals is one of the most pressing problems in the U.S. today. What is often not realized, however, is that almost all crime guns are originally purchased from a licensed firearms dealer. The gun lobby has made it very difficult to pass legislation to regulate these dealers, so we must use innovative strategies. Residents of [Insert name of town/city] should encourage [Insert name of elected official] to use [his/her] power as a bulk purchaser of firearms for law enforcement to force gun manufacturers to impose a code of conduct on their retailers. By instituting relatively simple safeguards—including videotaping sales, increasing store security, and conducting background checks on employees—gun retailers can significantly curb the trafficking of firearms to criminals.

[Your name]

Dear [Elected Official]:

As gun violence continues to ravage our city, it is more important than ever to consider new, innovative methods to curb this violence.

It is often assumed that most crime guns are acquired through backroom dealings and the so-called "black market"; however, that is not the case: Many crime guns are obtained directly from federal firearm licensees (FFLs). Whether by "straw purchasing," theft, or off-the-books sales, the role of retailers in the proliferation of illegal guns in our communities cannot be ignored.

In many industries that produce dangerous products—including drug companies and alcohol producers—manufacturers have developed their own codes of conduct to help prevent the diversion of their product for illegal purposes. The firearm industry, however, has not demonstrated the will to take such steps.

This is where municipal officials can step in and play an important role. Since cities are one of the major purchasers of firearms due to the needs of law enforcement, to some extent firearm manufacturers must listen to the concerns of city officials. Our city can use its "buyer power" to push firearm manufacturers to regulate retailers—and thus reduce gun trafficking without the implementation of legislation.

Mayors Against Illegal Guns, a coalition of over 550 mayors from more than 40 states, recently reached an agreement with Wal-Mart that moves in this direction. By requiring basic marketing safeguards such as the videotaping of gun sales, increased store security, and employee background checks, MAIG and Wal-Mart have laid out a comprehensive plan to curb firearms trafficking.

Please use your leverage as a major procurer of firearms for law enforcement to push the gun industry to be more responsible in its sales and distribution practices. You have the power to save lives in our community—all of the pieces are in place. Please consider immediately employing this innovative strategy.

Sincerely,

[Your name]

You can also circulate petitions, contact local media outlets, organize "lobby days," and take other steps to engage your municipal officials and advance the cause. If we are to make any progress in enhancing gun dealer regulation at the point of sale, this type of outreach from everyday citizens and constituents is a crucial first step!

For additional information about the "buyer power" strategy, visit www.csgv.org/countermarketing or contact the Educational Fund to Stop Gun Violence at (202) 408-7560, x. 1003 or efsgv@efsgv.org.

ENDNOTES

- 1 Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, WISQARS Fatal Injury Reports 1999 – 2007, http://webappa.cdc.gov/sasweb/ncipc/mortrate10_sy.html
- 2 Bureau of Alcohol, Tobacco, and Firearms, “Following the Gun: Enforcing Federal Laws Against Firearm Traffickers,” Washington, D.C., 2000, p. 3, http://www.mayorsagainstillegalsguns.org/downloads/pdf/Following_the_Gun%202000.pdf
- 3 Ibid, p. 13
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- 5 David Kairys, “Why Are Handguns So Accessible on Urban Streets?,” Against the Wall: Poor, Young, Black, and Male, Elijah Anderson, ed., Penn Press, 2008, p. 243
- 6 Ibid, p. 245
- 7 Ibid
- 8 Kevin D. Bradford, Gregory T. Gundlach and William L. Wilkie, “Countermarketing and Demarketing Against Product Diversion: Forensic Research in the Gun Industry,” Journal of Public Policy & Marketing, Vol. 29, No. 1, Spring 2010, pp. 103-122
- 9 Kevin D. Bradford, Gregory T. Gundlach and William L. Wilkie, “Countermarketing in the Courts: The Case of Marketing Channels and Firearms Diversion,” Journal of Public Policy & Marketing, Vol. 24, No.2, Fall 2005, pp. 284-298
- 10 “Countermarketing and Demarketing Against Product Diversion: Forensic Research in the Gun Industry,” pp. 103-122
- 11 Mayors Against Illegal Guns website, “Responsible Firearms Retailer Partnership,” <http://www.mayorsagainstillegalsguns.org/html/partnership/partnership.shtml>