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Attorneys Must Work to Pass State, Local Laws Against Guns

Forum Column
by Juliet Leftwich

On July 1, 1993, I stood in the moot courtroom of my former law firm, located in the 101 California Street building in San Francisco, surrealistically watching televised coverage of a shooting rampage taking place several floors above me.

I later learned that the gunman was Gian Luigi Ferri, a disgruntled former client of the law firm of Pettit & Martin. Armed with two TEC-DC9 assault weapons, a handgun and hundreds of rounds of ammunition, Ferri had begun his rampage at the law firm and continued on two other floors. By the time he was done, he had killed eight people and injured six others (one of whom later died). Ferri then turned a gun on himself, ending his own life.

A few days after the 101 California Street massacre, I learned that lawyers from Pettit & Martin had formed an organization called Legal Community Against Violence. The goal of the organization was to marshal the expertise of the legal community to help reform our nation's gun laws. I supported gun control at the time but was not a member of a gun violence prevention group or otherwise involved in the issue. As a result of the 101 California Street shooting, however, I felt compelled to become involved: The shooting made me realize that gun violence affects us all and can occur anyplace, anytime. I began volunteering with Legal Community Against Violence and left private practice two years later to join the organization's staff.

Over the years, I have been astounded by the things I have learned about gun violence and gun-related policy in this country. Most shocking have been the statistics related to gun deaths and injuries and the lack of a comprehensive national response to this public-health epidemic. Guns claim the lives of 30,000 Americans each year, and for every person who dies from a gunshot wound, two others are wounded.

Children and adults younger than 25 account for 40 percent of all firearm deaths and injuries. In California, more young people 12-to-24 died from gun violence between 1998 and 2002 than from motor vehicle injuries.

Despite these staggering statistics, the federal government has done little to address the gun violence epidemic. Congress did adopt the Brady Act in 1993, requiring firearms dealers to conduct background checks on prospective gun purchasers. (Before that time, gun sales were governed by the "honor system," that is, dealers were permitted to rely solely on a purchaser's representations regarding his or her eligibility to possess firearms.)

However, the Brady Act contains a huge loophole; it doesn't apply to people who buy guns from private (unlicensed) sellers, 40 percent of all purchasers. As a result, criminals, the mentally ill and other prohibited purchasers easily acquire guns nationwide.

Congress hasn't adopted any significant firearms legislation since its enactment of the federal assault weapon ban in 1994. Unfortunately, that law contains a sunset provision and will expire Sept. 13, unless reauthorized by Congress and President Bush. At this point, reauthorization looks highly unlikely, despite the fact that it is supported by an overwhelming majority of likely 2004 presidential election voters, including gun owners, and by law enforcement.

The National Rifle Association is so opposed to the assault weapon ban and other rational gun laws that it was willing, in March this year, to sacrifice its top legislative priority, a bill to provide unprecedented legal immunity to the gun industry, rather than allow amendments to the bill that would have extended the ban, required background checks for gun purchases at gun shows and required handguns to be sold with locking devices.

Because of the immense power of the gun lobby, firearms are also exempt from the Consumer Product Safety Act. Accordingly, federal law does not set safety or quality standards for domestically manufactured guns (the Gun Control Act of 1968 did set such standards for imported firearms, thereby creating a protected domestic market for poorly made handguns, including Saturday night specials). Ironically, the federal government has consumer product safety standards for toy guns but not for real ones.

The future of gun violence prevention depends on building grass-roots strength to achieve change at the state and local levels. Strong state and local laws will help bring about the nationwide policies we need.

Fortunately, there is reason for hope. Across the country, state and local governments are adopting laws and policies that fill in gaps and go beyond our limited scheme of federal regulation.

The legal community can play a critical role by providing legal assistance in support of these efforts. Legal Community Against Violence focuses on state and local action and is the only organization devoted exclusively to providing legal assistance in support of gun violence prevention. By making complex legal and policy issues understandable, conducting legal research, analyzing existing and emerging policy strategies and generating model regulations, the organization educates communities and empowers advocates and public officials to pursue effective, legally defensible gun laws.

In hundreds of instances, the organization has provided the legal assistance and information needed to advance measures at the state and local levels. It has helped inform the public that the Second Amendment is not a barrier to the passage of effective gun laws.

Our recent report on assault weapons provides a legal road map for state and local officials to adopt assault weapon bans to supplement the federal law. We also have created a variety of model regulations, including those to regulate firearms dealers, require firearm registration and

ban certain types of firearms. In addition, we have arranged for private law firms to provide pro bono litigation assistance to local governments facing legal challenges to gun ordinances.

In California, with the organization's help, the Legislature enacted a groundbreaking law that will lead to the redesign of firearms sold in California and potentially throughout the United States. Also with our help, cities and counties have adopted several types of innovative ordinances, including those to prohibit residential firearm dealers, require dealer employee background checks and ban the sale of .50-caliber sniper rifles, weapons of war that are proliferating on the civilian market. Some of the ordinances have provided models for state laws, such as those to require the sale of locking devices and ban Saturday night specials.

On June 30, the organization held its 11th anniversary dinner commemorating the 101 California Street massacre. On that night, we launched our new national membership program, reaching out to lawyers to strengthen the legal community's role in gun violence prevention. Attorneys are uniquely suited for this role: We are action-oriented, specifically trained to use our intellects to solve problems and to advocate for change. Together, we can use these skills to build a powerful national voice to reduce firearm deaths and injuries.

The problem of gun violence has no easy solution. We need sound and pervasive laws and effective enforcement of those laws. We need communities - and voters - demanding change. If we really want change, we cannot wait for the powers that be in Washington to make it for us: We must act now.

In the 11 years since the 101 California Street massacre took place, a million Americans have been killed or injured by firearms. Isn't enough, enough?

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