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## **Americans Must Work for State, Local Reform of Firearms Laws**

by Juliet Leftwich

Those of us involved in efforts to reduce gun violence will look back on 2004 as a mixed bag - a year that included the good, the bad and the ugly. Gun control continued to be a volatile issue nationwide, with attitudes and actions regarding firearm violence varying widely at the federal, state and local levels.

The good news is that California continues to lead the way in gun-violence prevention, particularly at the local level. Local governments have been passing innovative gun laws since the mid-1990s, and many of these laws - from limiting handgun purchases to one per person per month (to help reduce gun trafficking), to banning "junk guns" and requiring the sale of a trigger lock with all firearms - have provided successful models for state legislation.

Local governments continued this trend in 2004 and adopted a number of groundbreaking ordinances, including those to ban .50-caliber rifles. Fifty-caliber rifles are military-style firearms that combine long range, accuracy and massive power. They are accurate to distances of 1,000-to-2,000 yards (10-to-20 football fields), depending on the skill of the shooter, and can penetrate armored vehicles, disable aircraft and damage industrial targets, such as refineries and chemical plants.

Although the Government Accountability Office has concluded that .50-caliber rifles have been associated with significant criminal activity, these dangerous weapons are treated as ordinary long guns under federal law and can be purchased by 18-year-olds. Moreover, because of the so-called "gun show" loophole (which allows unlicensed individuals to sell firearms at gun shows and other locations without conducting background checks), .50-caliber rifles can be purchased nationwide by criminals and would-be terrorists, no questions asked.

In 2003, Los Angeles became the first jurisdiction in the nation to ban the sale of .50-caliber firearms. In 2004, Contra Costa County and the city and county of San Francisco followed suit. On Sept. 13, 2004, Gov. Arnold Schwarzenegger signed legislation to ban .50-caliber rifles statewide, once again demonstrating how local regulations can serve as a catalyst for statewide reform.

In 2004, local governments in the state passed ordinances to require the reporting of lost or stolen firearms (to help law enforcement determine the veracity of a gun owner's claim that his or her gun was lost or stolen when it is recovered at a crime scene) and to regulate firearms dealers.

Local gun laws met with continued success in the courts. In October 2004, the U.S. Supreme Court issued an order denying a petition for writ of certiorari in *Nordyke v. King*, 319 F.3d 1185 (9th Cir. 2003), a 9th U.S. Circuit Court of Appeals decision rejecting a First and Second Amendment challenge to an Alameda County ordinance banning the possession of firearms and ammunition on county-owned property.

That ordinance, adopted in response to a shooting spree at the Alameda County fairgrounds, has had the effect of ending gun shows at the fairgrounds. Similar ordinances have been adopted by San Mateo, Marin and Sonoma counties.

The good news in 2004 continued, in part, at the state level, where, in addition to signing legislation to ban .50-caliber rifles, Schwarzenegger signed bills to require law enforcement agencies to conduct a background check on firearms owners before returning a firearm that has been held or seized by the agency and to regulate imitation firearms (defined to include toy guns and BB guns).

However, the governor disappointed gun violence prevention advocates when he vetoed three other common-sense gun bills: the first, to strengthen the state's child access prevention law (which encourages gun owners to store their weapons safely); the second, to prohibit the sale of ammunition to minors and require ammunition sellers to record their sales; and the third, to require gun safety education in schools. The governor's views regarding gun violence therefore remain somewhat unclear.

At the federal level, the news fell mostly into the "bad" and "ugly" categories. Without a doubt, the ugliest development was the Sept. 13, 2004, expiration of the federal assault-weapon ban. That law, adopted in 1994 with the support of every major law enforcement agency in the nation, banned a class of semiautomatic firearms designed with military features, such as pistol grips and high-capacity ammunition magazines (some capable of holding 100 bullets), to allow rapid spray firing.

Thanks to the enormous political clout of the National Rifle Association, Congress and President Bush allowed the assault-weapon ban to expire, despite the fact that it was supported by a majority of Americans, including gun owners, and had resulted in a dramatic drop in the percentage of assault weapons traced to crime. As a result, military-style firearms like semiautomatic AK-47s and Uzis are now legal again nationwide, unless banned by state or local law.

Fortunately, California is widely viewed as having the strongest assault-weapon ban in the country.

The only good news federally in 2004 was the defeat of an NRA-sponsored bill to provide unprecedented legal immunity to the gun industry. That bill, which sailed through the House of Representatives in 2003, would have prohibited most civil lawsuits against gun manufacturers, distributors, trade associations and dealers. The legislation would have precluded actions in state, as well as federal, court and required the immediate dismissal of most lawsuits pending against the industry nationwide. No other industry enjoys such sweeping legal immunity.

Although the immunity bill was the NRA's top legislative priority, in March 2004 the organization directed its supporters in the Senate to vote the bill down after a bipartisan coalition of senators added key gun-control amendments to the legislation. Those amendments would have extended the federal assault-weapon ban, closed the "gun show" loophole, and required handguns to be sold with locking devices to reduce unintentional shootings.

The NRA decided to kill the immunity bill rather than allow such rational policies to become the law of the land.

Emboldened by the re-election of President Bush and the loss of Democratic seats in the House and Senate, however, the NRA is planning for the reintroduction of the immunity bill in 2005. Unfortunately, this time the NRA may succeed in eliminating litigation as a strategy to impose responsibility on an industry whose products and marketing practices are otherwise unregulated by federal law.

The gun lobby also is expected to push for a further weakening of our nation's gun laws and to seek congressional repeal of Washington, D.C.'s handgun ban (as well as the district's authority to regulate firearms), despite the fact that such action is opposed by elected officials in the jurisdiction.

Given the bleak forecast at the federal level, it is more critical than ever for state and local governments to act to stem our nation's epidemic of gun violence.

In 2005, a number of state and local governments outside the state are expected to introduce legislation to fill the void left by the expiration of the federal assault-weapon ban, and at least a few states likely will consider legislation to strengthen their assault-weapon laws (six states besides California now ban assault weapons). Several cutting-edge proposals are on the horizon in the state, including one to require handgun ammunition to carry serial numbers allowing law enforcement to trace bullets to the buyer.

Whatever happens in 2005 and beyond, we must not, as a nation, become complacent about gun violence. We cannot accept it as an inevitable part of American life. Other industrialized nations have comprehensive firearm laws, including licensing of gun owners and annual registration of all guns (essentially mirroring the regulatory scheme for automobiles), and have a fraction of the 100,000 gun-related deaths and injuries that we suffer in this country each year.

There is no reason to wait for Congress and the president to take the first steps; we can make significant progress by working for state and local reform. It may take years and several presidential administrations to achieve sound firearm policies at the national level, but if Americans demand that their elected officials stand up to the gun lobby, the unacceptable death toll will drop.

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