



**Legal Community Against Violence**

expertise, information & advocacy to end gun violence

**2005 CALIFORNIA REPORT:**  
**RECENT DEVELOPMENTS IN FEDERAL, STATE**  
**AND LOCAL GUN LAWS**

February 13, 2006

## Gun Violence: An Epidemic Requiring Community Action

### The Staggering Statistics

Gun violence plagues our nation. According to the Centers for Disease Control and Prevention (CDC):

- Guns claimed the lives of 30,136 Americans in 2003 (the most recent year for which statistics are available).<sup>1</sup>
- In that year, guns killed 6,846 high school-age teens and young adults ages 15-24 – an average of over 18 deaths each day.<sup>2</sup>
- In the same year, 65,834 individuals were treated in hospital emergency departments for non-fatal gunshot wounds.<sup>3</sup>

The rate of gun violence in the United States far exceeds that of other industrialized nations and has a particularly profound impact on children. In fact, the rate of firearm-related deaths among children under the age of 15 in this country is 12 times higher than that among children of the same age in 25 other industrialized nations *combined*.<sup>4</sup>

In California, 3,467 people died from firearm-related injuries in 2003 and 4,180 others were treated for non-fatal gunshot wounds.<sup>5</sup> Guns are the second leading cause of injury-related deaths in California and nationwide, second only to motor vehicle accidents.<sup>6</sup> In California, firearms killed more children and young people ages 15-24 during the years 1998-2002 combined than motor vehicle accidents.<sup>7</sup>

Gun violence also takes a devastating economic toll on our nation. Researchers estimate that the total cost of criminal shootings, unintentional shootings and gun suicides – including medical

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<sup>1</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Web-based Injury Statistics Query and Reporting System (WISQARS), *WISQARS Injury Mortality Reports, 1999-2003* (2006), at [http://webappa.cdc.gov/sasweb/ncipc/mortrate10\\_sy.html](http://webappa.cdc.gov/sasweb/ncipc/mortrate10_sy.html).

<sup>2</sup> *Id.*

<sup>3</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Web-based Injury Statistics Query and Reporting System (WISQARS), *WISQARS Nonfatal Injury Reports* (2006), at <http://webappa.cdc.gov/sasweb/ncipc/nfirates2001.html>.

<sup>4</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Morbidity & Mortality Weekly Report, *Rates of Homicide, Suicide, and Firearm-Related Death Among Children – 26 Industrialized Countries* (Feb. 7, 1997).

<sup>5</sup> California Department of Health Services, Epidemiology and Prevention for Injury Control Branch (EPIC), EPICenter California Injury Data Online, *Firearm Injuries* (2005), at [http://www.applications.dhs.ca.gov/epicdata/content/ST\\_firearm.htm](http://www.applications.dhs.ca.gov/epicdata/content/ST_firearm.htm).

<sup>6</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Web-based Injury Statistics Query and Reporting System (WISQARS), *WISQARS Injury Mortality Reports, 1999-2003* (2006), at [http://webappa.cdc.gov/sasweb/ncipc/mortrate10\\_sy.html](http://webappa.cdc.gov/sasweb/ncipc/mortrate10_sy.html).

<sup>7</sup> California Department of Health Services, Epidemiology and Prevention for Injury Control Branch (EPIC), EPICenter California Injury Data Online, *Create Custom Data Tables Using Fatal Injury Data* (2006), [http://www.applications.dhs.ca.gov/epicdata/content/tb\\_fatal.htm](http://www.applications.dhs.ca.gov/epicdata/content/tb_fatal.htm).

costs, lost productivity, criminal justice system expenditures and other societal costs – total \$100 billion annually.<sup>8</sup>

### An Unresponsive Congress Spurs State and Local Action

Public opinion polls consistently show that most Americans favor stronger gun laws. For example:

- 84% favor a law requiring gun manufacturers to put child safety locks on handguns sold in this country.<sup>9</sup>
- 85% - including 73% of gun owners – favor laws requiring handgun purchaser licensing.<sup>10</sup>
- 83% - including 72% of gun owners – support registration of all newly-purchased handguns.<sup>11</sup>
- 77% of likely 2004 presidential election voters, and 66% of gun owners who were likely 2004 presidential election voters, supported renewal of the federal assault weapon ban.<sup>12</sup>

Nonetheless, due to the immense power of the gun lobby, Congress has not enacted any significant gun legislation since the early 1990s, when it enacted the Brady Act – establishing a limited system of background checks for gun purchasers – and the federal assault weapon ban (which was allowed to expire in 2004). Accordingly, now more than ever, the future of gun violence prevention depends on building momentum for nationwide change through state and local policy reform.

Fortunately, as discussed below, California provides an outstanding example of what progress can be achieved at the state and local levels. The state has, in recent years (including 2005), adopted several important firearm-related laws, many of which were modeled after innovative local ordinances enacted by cities and counties in this state. In addition, California local governments continue their invaluable leadership role in the gun violence prevention movement.

### **Federal Update: Another Discouraging Year for Gun Violence Prevention**

#### Federal Gun Laws Are Weak and Getting Weaker

Although the Brady Act provides an important mechanism for keeping guns out of the wrong hands, the law's effectiveness is significantly hampered by the "private sale" loophole. The Brady Act requires federally licensed dealers – but not private sellers – to conduct background checks on firearm purchasers.<sup>13</sup> Thus, persons buying guns from unlicensed sellers (an estimated 40% of all

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<sup>8</sup> Philip Cook & Jens Ludwig, *Gun Violence: The Real Costs*, Oxford University Press (2000).

<sup>9</sup> CBS News/New York Times Poll, May 10-13, 2000, at <http://www.pollingreport.com/guns.htm>.

<sup>10</sup> The Education Fund to Stop Gun Violence, May 15-21, 2001, *Licensing and Registration National Poll Fact Sheet*, at [http://www.csgv.org/research/elections/polling/poll\\_lr\\_factsheet\\_01.cfm](http://www.csgv.org/research/elections/polling/poll_lr_factsheet_01.cfm).

<sup>11</sup> *Id.*

<sup>12</sup> Americans for Gun Safety, *Taking Back the Second Amendment: A Seven-Step Blueprint for Democrats to Promote Responsibility and Win the Gun Vote 7* (Oct. 2003).

<sup>13</sup> 18 U.S.C. § 922(s).

gun purchasers<sup>14</sup>) are not required to undergo background checks. This huge loophole allows criminals, minors and the mentally ill to buy guns easily, “no questions asked.”

Federal gun laws are flawed in several other respects. For example, federal law:

- **Does not regulate guns as a consumer product.** Thanks to the NRA, guns and ammunition are exempt from the Consumer Product Safety Act.<sup>15</sup> Thus, toy guns are subject to federal health and safety regulations, while real guns are not.
- **Does not require that handgun owners be licensed or that handguns be registered.** Without licensing laws, gun owners have no obligation to demonstrate safe gun use or knowledge of state and federal gun laws. Without registration laws, law enforcement officials have no idea who owns firearms and cannot efficiently trace crime guns or return lost or stolen firearms to their owners.
- **Does not limit the number of handguns that can be purchased at any one time.** Because federal law allows individuals to buy unlimited quantities of firearms, gun traffickers are able to buy handguns in bulk and easily resell them to prohibited purchasers.
- **Does not impose a waiting period.** The purpose of a waiting period is to provide a “cooling off” period and to allow sufficient time for the completion of a background check. Under the “instant check” system of the Brady Law, however, most guns are immediately transferred to the purchaser. Moreover, if a background check has not been completed within three days, the dealer is allowed to transfer the gun even without confirmation that the sale is lawful.<sup>16</sup>
- **Does not restrict access to certain military-style firearms.** Not only is there no longer a ban on assault weapons, there is also no ban on 50 caliber rifles. Fifty caliber rifles are military-style firearms that combine long range, accuracy and massive power. These firearms 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 United States General Accounting 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 “private sale” loophole, 50 caliber rifles can be easily purchased in most states by criminals and would-be terrorists.

### Gun Industry Immunity: The Latest Example of the Gun Lobby’s Political Clout

On October 26, 2005 – approximately one year after the expiration of the federal assault weapon ban – President Bush signed legislation to provide unprecedented legal immunity to the gun industry. That NRA-sponsored law prohibits, with certain narrow exceptions, civil lawsuits and administrative proceedings against manufacturers and sellers of firearms and ammunition, and requires the dismissal of most lawsuits pending against the industry nationwide. No other industry receives such special protection from the consequences of its actions.

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<sup>14</sup> Philip J. Cook & Jens Ludwig, *Guns in America: National Survey on Private Ownership and Use of Firearms*, U.S. Department of Justice, National Institute of Justice Research in Brief 6-7 (May 1997).

<sup>15</sup> 15 U.S.C. §§ 2051 *et seq.*, 2052(a)(1)(E).

<sup>16</sup> 18 U.S.C. § 922(t)(1).

Although the gun lobby argued that the law was needed to protect the gun industry from “frivolous” lawsuits, no evidence of such lawsuits was ever presented. In fact, settlements in several meritorious actions have shown that litigation is an effective way to hold negligent gun makers and sellers accountable for their wrongful conduct. For example:

- In September 2004, families of the Washington, D.C.-area sniper shootings entered into a \$2.5 million settlement with Bull’s Eye Shooters Supply, the dealer who “lost” the sniper’s assault weapon (along with 200 other guns), and Bushmaster Firearms, manufacturer of the weapon.
- In June 2004, a West Virginia gun dealer agreed to pay \$1 million to two New Jersey police officers who were shot with a trafficked gun negligently sold by the dealer to a “straw” purchaser who bought the weapon for a convicted felon.
- In August 2003, 12 California local governments entered into a settlement agreement with two major gun dealers and three wholesale gun distributors, requiring them to reform their business practices to stem the flow of guns to criminals. The local governments had not sought monetary damages.

The State of California has experience with the devastating impact of laws immunizing the gun industry. In 2001, the California Supreme Court held that an immunity statute adopted in 1983 shielded an assault weapon manufacturer from a lawsuit brought by the victims of the 101 California Street massacre, even though the gun maker’s advertising boasted that the gun’s surface had “excellent resistance to fingerprints” and called attention to other features that would be of primary interest to criminals.<sup>17</sup>

In 2002, the California Legislature repealed the state’s immunity statute so that the gun industry would be held to the same legal standards as any other industry. The Legislature’s action appears to have been nullified, however, by passage of the federal immunity law.

Defendants in lawsuits brought against the gun industry have already begun to seek dismissal of those actions on the basis of the immunity law. In December 2005, the United States District Court for the Eastern District of New York refused to dismiss a case brought against the industry by the City of New York. The court held that the action, which alleged that the defendants’ sales and marketing practices have created a public nuisance in violation of state law, came within an exception to the immunity law for actions based on the knowing violation of a state or federal statute applicable to the sale or marketing of firearms.<sup>18</sup> That decision is on appeal.

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<sup>17</sup> See *Merrill v. Navegar, Inc.* (2001) 26 Cal. 4<sup>th</sup> 465.

<sup>18</sup> See *City of New York v. Beretta U.S.A. Corp., et al.*, 401 F. Supp. 2d 244 (E.D.N.Y. 2005).

## The Second Amendment

*“A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.”*

Although the NRA and other gun rights activists repeatedly mount legal challenges to firearms laws on the basis of the Second Amendment, **not one** of those challenges has succeeded since the U.S. Supreme Court ruled, in 1939, that the “obvious purpose” of the Amendment was to “assure the continuation and render possible the effectiveness” of the state militia. *U.S. v. Miller*, 307 U.S. 174 (1939).

Since *Miller*, the courts have rejected over two hundred Second Amendment challenges to firearm-related laws.<sup>19</sup> Despite these judicial victories, the gun lobby continues to argue that the Second Amendment precludes common sense laws to regulate firearms. Former U.S. Supreme Court Chief Justice Warren Burger once characterized the NRA’s interpretation of the Second Amendment as “one of the greatest pieces of fraud, I repeat the word *fraud*, on the American public by special interest groups that I have ever seen in my lifetime.”

### **California Update: California Continues to Lead the Nation in Gun Violence Prevention**

#### The Legislature Has Acted to Fill Many of the Gaps Created by Federal Law

Because the federal government has essentially abdicated its gun violence prevention responsibilities, real reform must take place at the state and local levels. Fortunately, the State of California has adopted many common sense laws to fill the void created by federal law. For example, California:

- **Has closed the “private sale” loophole.** All firearm sales must be completed through a licensed dealer.<sup>20</sup>
- **Maintains handgun purchaser records.** Although California does not require all firearm owners to register their weapons (or to re-register annually to ensure that they remain eligible to possess those firearms), the state does maintain records of handgun purchases, allowing law enforcement to efficiently trace crime guns and return lost or stolen handguns to their owners.<sup>21</sup>
- **Requires handgun purchasers to obtain a handgun safety certificate.** Individuals purchasing handguns must obtain a handgun safety certificate by passing a written test and performing a safe handling demonstration.<sup>22</sup>
- **Bans junk guns.** State law prohibits the manufacture and sale of “unsafe handguns,” i.e., those that are not on a Department of Justice (DOJ) roster of approved guns. In order to be included on the roster, a handgun must pass a drop test and a firing test; as of January 1, 2006, it also must have a chamber load indicator (which shows when a cartridge is in the firing chamber) or a magazine disconnect mechanism (which prevents a gun from firing

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<sup>19</sup> Summaries of these cases can be found on the LCAV web site at [www.lcav.org/content/secondamend\\_index.asp](http://www.lcav.org/content/secondamend_index.asp).

<sup>20</sup> Cal. Penal Code § 12072(d).

<sup>21</sup> Cal. Penal Code § 11106(c)(1).

<sup>22</sup> Cal. Penal Code §§ 12071(b)(8)(B), 12800 *et seq.*

when the ammunition magazine is removed). Beginning January 1, 2007, a handgun must have both a chamber load indicator and a magazine disconnect mechanism in order to be included on the DOJ roster.<sup>23</sup>

- **Requires all firearms manufactured or sold in the state to be accompanied by a DOJ-approved firearms safety device.** A firearms safety device is any device, other than a gun safe, that locks and is intended to prevent children and other unauthorized users from firing a firearm.<sup>24</sup>
- **Bans assault weapons.** California adopted the nation's first state assault weapon ban in 1989, in response to the Stockton schoolyard assault weapon massacre. That law was strengthened in 1999, giving California what is widely viewed as the toughest assault weapon ban in the country.<sup>25</sup>
- **Limits handgun purchases to one per month per person.** California's one-gun-a-month law helps reduce gun trafficking.<sup>26</sup>
- **Imposes a 10-day waiting period.**<sup>27</sup>
- **Bans 50 caliber rifles.** In 2004, California became the first state to ban 50 caliber rifles.<sup>28</sup>

### The 2005 Legislative Session

In 2005, Governor Schwarzenegger signed two important gun violence prevention bills. The first bill, SB 48 (Scott), prohibits the sale of ammunition to minors (prior law prohibited such sales only if they were "knowing"). The second bill, AB 1060 (Liu), requires owners of guns seized at domestic violence incidents to undergo a background check prior to the guns' return. That legislation also helps prevent firearm theft by prohibiting gun dealers from storing firearms away from their licensed premises.

The Governor also signed AB 86 (Levine), which requires the Department of Justice to maintain automated records of firearms lost by or stolen from firearms dealers until the firearms are recovered, and AB 88 (Koretz), which allows a defendant to be charged separately for each assault weapon or 50 caliber rifle that he/she possesses.

Unfortunately, the Governor vetoed AB 996 (Ridley-Thomas), which would have required ammunition sellers to store ammunition in a manner inaccessible to the public. That common sense bill would have helped prevent ammunition theft.<sup>29</sup>

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<sup>23</sup> Cal. Penal Code § 12125 *et seq.*

<sup>24</sup> Cal. Penal Code §§ 12088.1, 12087.6(a).

<sup>25</sup> Cal. Penal Code § 12280(a)(1). Six other states currently ban assault weapons, including Connecticut, Hawaii, Maryland, Massachusetts, New Jersey and New York. The District of Columbia imposes strict liability in tort against manufacturers, importers and dealers of assault weapons for all damages due to the discharge of assault weapons in the District. In addition, although the District does not have a specific ban on assault weapons, its handgun ban encompasses assault pistols and its machine gun ban encompasses firearms that can discharge "[s]emiautomatically, more than 12 shots without manual reloading." For more information about assault weapons, see LCAV's, *Banning Assault Weapons – A Legal Primer for State and Local Action*. That report, and accompanying model law, can be found on our web site at [www.lcav.org/library/reports\\_analyses/assaultweaponreport.asp](http://www.lcav.org/library/reports_analyses/assaultweaponreport.asp).

<sup>26</sup> Cal. Penal Code § 12072(a)(9)(A).

<sup>27</sup> Cal. Penal Code §§ 12071(b)(3)(A), 12072(c)(1).

<sup>28</sup> Cal. Penal Code § 12280(a)(1). For a summary of other California gun laws, go to [www.lcav.org/states/california.asp](http://www.lcav.org/states/california.asp).

<sup>29</sup> In 2004, the Legislature passed, and the Governor vetoed, three other common sense bills – the first to strengthen the state's child access prevention law (which encourages gun owners to store their weapons safely), the second to

Four other firearm-related bills were introduced in 2005, passed by their houses of origin and carried over into the 2006 legislative session. These two-year bills include:

- AB 352 (Koretz) (handgun microstamping). This groundbreaking bill would require that the interior surface or internal working parts of all new handguns manufactured or sold in California after January 1, 2009, be etched with a microscopic array of characters that identify the make, model and serial number of the handgun. These characters would be transferred to each cartridge case when the weapon is fired. Using California's existing handgun purchaser database, law enforcement could positively match a cartridge case found at a crime scene to the individual who purchased the gun. This bill would, if passed, be the first of its kind in the nation, and would provide an outstanding crime-fighting tool because it would help law enforcement solve gun crimes even when the guns themselves have not been recovered.
- SB 357 (Dunn) (ammunition serialization). SB 357 would require that, effective January 1, 2009: (1) the exterior of all ammunition manufactured or sold in California be marked with a serial number or other unique identifier; (2) ammunition vendors and manufacturers in the state be registered; and (3) ammunition vendors maintain records of ammunition sales and report that information to the Department of Justice for use in a statewide database. Another first of its kind in the nation, this bill would also provide a critical law enforcement tool because it would allow law enforcement to immediately determine the identity of the purchaser of ammunition found at a crime scene. It would also provide much-needed regulation of ammunition sales.
- AB 944 (Ridley-Thomas) (consumer warnings). AB 944 would require that consumer warnings be posted on the premises of firearms dealers and included in firearm sales contracts to inform the public of the risks of guns in the home. Numerous studies have shown that a gun in the home is much more likely to be used to kill or injure a member of the household than to protect against an intruder.
- SB 59 (Lowenthal) (reporting of lost or stolen handguns). This bill would require persons who purchase a handgun after January 1, 2006, to report the loss or theft of the handgun to law enforcement. SB 59 would make gun owners more accountable for their firearms and assist law enforcement in tracing guns to crimes. Local governments would retain the ability to adopt more stringent regulations, e.g., those which require the reporting of all firearms (not just newly purchased handguns).

Senator Dunn has indicated that he will not pursue SB 357 in 2006, and Assemblyman Ridley-Thomas has expressed uncertainty about the future of AB 944. Other firearm-related legislation for 2006 remains in the planning stages.

### **California Local Governments: At the Forefront of Gun Policy Reform**

California cities and counties lead the state and nation in gun violence prevention. Since the mid-1990s, local governments in California have adopted over 300 innovative firearm ordinances. Significantly, this local regulatory activity has provided a catalyst for several new state laws,

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prohibit ammunition sales to minors and require ammunition sellers to record their sales, and the third to require gun safety education in schools.

including those to: (1) prohibit the manufacture and sale of “junk guns;” (2) require firearms dealers to equip all firearms with child-safety locks; (3) prohibit the sale of large-capacity ammunition magazines; (4) limit handgun purchases to one per person per month; and (5) prohibit the manufacture and sale of 50 caliber rifles. Each of these laws was modeled after local ordinances adopted since 1995.

The courts have held that California local governments have a great deal of authority to regulate firearms. See, e.g., *California Rifle and Pistol Association, Inc. v. City of West Hollywood* (1998) 66 Cal. App. 4<sup>th</sup> 1302 (upholding a ban on the sale of Saturday Night Specials or “junk guns”),<sup>30</sup> *Suter v. City of Lafayette* (1997) 57 Cal. App. 4<sup>th</sup> 1109 (upholding an ordinance regulating firearms dealers),<sup>31</sup> *Great Western Shows, Inc. v. County of Los Angeles* (2002) 27 Cal. 4<sup>th</sup> 853 (upholding a ban on the sale of firearms and ammunition on county-owned property), and *Nordyke v. King* (2002) 27 Cal. 4<sup>th</sup> 875 (upholding a ban on the possession of firearms and ammunition on county-owned property).

California local governments continue to adopt a variety of local ordinances to reduce gun-related deaths and injuries. In November 2005, in response to an increasingly severe epidemic of gun violence in San Francisco, San Francisco voters adopted Proposition H, an ordinance to prohibit the possession of handguns by San Francisco residents and ban the manufacture, distribution, sale and transfer of firearms and ammunition in the city. The NRA and others immediately filed a petition for writ of mandate/prohibition in the Court of Appeal alleging that state law preempted the ordinance. The Court of Appeal denied the writ and in December 2005 the petitioners refiled the action in the Superior Court.<sup>32</sup> LCAV was not involved in developing the measure, but was asked to provide pro bono consulting services to the San Francisco City Attorney’s Office in connection with the legal challenge. LCAV has also filed amicus (“friend of the court”) briefs supporting the city’s legal authority to enact the measure.<sup>33</sup>

California communities have adopted other cutting-edge ordinances to fill gaps in state and federal law, including those to:

- Prohibit firearms dealers from operating in residential neighborhoods and near other “sensitive” areas, e.g., schools, playgrounds and places of worship;
- Require firearms dealers to obtain liability insurance to ensure that persons injured by the dealer’s negligence are adequately compensated;

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<sup>30</sup> West Hollywood was the first California city to ban the sale of these dangerous firearms. LCAV’s survey of local gun laws indicates that as of May 31, 2000, 55 cities and counties had followed West Hollywood’s lead.

<sup>31</sup> The Lafayette ordinance required dealers to sell trigger locks and obtain liability insurance and prohibited dealers from operating in residential areas and admitting minors unless accompanied by an adult. The court held that one ordinance provision – which imposed security requirements for firearms dealer premises – was preempted by a state statute which imposed similar, yet less stringent requirements. State law now allows local governments to impose security requirements that are more strict than state law. See Penal Code Section 12071(b)(15).

<sup>32</sup> *Paula Fiscal, et al. v. City and County of San Francisco, et al.*, San Francisco Superior Court Case No. CPF-05-505960. The San Francisco measure presents unique legal issues because of a 1982 California Court of Appeal decision that found a handgun possession ban adopted by the San Francisco Board of Supervisors preempted by state law. See *Doe v. City and County of San Francisco* (1982) 136 Cal. App. 3d 509. The drafters of Proposition H sought to avoid the outcome in *Doe* by limiting the possession ban to San Francisco residents.

<sup>33</sup> While Proposition H is unique in California, several communities outside of the state (including Chicago and Washington, D.C.) have adopted ordinances to prohibit the possession and/or sale of handguns.

- Require firearms dealers to conduct employee background checks to screen out employees who are prohibited from possessing firearms;
- Prohibit the sale or possession of firearms on publicly owned property (this type of ordinance has had the effect of ending gun shows at some public facilities, such as county fairgrounds);
- Require gun owners to notify law enforcement when their firearms are lost or stolen; and
- Regulate ammunition sales.<sup>34</sup>

Elected officials, government attorneys and activists should be commended for their groundbreaking work at the local level.

### **Calls for Action Outside of California**

California is not alone in pursuing state and local gun policy reform. In 2005, at the request of Chicago Mayor Richard M. Daley, LCAV joined with the City of Chicago on a new multi-year collaboration, the Illinois Gun Law Reform Project. The city turned to LCAV for legal and technical assistance to further its efforts to secure reasonable gun violence prevention laws at the state and local levels in Illinois. In July 2005, the Illinois Legislature passed a law requiring prospective firearm purchasers at gun shows to undergo background checks. LCAV provided legal and technical assistance that contributed to the law's passage.<sup>35</sup>

In 2005, the City of Philadelphia expressed its frustration over a state law that preempts local governments from regulating firearms. In May of 2005, Philadelphia voters passed a referendum amending the city's Home Rule Charter to "call upon the Pennsylvania General Assembly and the Governor to pass legislation that would permit Philadelphia to enact constitutionally lawful legislation to prevent and reduce gun violence." In December of 2005, the Philadelphia City Council overwhelmingly approved a resolution authorizing the City Council to retain outside counsel to commence legal proceedings on behalf of the city seeking action "that would provide reasonable remedies for lethal conditions of escalating gun-related violence and trafficking." LCAV helped the Philadelphia City Council find pro bono legal representation to act upon the resolution.

In his second inaugural address on January 1, 2006, New York City Mayor Michael Bloomberg announced that ridding the city of "the scourge of illegal guns" would be the top priority of his second term. He promised to champion stronger gun laws in New York and nationally and called for other mayors to join his campaign, declaring that gun violence "is a national threat – one that crosses city lines and state boundaries." On January 25, 2006, at the U.S. Conference of Mayors, Boston Mayor Thomas Menino announced that he would join Mayor Bloomberg's effort and serve as co-chair of a bipartisan national campaign to end gun crimes.

LCAV believes that the acts of these local leaders will help energize efforts to reduce gun-related deaths and injures nationwide.

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<sup>34</sup> For more information about the types of ordinances currently in effect in California cities and counties, see the California Local Ordinance Summary page of our web site at [www.lcav.org/states/calocalord.asp](http://www.lcav.org/states/calocalord.asp).

<sup>35</sup> Other examples of LCAV's work outside of California are outlined in Accomplishments and Milestones, January 2006, enclosed.

## How We Can Help

LCAV is available to provide free legal assistance to community leaders working to promote gun violence prevention. We are proud to provide the legal expertise, information and advocacy that make it possible for state and local officials and activists to advance effective, legally defensible reforms. Specifically, we:

- Conduct legal research and analysis;
- Assist in the drafting of firearms laws;
- Testify at public hearings regarding firearms laws
- Arrange for *pro bono* litigation assistance, for example, when a local government is sued following the adoption of a violence prevention ordinance; and
- Maintain a library of gun ordinances enacted statewide and pleadings filed in ordinance-related litigation.

We welcome the opportunity to work with you to make our country safer from gun violence.

## LCAV's National Membership Program

In June 2004, LCAV launched a membership program, reaching out to lawyers and other supporters across the country to strengthen the legal community's role in ending the gun violence epidemic. The first effort to enlist the national legal community as a distinct voice in the gun violence prevention movement, LCAV's membership program is attracting attorneys and others throughout California and across the country. Now, 19 months since we launched the program, LCAV has more than 465 Charter Members. We produce print and electronic communications to educate our members about gun policy issues, host member education programs, and in the future, as we build the program, will involve our members in pro bono work and community outreach. For additional information, please visit [www.lcav.org](http://www.lcav.org).

### *About Legal Community Against Violence*

*Legal Community Against Violence (LCAV) is a public interest law center dedicated to preventing gun violence. Formed in the wake of the 1993 assault weapon massacre at 101 California Street in San Francisco, LCAV provides free legal assistance to activists and public officials, including law enforcement and government attorneys, working to prevent gun violence. To learn more about our services or to request assistance, visit our website [www.lcav.org](http://www.lcav.org), the nation's most comprehensive source for information on U.S. firearms regulation.*



January 2006

## Accomplishments and Milestones

### Legal Community Against Violence

is a public interest law center dedicated to preventing gun violence. Founded by lawyers, LCAV is the country's only organization devoted exclusively to providing legal assistance in support of gun violence prevention.

LCAV helps governmental entities and nonprofit organizations advance policy reform at the state and local levels. The following are recent examples of our work:

- **CHICAGO** – At the request of Mayor Richard M. Daley, LCAV has joined with the City of Chicago in a new multi-year collaboration, the Illinois Gun Law Reform Project. The City has asked LCAV for legal and technical assistance to further its efforts to secure reasonable gun violence prevention laws and policies at the state and local levels in Illinois. LCAV's legal and policy analysis is helping the City establish its legislative priorities and strategies for 2006 and beyond. The first collaboration of its kind between a major U.S. city and LCAV, the Project has the potential to serve as a model for similar efforts across the country.
- **COLUMBUS** – In July 2005, Columbus, Ohio became the first major U.S. city to pass an assault weapon ban following the expiration of the federal law in September 2004. The Columbus ordinance is more comprehensive than the federal law. LCAV's report, *Banning Assault Weapons – A Legal Primer for State and Local Action*, and model assault weapon law were primary resources for the Columbus City Council and City Attorney's Office. At the request of the City Council's Public Safety Committee, LCAV testified in public hearings examining the desirability of adopting a ban, and then worked closely with the office of the Chair of the Committee and the City Attorney's Office to provide legal and technical assistance to help develop the ordinance.
- **SAN FRANCISCO** – Over the years, the City and County of San Francisco has turned to LCAV for its legal expertise. In 2004, LCAV provided legal assistance in connection with amendments to San Francisco's firearms laws that were passed by the Board of Supervisors. These amendments include a comprehensive rewrite of the City's existing laws governing firearms and firearms dealers and the addition of a prohibition on the sale or transfer of 50 caliber firearms and ammunition. LCAV presently is consulting with the City Attorney's Office, assisting in the defense of a recently passed local initiative to limit handgun possession and prohibit the sale, distribution, transfer and manufacture of firearms and ammunition within San Francisco. With pro bono support from a San Francisco law firm, LCAV also submitted an amicus brief supporting local authority to enact the measure.
- **SPRINGFIELD** – In July 2005, Illinois joined eight other states and the District of Columbia in addressing a significant loophole in federal law that has enabled criminals, juveniles, and the mentally ill to buy firearms. Now, anyone selling firearms at gun shows in Illinois, whether or not a federally licensed dealer, is required to conduct background checks on prospective purchasers. LCAV provided legal and technical assistance that contributed to the bill's passage by helping to shape the legislation and thwart poison pill amendments sought by the gun lobby.
- **ALBANY** – In May 2005, and again in January 2006, the New York State Assembly passed a bill to strengthen the state's existing assault weapon ban (which presently mirrors the now-expired federal law). The bill incorporates portions of LCAV's model law to ban assault weapons, which was used by the New York State Codes Commission to help develop the measure. The bill will be considered by the New York State Senate in this year's legislative session.

- **SACRAMENTO** – California is at the forefront of gun policy reform in the United States. Groundbreaking laws of the past few years include the first statewide ban on 50 caliber rifles and the country’s most rigorous handgun design safety requirements, as well as the repeal of legislation immunizing the gun industry from liability for its negligence. LCAV has contributed vital legal expertise and information to each of these efforts. Most recently, LCAV has worked with legislative staff and other nonprofit organizations to ensure that regulations implementing the handgun safety legislation effectively implement the intent of the new law. LCAV also is providing legal assistance and support as the California Legislature considers landmark legislation that would make it easier for law enforcement to solve violent gun crimes even when the guns themselves have not been recovered.
- **NATIONALLY** – LCAV’s website, [www.lcav.org](http://www.lcav.org), allows easy access to information about firearms policy options. The most comprehensive resource on U.S. firearms regulation in either print or electronic form, the site provides in-depth summaries of federal, state and local firearms laws and policies and documents over 200 federal and state appellate cases rejecting Second Amendment challenges to firearms laws. The site also offers alternative model laws and case studies illustrating LCAV’s work and impact, as well as downloadable versions of LCAV’s print publications.

## LCAV MILESTONES

- 1993            On July 1, a gunman armed with two assault weapons and a 45 caliber semi-automatic pistol shoots 14 people at 101 California Street in San Francisco before turning a gun on himself. In response, Bay Area lawyers establish LCAV. After mobilizing the Bay Area legal community to support adoption of the federal assault weapon ban in 1994, LCAV makes California its priority.
- 1995            Collaborating with community organizations and governmental entities, LCAV initiates a project to support local regulation of firearms in California and contributes to the substantial growth of local firearms laws. A number of these measures become state law. LCAV also provides legal assistance for statewide violence prevention policies.
- 1999            LCAV begins to serve activists and public officials in other states, ultimately focusing on Illinois and Ohio, where state law permits local regulation of firearms. Similar to its continuing work in California, LCAV offers workshops, drafts model regulations, surveys local gun laws, assists activists and officials working for stronger state and local measures, and enlists volunteer attorneys.
- 2001            LCAV further expands its services, creating a website to document and summarize federal, state and local firearms laws and other essential information on firearms policies. (Initially named [www.firearmslawcenter.org](http://www.firearmslawcenter.org), the site is now [www.lcav.org](http://www.lcav.org).) With the launch of the site, LCAV offers legal support to activists and officials in all 50 states.
- 2004            Based on its successful efforts to mobilize attorneys in California, Illinois and Ohio, LCAV reaches out to lawyers and other supporters across the country and institutes a membership program to strengthen the legal community’s role in ending the gun violence epidemic.
- 2005            LCAV joins with the City of Chicago in a first-of-its-kind, multi-year collaboration to help the City secure reasonable gun violence prevention laws and policies at the state and local levels in Illinois. At the City’s request, LCAV undertakes to prepare legal and strategic analyses and develop legal and analytical materials promoting the City’s interest in gun policy reform.

*Please visit our website – learn more about our current programs and services, research gun laws in your community and join online at [www.lcav.org](http://www.lcav.org).*