

# 14-0036-cv(L), 14-0037-cv(XAP)

---

---

**United States Court of Appeals**  
*for the*  
**Second Circuit**

---

---

WILLIAM NOJAY, THOMAS GALVIN, ROGER HORVATH, BATAVIA MARINE & SPORTING SUPPLY, NEW YORK STATE RIFLE AND PISTOL ASSOCIATION, INC., WESTCHESTER COUNTY FIREARMS OWNERS ASSOCIATION, INC., SPORTSMEN'S ASSOCIATION FOR FIREARMS EDUCATION, INC., NEW YORK STATE AMATEUR TRAPSHOOTING ASSOCIATION, INC., BEDELL CUSTOM, BEIKIRCH AMMUNITION CORPORATION, BLUELINE TACTICAL & POLICE SUPPLY, LLC,

*Plaintiffs-Appellants-Cross-Appellees,*

*(For Continuation of Caption See Inside Cover)*

---

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

---

---

**JOINT APPENDIX**  
**Volume 3 of 9 (Pages A-576 to A-854)**

---

---

STEPHEN P. HALBROOK, ESQ.  
3925 Chain Bridge Road, Suite 403  
Fairfax, Virginia 22030  
(703) 352-7276

GOLDBERG SEGALLA LLP  
11 Martine Avenue, Suite 750  
White Plains, New York 10606  
(914) 798-5400

COOPER & KIRK, PLLC  
1523 New Hampshire Avenue, N.W.  
Washington, DC 20036  
(202) 220-9600

*Attorneys for Plaintiffs-Appellants-Cross-Appellees*

*(For Continuation of Appearances See Inside Cover)*

---

---

– v. –

ANDREW M. CUOMO, Governor of the State of New York, ERIC T.  
SCHNEIDERMAN, Attorney General of the State of New York, JOSEPH A.  
D’AMICO, Superintendent of the New York State Police,

*Defendants-Appellees-Cross-Appellants,*

FRANK A. SEDITA, III, District Attorney for Erie County,  
GERALD J. GILL, Chief of Police for the Town of Lancaster, New York,  
LAWRENCE FRIEDMAN,

*Defendants-Appellees.*

---

SHAWN P. HENNESSY  
ERIE COUNTY DISTRICT ATTORNEY’S  
OFFICE  
25 Delaware Avenue  
Buffalo, New York 14202  
(716) 858-2424

*Attorney for Defendant-Appellee  
Frank A. Sedita, III, District  
Attorney for Erie County*

HODGSON RUSS LLP  
140 Pearl Street, Suite 100  
Buffalo, New York 14202  
(716) 856-4000

*Attorneys for Defendant-Appellee  
Gerald J. Gill, Chief of Police for the  
Town of Lancaster, New York*

CLAUDE S. PLATTON  
NEW YORK STATE OFFICE OF  
THE ATTORNEY GENERAL  
120 Broadway, 25<sup>th</sup> Floor  
New York, New York 10271  
(212) 416-8000

*Attorney for Defendants-Appellees-  
Cross-Appellants*

---

## TABLE OF CONTENTS

	<b>Page</b>
District Court Docket Entries .....	A-1
Complaint, dated March 21, 2013 for Declaratory Judgment and Injunctive Relief .....	A-43
First Amended Complaint, dated April 11, 2013 for Declaratory Judgment and Injunctive Relief .....	A-89
Plaintiffs' Motion for Preliminary Injunction, dated April 15, 2013 .....	A-134
Exhibit A to Plaintiffs' Motion - Declaration of Mark Overstreet, dated April 15, 2013 .....	A-138
Exhibit B to Plaintiffs' Motion - NSSF, "MSSR Comprehensive Consumer Report" (2010) .....	A-150
Exhibit C to Plaintiffs' Motion - Declaration of Guy Rossi, dated April 15, 2013 in Support of Plaintiffs' Motion for Preliminary Injunction .....	A-235
Exhibit D to Plaintiffs' Motion - Affidavit of Roger Horvath, dated April 15, 2013 in Support of Plaintiffs' Motion for Preliminary Injunction .....	A-246
Exhibit E to Plaintiffs' Motion - Affidavit of Thomas Galvin, dated April 15, 2013 in Support of Plaintiffs' Motion for Preliminary Injunction .....	A-250

## ii

	<b>Page</b>
Exhibit F to Plaintiffs' Motion - Declaration of Dr. Gary Kleck, dated April 15, 2013 in Support of Plaintiffs' Motion for Preliminary Injunction .....	A-254
Notice of State Defendants' Cross-Motion to Dismiss and/or for Summary Judgment, dated June 21, 2013 .....	A-264
Declaration of Kevin Bruen, dated June 20, 2013 in Support of Defendants' Cross-Motion to Dismiss and/or for Summary Judgment .....	A-266
Declaration of Christopher Koper, executed June 2013 in Support of Defendants' Cross-Motion to Dismiss and/or for Summary Judgment .....	A-283
Exhibit A to Koper Declaration - <i>Curriculum Vitae</i> of Christopher Koper .....	A-307
Exhibit B to Koper Declaration - Koper and Roth, "Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act." ("Koper 1997") .....	A-327
Exhibit C to Koper Declaration - Koper, "An Updated Assessment of the Federal Assault Weapons Ban" ("Koper 2004") .....	A-444
Exhibit D to Koper Declaration - Koper, "America's Experience with the Federal Assault Weapons Ban" (from <i>Reducing Gun Violence in America</i> ) ("Koper 2013").....	A-558
Declaration of Franklin Zimring, dated June 20, 2013 in Support of Defendants' Cross-Motion to Dismiss and/or for Summary Judgment .....	A-576

## iii

	<b>Page</b>
Exhibit A to Zimring Declaration - <i>Curriculum Vitae</i> of Franklin E. Zimring .....	A-587
Declaration of Lucy Allen, dated June 20, 2013 in Support of Defendants' Cross-Motion to Dismiss and/or for Summary Judgment .....	A-610
Defendant Gerald J. Gil's Notice of Cross-Motion to Dismiss or for Summary Judgment, dated June 21, 2013 .....	A-623
Declaration of Kathleen Rice, dated June 18, 2013 in Support of Defendants' Cross-Motion to Dismiss or for Summary Judgment .....	A-625
Declaration of James Sheppard, dated June 21, 2013 in Support of Defendants' Cross-Motion to Dismiss or for Summary Judgment .....	A-630
State Defendants' Local Rule 56(a)(1) Statement of Undisputed Material Facts, dated June 21, 2013 ...	A-637
Declaration of William J. Taylor, Jr., dated June 21, 2013 in Support of Defendants' Cross-Motion to Dismiss or for Summary Judgment .....	A-649
Exhibit 2 to Taylor Declaration - LCPGV Website, "Introduction to Gun Violence Statistics" (undated).....	A-656
Exhibit 3 to Taylor Declaration - CDC Statistics, 2005-2010 US Homicide Firearm Deaths and Rates per 100k .....	A-659
Exhibit 4 to Taylor Declaration CDC Statistics, 2010 US Homicide Firearm Deaths and Rates per 100k .....	A-660

## iv

	<b>Page</b>
Exhibit 5 to Taylor Declaration - Governor's SAFE Act Program Bill .....	A-663
Exhibit 6 to Taylor Declaration - NYS Senate Memo in Support of SAFE Act.....	A-672
Exhibit 7 to Taylor Declaration - NYS Senate Introducer's Memo in Support of SAFE Act .....	A-680
Exhibit 8 to Taylor Declaration - Violent Crime Control and Law Enforcement Act of 1994 .....	A-688
Exhibit 9 to Taylor Declaration - Judiciary Committee Report re Fed AW Ban 1994 .....	A-714
Exhibit 10 to Taylor Declaration - ATF Study re Importability of Certain Shotguns (2011).....	A-763
Exhibit 12 to Taylor Declaration - ATF Study re Sporting Suitability of Certain Modified Semiautomatic Rifles (1998) .....	A-797
Exhibit 13 to Taylor Declaration - Laws of New York, 2000 – Chapter 189 .....	A-923
Exhibit 14 to Taylor Declaration - Governor's Program Bill Memorandum (2000) ....	A-939
Exhibit 15 to Taylor Declaration - NY State Senate Introducer's Memorandum in Support – Bill Number S8234 .....	A-948
Exhibit 16 to Taylor Declaration - NYS Assembly Debate Excerpt June 23, 2000 .....	A-957

## v

	<b>Page</b>
Exhibit 17 to Taylor Declaration - NYS Assembly Debate Excerpt June 22, 2000 ....	A-963
Exhibit 18 to Taylor Declaration - Governor Proposes Five Point Plan to Combat Gun Violence, Mar. 15, 2000 (“Gov. 2000 Press Release”).....	A-979
Exhibit 19 to Taylor Declaration - ATF Study re Importability of Certain Shotguns (2012).....	A-989
Exhibit 21 to Taylor Declaration - City of Rochester, Chapter 47.Dangerous Articles (“Rochester Ordinance”) .....	A-993
Exhibit 22 to Taylor Declaration - City of Albany – Chapter 193. Firearms and City of Albany, Chapter 193. Firearms and Ammunition (“Albany Ordinance”) .....	A-1005
Exhibit 23 to Taylor Declaration - New York City Administrative Code, §§ 10.301, 10.303.1, 10.305, 10.306 .....	A-1010
Exhibit 24 to Taylor Declaration - Laws of New York, 2013, Chapter 1 (“SAFE Act”) .....	A-1024
Exhibit 25 to Taylor Declaration - Governor’s Press Release, <i>Governor Cuomo Signs NY SAFE Act in Rochester</i> , January 16, 2013 .....	A-1063
Exhibit 26 to Taylor Declaration - New York State Assault Weapon Registration Form.....	A-1066

## vi

	<b>Page</b>
Exhibit 28 to Taylor Declaration - Lawrence Tribe Congressional Testimony February 12, 2013 .....	A-1068
Exhibit 29 to Taylor Declaration - Brian Siebel Congressional Testimony October 10, 2008 .....	A-1104
Exhibit 30 to Taylor Declaration - The Return of the Assault Rifle; High-Powered Weapons Seem to be Regaining Their Deadly Role in WNY Crime and Violence, The Buffalo News, Nov. 21, 2010, Lou Michel.....	A-1112
Exhibit 31 to Taylor Declaration - BCPGV, “Assault Weapons: Mass Produced Mayhem” (Oct 2008).....	A-1115
Exhibit 33 to Taylor Declaration - LCAV, “Banning AWs - A Legal Primer for State and Local Action” (2004) .....	A-1176
Exhibit 36 to Taylor Declaration - “Statement of Professors of Constitutional Law: The Second Amendment and the Constitutionality of the Proposed Gun Violence Prevention Legislation” (2013).....	A-1249
Exhibit 37 to Taylor Declaration - VPC, “Officer Down: AWs and the War on Law Enforcement” (2003) .....	A-1255
Exhibit 38 to Taylor Declaration - Mother Jones, “More Than Half of Mass Shooters Used AWs an High-Capacity Magazines” February 27, 2013 .....	A-1284



## vii

	<b>Page</b>
Exhibit 39 to Taylor Declaration - MAIG, “Analysis of Recent Mass Shootings” (undated) .....	A-1288
Exhibit 40 to Taylor Declaration - BATF, “Assault Weapons Profile” (April 1994)....	A-1305
Exhibit 41 to Taylor Declaration - Overstreet Declaration from Heller .....	A-1332
Exhibit 42 to Taylor Declaration - VPC, “Firearm Justifiable Homicides and Non- fatal Self Defense Gun Use” (April 2013).....	A-1340
Exhibit 43 to Taylor Declaration - Hemenway, “Private Guns Public Health” (2007).	A-1361
Exhibit 44 to Taylor Declaration - Hemenway, Cook, “The Gun Debate’s New Mythical Number” (1997) .....	A-1373
Exhibit 49 to Taylor Declaration – <i>The Police Department’s 9-Millimeter Revolution</i> , The New York Times, Feb. 15, 1999, Raymond W. Kelly.....	A-1382
Exhibit 50 to Taylor Declaration - Heller Historians Brief.....	A-1383
Exhibit 51 to Taylor Declaration - <i>On Target: The Impact of the 1994 Federal Assault Weapon Act</i> , Brady Center to Prevent Gun Violence, March 2004.....	A-1418
Exhibit 52 to Taylor Declaration - NYS Assembly Debate May 24, 2005 .....	A-1439
Exhibit 53 to Taylor Declaration - NYS Assembly Debate January 9, 2006.....	A-1443

## viii

	<b>Page</b>
Exhibit 54 to Taylor Declaration - United States of Assault Weapons, Gunmakers Evading the Federal Assault Weapons Ban, Violence Policy Center, July 2004.....	A-1454
Exhibit 55 to Taylor Declaration - A Further Examination of Data Contained in the Study On Target Regarding Effects of the 1994 Federal Assault Weapons Ban, Violence Policy Center, April 2004.....	A-1514
Exhibit 56 to Taylor Declaration - <i>In Virginia, high-yield clip seizures rise,</i> Washington Post, Jan. 23. 2011 .....	A-1544
Exhibit 57 to Taylor Declaration - <i>High-capacity magazines saw drop during ban,</i> <i>data indicate,</i> Washington Post, Jan. 13, 2013 .....	A-1548
Exhibit 58 to Taylor Declaration - Various Collected Articles .....	A-1551
Exhibit 59 to Taylor Declaration - Baltimore Police Chief Testimony January 30, 2013 .....	A-1563
Exhibit 60 to Taylor Declaration - Excerpts from Amended Complaint New York State Rifle and Pistol Association, Inc. v. City of New York, 13-2115 .....	A-1566
Exhibit 61 to Taylor Declaration - Images from SAFE Act website, Pictures of Rifles – Banned Features .....	A-1570
Exhibit 62 to Taylor Declaration - Images from SAFE Act website, Pictures of Shotguns – Banned Features.....	A-1582

## ix

	<b>Page</b>
Exhibit 63 to Taylor Declaration - Images from SAFE Act website, Pictures of Pistols – Banned Features .....	A-1590
Exhibit 64 to Taylor Declaration - “The Criminal Purchase of Firearm Ammunition,” <i>Injury Prevention</i> (August 4, 2006) .....	A-1599
Exhibit 65 to Taylor Declaration - Images from SAFE Act website, Listing of Rifles that Are Classified as Assault Weapons .....	A-1603
Exhibit 66 to Taylor Declaration - Images from SAFE Act website, Listing of Shotguns that Are Classified as Assault Weapons .	A-1614
Exhibit 67 to Taylor Declaration - Images from SAFE Act website, Listing of Pistols that Are Classified as Assault Weapons .....	A-1616
Exhibit 68 to Taylor Declaration - USDOJ BJS Report, “Selected Findings: Guns Used in Crime” (July 1995) .....	A-1618
Exhibit 69 to Taylor Declaration - SAFE Act Amendment .....	A-1625
Exhibit 11 (Corrected) to Taylor Declaration - ATF Study re Importability of Certain Semiautomatic Rifles (1989) .....	A-1628
Exhibit 20 (Corrected) to Taylor Declaration - City of Buffalo, Chapter 180. Firearms, Arrows and Other Weapons .....	A-1648

## x

	<b>Page</b>
Exhibit 27 (Corrected) to Taylor Declaration - NYS Assembly Debate Excerpt January 15, 2013	A-1657
Exhibit 45 (Corrected) to Taylor Declaration - Images of Rifles that are Not Classified as Assault Weapons.....	A-1669
Exhibit 46 (Corrected) to Taylor Declaration - Images of Pistols that are Not Classified as Assault Weapons.....	A-1689
Exhibit 47 (Corrected) to Taylor Declaration - Images of Shotguns that are Not Classified as Assault Weapons.....	A-1713
Exhibit 48 (Corrected) to Taylor Declaration - NYS Assembly Debate March 28, 2013 .....	A-1731
Certificate of Service .....	A-1742
Notice of Cross-Motion for Summary Judgment and Permanent Injunctive Relief by Plaintiffs, dated August 19, 2013.....	A-1745
Plaintiffs' Response to Defendants' Local Rule 56(a)(1) Statement of Undisputed Material Facts, dated August 19, 2013 .....	A-1749
Plaintiffs' Local Rule 56(a)(2) Counter-Statement of Undisputed Material Facts, dated August 19, 2013.....	A-1797
Exhibit A to Statement - Pew Research Center, "Gun Homicide Rate Down 49% Since 1993..." (May 2013).....	A-1844
Exhibit B to Statement - USDOJ BJS Report, "Firearm Violence 1993- 2011" (May 2013).....	A-1908

## xi

	<b>Page</b>
Exhibit C to Statement - Congressional Research Service, “Public Mass Shootings in the United States: Selected Implications for Federal Public Health and Safety Policy” (March 2013) .....	A-1937
Exhibit D to Statement - Summary of FBI Uniform Crime Reports, 1991- 2011 .....	A-1978
Exhibit E to Statement - Tom King Affidavit in Support of Plaintiffs’ Cross-Motion for Summary Judgment and Permanent Injunctive Relief .....	A-1987
Exhibit F to Statement - Scott Sommavilla Affidavit in Support of Plaintiffs’ Cross-Motion for Summary Judgment and Permanent Injunctive Relief .....	A-1994
Exhibit G to Statement - Jon Karp Affidavit in Support of Plaintiffs’ Cross-Motion for Summary Judgment and Permanent Injunctive Relief .....	A-2001
Exhibit H to Statement - John Cushman Affidavit in Support of Plaintiffs’ Cross-Motion for Summary Judgment and Permanent Injunctive Relief .....	A-2008
Exhibit I to Statement - Thomas Galvin Affidavit in Support of Plaintiffs’ Cross-Motion for Summary Judgment and Permanent Injunctive Relief .....	A-2014

**xii**

	<b>Page</b>
Exhibit J to Statement - Dan Bedell Affidavit in Support of Plaintiffs’ Cross-Motion for Summary Judgment and Permanent Injunctive Relief .....	A-2019
Exhibit K to Statement - Hans Farnung Affidavit in Support of Plaintiffs’ Cross-Motion for Summary Judgment and Permanent Injunctive Relief .....	A-2024
Exhibit L to Statement - Ben Rosenshine Affidavit in Support of Plaintiffs’ Cross-Motion for Summary Judgment and Permanent Injunctive Relief .....	A-2028
Exhibit M to Statement - Michael Barrett Affidavit in Support of Plaintiffs’ Cross-Motion for Summary Judgment and Permanent Injunctive Relief .....	A-2032
Exhibit N to Statement - Diagram of Rifle .....	A-2036
Exhibit O to Statement - Declaration of Dr. Gary Roberts , dated August 16, 2013 in Support of Plaintiffs’ Cross-Motion for Summary Judgment and Permanent Injunctive Relief.....	A-2038
State Defendants’ Response to Plaintiffs’ Local Rule 56(a)(2) Statement of Undisputed Material Facts, dated September 24, 2013.....	A-2061
Supplemental Declaration of Christopher Koper, dated September 23, 2013 in Support of Defendants’ Cross-Motion to Dismiss and or for Summary Judgment .....	A-2230

## xiii

	<b>Page</b>
Supplemental Declaration of William J. Taylor, Jr., dated September 24, 2013.....	A-2244
Exhibit 71 to Taylor Supplemental Declaration - Memorandum of Decision, <i>Benjamin v. Bailey</i> , CV 93-0063723 (Conn. Super. Ct. June 30, 1994)	A-2247
Exhibit 72 to Taylor Supplemental Declaration - CDC Statistics, 2000 - 2010 US Violence Related Firearm Deaths and Rates per 100k.....	A-2290
Exhibit 73 to Taylor Supplemental Declaration - Appellants' Notice of Supplemental Authority under Fed. R. App. P. 28(j), <i>Kwong v. Bloomberg</i> , No. 12-1578 (2d Cir.), dated Jan. 17, 2013.....	A-2292
Exhibit 74 to Taylor Supplemental Declaration - Aaron Smith, New Rifle Mimics Machine Gun's Rapid Fire – and It's Legal, CNNMoney.com, Sept. 12, 2013 .....	A-2295
Exhibit 75 to Taylor Supplemental Declaration - New York Pattern Criminal Jury Instructions 2d, Penal Law § 265.02(7), Criminal Possession of a Weapon Third Degree, Possession of Assault Weapon .....	A-2300
Declaration of Richard Lynch, dated October 8, 2013 .....	A-2305
Reply Memorandum of Law in Further Support of Plaintiffs' Motion for Summary Judgment, dated October 9, 2013 (Omitted Herein)	

xiv

	<b>Page</b>
Exhibit A to Reply Memorandum - Supplemental Declaration of Dr. Gary Kleck, dated October 8, 2013 in Support of Plaintiffs’ Cross-Motion for Summary Judgment and Permanent Injunctive Relief .....	A-2308
Declaration of William J. Taylor, Jr., dated October 18, 2013 .....	A-2312
Exhibit A to Taylor Declaration - Transcript of Proceedings, <i>Tardy v. O’Malley</i> , Civil No. CCB-13-2841 (D. Md. October 1, 2013) .....	A-2314
Exhibit B to Taylor Declaration - Order, <i>Tardy v. O’Malley</i> , Civil No. CCB-13- 2841 (D. Md. Oct. 1, 2013) .....	A-2407
Order, dated December 23, 2013 denying Plaintiffs’ Motion for Hearing .....	A-2409
Plaintiffs’ Notice of Appeal, dated January 3, 2014 .	A-2410
State Defendants’ Notice of Cross-Appeal, dated January 3, 2014 .....	A-2414



A-576

Case 1:13-cv-00291-WMS Document 68 Filed 06/21/13 Page 1 of 11

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

-----X

New York State Rifle and Pistol Association, Inc.;	:	
Westchester County Firearms Owners Association, Inc.;	:	
Sportsmen's Association for Firearms Education, Inc.;	:	<b>Civil Action Number:</b>
New York State Amateur Trapshooting Association, Inc.;	:	<b>1:13-cv-00291 (WMS)</b>
Bedell Custom; Beikirch Ammunition Corporation;	:	
Blueline Tactical & Police Supply, LLC; Batavia Marine &	:	
Sporting Supply, LLC; William Nojay; Thomas Galvin;	:	
and Roger Horvath,	:	
	:	
Plaintiffs,	:	
	:	
-against-	:	
	:	
	:	
Andrew M. Cuomo, Governor of the State of New York;	:	
Eric T. Schneiderman, Attorney General of the State of	:	
New York; Joseph A. D'Amico, Superintendent of the	:	
New York State Police; Lawrence Friedman, District	:	
Attorney for Genesee County; and Gerald J. Gill, Chief of	:	
Police for the Town of Lancaster, New York,	:	
	:	
	:	
Defendants.	:	

-----X

**DECLARATION of FRANKLIN E. ZIMRING**

Franklin E. Zimring, under penalty of perjury and in accordance with 28 U.S.C. § 1746, states and declares as follows:

1. I am the William G. Simon Professor of Law, Wolfen Distinguished Scholar and Chair of the Criminal Justice Research Program at the Boalt Hall School of Law, University of California, Berkeley.
2. I have studied the relationship between firearms and violence, strategies of firearms control, and patterns of gun commerce and civilian gun usage since 1967. I have served as director of research of the task force on firearms of the National Commission on the Causes and Prevention of Violence and as a firearms and federal

Case 1:13-cv-00291-WMS Document 68 Filed 06/21/13 Page 2 of 11

criminal law expert for the National Commission on Reform of Federal Criminal Laws. I have published several empirical studies of firearms and violence and on gun control, and I have co-authored three books with firearms issues at their center. I was elected a Fellow of the American Academy of Arts and Sciences in 1990. (My curriculum vitae is annexed hereto as Exhibit A.)

3. I have previously served as an expert witness in litigation on two topics central to my fields of research and expertise: (1) the relationship between firearms and violence and (2) the design and evaluation of firearms control. Most recently, I submitted an expert declaration with respect to these areas in *Kachalsky v. County of Westchester*, which the Second Circuit relied upon, in part, in reaching its decision. This declaration is on both topics.

4. I submit this declaration in support of the State Defendants' Motion to Dismiss and for Summary Judgment and in Opposition to the Plaintiffs' Motion for a Preliminary Injunction.

5. This declaration will address empirical evidence on some of the special and unique dangers posed by assault weapons and large capacity magazines ("LCMs"); the historical record and evidence supporting regulations like the Secure Ammunition and Firearms Enforcement Act, 2013 N.Y. Laws, ch. 1 ("SAFE Act") which ban, or otherwise highly regulate such inherently dangerous weapons; and my expert opinion on how the portions of the SAFE Act challenged here are a particular type of regulation intended to address particular aspect of gun violence, specifically the single offender mass shooting episodes.

Case 1:13-cv-00291-WMS Document 68 Filed 06/21/13 Page 3 of 11

#### HISTORICAL PRECEDENT

6. As the Supreme Court recognized in *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008), the Second Amendment has never conferred an unlimited right to keep and bear arms. The right to bear arms does not convey either a right to carry concealed weapons or other behavior that puts public safety at risk.<sup>1</sup> As noted by other courts, the Second Amendment provides no protection for dangerous or unusual weapons. *See, e.g., Heller*, 554 U.S. at 627; *Heller v. District of Columbia*, 670 F.3d 1244, 1262 (D.C. Cir. 2011) ("*Heller II*"). Nor does it provide an entitlement to military weapons. *Heller*, 554 U.S. at 624-25, 627-28.

7. Like other rights inherited from England, the right to bear arms was subject to well-recognized exceptions. *Robertson v. Baldwin*, 165 U.S. 275, 281 (1897). In fact, "...when the fledging republic adopted the Second Amendment, an expectation of sensible gun safety regulation was woven into the tapestry of the guarantee". *Nat'l Rifle Ass 'n of Am., Inc. v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 700 F.3d 185, 200 (5th Cir. 2012). Throughout the history of the United States, local and state governments, as well as the federal government, have banned the possession and/or sale of unusually dangerous weapons.

8. "The earliest and most numerous state and local laws relate to the carrying or use of firearms. In the 1600s, Massachusetts prohibited the carrying of defensive firearms in public places." George Newton and Franklin E. Zimring, Firearms and

Violence in American Life, staff report submitted to the National Commission on Causes and Prevention of Violence, Washington D.C., Government Printing Office, 8 (1969).

---

<sup>1</sup> *See Kachalsky v. County of Westchester*, 701 F.3d 81, 88 (2d Cir. 2012).

Case 1:13-cv-00291-WMS Document 68 Filed 06/21/13 Page 4 of 11

9. Gun safety regulations were commonplace in colonial America, and included laws regulating the storage of gun powder; laws keeping track of who in the community had guns; laws administering gun use; laws prohibiting firearms on certain occasions and in certain places; and laws disarming certain groups and restricting sales. *See*, Saul Cornell & Nathan DeNino, "A Well Regulated Right: The Early American Origins of Gun Control", 73 *Fordham L. Rev.* 487, 502-13 (2004); Saul Cornell, *A Well-Regulated Militia: The Founding Fathers and the Origins of Gun Control in America*, 140 (2006). States and localities have long regulated or prohibited possession of weapons that were deemed to pose a particular threat to public safety. For example, restrictions on the concealed carrying of handguns have long been understood to be lawful. *See Kachalsky v. County of Westchester*, 701 F.3d at 90, 100 (Recognizing "more robust" regulation under Second Amendment than other enumerated rights and history of extensive regulation, including prohibition, of carrying concealable weapons because of the dangers they pose).

10. One federal law that focused on prohibition of dangerous types of firearms was the National Firearms Act of 1934. 48 Stat. 1236 (26 U.S.C. §§ 5801-5826). The law imposed a \$200 tax (equivalent in the consumer price index to more than \$3,400 in 2013) on guns with particularly dangerous features, such as fully automated firing, short or shortened barrels, and silencers.

11. Two sections of the Gun Control Act of 1968, 18 U.S.C. § 922 *et seq.*, extended the list of restricted weapons to "destructive devices" which included military weapons listed and to imported handguns characterized as "Saturday night specials."

Neither the National Firearms Act nor the Gun Control Act only restricted guns that were "highly unusual in society at large." Rather, the National Firearms Act prohibited citizens from reducing the barrel length of any rifles and shotguns when rifles and shotguns were 74% of the guns manufactured in the first half of the 20th century. (Newton and Zimring, 1969 at p. 172). So the National Firearms Act restricted a citizen's right to modify most privately owned guns. Similarly, the Gun Control Act banned imported Saturday night special handguns despite the fact that they were said to number in the millions.

12. Federal and state laws restricting weapons characterized as "assault weapons" followed in the 1980s and 1990s as a response to new types of weapons being manufactured and marketed and, in particular, in response to a small but highly threatening set of shooting episodes where a single attacker invaded public spaces and inflicted fatal and serious injuries on large numbers of victims.

13. In 2000, New York became one of a number of states to adopt legislation restricting assault weapons. The targets of such laws were semi-automatic weapons with detachable magazines and military features, weapons that can fire a large number of rounds quickly, and large capacity ammunition magazines.<sup>2</sup>

---

<sup>2</sup> Assault weapons ban similar to New York's SAFE Act have been enacted in many other states and municipalities, as recognized by Justice Breyer in his dissent in *Heller*:

In addition, at least six States and Puerto Rico impose general bans on certain types of weapons, in particular assault weapons or semiautomatic weapons. See Cal. Penal Code Ann. § 12280(b) (West Supp. 2008); Conn. Gen. Stat. § 53-202c (2007); Haw. Rev. Stat. § 134-8 (1993); Md. Crim. Law Code Ann. § 4-303(a) (Lexis 2002); Mass. Gen. Laws, ch. 140, § 131M (West 2006); N. Y. Penal Law Ann. § 265.02(7) (West Supp. 2008); 25 P.R. Laws Ann. § 456m (Supp. 2006); see also 18 U.S.C. § 922(o) (federal machinegun ban). And at least 14 municipalities do the

14. In 2013, New York passed the SAFE Act, which amended its 2000 assault weapon legislation. One motivation was mass shootings, particularly the Sandy Hook school shootings in Newtown, Connecticut, in which twenty first graders were murdered and the shooting of two first responders in Webster, New York, in December, 2012. Assault weapons and large capacity magazines play a particularly large and disproportionate role in such shootings. Therefore, the SAFE Act enhanced New York's existing ban on assault weapons to more completely capture the weapons deemed particularly dangerous by the legislature, by banning semi-automatic weapons with one rather than two military characteristics. The SAFE Act additionally amended New York's existing ban on LCMs or most storage magazines that contain ten or more rounds, and firearms with more than seven live rounds, to, among other things, reduce the potential number of victims in these single shooter attacks.

15. The SAFE Act includes an "assault weapon ban," a government regulation of guns in which the manner of firearms use is addressed, prohibiting particular

---

same. See Albany, N. Y., Municipal Code § 193-16(A) (2005); Aurora, Ill., Ordinance § 29-49(a) (2007); Buffalo, N. Y., City Code § 180-1(F) (2000); Chicago, Ill., Municipal Code §§ 8-24-025(a), 8-20-030(h); Cincinnati, Ohio, Municipal Code § 708-37(a) (Supp. 2008); Cleveland, Ohio, Ordinance § 628.03(a) (2007); Columbus, Ohio, City Code § 2323.31 (2008); Denver, Colo., Revised Municipal Code § 38-130(e) (2008); Morton Grove, Ill., Village Code § 6-2-3(B) (2007); N.Y. CityAdmin. Code § 10-303.1 (1996 and Supp. 2007); Oak Park, Ill., Village Code § 27-2-1 (2007); Rochester, N. Y., Code § 47-5(1) (2008), online at <http://www.ci.rochester.ny.us/index.cfm?id=112>; South Bend, Ind., Ordinance §§ 13-97(b), 13-98 (2008) online at <http://library2municode.cumm//default/DocView13974/i/2>; Toledo, Ohio, Municipal Code § 549.23(a). These bans, too, suggest that there may be no substitute to an outright prohibition in cases where a governmental body has deemed a particular type of weapon especially dangerous.

*Heller*, 554 U.S. at 713 (Breyer, J., dissenting).

Case 1:13-cv-00291-WMS Document 68 Filed 06/21/13 Page 7 of 11

kinds of firearms from civilian ownership because features of the weapon create particular dangers. Instead of trying to restrict weapons from high-risk users (the function of licensing and background screening laws) or regulating the times and places where firearms can be used, which concerns are addressed in other provisions of New York's gun laws, the assault weapon ban forbids the common ownership of guns manufactured or converted in ways that the legislature believes to be particularly dangerous. These three common types of regulation, or regulatory approaches, are each aimed, in different ways, at limiting the effects of gun violence. Table 1 provides a basic profile of gun control strategies and examples of laws that conform to each category.

Table 1.

Dangerous Users	Dangerous Uses	Dangerous Guns
Licensing, Registration, Prohibition on Ownership of Felons, Minors, those with Disqualifying Mental Conditions, etc.	Restrictions on Carrying, Prohibition of Possession in Restricted Places	National Firearms Act of 1934; "Destructive Devices" in the Gun Control Act of 1968; Saturday Night Special Restrictions in the Gun Control Act of 1968; "Assault Weapon" Regulations in Federal and State Laws

Case 1:13-cv-00291-WMS Document 68 Filed 06/21/13 Page 8 of 11

16. The SAFE Act limits on magazine capacity also further the State's interest in public safety in mass shootings. Most notably, large-capacity magazines have a significant impact where a single shooter wishes to kill many people. Firing quickly and shooting often is the central element in such an assault, and there is often no other limit on the destructive objectives of the single attacker than the ammunition capacity of the weapon. Thus, New York restricted round capacity for the same reason that such weapons dominate single-shooter mass killings—the mechanical features of such weapons fit with the perverse objectives of the mass killer.

17. In 2012 alone, there were at least seven single-offender mass shooting episodes where more than four persons were killed by a single offender in a public place: Newton, Connecticut on December 14; Minneapolis, Minnesota on September 27; Oak Creek Wisconsin on August 5; Aurora, Colorado on July 20; Seattle, Washington on May 30; Oakland, California on April 2; and Norcross, Georgia on February 22<sup>5</sup>. In six of these seven instances, weapon capacity was reported and the guns used violated either the capacity restrictions or seven-round load limits of the New York law. Thus, in every 2012 case where information was available, the weapons used would have been prohibited by the SAFE Act, as reported in Table 2.

---

<sup>5</sup> See [www.motherjones.com/politics/2013/02/assault-weapons-high-capacity-magazines-mass-shootings-feinstein](http://www.motherjones.com/politics/2013/02/assault-weapons-high-capacity-magazines-mass-shootings-feinstein)



Case 1:13-cv-00291-WMS Document 68 Filed 06/21/13 Page 9 of 11

**Table 2. Single Shooter Mass Killings in the United States during 2012.**

Place and Date	Death Toll	Status of Magazine under New York Law
Newton, CT 12-14-12	27	Illegal magazine
Minneapolis, MN 09-27-12	7	Illegal magazine
Oak Creek, WI 08-05-12	7	Illegal magazine
Aurora, CO 07-20-12	12	Illegal magazine
Seattle, WA 05-30-12	5	No information available on two firearms used
Oakland, CA 04-02-12	7	Illegal magazine
Norcross, GA 02-22-12	5	Illegal; more than seven rounds in magazine

Source: *Mother Jones* for incident reports and magazine capacity; Captain Bryan Harr, Norcross Police Department for Norcross gun data (telephone conversation with Professor Zimring on May 20, 2013).

18. In any instance where a single shooter intends to kill as many victims as quickly as possible, a weapon that can keep firing without reloading serves that specific purpose with higher efficiency than multiple weapons or reloading.

19. There are several well-documented instances where a shooter stopped to reload his weapon in order to continue a shooting rampage, where that pause provided the necessary opportunity for bystanders to intervene and bring the mayhem to a halt. There are numerous examples in press coverage: in the mass shooting in January 2011 in Arizona, which killed six (6) and wounded thirteen (13), including Congresswoman Gabriel Giffords, the shooter was stopped when bystanders intervened, tackled, and disarmed him as he was attempting to reload. In 2008, a shooter entered a Tennessee church, intent on shooting parishioners and expecting to be killed by police, but after he killed two (2) parishioners and wounded five (5),

Case 1:13-cv-00291-WMS Document 68 Filed 06/21/13 Page 10 of 11

church members tackled him when he stopped to reload. In January 2010, a man who fired several shots outside of the Texas Capitol in Austin was tackled and stopped by Public Safety officers, before he was able to injure or kill anyone, while he was attempting to reload his weapon. In May 1998, a shooter entered Thurston High School in Springfield, Oregon with two pistols and a semi-automatic rifle hidden under a trench coat. He opened fire killing two (2) students, but while he stopped to reload a wounded student tackled him. Finally in 1993, in the mass shooting on a Long Island Rail Road train, which killed six (6) and injured nineteen (19), train passengers were able to intervene and tackle and restrain the shooter as he stopped to switch magazines. Copies of some press clippings of these events are annexed hereto.

20. The single shooter bound for mass violence may bring extra guns as well, but none of the six 2012 multiple killers where I found data, carried any weapons with fewer than nine bullets loaded. *See* Table 2 and sources. The New York laws passed in 2000 and 2013 make the weapons preferred by persons who desire mass destruction less available to citizens and therefore less likely to be diverted into mass violence.

21. While it is frequently argued that criminals and the murderously insane will still obtain the banned assault weapons and LCMs outside the normal streams of gun ownership and commerce in the United States the historical record shows otherwise: it is the ordinary channels of commerce that were the sources for the guns and ammunition used in most mass shootings.<sup>3</sup>

22. In conclusion, the link between the assault weapons and LCMs banned by the SAFE Act and single offender mass shootings is undeniable. Therefore the

---

<sup>3</sup> See [www.motherjones.com/politics/2012/07/massshootings-map](http://www.motherjones.com/politics/2012/07/massshootings-map).

A-586

Case 1:13-cv-00291-WMS Document 68 Filed 06/21/13 Page 11 of 11

SAFE Act's limitations on the ownership of the most dangerous firearms, as well as the limitations on magazine capacity, makes the killing of many people quickly by a single shooter as difficult as possible without interfering in self-defense or sport.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: Budda, California  
June 20, 2013

  
Franklin E. Zimring

**FRANKLIN E. ZIMRING**

13 February 2013

**PERSONAL** Born 1942, Los Angeles, California; married; two adult children.

**EDUCATION** Los Angeles Public Schools; B.A. with Distinction, Wayne State University (1963); J.D. *cum laude*, University of Chicago (1967).

**PRESENT POSITION** **WILLIAM G. SIMON PROFESSOR OF LAW; WOLFEN DISTINGUISHED SCHOLAR** and **CHAIR**, Criminal Justice Research Program, Institute for Legal Research (formerly the Earl Warren Legal Institute), Boalt Hall School of Law, University of California, Berkeley.

**OTHER WORK** **Principal Investigator**, Center on Culture, Immigration and Youth Violence Prevention (2005-2011).

**DIRECTOR**, Earl Warren Legal Institute (1983-2002).

**FACULTY OF LAW**, University of Chicago (1967-85); **KARL N. LLEWELLYN PROFESSOR OF JURISPRUDENCE** (1982-85) and **DIRECTOR**, Center for Studies in Criminal Justice (1975-85).

**MEMBER**, MacArthur Foundation Research Program on Adolescent Development and Juvenile Justice (1997-2007).

**FELLOW**, Center for Advanced Studies in the Behavioral Sciences, Stanford, California (1979-80).

**RAPPORTEUR**, Task Force on Sentencing Policy for Young Offenders, Twentieth Century Fund (1978).

**VISITING PROFESSOR OF LAW**, University of California, Irvine (2004), University of South Africa (1993), University of California, Berkeley (1983-85), Yale University (1973), and University of Pennsylvania (1972).

**DIRECTOR OF RESEARCH**, Task Force on Firearms, National Commission on the Causes and Prevention of Violence (1968-69).

**CONSULTANT**: American Bar Foundation, Police Foundation, National Commission on Reform of Federal Criminal Laws, Institute for Defense Analysis, Department of Justice, Rand Corporation, Abt Associates, Federal Parole Commission, Federal Bureau of Prisons, Federal Bureau of Investigation, General Accounting Office, Canadian Institute for Advanced Studies, States of Alaska, California, Nebraska, Illinois, Virginia, and Washington, Cities of Chicago, New York and San Francisco.

**ADVISORY POSTS** **CURRENT**: Campaign for Youth Justice (2007-); California Attorney General's Office (2001-); National Policy Committee, American Society of Criminology (1989-91 and 1993-); Board of Directors, Illinois Youth Services Association (Honorary) (1977-); Advisory Committee, National Pre-Trial Services Association (1975-).

**PAST**: Asian Pacific Violence Prevention Center, National Council on Crime and Delinquency (2001-2005); Advisory Committee, Sentencing Project, American Law Institute (2001-2003); Criminal Justice Policy Group, Advisory Board, National Campaign Against Youth Violence (2000-2002); Expert Panel Member, U.S. Department of Transportation, National Highway Traffic Safety Administration Panel on Crash Risk of Alcohol-Involved Driving (1994-2002); Expert Panel Member, U.S. Department of Education Panel on Safe, Disciplined, and Drug-Free Schools (1998-2001); National Research Council Panel on Juvenile Crime: Prevention, Intervention, and Control (1998-2001); Advisory Board, Center on Crime, Communities, and Culture, Open Society Institute (1998-2000); Affiliated Expert, Center for Gun Policy and Research, Johns Hopkins University (1995-98); Gun Violence Advisory Group, American College of Physicians (1995-98); Advisory Committee, Violent and Serious

**FRANKLIN E. ZIMRING****PAGE 2**

Juvenile Offender Project, National Council on Crime and Delinquency (1994-1997); Panel on NIH Research on Anti-Social, Aggressive, and Violence-Related Behaviors and their Consequences (1997-); Task Force on Future Directions for the National Archive of Criminal Justice Data, Bureau of Justice Statistics, Department of Justice (1995); Panel on Antisocial, Aggressive, and Violence-Related Behaviors and Their Consequences, National Institute of Health (1993-94); Panel on Understanding and Control of Violent Behavior, National Research Council, National Academy of Sciences (1989-91); Research Advisory Committee, California Attorney General (1983-1990); Law Enforcement Committee, California Governor's Policy Council on Drug and Alcohol Abuse (1989-91); National Research Council, Working Group Crime and Violence (1985-88); Internal Revenue Service, Advisory Group Taxpayer Compliance Research (1983-87); Board of Directors, Eisenhower Foundation for the Prevention of Violence (1981-84); U.S. Secret Service Advisory Committee on Protection of the President (1981-82); Assembly of Behavioral and Social Sciences, National Academy of Sciences (1977-80); Executive Committee, Illinois Academy of Criminology (1968-71, 1977-78); Advisory Committee, Assessment Center for Alternatives to Juvenile Courts (1977-78) (chairman); Advisory Committee, Law and Social Science Program, National Science Foundation (1976-77); Advisory Committee, Vera Institute of Justice, Court Employment Project Evaluation (1976-77) (chairman); Panel on Deterrence and Incapacitation, National Academy of Sciences (1975-77); Legal Committee, American Civil Liberties Union, Illinois Branch (1967-70).

**EDITORIAL  
BOARDS**

**CURRENT:** Punishment and Society (1998-); Crime and Justice: An Annual Review of Research (1979-90, 1998-); Western Criminology Review (1997-); Buffalo Criminal Law Review (1996-); Homicide Studies (1996-); The Prison Journal (1992-); Journal of Research in Crime and Delinquency (1976-84, 1990-); Federal Sentencing Reporter (1988-); Studies in Crime and Justice (1980-); Journal of Criminal Justice (1978-).

**PAST:** Law and Society Review (1988-1998); British Journal of Criminology (1988-1996); Journal of Quantitative Criminology (1984-1989); Ethics, (1985-87); Encyclopedia of Crime and Justice (1979-83); Evaluation Quarterly (1976-84); Law and Behavior (1976-85).

**HONORS**

Fellows Award, Western Society of Criminology (2013); Edwin H. Sutherland Award, American Society of Criminology (2007); August Vollmer Award, American Society of Criminology (2006); Notable Book of the Year, *The Economist* (2003); Society of Research on Adolescence, Biannual Book Award (2002); Pass Award, National Council on Crime and Delinquency (1999); Donald Cressey Award, National Council on Crime and Delinquency (1995); Choice, Outstanding Academic Book Citation (1995 and 1982); Paul Tappan Award, Western Society of Criminology (1994); Fellow, American Society of Criminology (1993); Distinguished Alumni Award, Wayne State University (1989); Bustin Prize for Legal Research, University of Chicago (1981); Cooley Lecturer, University of Michigan Law School (1980); National Distinguished Alumnus Award, Delta-Sigma-Rho (1977); Ten Law Professors Who Shape the Future, *Time Magazine* (1977); Civilian Award of Merit for 1975, Chicago Crime Commission; Gavel Award Certificate of Merit, American Bar Association (1973).

**MEMBER**

American Academy of Arts and Sciences (1990-); California Bar Association (1968-); Order of the Coif (1967-); Phi Beta Kappa (1964-).

FRANKLIN E. ZIMRING

PAGE 3

## BOOKS AND MONOGRAPHS

*The City That Became Safe: What New York Teaches About Urban Crime and Its Control*, New York: Oxford University Press (October 2011).

(with David T. Johnson) *The Next Frontier: National Development, Political Change, and the Death Penalty in Asia*, New York: Oxford University Press (January 2009).

(with Bernard E. Harcourt) *Criminal Law and the Regulation of Vice*, American Casebook Series, St. Paul: Thompson/West Publishers (2007).

*The Great American Crime Decline*, New York: Oxford University Press (2006).

*American Juvenile Justice*, New York: Oxford University Press (2005); (Korean translation) Prime Books (November 2009); (Chinese translation) Chinese People's Public Security University Press (2010).

*An American Tragedy: Legal Responses to Adolescent Sexual Offending*, Chicago: University of Chicago Press (2004); paperback edition (2009).

*The Contradictions of American Capital Punishment*, New York: Oxford University Press (2003); paperback edition (2004); (Chinese translation) Shanghai Joint Publishing (2008); (Italian translation) Società editrice il Mulino, Bologna (2009).

(with Margaret Rosenheim, David Tanenhaus, and Bernardine Dohrn, eds.) *A Century of Juvenile Justice*, Chicago: University of Chicago Press (2002); (Chinese translation) Beijing: The Commercial Press (2008).

(with Gordon Hawkins and Sam Kamin) *Punishment and Democracy: Three Strikes and You're Out in California*, New York: Oxford University Press (2001).

(with Jeffrey Fagan, ed.) *The Changing Borders of Juvenile Justice: Transfer from Juvenile to Criminal Court*, Chicago: University of Chicago Press (2000).

(with Sam Kamin and Gordon Hawkins) *Crime and Punishment in California: The Impact of Three Strikes and You're Out*, Berkeley: Institute of Governmental Studies (1999).

*American Youth Violence*, New York: Oxford University Press (1998); paperback edition (2000).

(with Gordon Hawkins) *Crime Is Not the Problem: Lethal Violence in America*, New York: Oxford University Press (1997); paperback edition (1999).

(with Gordon Hawkins) *Incapacitation: Penal Confinement and the Restraint of Crime*, New York: Oxford University Press (1995); paperback edition (1997).

(with Gordon Hawkins) *Prison Population and Criminal Justice Policy in California*, Berkeley: Institute of Governmental Studies (1992).

(with Gordon Hawkins) *The Search for Rational Drug Control*, New York: Cambridge University Press (1992); paperback edition (1995).

(with Gordon Hawkins) *The Scale of Imprisonment*, Chicago: University of Chicago Press (1991); paperback edition (1993).

(with Gordon Hawkins) *Pornography in a Free Society*, New York: Cambridge University Press (1988); paperback edition (1991).

**FRANKLIN E. ZIMRING****PAGE 4**

(with Michael Laurence and John Snortum, eds.) *Social Control of the Drinking Driver*, Chicago: University of Chicago Press (1988).

(with Gordon Hawkins) *The Citizen's Guide to Gun Control*, New York: Macmillan Publishing Company (1987); paperback edition (1992).

(with Gordon Hawkins) *Capital Punishment and the American Agenda*, New York: Cambridge University Press (1987); paperback edition (1989).

(with Mark Siegler, Steven Toulman, Kenneth Schaffner, eds.) *Medical Innovation and Bad Outcomes: Legal, Social, and Ethical Responses*, Ann Arbor, MI: Health Administration Press (1987).

(with Gordon Hawkins, ed.) *The Pursuit of Criminal Justice: Essays From the Chicago Center*, Chicago: University of Chicago Press (1984); Midway reprint edition (1986).

(with Michael Tonry, ed.) *Reform and Punishment: Essays on Criminal Sentencing*, Chicago: University of Chicago Press (1983).

*The Changing Legal World of Adolescence*, New York: The Free Press (1982); paperback edition (1985).

(with Richard Frase) *The Criminal Justice System: Materials on the Administration and Reform of the Criminal Law*, Boston: Little, Brown and Company (1980).

*Confronting Youth Crime: Report of the Twentieth Century Fund Task Force on Sentencing Policy Toward Young Offenders*, New York: Holmes and Meier (1978).

(with Gordon Hawkins) *Deterrence: The Legal Threat in Crime Control*, Chicago: University of Chicago Press (1973); Phoenix edition (1976).

*Perspectives on Deterrence*, Washington, D.C.: National Institute of Mental Health (1971).

(with George P. Newton) *Firearms and Violence in American Life*, Task Force Report to the National Commission on the Causes and Prevention of Violence, Washington, D.C.: U.S. Government Printing Office (1969).

#### SCHOLARLY ARTICLES

(with Jeffrey Fagan and Amanda Gøller) The Texas Deterrence Muddle, *Criminology and Public Policy* 11: 579-591 (2012).

(with David T. Johnson) The Dark at the Top of the Stairs: Four Destructive Influences of Capital Punishment on American Criminal Justice, in Joan Petersilia and Kevin R. Reitz, eds., *The Oxford Handbook of Sentencing and Corrections*. Oxford University Press (2012).

How New York Beat Crime, *Scientific American*, August 2011, p. 75.

(with Thao Le, Isami Arifuku, Linh Vuong, Gianna Tran and Deborah F. Lustig) Community Mobilization and Community Board Participatory Research to Prevent Youth Violence Among Asian and Immigrant Populations, *American Journal of Community Psychology* 48: 77-88 (2011).

Executions without Legitimacy? Why the ALI Action Matters, Responding to Professors Carol S. Steiker & Jordan M. Steiker's, "No More Tinkering: The American Law Institute and the Death Penalty Provisions of the Model Penal Code," *Texas Law Review*, "See Also Response," 88: 257 (2011);

FRANKLIN E. ZIMRING

PAGE 5

available at: <<http://www.texasrev.com/seealso/vol/88/responses/zimring>>.

(with Rosemary Gartner and Anthony Doob) The Past as Prologue? Decarceration in California then and Now, *Criminology and Public Policy* 10: 291-325 (2011).

The Scale of Imprisonment in the United States: 20<sup>th</sup> Century Patterns and 21<sup>st</sup> Century Prospects, *The Journal of Criminal Law & Criminology* 100:1225-1245 (2010); Italian translation by Alessandro Corda for *Criminalia: Annuario di Scienze Penali* 2011, Edizioni ETS (2012), pp. 47-73.

The Power Politics of Juvenile Court Transfer: A Mildly Revisionist History of the 1990s, *Louisiana Law Review* 71:1-15 (2010).

(with Jeffrey Fagan and David T. Johnson) Executions, Deterrence, and Homicide: A Tale of Two Cities, *Journal of Empirical Legal Studies* 7:1-29 (March 2010).

Delinquency, Opportunity and the Second Generation Immigrant Puzzle, in Frost, et al, eds., *Contemporary Issues in Criminal Justice Policy: Policy Proposals from the American Society of Criminology Conference*, Wadsworth/Cengage Learning (2010) 247-249.

Juvenile Crime, in Shweder, et al, eds., *The Child: An Encyclopedic Companion*, University of Chicago Press (2009) 217-219.

Debating a Federal Sentencing Commission circa 1978, *Federal Sentencing Reporter* 21:271 (April 2009).

(with Alex Piquero, Wesley Jennings and Stephanie Hays) Investigating the Continuity of Sex Offending: Evidence from the Second Philadelphia Birth Cohort, *Justice Quarterly* 26:59 (March 2009).

(with Chrysanthi S. Leon) A Cite Checker's Guide to Sexual Dangerousness, *Berkeley Journal of Criminal Law* 13:65 (Spring 2008).

Public Sentiment, Political Action, and Governmental Crime Policy—On the Origins and Significance of Mixed Feelings, *Criminology and Public Policy* 7:467 (August 2008).

Criminology and Its Discontents: The American Society of Criminology 2007 Sutherland Address, *Criminology* 46:255 (May 2008)

Violence and Drugs: Divide, Then Conquer? *Berkeley Review of Latin American Studies* pp. 40-41 (Spring 2008).

Handgun Control, The Second Amendment and Judicial Legislation in the D.C. Circuit: A Note on *Parker v. District of Columbia*, *New Criminal Law Review* 2:312 (2008).

(with David Johnson) Law, Society and Capital Punishment in Asia, *Punishment & Society* 10:103 (2008); also published in *Criminal Law Review* 19:109, (translated into Chinese by Richard Chiang for Peking University Press) (2006).

(with Gordon Hawkins) Crime Is Not the Problem: Lethal Violence in America, in Mary E. Vogel, ed., *Crime, Inequality and the State*, Routledge (2007).



**FRANKLIN E. ZIMRING****PAGE 6**

Protect Individual Punishment Decisions from Mandatory Penalties, *Criminology and Public Policy* 6:881 (November 2007).

(with Alex Piquero and Wesley Jennings) Sexual Delinquency in Racine: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood? *Criminology and Public Policy* 6:507 (August 2007).

Vollmer Award Address: The Necessity and Value of Transnational Comparative Study--Some Preaching from a Recent Convert, *Criminology and Public Policy* 5:615 (November 2006).

(with David Johnson) Taking Capital Punishment Seriously, *Asian Criminology* 1:89 (2006).

(with Cheryl Marie Webster and Anthony N. Doob) Proposition 8 and Crime Rates in California: The Case of the Disappearing Deterrent, *Criminology and Public Policy* 5:1501 (August 2006).

(with Jeffrey Fagan and Amanda Geller) Capital Punishment and Capital Murder: Market Share and the Deterrent Effects of the Death Penalty, *Texas Law Review* 84:1803 (June 2006).

(with David Johnson) Public Opinion and the Governance of Punishment in Democratic Political Systems, *The Annals of The American Academy of Political and Social Science* 605:266 (May 2006).

(with David Johnson) On the Comparative Study of Corruption, *British Journal of Criminology* 45:793 (2005); also in the *Pacific McGeorge Global Business and Development Law Journal* 20:243 (2007) and in K. Padmaja, ed., *Corruption: Socio Legal Dimensions*, The ICFAI University Press (2008).

Penal Policy and Penal Legislation in Recent American Experience, *Stanford Law Review* 58:323 (2005).

Path Dependence, Culture and State-Level Execution Policy: A Reply to David Garland, *Punishment and Society* 7:377 (2005).

Minimizing Harm from Minority Disproportion, in Darnell F. Hawkins and Kimberly Kempf-Leonard, eds., *Our Children, Their Children: Confronting Racial and Ethnic Differences in American Juvenile Justice*, University of Chicago Press (2005).

Política Criminal y Legislación Penal en la Experiencia Estadounidense Reciente [Criminal Policy and Penal Legislation in the Recent American Experience], in José Luis Díez Ripollés, Ana María Prieto del Pino and Susana Soto Navarro, eds., *La Política Legislativa Penal en Occidente: Una Perspectiva Comparada* [Legislative Penal Policy in the West: A Comparative Perspective], Tirant lo Blanch (2005).

In Memoriam: Norval Morris (1923-2004), *The University of Chicago Law Review* 72:459 (2005).

The Unexamined Death Penalty: Capital Punishment and Reform of the Model Penal Code, *Columbia Law Review* 105:1396 (2005).

Symbol and Substance in the Massachusetts Commission Report, *Indiana Law Journal* 80:115 (2005).

(with Michael Vitiello, Clark Kelso, Erwin Chemerinsky, Kevin Reitz, and Jonathan Turley) A Proposal

FRANKLIN E. ZIMRING

PAGE 7

for a Wholesale Reform of California's Sentencing Practice and Policy, *Loyola of Los Angeles Law Review* 38:903 (2004).

The Discrete Character of High-Lethality Youth Violence, *Youth Violence: Scientific Approaches to Prevention, Annals of the New York Academy of Sciences* 1036:290 (2004).

The Weakest Link: Human Rights and the Criminal Offender in Modern Democratic Government, in Gerben Bruinsma, Henk Elffers, and Jan de Keijser, eds., *Punishment, Places, and Perpetrators: Developments in Criminology and Criminal Justice Research*, Wilan Publishing (2004).

Firearms, Violence, and the Potential Impact of Firearms Control, *The Journal of Law, Medicine, and Ethics* 32:34 (2004).

(with Gordon Hawkins) Democracy and the Limits of Punishment: A Preface to Prisoners' Rights, in Michael Tonry, ed., *The Future of Imprisonment*, Oxford University Press (2004).

Continuity and Change in the American Gun Debate in Jens Ludwig and Philip J. Cook, eds., *Evaluating Gun Policy: Effects on Crime and Violence*, Washington, DC: Brookings Institution Press (2003); also as Chapter 1 in Bernard E. Harcourt, ed., *Guns, Crime, and Punishment in America*, New York: New York University Press (2003).

The Peculiar Present of American Capital Punishment in Stephen P. Garvey, ed., *Beyond Repair? America's Death Penalty*, Durham, NC: Duke University Press (2003).

(with Sam Kamin) Facts, Fallacies, and California's Three Strikes, *Duquesne Law Review* 40:605 (2002).

(with Gordon Hawkins) Capital Punishment, in *Oxford Companion to American Law*, New York: Oxford University Press (2002).

The New Politics of Criminal Justice: Of "Three Strikes," Truth-in-Sentencing, and Megan's Laws, *National Institute of Justice Research Report, Perspectives on Crime and Justice: 1999-2000 Lecture Series, Washington, DC, Volume 4* (March 2001).

Crime, Criminal Justice, and Criminology for a Smaller Planet: Some Notes on the 21<sup>st</sup> Century (Noriyoshi Takemura, translator), *Toin Law Review* 8:75 (2001)

Crime, Criminal Justice, and Criminology for a Smaller Planet: Some Notes on the 21<sup>st</sup> Century, *The Australian and New Zealand Journal of Criminology* 34:213 (2001)

Imprisonment Rates and the New Politics of Criminal Punishment, *Punishment and Society* 3:161 (2001); also as Chapter 10 in David Garland, ed., *Mass Imprisonment: Social Causes and Consequences*, London: Sage Publications (2001).

The Common Thread: Diversion in Juvenile Justice, *California Law Review* 88:2477 (2000); also as Chapter 5 in (with Margaret Rosenheim, David Tanenhaus, and Bernardine Dohrn, eds.) *A Century of Juvenile Justice*, Chicago: University of Chicago Press (2002).

(with Jeffrey Fagan) The Search for Causes in an Era of Declining Crime Rates: Some Lessons from the Study of New York City Homicide, *Crime and Delinquency* 46:446 (2000).

**FRANKLIN E. ZIMRING****PAGE 9**

(with Gordon Hawkins) Concealed Handguns: The Counterfeit Deterrent, *The Responsive Community*, Spring 1997, p. 46.

Kids, Guns, and Homicide: Policy Notes on an Age-Specific Epidemic, *Law and Contemporary Problems* 59:25 (1996).

Populism, Democratic Government, and the Decline of Expert Authority: Some Reflections on "Three Strikes" in California, *Pacific Law Journal* 28:243 (1996).

(with Gordon Hawkins) Is American Violence a Crime Problem?, *Duke Law Journal* 46:43 (1996); also in Edward Rubin, ed., *Minimizing Harm as a Goal for Crime Policy in California*, California Policy Seminar Policy Research Program Report (1997).

The Wages of Ambivalence: On the Context and Prospects of New York's Death Penalty, *Buffalo Law Review* 44:303 (1996).

(with Adolfo Ceretti and Luisa Brolì) Crime Takes a Holiday in Milan, *Crime and Delinquency* 42:269 (1996).

The Genetics of Crime, *Politics and the Life Sciences* 15:105 (1996).

(with Gordon Hawkins) Toward a Principled Basis for Federal Criminal Legislation, *The Annals of the American Academy of Political and Social Science* 543:15 (1996).

Firearms Control in Federal Law in the United States: Current Conditions and Further Choices, *UNAFEI Resource Materials Series*, No. 46 (Materials Produced during the 96th International Seminar Course on the "Promotion of International Cooperation in Criminal Justice Administration"), p. 117 (1995).

Reflections on Firearms and the Criminal Law, *Journal of Criminal Law and Criminology* 86:1 (1995).

(with William Nelson) Cigarette Taxes as Cigarette Policy, *Tobacco Control* 4:S25 (1995).

(with Gordon Hawkins and Hank Ibsen) Estimating the Effects of Increased Incarceration on Crime in California, *California Policy Seminar Brief*, Volume 7, July 1995.

(with Johannes van Vuren and Jan van Rooyen) Selectivity and Racial Bias in a Mandatory Death Sentence Dispensation: A South African Case Study, *Comparative and International Law Journal of Southern Africa* 28:107 (1995); Misleading Statistics and the Death Penalty – Two Authors Reply to Henry Lever, *Comparative and International Law Journal of Southern Africa* 30:364 (1997).

(with Gordon Hawkins) The Growth of Imprisonment in California, *British Journal of Criminology* 34:83 (1994).

Policy Research on Firearms and Violence, *Health Affairs* 12:109 (1993).

(with Gordon Hawkins) Crime, Justice, and the Savings and Loan Crisis, *Crime and Justice* 18:247 (1993).

(with Gordon Hawkins) Continuity and Focus in Criminal Justice Research, *Journal of Research in Crime and Delinquency* 20:525 (1993).

**FRANKLIN E. ZIMRING****PAGE 8**

Incarceration Patterns, in *Mass Incarceration: Perspectives on U.S. Imprisonment*, University of Chicago Law School Roundtable, *A Journal of Interdisciplinary Legal Studies*, Volume 7 (2000).

Penal Proportionality and the Young Offender: Notes on Immaturity, Capacity, and Diminished Responsibility, in Thomas Grisso and Robert G. Schwartz, eds., *Youth on Trial*, Chicago: University of Chicago Press (2000).

The Punitive Necessity of Waiver, Chapter 6 in Fagan and Zim ring, eds., *The Changing Borders of Juvenile Justice*, Chicago: University of Chicago Press (2000).

(with Jeffrey Fagan) Transfer Policy and Law Reform, Chapter 12 in Fagan and Zimring, eds., *The Changing Borders of Juvenile Justice*, Chicago: University of Chicago Press (2000).

American Youth Violence: Implications for National Juvenile Justice Policy, *Update on Law-Related Education* (American Bar Association publication) 23:6 (1999).

The Hardest of the Hard Cases: Adolescent Homicide in Juvenile and Criminal Courts, *Virginia Journal of Social Policy and the Law*, 6:437 (1999).

The 1990s Assault on Juvenile Justice: Notes from an Ideological Battleground, *Federal Sentencing Reporter* 11:260 (1999).

(with Jeffrey Fagan and June Kim) Declining Homicide in New York City: A Tale of Two Trends, *Journal of Criminal Law and Criminology* 88:1277 (1998); also (with Jeffrey Fagan) as Le Cause Del la Diminuzione Dei Reati: Alcune Riflessioni Sull'Analisi Degli Omicidi a New York, in Marzio Barbagli, ed., *Perché È Diminuita La Criminalità Negli Stati Uniti?* Società Editrice Il Mulino (2000).

The Executioner's Dissonant Song: On Capital Punishment and American Legal Values, Chapter 6 in Austin Sarat, ed., *Killing State: Capital Punishment in Law, Politics, and Culture*, Oxford University Press (1999); also in *Institute for Philosophy and Public Policy Report* 19:1 (1999).

(with Gordon Hawkins) Public Attitudes Toward Crime: Is American Violence A Crime Problem? in Edward Rubin, ed., *Minimizing Harm: A New Crime Policy for Modern America*, Westview Press (1999).

Toward a Jurisprudence of Youth Violence, in Michael Tonry and Mark Moore, eds., *Youth Violence. Crime and Justice: A Review of Research*, University of Chicago Press (1998).

The Youth Violence Epidemic: Myth or Reality?, *Wake Forest Law Review* 33:727 (1998).

(with Gordon Hawkins) Crime Is Not the Problem: A Reply, *University of Colorado Law Review* 69:1177 (1998).

(with Gordon Hawkins) Lethal Violence and the Overreach of American Imprisonment, *National Institute of Justice Research Report, Presentations from the 1996 Annual Research and Evaluation Conference, Washington, DC, July 1997*.

Juvenile Violence in Policy Context, *Valparaiso University Law Review* 31:419 (1997).

The Doom of a Good Intention, *Politics and the Life Sciences* 16:44 (1997).

FRANKLIN E. ZIMRING

PAGE 12

(with Satyanshu K. Mukherjee and Barrik Van Winkle) Intimate Violence: A Study of Intersexual Homicide in Chicago, *University of Chicago Law Review* 50:910 (1983).

Kids, Groups, and Crime: Some Implications of a Well-Known Secret, *Journal of Criminal Law and Criminology* 72:867 (1981).

Handguns in the Twenty-First Century: Alternative Policy Futures, *The Annals of the American Academy of Political and Social Sciences* 455:1 (1981).

Secret Service "Dangerousness" Research, in Jane T. Akeuchi, Frederic Solomon, and W. Walter Menniger, eds., *Behavioral Science and the Secret Service: Toward the Prevention of Assassination*, National Academic Press (1981).

Notes Toward a Jurisprudence of Waiver, in John Hall, Donna Hamparian, John Pettibone, and Joseph White, eds., *Issues in Juvenile Justice Information and Training*, Academy of Contemporary Problems (1981).

Privilege, Maturity, and Responsibility: Notes on the Emerging Jurisprudence of Adolescence, in Lamar Empey, ed., *The Future of Childhood and Juvenile Justice*, University Press of Virginia (1980).

American Youth Violence: Issues and Trends, in Norval Morris and Michael Tonry, eds., *Crime and Justice: A Review of Research*, University of Chicago Press (1979).

(with Gordon Hawkins) Ideology and Euphoria in Crime Control, *Toledo Law Review* 10:370 (1979).

Pursuing Juvenile Justice: Comments on Some Recent Reform Proposals, *University of Detroit Journal of Urban Law* 55:631 (1978).

Policy Experiments in General Deterrence, 1970-1975, in Alfred Blumstein, Jacqueline Cohen, and Daniel Nagin, eds., *Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates*, National Academy of Science (1978).

Bad Checks in Nebraska: A Study of Complex Threats, in Greenburg, ed., *Punishment and Corrections*, Sage Publications (1977).

The Serious Juvenile Offender: Notes on an Unknown Quantity, in *The Serious Juvenile Offender: Proceedings of a National Symposium Held in Minneapolis, Minnesota on September 19 and 20, 1977*, U.S. Government Printing Office (1978).

Determinants of the Death Rate from Robbery: A Detroit Time Study, *Journal of Legal Studies* 6:317 (1977).

Making the Punishment Fit the Crime: A Consumer's Guide to Sentencing Reform, *Hastings Center Reports*, December 1976; also in University of Chicago Law School, *Occasional Papers*, No. 12 (1977); Hyman Gross and Andrew von Hirsch, eds., *Sentencing*, Oxford University Press (1981); Culbertson and Tezak, eds., *Order Under Law*, Waveland Press (1981).

(with Joel Eigen and Sheila O'Malley) Punishing Homicide in Philadelphia: Perspectives on the Death Penalty, *University of Chicago Law Review* 43:227 (1976); also in Hugo Bedau and Chester Pierce, eds., *Capital Punishment in the United States*, AMS Press (1976); *Civil Rights*, Staff Report of the Sub-Committee on Constitutional Rights of the Committee on the Judiciary, U.S. Senate (1976).

**FRANKLIN E. ZIMRING****PAGE 11**

- (with Gordon Hawkins) The New Mathematics of Imprisonment, *Crime and Delinquency* 34:425 (1988); Response to Zedlewski, *Crime and Delinquency* 35:316 (1989).
- (with Gordon Hawkins) Murder, the Model Code, and the Multiple Agendas of Reform, *Rutgers Law Journal* 19:733 (1988).
- Law, Society, and the Drinking Driver: Some Concluding Reflections, in Michael Laurence, John Snortum, and Franklin Zimring, eds., *Social Control of the Drinking Driver*, University of Chicago Press (1988).
- Principles of Criminal Sentencing, Plain and Fancy, *Northwestern University Law Review* 82:73 (1987).
- Legal Perspectives on Family Violence, *California Law Review* 75:521 (1987); also as Toward a Jurisprudence of Family Violence, in Lloyd Ohlin and Michael Tonry, eds., *Family Violence*, University of Chicago Press (1989).
- (with Gordon Hawkins) Dangerousness and Criminal Justice, *Michigan Law Review* 85:481 (1987).
- Some Social Bases for Compensation Schemes, in Mark Siegler, Steven Toulman, Franklin Zimring, and Kenneth Schaffner, eds., *Medical Innovation and Bad Outcomes: Legal, Social, and Ethical Responses*, Health Administration Press (1987).
- (with Gordon Hawkins) A Punishment in Search of a Crime: Standards for Capital Punishment in the Law of Criminal Homicide, *Maryland Law Review* 46:1001 (1986).
- Gun Control, *Bulletin of New York Academy of Medicine* 62:5 (1986).
- (with James Zuehl) Victim Injury and Death in Urban Robbery: A Chicago Study, *Journal of Legal Studies* 15:1 (1986).
- (with Gordon Hawkins) Cycles of Reform in Youth Corrections: The Story of Borstal, in Peter Greenwood, ed., *The Juvenile Rehabilitation Reader*, Rand Corporation (1985).
- (with Gordon Hawkins) Western European Perspectives on the Treatment of Young Offenders, in Peter Greenwood, ed., *The Juvenile Rehabilitation Reader*, Rand Corporation (1985).
- (with Gordon Hawkins) Capital Punishment and the Eighth Amendment: Furman and Gregg in Retrospect, *UC Davis Law Review* 18:927 (1985).
- Violence and Firearms Policy, in Lynn Curtis, ed., *American Violence and Public Policy*, Yale University Press (1985).
- (with Rayman Solomon) The Principle of the Thing: Goss v. Lopez, Student Rights, and Litigation in the Public Interest of Children, in Robert Mnookin, ed., *In the Interest of Children: Advocacy, Law Reform, and Public Policy*, Part VI, W.H. Freeman (1985).
- Youth Homicide in New York: A Preliminary Analysis, *Journal of Legal Studies* 13:81 (1984).
- Sentencing Reform in the States, in Franklin Zimring and Michael Tonry, eds., *Reform and Punishment: Essays on Criminal Sentencing*, University of Chicago Press (1983).

FRANKLIN E. ZIMRING

PAGE 10

Comparing Cigarette Policy and Illicit Drug and Alcohol Control, in Robert Rabin and Stephen Sugarman, eds., *Smoking Policy: Law, Politics, and Culture*, Oxford University Press (1993).

On the Liberating Virtues of Irrelevance, *Law and Society Review* 27:9 (1993).

Drug Treatment as a Criminal Sanction, *University of Colorado Law Review* 64:809 (1993).

Prison Population and Criminal Justice Policy in California, *California Policy Seminar Brief*, Volume 4, August 1992.

Inheriting the Wind: The Supreme Court and Capital Punishment in the 1990s, *Florida State University Law Review* 20:1 (1992).

The Jurisprudence of Teenage Pregnancy, in Margaret Rosenheim and Mark Testa, eds., *Early Parenthood and Coming of Age in the 1990s*, Rutgers University Press (1992).

The Multiple Middlegrounds Between Civil and Criminal Law, *Yale Law Journal* 101:1901 (1992).

(with Gordon Hawkins) What Kind of Drug War?, *Social Justice* 18:104 (1991).

Firearms, Violence, and Public Policy, *Scientific American*, November 1991, p. 48; also in Robert K. Miller, ed., *The Informed Argument*, Harcourt Brace (1995); K. Ackley, ed., *Perspective on Contemporary Issues*, Harcourt Brace (1996).

Ambivalence in State Capital Punishment Policy: An Empirical Sounding, *New York University Review of Law and Social Change* 18:729 (1991).

(with Gordon Hawkins) The Wrong Question: Critical Notes on the Decriminalization Debate, in Melvyn Krauss and Edward Lazear, eds., *Search for Alternatives: Drug-Control Policy in the United States*, Hoover Institution Press (1991).

The Limits of Criminal Punishment: Some Ethical Issues for the 1990s, in David Gordis, ed., *Crime, Punishment, and Deterrence: An American-Jewish Exploration*, University of Judaism (1991).

The Treatment of Hard Cases in American Juvenile Justice: In Defense of Discretionary Waiver, *Notre Dame Journal of Law, Ethics and Public Policy* 5:267 (1991).

Punishing the Drinking Driver: Toward an Experimental Design, *Alcohol, Drugs, and Driving* 6:199 (1990).

(with Gordon Hawkins) On the Scale of Imprisonment: Downes's Contrasts in Tolerance, *Journal of the American Bar Foundation* 14:527 (1989).

The Problem of Assault Firearms, *Crime and Delinquency* 35:538 (1989).

Methods for Measuring General Deterrence: A Plea for the Field Experiment, in Martin Friedland, ed., *Sanctions and Rewards in the Legal System*, University of Toronto Press (1989).

(with Gordon Hawkins) The Path Toward the Abolition of Capital Punishment in the Industrial West, *Revue Internationale de Droit Penal* 58:669 (1988).

**FRANKLIN E. ZIMRING**

**PAGE 23**

**REPORTS TO GOVERNMENTAL AGENCIES**

(with Peter W. Greenwood) *One More Chance: The Pursuit of Promising Intervention Strategies for Chronic Juvenile Offenders*, Rand Corporation (1985).

(with Peter W. Greenwood and Allan Abrahamse) *Factors Affecting Sentence Severity for Young Adult Offenders*, Rand Corporation (1984).

(with Peter W. Greenwood and Marvin Lavin) *The Transition From Juvenile to Adult Court*, Rand Corporation (1984).

(with Peter W. Greenwood, Albert J. Lipson, and Allan Abrahamse) *Youth Crime and Juvenile Justice: A Report to the California Legislature*, Rand Corporation (1983).

(with Peter W. Greenwood and Joan Petersilia) *Age, Crime, and Sanctions: The Transition From Juvenile To Criminal Court*, Rand Corporation (1980).

*Dealing with Youth Crime: National Needs and Federal Priorities*, a policy paper prepared for the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention (1975) (mimeo).

*The Court Employment Project: A Report to the City of New York* (1974) (mimeo).



**A-600**

06/21/2013 13:05 FAX Case 1:13-cv-00291-WMS Document 68-1 Filed 06/21/13 Page 14 of 23 015/024

**FRANKLIN E. ZIMRING**

**PAGE 22**

**FRANKLIN E. ZIMRING****PAGE 21**

Review of Charles Silberman, *Criminal Justice, Criminal Violence*, *Chicago Tribune*, November 5, 1978, Section 7, p. 1.

Review of John Allen, *Crime in the Streets: Assault with a Deadly Weapon*, *Chicago Sun Times*, November 27, 1977.

Foreword to Richard Block, *Violent Crime: Environment, Interaction, and Death*, Heath, Lexington (1977).

Comment, *Hastings Center Report*, p. 44 (1977).

Review of Mark Lane and Dick Gregory, *Code Name Zorro*, *Chicago Sun Times*, May 1, 1977.

Illegally Seized Evidence: Exclude It?, *Los Angeles Times*, April 20, 1976.

Review of Pretrial Intervention, in A bt Associates, *Pretrial Services: An Evaluation of Policy Related Research*, p. 152 (1975).

A Tale of Two Cities, *Wall Street Journal*, December 20, 1974, p. 12; also in *Hearings of Senate Subcommittee to Investigate Juvenile Delinquency, Oversight of 1968 Gun Control Act*, Volume 1, p. 11 (1975).

Eight Myths About Gun Control in the United States. *Christian Science Monitor*, July 24, 1972.

Getting Serious About Guns, *The Nation* 214:457 (1972).

Some Facts About Homicide, *The Nation* 214:303 (1972).

Firearms Control: Hard Choices, *Trial*, p. 53 (1972).

**WRITING REPRINTED IN:**

Funk, Day, Coleman and McMahan, *The Simon and Schuster Short Prose Reader* (2009).

Lee, *Empowered College Reading* (2008).

Feng-Checkett and Checkett, *The Write Start* (2<sup>nd</sup> edition, 2005).

Anker, *Real Writing with Readings* (2004).

Aaron, *The Complete Reader* (2003).

Nicholas and Nicholl, *Models for Effective Writing* (2000).

Miller, *The Informed Argument* (4<sup>th</sup> edition, 1995).

Eschholtz and Rosa, *Themes for Writers* (1994).

Winterrowd and Winterrowd, *The Critical Reader, Thinker and Writer* (1992).

FRANKLIN E. ZIMRING

PAGE 20

The Dan White Case: Justice Is a Victim, *Los Angeles Times*, January 6, 1984, Part II, p. 5.

The Death Penalty's Iron Law, *New York Times*, October 12, 1983, p. 27; also In *Los Angeles Times*, September 21, 1983, Part II, p. 7.

Where Do the New Scholars Learn New Scholarship?, *Journal of Legal Education* 33:453 (1983).

(with Gordon Hawkins) Crime Commissions, in Sanford Kadish, ed., *Encyclopedia of Crime and Justice*, Volume 1, The Free Press, Macmillan (1983).

(with James Lindgren) Regulation of Guns, in Sanford Kadish, ed., *Encyclopedia of Crime and Justice*, Volume 2, The Free Press, Macmillan (1983).

Foreword to John Kaplan, *The Hardest Drug: Heroin and Social Policy*, University of Chicago Press (1983).

Review of Arnold Trebach, *The Heroin Solution*, and John Kaplan, *The Hardest Drug: Heroin and Social Policy*, *The Times Literary Supplement*, June 10, 1983, p. 610.

Choosing the Right Camp for the Children, *Institutions Etc.* 6:21 (1983).

Idealizing the "Angels" on Death Row, *Los Angeles Times*, February 24, 1983, Part II, p. 7.

Uncle Sam's Wars on Crime, *The New Republic* 186:38 (1982).

Poland's "Real" Problem, *Chicago Tribune*, September 28, 1982, Perspective Section, p. 25.

Will the 21st Century Be Safer?, *Chicago Tribune*, April 13, 1982, Section 1, p. 22.

Crime: The 120-Day Solution, *Chicago Tribune*, September 28, 1981, Perspective Section, p. 25.

Review of Peter Prescott, *The Child Savers: Juvenile Justice Observed*, *New York Times Book Review*, June 14, 1981, p. 24.

(with Gordon Hawkins) Review of Walter Berns, *For Capital Punishment: Crime and the Morality of the Death Penalty*, *American Journal of Sociology* 86:1171 (1981).

Portnoy's Real Complaint, *Moment* 6:58 (1980).

Taking a Tour of America's Prisons, *Chicago Tribune*, September 14, 1980, Perspective Section, p. 4.

Foreword to Philip Cook and Daniel Nagin, *Does the Weapon Matter?*, Institute for Law and Social Research (1979).

Comment, Current Developments in Judicial Administration, *Federal Rules Decisions* 80:147 (1979).

Crime in the Streets, *Chicago Sun Times Bookweek*, November 27, 1978, p. 14.

Review of The Institute of Judicial Administration and the American Bar Association, *Juvenile Justice Standards Project*, *Harvard Law Review* 91:1934 (1978).

FRANKLIN E. ZIMRING

PAGE 19

Pint-Sized Debate on Child Executions: More Jurisprudence from the Briar Patch, *Legal Times*, July 18, 1988, p. 14; also as Can the Bad Die Young?, *The Connecticut Law Tribune*, July 18, 1988, p. 10; Justices Waffle on Death Penalty, *Fulton County Daily Report*, July 19, 1988, p. 2; Decision on Executing Youths Highlights Death Penalty Dilemma, *Manhattan Lawyer*, July 19, 1988, p. 12; The Court's Death Sentence Schizophrenia, *The Texas Lawyer*, July 25, 1988, p. 29; A Stumble at the Finish Line, *The Recorder*, July 28, 1988, p. 4.

If We Have Reached a Landmark in Our Execution Policy, It Is Still One of Confusion, *Los Angeles Times*, March 18, 1988, Part II, p. 7.

NRA's Latest Advice Can Get You Killed, *Los Angeles Times*, December 6, 1987, Part V, p. 5.

Review of James Wright and Peter Rossi, *Armed and Considered Dangerous: A Survey of Felons and Their Firearms*, *American Journal of Sociology* 93:224 (1987).

Why the Goetz Verdict Was Not a Landmark Precedent, *New York Times*, June 21, 1987, p. 25.

Is Court Too Split To Sanction Death?, *Los Angeles Times*, April 27, 1987, Part II, p. 5.

A Frequent Flier Explains the Thrill, *New York Times*, April 20, 1987, p. 19; also as Rewarding the Pinball for Its Tos and Fros, *International Herald Tribune*, April 23, 1987, p. 5; Confessions of a Frequent Flier, *Chemtech*, June 1988, p. 386.

Beyond Solomon: The "Tragic Choice" Cases, *Los Angeles Times*, March 16, 1987, Part II, p. 5.

EF Hutton Goes South, *Michigan Law Review* 85:397 (1987).

Is Retribution Only for a Few?, *Los Angeles Times*, December 4, 1986, Part II, p. 7.

Facing the Threat of a Crippled UC, *Los Angeles Times*, September 3, 1986, Part II, p. 5.

The Death Penalty: Ten Dark Years, *New York Times*, June 19, 1986, p. 27.

Gun Lobby's Victory Can Help Handgun Control, *Los Angeles Times*, April 28, 1986, Part II, p. 5.

Justice Teeters on the Fine Points, *Los Angeles Times*, January 29, 1986, Part II, p. 5.

Review of Henry Pontell, *A Capacity to Punish*, *American Journal of Sociology* 91:724 (1985).

Two New Books on Guns, *Michigan Law Review* 83:954 (1985).

Lessons for the Urban Jungle, *Los Angeles Times*, March 15, 1985, Part II, p. 5.

Smoking and Public Policy, *Chicago Tribune*, Perspective Section, January 18, 1985, p. 27.

Research Agendas, Information Policies and Program Outcomes, in Alan Westin, ed., *Information Policy and Crime Control Strategies: Proceedings of a Bureau of Justice Statistics/Search Conference*, U.S. Government Printing Office (1984).

Is Crime Going Out of Style?, *Los Angeles Times*, July 12, 1984; also as Is American Crime Up or Down?, *Newsday*, August 30, 1984, p. 89.

FRANKLIN E. ZIMRING

PAGE 18

- Hanged If We Do, Or We Don't, *Johannesburg Star*, April 5, 1993.
- The Color of Murder, *Legal Times*, February 22, 1993, p. 34.
- Intercept Migrating Guns, *Christian Science Monitor*, September 10, 1992, p. 18.
- Are State Prisons Undercrowded?, *Federal Sentencing Reporter* 4:347 (1992).
- Politics Dictate Wilson's Verdict, *Los Angeles Times*, April 12, 1992, p. M5.
- Tribute to Sheldon Messinger, *California Law Review* 80:307 (1992).
- (with Gordon Hawkins) Review of Samuel Gross and Robert Mauro, *Death and Discrimination: Racial Disparities in Capital Sentencing*, *Constitutional Commentary* 9:135 (1992).
- (with Gordon Hawkins) Why the S&L Gang Isn't in Jail, *Los Angeles Times*, February 3, 1992, p. B5.
- (with Michael Laurence) Capital Punishment, in Leonard Levy, ed., Supplement to the *Encyclopedia of the American Constitution*, Macmillan (1991).
- More Jail Cells, Fewer Classrooms, *Los Angeles Times*, May 31, 1991, p. B5.
- The Speaking Engagement as One-Night Stand, *California Monthly*, April 1991, p. 17.
- The Great American Lockup, *Washington Post*, February 28, 1991, p. A19.
- Strategies for Arms Control: Trace Illegal Firearms, *New York Times*, January 4, 1991, p. A13.
- Foreword to Stephen Sugarman and Herma Hill Kay, eds., *Divorce Reform at the Crossroads*, Yale University Press (1990).
- Greenmail Goes Transnational, *Los Angeles Times*, March 23, 1990, p. B7; also as Can East Germany Leverage Its Way to Wealth?, *Newsday*, April 9, 1990, p. 43.
- A Solitary Symbol in a Deadly Tug of War, *Los Angeles Times*, January 29, 1990, p. B5.
- Review of Donald Downs, *The New Politics of Pornography*, *New York Times Book Review*, January 28, 1990, p. 18.
- (with Gordon Hawkins) Bennett's Sham Epidemic, *New York Times*, January 25, 1990, p. A23.
- Hardly the Trial of the Century, *Michigan Law Review* 87:1307 (1989).
- Foreword to James Jacobs, *Drunk Driving: An American Dilemma*, University of Chicago Press (1989).
- Review of Jack Katz, *Seductions of Crime*, *New York Times Book Review*, November 20, 1988, p. 50.
- Drug Death Penalty: A Federal Tantrum, *New York Times*, September 16, 1988, p. 19; also as A Temper Tantrum Masquerading as an Act of Government, *Los Angeles Daily Journal*, September 20, 1988.

FRANKLIN E. ZIMRING

PAGE 17

- A Gulag Mentality in the Prisons, *Los Angeles Times*, July 15, 1998, p. B9.
- Thank You for Not Sneezing, *Los Angeles Times*, February 1, 1998, p. M5.
- The Truth About Repeat Sex Offenders, *Los Angeles Times*, May 5, 1997, p. B5.
- Review of Ugljesa Zvekic and Anna Alvazzi del Frate, eds., *Criminal Victimization in the Developing World*, *Contemporary Sociology* 25:663 (1996).
- Paranoia on the Playground, *Los Angeles Times*, November 11, 1996, p. B5.
- Crying Wolf over Teen Demons, *Los Angeles Times*, August 19, 1996, p. B5.
- Gun Control, *Microsoft's Encarta Encyclopedia* (CD-ROM) (1996).
- Crime Is Not the Problem, *Iowa Advocate*, Spring/Summer 1996, p. 34.
- Deadly Force: South Africa's Brave and Necessary Gamble with Its Death Penalty, *Chicago Tribune*, July 6, 1995, p. 19.
- Will Success Spoil James Q. Wilson?, *Journal of Criminal Law and Criminology* 85:828 (1995).
- Introduction to David Indermaur, *Violent Property Crime*, The Federation Press (1995).
- For Gun Control, Give Big Cities Local Control, *Los Angeles Times*, May 17, 1995, p. B7.
- Death Penalty, *jungeWelt*, April 1, 1995, p. 2.
- Don't Bet on Executions Here Any Time Soon, *Newsday*, February 21, 1995, p. A27; also as Executions in New York? Don't Bet on It, *New York Law Journal*, February 27, 1995.
- Clouding the Issue: Tobacco Industry Tries to Choke Off a Lawsuit, *Los Angeles Daily Journal*, December 12, 1994, p. 4.
- The Voodoo Economics of California Crime, *Overcrowded Times*, October 1994, p. 3.
- (with Gordon Hawkins) Policy on Crime, in Leonard Levy and Louis Fisher, eds., *Encyclopedia of the American Presidency*, Simon and Schuster (1994).
- Tough Crime Laws Are False Promises, *Insight on the News* 10:21 (1994); also in *Federal Sentencing Reporter* 6:61 (1994).
- "Three Strikes" Law Is Political Fool's Gold, *The Christian Science Monitor*, April 11, 1994, p. 23.
- New Senate, Same Old Crime Debate, *The American Lawyer*, March 1994, p. 25.
- To Punish Genocide with Death Is Overkill, *Los Angeles Times*, December 2, 1993, p. B7.
- Introduction to Harry Kalven, Jr. and Hans Zeisel, *The American Jury*, Gryphon Editions (1993).
- A Country Where There Is No Status Quo, *Los Angeles Times*, June 30, 1993, p. B7.

FRANKLIN E. ZIMRING

PAGE 16

Review of Kathleen Auerhahn, *Selective Incapacitation and Public Policy: Evaluating California's Imprisonment Crisis*, *Contemporary Sociology* 34:62 (2005).

Foreword to Thomas Grisso, *Double Jeopardy: Adolescent Offenders with Mental Disorders*, University of Chicago Press (2004).

Three-Ring Capital-Punishment Circus, *Los Angeles Daily Journal*, February 20, 2004, p. 6.

Confessions of a Former Smoker, in Jane E. Aaron, *The Compact Reader: Short Essays by Method and Time* (Seventh Edition), Boston: Bedford/St. Martin's (2003); also as Hot Boxes for Ex-Smokers, *Newsweek*, My Turn, April 20, 1987, p. 12.

Train an Impartial Eye on Police Behavior, *Los Angeles Times*, July 12, 2002, p. A17.

(with Gordon Hawkins) The Ethics of Criminal Justice: Aspects of Human Dignity, *International Encyclopedia of the Social and Behavioral Sciences*, Volume 5, p. 2949 (2002).

Review of David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society*, *Criminal Justice* 1:465 (2001).

McVeigh's Execution Will Heal Neither Survivors Nor Public, *Los Angeles Times*, May 11, 2001, p. B17.

The Walking Plea of Wen Ho Lee, *San Francisco Chronicle*, October 2, 2000, p. A21

Contributor to M. Dwayne Smith, *A New Era of Homicide Studies? Visions of a Research Agenda for the Next Decade*, *Homicide Studies* 4:1 (2000).

It's Violence by All, Not Just Teen Violence, *Los Angeles Times*, August 8, 2000, p. B9.

Bring Courage Back into Fashion, *Los Angeles Times*, January 16, 2000, p. M5.

Capital Punishment, *Microsoft's Encarta Encyclopedia* (CD-ROM) (1999).

Gun Control, *Microsoft's Encarta Encyclopedia* (CD-ROM) (1999).

Criminal Investigation Is Just a Human Art, *Los Angeles Times*, August 1, 1999, p. M5.

Curb Imperial Power of Prosecutors, *Los Angeles Times*, April 20, 1999, p. A15.

Mystery Terms, *Boston Review*, New Democracy Forum, April/May 1999, p. 17.

Marking Time on Death Row, *The 1999 World Book Year Book*, World Book, Inc. (1999).

What is the Aim of Criminal Law? *Los Angeles Times*, January 14, 1999, p. A15.

The Buck Stops with Prison Managers: Perspective on the Corcoran Report, *Los Angeles Times*, November 28, 1998, p. M5.

(with Gordon Hawkins) Review of Jacob Sullum, *For Your Own Good: The Anti-Smoking Crusade and the Tyranny of Public Health*, *The Responsive Community* 8:75 (1998).

**FRANKLIN E. ZIMRING****PAGE 15**

2009, p. 42.

Foreword to Jane Sprott and Anthony Doob, *Justice for Girls? Stability and Change in the Youth Justice Systems of the United States and Canada*, University of Chicago Press (2009).

(with Jeffrey Fagan) Myths of Get-Tough Law, *St. Petersburg Times*, October 30, 2009; also available online at <http://www.tampabay.com/opinion/columns/myths-of-get-tough-law/1048326#>.

Preface to the Korean edition, *American Juvenile Justice*, Oxford University Press (2009).

Book review of *The Death Penalty: A Worldwide Perspective* (Roger Hood and Carolyn Hoyle, Oxford University Press, 2008), *Punishment and Society*, Vol. 11, No. 2, April 2009, p. 280.

(with David T. Johnson) Last Days of the Hangman, *New Scientist*, March 14, 2009, p. 22; also available online at <http://www.newscientist.com/article/mg20126995.100-capital-punishment-its-all-politics.html>.

(with David T. Johnson) The Death Penalty's Future, *The Los Angeles Daily Journal*, January 16, 2009, p. 9.

Preface to the Chinese edition, *The Contradictions of American Capital Punishment*, Shanghai Joint Publishing, pp. 4-7 (2008).

Preface to the Chinese edition, *A Century of Juvenile Justice*, Beijing: The Commercial Press (2008).

Prison Policy Reform, *Issues in Science and Technology*, Vol. 25, No. 1, Fall 2008, p. 11.

A Sick System, *Los Angeles Times*, October 25, 2008, p. A23.

Guns: Liberty or Order? *The National Law Journal*, Vol. 30, No. 30, April 7, 2008, p. 23.

What Lies Behind the Case of Lethal Injection? *The Sacramento Bee*, Sunday, December 16, 2007, p. E1; reprinted in *The Police News* (Gulf Coast edition), Vol. V, No. 1, January 2008, p. 14.

A Tale of Two Despots, *The National Law Journal*, Vol. 29, No. 49, August 6, 2007, p. 23.

Little Changes, Big Results, *The New York Times*, April 8, 2007, p. 9.

Foreword to Peter Greenwood, *Changing Lives: Delinquency Prevention as Crime Control Policy*, University of Chicago Press (2005).

Capital Punishment: An American Dilemma, in "Shalt Thou Kill? An In-Depth Look at Capital Punishment," *Christian Networks Journal*, Fall 2005, p. 17.

Terri Schiavo and the Dilemma of "Life or Death" Litigation, *San Francisco Daily Journal*, June 15, 2005, p. 6.; *Los Angeles Daily Journal*, June 15, 2005, p. 6.

A Death Knell for the Death Penalty? *Newsday*, March 4, 2005, p. A47.



FRANKLIN E. ZIMRING

PAGE 14

**GENERAL**

(with David T. Johnson) On Rape and Capital Punishment, *Economic & Political Weekly*, January 26, 2013, Vol XLVIII, No. 4, pp. 15-16.

(with David T. Johnson) Executing Kasab: A New Beginning or the Beginning of the End of India's Death Penalty? Commentary, *Economic & Political Weekly*, December 29, 2012, Vol XLVIL, No. 52, pp. 10-11.

The Endgame for the Death Penalty in California, *San Francisco Chronicle*, December 9, 2012, p. D6. Available at <<http://www.sfgate.com/opinion/article/Endgame-for-death-penalty-in-California-4101011.php#photo-3848218>>.

Desperate Times...Crime in New York Isn't Like Other Cities--Which Is Why It Needs Aggressive Policing and Gun Control, *New York Post*, September 22, 2012. Available at <[http://www.nypost.com/p/news/opinion/opedcolumnists/desperate\\_times\\_Kj6Xnhr6JHr6rmAmvkfj1M#.UGKhpAmklQQ.email](http://www.nypost.com/p/news/opinion/opedcolumnists/desperate_times_Kj6Xnhr6JHr6rmAmvkfj1M#.UGKhpAmklQQ.email)>.

Foreword to Thorsten Sellin, *The Penalty of Death*, SAGE Publications, Inc. (2013).

The Politics of Gun Control, *San Francisco Chronicle*, July 27, 2012, p. E6.

The Shifting Politics of Drug Control, Library of Law and Liberty, *Liberty Law Blog*, June 9, 2012. Available at <<http://libertylawsite.org/2012/06/09/the-shifting-politics-of-drug-control/>>.

California's Death Penalty--A Consumer's Guide, *San Francisco Chronicle*, April 29, 2012, p. E4.

Creating a Road Map for Punishment Policy, *San Francisco Chronicle*, February 26, 2012, p. E5.

How to Stop Urban Crime Without Jail Time: What Cities Can Learn from NYC's Safest Decade, *The Wall Street Journal*, January 28-29, 2012, p. C3.

Response to "Why Crime Dropped" letters to the editor, *Scientific American*, December 2011, p. 8.

A Big Bite Out of Crime, *New York Post*, November 6, 2011, p. 32.

Memo to Oakland, Richmond: You Have a Model in New York, *San Francisco Chronicle*, October 30, 2011, p. E4.

Preface to the Chinese edition of *American Juvenile Justice*, Chinese People's Public Security University (2010).

Juvenile Justice: Legal, Policy & Political Issues (expert participant), *Focus on Law Studies*, American Bar Association, Division for Public Education, Vol. XXV, No. 2, Spring 2010, p. 4.

Miraklet | New York, *Magasinet Neo*, No. 2, March/April 2010, p. 38.

Pulling the Plug on Capital Punishment, *The National Law Journal*, Vol. 32, No. 14, December 7,

06/21/2013 13:06 FAX

Case 1:13-cv-00291-WMS Document 68-1 Filed 06/21/13 Page 23 of 23

024/024

**FRANKLIN E. ZIMRING****PAGE 13**

Street Crime and New Guns: Some Implications for Firearms Control, *Journal of Criminal Justice* 4:95 (1976).

Field Experiments in General Deterrence: Preferring the Tortoise to the Hare, *Evaluation Magazine*, Volume 3, Russell Sage Publications (1976).

Firearms and Federal Law: The Gun Control Act of 1968, *Journal of Legal Studies* 4:133 (1975); also in *Evaluation Annual*, Volume 1, Russell Sage Publications (1977); *Improving the Criminal Justice System in the United States*, 94th Congress, 2d Session, Library of Congress Document No. 94-171, at 273.

Measuring the Impact of Pretrial Diversion from the Criminal Justice System, *University of Chicago Law Review* 41:224 (1974); also in *Crime and Justice Annual - 1974*, Aldine (1975); Povi Boesen and Stanley Grupp, eds., *Community Based Corrections: Theory, Practice and Research*, Davis Publishing Company (1976).

Threat of Punishment as an Instrument of Crime Control, *Proceedings of the American Philosophical Society* 118:231 (1974).

(with Richard Block) Homicide in Chicago, 1965-70, *Journal of Research in Crime and Delinquency* 10:1 (1973); also in Lee Rainwater, ed., *Deviance and Liberty*, Aldine (1974).

Of Doctors, Deterrence, and the Dark Figure of Crime: A Note on Abortion in Hawaii, *University of Chicago Law Review* 39:699 (1972).

The Medium is the Message: Firearms Caliber as a Determinant of the Death Rate from Assault, *Journal of Legal Studies* 1:97 (1972).

(with Gordon Hawkins) The Legal Threat as an Instrument of Social Change, *Journal of Social Issues* 27:33 (1971); also in Ronald Akers and Richard Hawkins, eds., *Law and Control in Society*, Prentice-Hall (1974); June Louin Tapp and Felice Levine, eds., *Law, Justice, and the Individual in Society*, Holt, Rinehart (1977).

Firearms and Federal Criminal Law, *Working Papers of the National Commission on the Reform of Federal Criminal Laws*, Volume II, U.S. Government Printing Office (1970).

(with Norval Morris) Deterrence and Corrections, *Annals of the American Academy of Political Social Sciences* (1969).

(with Gordon Hawkins) Deterrence and Marginal Groups, *Journal of Research in Crime and Delinquency* 5:100 (1968).

Games with Guns and Statistics, *Wisconsin Law Review* 1968:1113 (1968).

Is Gun Control Likely to Reduce Violent Killings?, *University of Chicago Law Review* 35:721 (1968).

(with Edward H. Hunvald) Missouri Implied Consent Statutes, *Missouri Law Review* 33:323 (1968).

"Free Press-Fair Trial" Revisited: Defendant-Centered Remedies as a Publicity Policy, *University of Chicago Law Review* 33:512 (1966).

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

NEW YORK STATE RIFLE AND PISTOL  
ASSOCIATION, INC.; WESTCHESTER  
COUNTY FIREARMS OWNERS  
ASSOCIATION, INC.; SPORTSMEN'S  
ASSOCIATION FOR FIREARMS EDUCATION,  
INC.; NEW YORK STATE AMATEUR  
TRAPSHOOTING ASSOCIATION, INC.;  
BEDELL CUSTOM; BEIKIRCH AMMUNITION  
CORPORATION; BLUELINE TACTICAL &  
POLICE SUPPLY, LLC; WILLIAM NOJAY,  
THOMAS GALVIN; and ROGER HORVATH,

Plaintiffs

**Civil Action Number:  
1:13-cv-00291 (WMS)**

v.

ANDREW M. CUOMO, Governor of the State of  
New York; ERIC T. SCHNEIDERMAN, Attorney  
General of the State of New York; JOSEPH A.  
D'AMICO, Superintendent of the New York State  
Police; FRANK A. SEDITA, III, District Attorney  
for Erie County; and GERALD J. GILL, Chief of  
Police for the Town of Lancaster, New York,

Defendants.

**DECLARATION OF LUCY P. ALLEN**

Lucy P. Allen, under penalty of perjury and in accordance with 28 U.S.C. §1746,  
states and declares as follows:

Case 1:13-cv-00291-WMS Document 69 Filed 06/21/13 Page 2 of 13

1. I am a Senior Vice President of NERA Economic Consulting (“NERA”), a member of NERA’s Securities and Finance Practice and Chair of NERA’s Mass Torts and Product Liability Practice. NERA provides practical economic advice related to highly complex business and legal issues arising from competition, regulation, public policy, strategy, finance, and litigation. NERA was established in 1961 and now employs approximately 500 people in more than 20 offices worldwide.

2. In my 17 years at NERA, I have been engaged as an economic consultant or expert witness in numerous projects involving economic and statistical analysis. I have been qualified as an expert and testified in court on various economic and statistical issues relating to the flow of guns into the criminal market. I have testified at trials in Federal District Court, before the New York City Council Public Safety Committee, the American Arbitration Association and the Judicial Arbitration Mediation Service, as well as in depositions.

3. I have a B.A. from Stanford University, an M.B.A. from Yale University, and M.A. and M. Phil. degrees in Economics, also from Yale University. Prior to joining NERA, I was an Economist for both President George H. W. Bush’s and President Bill Clinton’s Council of Economic Advisers.

4. This declaration addresses the results of analyses that I and others under my direction at NERA conducted with respect to the following issues: (a) the rate in New York State of home invasions (or robberies in the home) perpetrated by multiple offenders with a firearm; (b) the number of rounds of ammunition fired by individuals using a gun in self-defense; and (c) weapons used in mass shootings.

Case 1:13-cv-00291-WMS Document 69 Filed 06/21/13 Page 3 of 13

**A. *Rate in New York State of home invasions (or robberies in the home) perpetrated by multiple offenders with a firearm***

5. Plaintiffs cite a scenario of a home invasion perpetrated by multiple offenders with a firearm to demonstrate civilian need of high capacity magazines.<sup>1</sup> Data specific to “home invasions” is scarce; however, robberies in the home (for which consistent data is available) can be used as a proxy for a home invasion.<sup>2</sup>

6. We analyzed data from New York State’s Division of Criminal Justice Services (“DCJS”) and the Bureau of Justice Statistics’ National Crime Victimization Survey (“NCVS”).<sup>3</sup>

7. According to DCJS data for New York State (excluding New York City)<sup>4</sup> in the past five years, an annual average of 3.55 residential robberies are committed with a firearm per 100,000 persons in New York.

---

<sup>1</sup> Amended Complaint, dated April 11, 2013, ¶¶93-97.

<sup>2</sup> A robbery is defined by the FBI’s Uniform Crime Reporting Program as “as the taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.” Federal Bureau of Investigation:  
[http://www2.fbi.gov/ucr/cius2009/offenses/violent\\_crime/robbery.html](http://www2.fbi.gov/ucr/cius2009/offenses/violent_crime/robbery.html)

<sup>3</sup> DCJS is authorized by statute to serve as the central repository of crime and arrest information for New York State. DCJS oversees the Uniform Crime Reporting (“UCR”) Program for New York State and reports crime and arrest data to the FBI. DCJS data is then incorporated into the FBI’s UCR data. NCVS data is a nationwide source of information on criminal victimization. Each year, NCVS data are obtained from a nationally representative sample of about 40,000 households comprising nearly 75,000 persons on the frequency, characteristics and consequences of criminal victimization in the United States.

<sup>4</sup> “The Uniform Crime Reporting system includes information provided by law enforcement regarding the number of violent crimes reported that involved the use of a firearm. Currently, these figures are only available from the non-New York City region.” *Crime in New York State 2012 Preliminary Data*, Division of Criminal Justice Services, May 2013, p. 4.

Case 1:13-cv-00291-WMS Document 69 Filed 06/21/13 Page 4 of 13

8. The DCJS data on robberies does not include the number of offenders per robbery. We found two alternative estimates of the rate of robberies with multiple offenders: 21% from DCJS data based on a subset of New York State robberies and 17.4% based on national data from NCVS.

- The DCJS data on homicides (based on Supplemental Homicide Reports) reports whether a crime was committed by single or multiple offenders, so it is possible to determine a single/multiple offender ratio for robberies that resulted in a homicide. New York State data for the past 5 years indicated that multiple offenders were involved in 21% of the robberies with firearms that resulted in a homicide.<sup>5</sup>
- An alternative estimate for a single/multiple offender ratio can be obtained from the 2008 NCVS. According to NCVS data 17.4% of crimes of violence (including robberies) involved two or more offenders. (Plaintiff's expert Gary Kleck relies upon this 17.4% rate in his declaration.<sup>6</sup>)

9. Applying the 17.4% to 21% rate of multiple offenders to the 3.55 residential robberies committed with a firearm yields an estimated annual rate of 0.62 to 0.75 residential robberies perpetrated by multiple offenders with a firearm per 100,000 persons in New York State. In other words, in New York State in a year, there is less than one residential robbery with multiple offenders using a firearm per 100,000 persons.

10. Data from NCVS indicates that it is rare for a victim to use a firearm in self-defense. In particular, a recent study by the Bureau of Justice Statistics using NCVS data reported that 0.8% of victims in nonfatal violent crimes from 2007 through 2011 used a firearm in self-defense.<sup>7</sup>

---

<sup>5</sup> This statistic is based on robberies in which the location is coded as "inside" rather than "outside" in the DCJS data.

<sup>6</sup> Declaration of Gary Kleck, dated April 15, 2013, p. 3.

<sup>7</sup> Michael Planty, Ph.D., and Jennifer L. Truman, Ph.D., US Department of Justice - Bureau of Justice Statistics, *Firearm Violence, 1993-2011*, May 2013, p. 12.

Case 1:13-cv-00291-WMS Document 69 Filed 06/21/13 Page 5 of 13

11. Applying the 0.8% of victims in nonfatal violent crimes that used a firearm in self-defense to the estimated New York rates above, yields an annual rate of 0.005 to 0.006 per 100,000 people of victims using a firearm in self-defense in a residential robbery by multiple offenders with a firearm – or 1 in about 20 million.<sup>8</sup>

**B. *Number of rounds fired by individuals in self-defense***

12. Data from the NRA Institute for Legislative Action (“NRA-ILA”) indicates that it is rare for a person, when using a firearm in self-defense, to fire more than seven rounds.

13. The NRA-ILA maintains a database of “armed citizen” stories describing private citizens who have successfully defended themselves, or others, using a firearm. A study of all incidents in this database over a 5-year period from 1997 through 2001 found that it is rare for individuals to defend themselves using more than seven rounds. Specifically, this study found that, on average, 2.2 shots were fired by defenders and that in 28% of incidents of armed citizens defending themselves the individuals fired no shots at all.<sup>9</sup>

14. We performed a similar analysis of NRA-ILA stories for the 3-year period June 2010 - May 2013. For each incident, the number of offenders, defenders, and shots fired were tabulated, along with the location, nature and outcome of the crime. The

---

<sup>8</sup> We analyzed police blotters for selected New York State municipalities that had extensive online database of crime incidents and found similarly low rates of the occurrence of home invasions perpetrated by multiple offenders with a firearm and no instances of individuals using a firearm in self-defense in these scenarios.

<sup>9</sup> Claude Werner, “The Armed Citizen – A Five Year Analysis.”

Case 1:13-cv-00291-WMS Document 69 Filed 06/21/13 Page 6 of 13

information was gathered for each incident from both the NRA-ILA synopsis and, where available, one additional news story.<sup>10</sup>

15. According to this analysis, defenders fired on average 2.1 bullets. In only 1 out of 298 incidents, or less than 1% of incidents, was the defender reported to have fired more than 7 bullets. In 14% of incidents, the defender did not fire any shots, and simply threatened the offender with a gun. For incidents occurring in the home (57% of total), defenders fired an average of 2.1 bullets, and fired no bullets in 13% of incidents in the home, or 7% of all incidents. The table below summarizes some of these findings.

---

<sup>10</sup> The following incidents were excluded from the analysis: (1) repeat stories (one incident listed multiple times on NRA website), (2) wild animal attacks, and (3) one incident where the supposed victim later pleaded guilty to covering up a murder. When the exact number of shots fired was not specified, we used the average for the most relevant incidents with known number of shots. For example, if the stories indicated that “shots were fired” this would indicate that at least two shots were fired and thus we used the average number of shots fired in all incidents in which two or more shots were fired and the number of shots was specified.



<b>Rounds Fired in Self-Defense</b>		
<b>Based on NRA-ILA Armed Citizen Stories</b>		
<b>June 2010 - May 2013</b>		
	<b>Rounds Fired by Individual in Self-Defense</b>	
	<b>Overall</b>	<b>Incidents In Home</b>
Average Shots Fired	2.1	2.1
Median Shots Fired	2.1	2.1
Number of Incidents with No Shots Fired	41.0	22.0
Percent of Incidents with No Shots Fired	13.9%	13.0%
Number of Incidents with >7 Shots Fired	1.0	1.0
Percent of Incidents with >7 Shots Fired	0.3%	0.6%
<b>Notes and Sources:</b>		
Data from NRA-ILA Armed Citizen database covering 298 incidents from June 2010 through May 2013. Excludes repeat stories, wild animal attacks, and one incident where the supposed victim later pleaded guilty to covering up a murder.		
See paragraph 14 above for coding details.		

**C. Mass shootings**

**1. Use of large-capacity magazines in mass shootings**

16. We found two comprehensive sources detailing historical mass shootings: 1) “US Mass Shootings, 1982-2012: Data From Mother Jones’ Investigation” published by Mother Jones and 2) “Mass Shooting Incidents in America (1984-2012)” published by the Citizens Crime Commission of New York City. We updated these data for mass shootings in 2013. See attached Table 1 for a summary of the combined data.

17. The definition of mass shooting and the period covered differed somewhat for each of the sources. Mother Jones covers 62 mass shootings from 1982 to 2012. Mother Jones includes mass shootings in which a shooter killed four or more people in one incident in a public place and excludes crimes involving armed robbery or gang

Case 1:13-cv-00291-WMS Document 69 Filed 06/21/13 Page 8 of 13

violence.<sup>11</sup> Citizens Crime Commission covers 30 mass shootings from 1984 to 2012. Citizens Crime Commission includes mass shootings in which a shooter killed four or more people and the gun used by the shooter had a magazine with capacity greater than ten.<sup>12</sup> We updated the data for mass shootings in 2013 using the Mother Jones criteria.

18. Based on the combined data, including our 2013 updates, we found that large-capacity magazines (those with a capacity to hold more than 10 rounds of ammunition) are often used in mass shootings. Such large-capacity magazines were used in more than half of the mass shootings since 1982 (at least 34 out of 66 mass shootings).<sup>13</sup> In the past 12 months, guns with large-capacity magazines were used in at least five of the six mass shootings.

19. The data indicates that it is common for offenders to fire more than seven rounds when using a gun with a large-capacity magazine in mass shootings. In particular, according to data from the Citizens Crime Commission, in mass shootings that involve use of large-capacity magazine guns, the average number of shots fired was 75.<sup>14</sup>

---

<sup>11</sup> Two incidents included in the Mother Jones data (Columbine High School and Westside Middle School) involved two shooters. "What Exactly is a Mass Shooting," Mother Jones, August 24, 2012. <http://www.motherjones.com/mojo/2012/08/what-is-a-mass-shooting>

<sup>12</sup> "Mass Shooting Incidents in America (1984-2012)," Citizens Crime Commission of New York City. <http://www.nycrimecommission.org/initiative1-shootings.php>

<sup>13</sup> For many of the mass shootings, the data does not indicate whether a large-capacity magazine is used.

<sup>14</sup> There were 27 mass shootings in which the magazine capacity and the number of shots fired were known.

Case 1:13-cv-00291-WMS Document 69 Filed 06/21/13 Page 9 of 13

**2. Casualties in mass shootings with large-capacity magazine guns compared with other mass shootings**

20. Based on our analysis of the combined mass shootings data in the past 30 years, casualties were higher in the mass shootings that involved large-capacity magazine guns than in other mass shootings. In particular, we found an average number of fatalities or injuries of 22 per mass shooting with a large-capacity magazine versus 10 for those without.<sup>15</sup>

**3. Update of Gary Kleck's 20-year-old study on use of multiple firearms in mass shootings**

21. Plaintiffs have submitted a declaration from Gary Kleck, which cites statistics from his own study of mass shootings.<sup>16</sup> According to Dr. Kleck's 20-year-old study, based on data from 1984 through 1993, in the majority of mass shootings, shooters used multiple guns, while just 13% of mass shootings involved only one gun.<sup>17</sup> Using the combined mass shootings data that we collected and updated, we found that in the last 20 years, (i.e., since 1993), 42% of mass shootings involved only one gun (22 of 52 mass shootings), and that since 2012, 56% of mass shootings involved a single gun (5 of 9 mass shootings).

---

<sup>15</sup> A 2013 study by Mayors Against Illegal Guns similarly found that when mass shootings involved assault weapons or high capacity magazine, the number of deaths was higher. The study was based on data from the FBI and media reports covering the period January 2009 through January 2013. The study found that mass shootings where assault weapons or high-capacity magazines were used resulted in an average of 14.8 people shot and 8 deaths versus other mass shootings that resulted in 6.8 people shot and 5.1 deaths. *Analysis of Recent Mass Shootings*, Mayors Against Illegal Guns, February 22, 2013.

<sup>16</sup> Declaration of Gary Kleck, dated April 15, 2013, p. 5.

<sup>17</sup> Gary Kleck, *Targeting Guns* (NY: Aldine de Gruyter, 1997).

Case 1:13-cv-00291-WMS Document 69 Filed 06/21/13 Page 10 of 13

**4. Percent of mass shooters' guns legally obtained**

22. The combined data on mass shootings indicates that the majority of guns used in mass shootings were obtained legally. Shooters in almost 80% of mass shootings in the past 30 years obtained their guns legally (at least 50 of the 66 mass shootings) and 73% of the guns used in these 66 mass shootings were obtained legally (at least 108 of the 148 guns).<sup>18</sup>

**I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.**



Dated: New York, New York  
June 21, 2013

Lucy P. Allen

---

<sup>18</sup> Based on data from "US Mass Shootings, 1982-2012: Data from Mother Jones' Investigation" published by Mother Jones.  
<http://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data>

Table 1: Combined Mass Shootings Data  
1982 - June 15, 2013

Case	Location	Date	Large-Capacity Magazine <sup>1</sup>		Fatalities <sup>2</sup>		Injuries <sup>2</sup>		Shots Fired CC/NE	Obtained Legally? MJ/NE	Offenders' Number of Guns MJ/NE
			MJ/NE	CC	MJ/NE	CC	MJ/NE	CC			
1	Santa Monica <sup>3</sup>	6/7/2013	Yes	-	5	-	4	-	70	No	2
2	Upstate New York <sup>4</sup>	3/13/2013	-	-	4	-	2	-	-	Yes	1
3	Newtown school	12/14/2012	Yes	Yes	28	28	2	-	154	Stolen	4
4	Accent Signage Systems	9/27/2012	Yes	-	7	-	1	-	-	Yes	1
5	Sikh temple	8/5/2012	Yes	Yes	7	7	3	3	-	Yes	1
6	Aurora theater	7/20/2012	Yes	Yes	12	12	58	58	70	Yes	4
7	Seattle cafe	5/30/2012	-	-	6	-	1	-	-	Yes	2
8	Oikos University	4/2/2012	No	-	7	-	3	-	-	Yes	1
9	Su Jung Health Sauna	2/22/2012	-	-	5	-	0	-	-	Yes	1
10	Seal Beach	10/14/2011	-	-	8	-	1	-	-	Yes	3
11	IHOP	9/6/2011	Yes	Yes	5	5	7	7	-	Yes	3
12	Grand Rapids Shooting	7/7/2011	-	Yes	-	8	-	2	10	No	1
13	Tucson	1/8/2011	Yes	Yes	6	6	13	13	33	Yes	1
14	Hartford Beer Distributor	8/3/2010	Yes	Yes	9	9	2	2	11	Yes	2
15	Coffee shop police killings	11/29/2009	-	-	4	-	1	-	-	Stolen	2
16	Fort Hood	11/5/2009	Yes	Yes	13	13	30	30	214	Yes	1
17	Binghamton	4/3/2009	Yes	Yes	14	14	4	4	99	Yes	2
18	Carthage nursing home	3/29/2009	No	-	8	-	3	-	-	Yes	2
19	Atlantis Plastics	6/25/2008	-	-	6	-	1	-	-	Yes	1
20	Northern Illinois University	2/14/2008	Yes	Yes	6	6	21	21	54	Yes	4
21	Kirkwood City Council	2/7/2008	-	-	6	-	2	-	-	Stolen	2
22	Westroads Mall	12/5/2007	Yes	Yes	9	9	4	5	14	Stolen	1
23	Crandon	10/7/2007	-	-	6	-	1	-	-	Yes	1
24	Virginia Tech	4/16/2007	Yes	Yes	33	33	23	17	176	Yes	2
25	Trolley Square	2/12/2007	No	-	6	-	4	-	-	No	2
26	Amish school	10/2/2006	-	-	6	-	5	-	-	Yes	3
27	Capitol Hill	3/25/2006	-	-	7	-	2	-	-	Yes	4
28	Goleta postal	1/30/2006	Yes	-	8	-	0	-	-	Yes	1
29	Red Lake	3/21/2005	-	-	10	-	5	-	-	Stolen	3
30	Living Church of God	3/12/2005	-	-	7	-	4	-	-	Yes	1
31	Damageplan show	12/8/2004	-	-	5	-	7	-	-	Yes	1
32	Hunting Camp	11/21/2004	-	Yes	-	6	-	3	20	-	1
33	Lockheed Martin	7/8/2003	-	-	7	-	8	-	-	Yes	5
34	Navistar	2/5/2001	-	-	5	-	4	-	-	Yes	4
35	Wakefield	12/26/2000	Yes	Yes	7	7	0	0	37	Yes	3

A-621

**Table 1: Combined Mass Shootings Data  
1982 - June 15, 2013**

Case	Location	Date	Source	Large-Capacity Magazine <sup>1</sup>		Fatalities <sup>2</sup>		Injuries <sup>2</sup>		Shots Fired CC/NE	Obtained Legally? MJ/NE	Offenders' Number of Guns MJ/NE
				MJ/NE	CC	MJ/NE	CC	MJ/NE	CC			
36	Hotel	12/30/1999	MJ	-	-	5	-	3	-	-	Yes	2
37	Xerox	11/2/1999	MJ/CC	Yes	Yes	7	7	0	0	28	Yes	1
38	Wedgwood Baptist Church	9/15/1999	MJ/CC	Yes	Yes	8	8	7	7	30	Yes	2
39	Atlanta day trading spree	7/29/1999	MJ	-	-	9	-	13	-	-	Yes	4
40	Columbine High School	4/20/1999	MJ/CC	Yes	Yes	15	15	24	23	188	No	4
41	Thurston High School	5/21/1998	MJ/CC	Yes	Yes	4	4	25	25	50	No	3
42	Westside Middle School	3/24/1998	MJ/CC	Yes	Yes	5	5	10	10	26	Stolen	9
43	Connecticut Lottery	3/6/1998	MJ/CC	Yes	Yes	5	5	1	0	5	Yes	1
44	Caltrans maintenance yard	12/18/1997	MJ/CC	Yes	Yes	5	5	2	2	144	Yes	1
45	R.E. Phelon Company	9/15/1997	MJ	-	-	4	-	3	-	-	No	1
46	Fort Lauderdale revenge	2/9/1996	MJ	-	-	6	-	1	-	-	Yes	2
47	Walter Rossler Company	4/3/1995	MJ	-	-	6	-	0	-	-	Yes	2
48	Air Force base	6/20/1994	MJ/CC	Yes	Yes	5	6	23	23	-	Yes	1
49	Chuck E. Cheese	12/14/1993	MJ	-	-	4	-	1	-	-	-	1
50	Long Island Rail Road	12/7/1993	MJ/CC	Yes	Yes	6	6	19	19	30	Yes	1
51	Luigi's	8/6/1993	MJ	-	-	4	-	8	-	-	Yes	3
52	101 California Street	7/1/1993	MJ/CC	Yes	Yes	9	9	6	6	75	No	3
53	Watkins Glen	10/15/1992	MJ	-	-	5	-	0	-	-	Yes	1
54	Lindhurst High School	5/1/1992	MJ	-	-	4	-	10	-	-	Yes	2
55	Royal Oak postal	11/14/1991	MJ	-	-	5	-	5	-	-	Yes	1
56	University of Iowa	11/1/1991	MJ	No	-	6	-	1	-	-	Yes	1
57	Luby's	10/16/1991	MJ/CC	Yes	Yes	24	24	20	20	100	Yes	2
58	GMAC	6/18/1990	MJ/CC	Yes	Yes	10	10	4	4	14	Yes	2
59	Standard Gravure	9/14/1989	MJ/CC	Yes	Yes	9	9	12	12	21	Yes	5
60	Stockton schoolyard	1/17/1989	MJ/CC	Yes	Yes	6	6	29	30	106	Yes	2
61	ESL	2/16/1988	MJ	-	-	7	-	4	-	-	Yes	7
62	Shopping centers	4/23/1987	MJ	Yes	-	6	-	14	-	-	Yes	3
63	United States Postal Service	8/20/1986	MJ	-	-	15	-	6	-	-	Yes	3
64	San Ysidro McDonald's	7/18/1984	MJ/CC	Yes	Yes	22	22	19	19	257	Yes	3
65	Dallas nightclub	6/29/1984	MJ/CC	Yes	Yes	6	6	1	1	-	No	1
66	Welding shop	8/20/1982	MJ	No	-	8	-	3	-	-	Yes	1
<b>Average:</b>												
<b>Large-Capacity Magazine Average:</b>												
<b>Non Large-Capacity Magazine Average:</b>												

A-622

**Table 1: Combined Mass Shootings Data  
1982 - June 15, 2013**

Case	Location	Date	Source	Large-Capacity Magazine <sup>1</sup>		Fatalities <sup>2</sup>		Injuries <sup>2</sup>		Shots Fired	Obtained Legally?	Offenders' Number of Guns
				MJ/NE	CC	MJ/NE	CC	MJ/NE	CC			

**Notes and Sources:**

MJ represents Mother Jones data. CC represents Citizens Crime Commission of New York City data. NE represents NERA data. "-" means unspecified.

Mother Jones mass shootings data: "US Mass Shootings, 1982, 2012: Data from Mother Jones' Investigation," Mother Jones, December 28, 2012.  
 Mother Jones high capacity magazine data: "More Than Half of Mass Shooters Used Assault Weapons and High-Capacity Magazines," Mother Jones, February 27, 2013.  
 Citizens Crime Commission data from: "Citizens Crime Commission of New York City, Mass Shooting Incidents in America (1984-2012).

<sup>1</sup> Large-capacity magazines are those with a capacity to hold more than 10 rounds of ammunition.

<sup>2</sup> Offender included in counts of fatalities and injuries.

<sup>3</sup> Fatalities and injuries from: "Santa Monica Shooting Spree Suspect Identified As Death Toll Climbs," NBC News, June 10, 2013.  
 Guns used: "Rifle used in Santa Monica College shooting may have been altered," LA Times, June 13, 2013.

Obtained legally: "Details of Firearms used by Santa Monica Mass Shooting Suspect Released," Santa Monica Mirror, June 14, 2013.  
 Shots fired: "Santa Monica shooter was 'ready for battle'; At least 70 rounds fired at students," The Malibu Times, June 8, 2013.

<sup>4</sup> Fatalities, injuries, number of guns from: "Upstate Man Who Fatally Shot 4 Dies in Standoff; Motive Remains Unclear," New York Times, March 14, 2013.  
 Obtained legally: "State Police investigator says gun used in Herkimer County shootings were obtained legally," Your News Now, March 18, 2013.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

NEW YORK STATE RIFLE AND PISTOL  
ASSOCIATION, INC.; WESTCHESTER  
COUNTY FIREARMS OWNERS  
ASSOCIATION, INC.; SPORTSMEN'S  
ASSOCIATION FOR FIREARMS EDUCATION,  
INC.; NEW YORK STATE AMATEUR  
TRAPSHOOTING ASSOCIATION, INC.;  
BEDELL CUSTOM; BEIKIRCH AMMUNITION  
CORPORATION; BLUELINE TACTICAL &  
POLICE SUPPLY, LLC; BATAVIA MARINE &  
SPORTING SUPPLY; WILLIAM NOJAY,  
THOMAS GALVIN, and ROGER HORVATH,

13-cv-00291-WMS

Plaintiffs,

-v.-

ANDREW M. CUOMO, Governor of the State of  
New York; ERIC T. SCHNEIDERMAN, Attorney  
General of the State of New York; JOSEPH A.  
D'AMICO, Superintendent of the New York State  
Police; LAWRENCE FRIEDMAN, District  
Attorney for Genesee County; and GERALD J.  
GILL, Chief of Police for the Town of Lancaster,  
New York,

Defendants.

**DEFENDANT GERALD J. GILL'S NOTICE OF CROSS-MOTION  
TO DISMISS OR FOR SUMMARY JUDGMENT**

**PLEASE TAKE NOTICE** that upon the accompanying Declaration of Kevin M. Kearney, and upon all of the legal papers submitted by the State Defendants in support of their Cross-Motion to Dismiss or for Summary Judgment, Defendant Gerald J. Gill, through his attorneys, Hodgson Russ, LLP, will move this Court at the United State Courthouse, 2 Niagara Square Buffalo, New York, at a date and time to be scheduled by the Court, for an order dismissing each and every cause of action against him for lack of standing under Federal Rule of



Case 1:13-cv-00291-WMS Document 70 Filed 06/21/13 Page 2 of 2

Civil Procedure 12(b)(1) and for failure to state a claim upon which relief may be granted under Federal Rule of Civil Procedure 12(b)(6), or for an order under Federal Rule of Civil Procedure 56 granting summary judgment in favor of Defendant Gerald J. Gill on the ground that there is no genuine issue as to any material fact and that Defendant Gerald J. Gill is entitled to judgment as a matter of law.

Dated: New York, New York  
June 21, 2013

**HODGSON RUSS LLP**

*Attorneys for Gerald J. Gill, Chief of Police for the  
Town of Lancaster, New York*

By: s/Robert J. Fluskey, Jr.

Kevin M. Kearney

Robert J. Fluskey, Jr.

The Guaranty Building

140 Pearl Street, Suite 100

Buffalo, NY 14202-4040

716.856.4000

[k Kearney@hodgsonruss.com](mailto:k Kearney@hodgsonruss.com)

[rfluskey@hodgsonruss.com](mailto:rfluskey@hodgsonruss.com)

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

-----X

New York State Rifle and Pistol Association, Inc.;	:
Westchester County Firearms Owners Association, Inc.;	:
Sportsmen's Association for Firearms Education, Inc.;	: <b>Civil Action Number:</b>
New York State Amateur Trapshooting Association, Inc.;	: <b>1:13-cv-00291 (WMS)</b>
Bedell Custom; Beikirch Ammunition Corporation;	:
Blueline Tactical & Police Supply, LLC; Batavia Marine &	:
Sporting Supply, LLC; William Nojay; Thomas Galvin;	:
and Roger Horvath,	:
Plaintiffs,	:
	:
-against-	:
	:
	:
Andrew M. Cuomo, Governor of the State of New York;	:
Eric T. Schneiderman, Attorney General of the State of	:
New York; Joseph A. D'Amico, Superintendent of the	:
New York State Police; Lawrence Friedman, District	:
Attorney for Genesee County; and Gerald J. Gill, Chief of	:
Police for the Town of Lancaster, New York,	:
	:
Defendants.	:

-----X

**DECLARATION OF KATHLEEN M. RICE**

Kathleen M. Rice, under penalty of perjury and in accordance with 28 U.S.C. §1746, states and declares as follows:

1. I am the District Attorney of Nassau County, New York. I am also the incoming president of the District Attorneys Association of the State of New York.
2. I submit this Declaration in support of the State Defendants' Motions to Dismiss and for Summary Judgment and in Opposition to the Plaintiffs' Motion for Preliminary Injunctive relief and the Amended Complaint challenging the constitutionality of the SAFE Act. See New York Penal Law §§ 265.00 *et seq.* and 460.22. I make this declaration based upon my personal knowledge, having spent more than twenty years as a prosecutor, including nearly eight

Case 1:13-cv-00291-WMS Document 71 Filed 06/21/13 Page 2 of 5

years as District Attorney of Nassau County.

3. Gun violence has ended far too many promising lives, in Nassau County and elsewhere. It has a devastating effect on victims and their families, and the fear of gun violence holds many of our neighborhoods hostage every day.

4. Prosecutors see first-hand the effects of criminal violence, and gun violence in particular, on victims and communities. District Attorneys are duty-bound to do everything within their authority to protect the citizens of their jurisdictions. Along with the police, the District Attorney is the first line of defense for New York and Nassau County citizens against gun violence.

5. As District Attorney of Nassau County, I believe that we must do whatever we can to reduce the threat of gun violence and get dangerous firearms off the streets. I have undertaken aggressive measures to reduce the toll of gun violence.

6. For example, a recent gun buyback program supported by my office took in, among other firearms, fifteen assault weapons. As part of the gun buyback program, operable firearms could be turned in, anonymously, in exchange for cash. The program's intent was to take these firearms off the street, making them unavailable for use in crime, and preventing them from being found or misused by children or those who should not have access to guns. Those who turned in an assault weapon received \$400, more than twice the amount of money we paid for the return of operable handguns. That cash payment reflects the heightened risk we see from the potential criminal misuse of assault weapons, as well as the fear that the use of such dangerous, military-style weapons instills in our communities.

7. Legislation, like the SAFE Act, that limits access to assault weapons and high capacity magazines ("LCMs") increases public safety. Assault weapons are combat weapons.

Case 1:13-cv-00291-WMS Document 71 Filed 06/21/13 Page 3 of 5

8. Assault weapons pose particular public health dangers to New Yorkers because their rapid rate of fire, large ammunition capacity, long range accuracy and high velocity enable shooters without training or experience to injure and kill large numbers of people easily and rapidly. These weapons can also be used to terrify and intimidate, and they increase fear in our communities.

9. LCMs pose particular public health dangers to New Yorkers because they enable individuals determined to inflict mass injury to shoot large numbers of rounds before having to stop to reload. The few seconds it takes to reload may be enough to provide bystanders and potential victims an opportunity to intervene and stop the shooter or take cover. LCMs allow shooters to keep shooting without pause, dramatically reducing the opportunity of an intervening force.

10. In addition, assault weapons and LCMs are used in significant numbers by criminals in mass shootings, gang-related shootings, and in shootings of police officers.

11. The SAFE Act's provisions regarding ammunition sales, which require background checks and face-to-face sales of ammunition and prevent the anonymous bulk sale of ammunition over the internet, for example, are also likely to increase public safety by making sure that those who are not legally entitled to purchase ammunition cannot easily order unlimited rounds on the internet or by mail. Law abiding citizens are still free to purchase as many rounds of ammunition as they desire, but this provision is a common sense step to prevent those we have determined should not be permitted to buy ammunition from actually doing so.

12. New York has long had bans on assault weapons and LCMs. The SAFE Act merely strengthened these bans. For example, although New York has long banned LCMs, that ban did not apply if the LCM was manufactured before 1994, an exception which was difficult to

Case 1:13-cv-00291-WMS Document 71 Filed 06/21/13 Page 4 of 5

enforce. The SAFE Act toughened this law and, I believe, makes New York safer. The SAFE Act will restrict criminals' access to assault weapons and LCMs and thereby significantly reduce the devastation caused by mass shooters, gang-members, and other criminals.

13. Assault weapons and LCMs have been banned in New York since 1994. Neither the definitions of military-style features, nor the definitions of ammunition capacity limitations have been problematic in our enforcement and prosecution efforts.

14. Banning assault weapons and LCMs will not compromise people's ability to defend themselves in their homes, because numerous other weapons are available and more suited to purposes of home defense.

15. Assault weapons equipped with LCMs are not suited to self-defense in the home. Because the fire power of assault weapons is so great, rounds that miss their target can penetrate walls and injure or kill innocent family members, neighbors, bystanders, and passersby.

16. Although criminals will, by definition, ignore some laws, New York's tough gun laws do have an effect. For example, a recent large-scale prosecution being handled by my office involved a takedown of a violent street gang. This gang has been involved in gun violence and intimidation for over a decade and we believe that, to avoid New York's tough gun laws, gang members have traveled to other states with less stringent gun laws to obtain the weapons used for their criminal enterprise.

17. The SAFE Act's ban on assault weapons and the ban on LCMs will not end all gun violence in Nassau County or in New York, but it is an important tool in our effort to do so. Prosecutors need a wide range of tools to prevent gun violence, and the assault weapons ban and the LCM ban enable prosecutors to implement common sense measures that increase public safety.

A-629

Case 1:13-cv-00291-WMS Document 71 Filed 06/21/13 Page 5 of 5

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 18, 2013



---

Kathleen M. Rice

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

-----X	
New York State Rifle and Pistol Association, Inc.;	:
Westchester County Firearms Owners Association, Inc.;	:
Sportsmen's Association for Firearms Education, Inc.;	: <b>Civil Action Number:</b>
New York State Amateur Trapshooting Association, Inc.;	: <b>1:13-cv-00291 (WMS)</b>
Bedell Custom; Beikirch Ammunition Corporation;	:
Blueline Tactical & Police Supply, LLC; Batavia Marine &	:
Sporting Supply, LLC; William Nojay; Thomas Galvin;	:
and Roger Horvath,	:
Plaintiffs,	:
-against-	:
Andrew M. Cuomo, Governor of the State of New York;	:
Eric T. Schneiderman, Attorney General of the State of	:
New York; Joseph A. D'Amico, Superintendent of the	:
New York State Police; Lawrence Friedman, District	:
Attorney for Genesee County; and Gerald J. Gill, Chief of	:
Police for the Town of Lancaster, New York,	:
Defendants.	:
-----X	

**DECLARATION OF JAMES M. SHEPPARD**

James M. Sheppard, under penalty of perjury and in accordance with 28 U.S.C. §1746, states and declares as follows:

1. I am the Chief of Police of the Rochester Police Department in Rochester, New York. I have served the Rochester community as its Police Chief since 2010. Prior to my appointment as Police Chief, I served for almost thirty years as a member of the Rochester Police Department -- rising from patrol officer to Deputy Chief of the Operations Bureau, the Department's second highest command position. I have also previously served the people of Rochester as Director of Safety and Security of the Rochester City School District. Immediately prior to my appointment as Rochester Police Chief, I served for a time as the Director of the

City's Office of Public Integrity.

2. This case involves a challenge by four organizations, four businesses, and three individuals to the State of New York's recently enacted Secure Ammunition and Firearms Enforcement Act, 2013 N.Y. Laws, ch. 1 (the "SAFE Act"). The SAFE Act – including its toughened bans on military-style assault weapons and large-capacity ammunition magazines – is common-sense legislation that provides law enforcement with the tools needed to reduce gun violence that plagues our neighborhoods and keep our communities, and all of our citizens, safer. It is a model of sensible and necessary gun control, which will undoubtedly prevent and limit violent crime and improve public safety.

3. For these reasons, discussed in some more detail below, I submit this declaration in opposition to plaintiffs' motion for a preliminary injunction, which seeks to overturn the SAFE Act, and in support of the motion to dismiss and/or summary judgment submitted in this case by Governor Cuomo, Attorney General Schneiderman, and Superintendent D'Amico, which asks the Court to uphold this important piece of state legislation. I make this declaration based upon my personal knowledge gained from decades of law enforcement experience in the City of Rochester and a review of records maintained by the Rochester Police Department.

**I. Gun Crime and Violence in Rochester**

4. With over thirty years as a law enforcement officer in the City of Rochester, I have witnessed firsthand the devastating effects of gun violence on victims, families, and neighborhoods.

5. Rochester has been hit particularly hard by gun violence. In 2012, Rochester had the third highest rate of violent crime in New York State outside of New York City. It has consistently ranked between first and third for violent crime over the past fifteen years. In 2012,



Case 1:13-cv-00291-WMS Document 72 Filed 06/21/13 Page 3 of 7

218 people were shot (fatally and/or non-fatally), an increase of 52.4% from 2011, and up 29.1% from our five year average for shooting victims. Indeed, between 75 and 80 percent of all homicides in Rochester are caused by firearms, many of which were stolen from their legal owners.

6. As Police Chief, I have made it a priority to crack down on gun violence. For example, with the support of the Mayor, in 2012, the Rochester Police Department instituted "Operation Cool Down," a multi-faceted program that seeks to prevent the spike in violence, particularly gun violence, which occurs during the summer months.

7. Rochester's law-abiding citizens live in constant fear of falling prey to those who commit acts of violence using guns. Through Operation Cool Down, my department seeks to proactively safeguard our citizenry by engaging in law enforcement strategies designed to deter violence.

8. In September 2012, the City of Rochester implemented a gun buy-back program. Through this program 173 guns were taken off city streets and thus made unavailable for illegal use.

## **II. Assault Weapons and Large-Capacity Magazines**

9. Assault weapons and guns equipped with large capacity magazines ("LCMs") are a particular concern to me as Police Chief. These are the weapons of choice in deadly mass shootings, and are also used disproportionately in gang-related shootings as well as shootings of police officers.

10. The Rochester area is still suffering from the loss of two first responders on December 24, 2012, in nearby Webster, New York, who were ambushed by a gunman who was armed with several guns, including a Bushmaster AR-15 style semiautomatic rifle equipped with

Case 1:13-cv-00291-WMS Document 72 Filed 06/21/13 Page 4 of 7

a flash suppressor, and a stockpile of ammunition.

11. Upon information and belief, prior to enactment of the SAFE Act, the Bushmaster weapon used to such devastating effect in Webster, did not meet the definition of an assault weapon under New York law. In fact, it appears that this weapon was purchased from a licensed firearms dealer in New York.

12. The SAFE Act sensibly strengthens this weakness in the prior law. The type of semiautomatic rifle used in Webster – which was the same type tragically used to kill twenty children and six adults at Sandy Hook Elementary School in Newtown, Connecticut – is now banned as an assault weapon under the SAFE Act.

13. In 2012, the Rochester Police Department recovered 131 rifles with a capacity of 10 rounds or more, representing 12% of all guns recovered for the year. Of those, 45% were known to be involved in a crime.

14. Assault weapons are, simply, deadlier than other weapons, and they should be banned for the same reason that a kitchen knife is legal but a switchblade is not. Assault weapons are basically replicas of military armament, and they are designed for one purpose -- to efficiently kill numerous people. A civilian seeking to protect himself or herself is typically faced with a threat from a single person which can be addressed with a number of weapons other than assault weapons.

15. LCMs are particularly dangerous as well. Among other things, they enable individuals determined to inflict mass injury to shoot large numbers of rounds before having to stop to reload. The time it takes to reload can provide (and has provided in certain instances) bystanders and potential victims an opportunity to intervene and stop the shooter.

16. Critically, this interruption to reload can also give our police a chance to safely

return fire and end any such incident with as little unnecessary bloodshed as possible.

**III. New York's and Rochester's Pre-SAFE Act Bans on Assault Weapons and LCMs**

17. New York has long had bans on assault weapons and LCMs. So too has the City of Rochester. Since 1993, pursuant to Section 47-5 (F) of the City's Code, Rochester has prohibited assault weapons and ammunition feeding devices. Both bans have been very important to Rochester's fight against gun crime and violence, but they have not been enough.

18. The SAFE Act provides added protection for Rochester because Rochester's assault weapons ban does not govern statewide, which has created a serious problem of people buying guns in other areas of the state and bringing them into the City.

19. During my many years as a member, and now the Chief, of the Rochester Police Department, I and my officers have had to enforce the City's ban on assault weapons and LCMs countless times. The applicable definitions of assault weapons, including the descriptions of their military-style features, have never, to my knowledge, presented any problems of enforcement. Police are very familiar with the types of banned military-style features – including protruding and pistol grips, threaded barrels, flash suppressors, and telescoping stocks – that make a semiautomatic gun an assault weapon.

20. Neither have the definitions of the capacity limitations for ammunition magazines presented any challenges to enforcement. Police officers have been consistently enforcing these definitions in Rochester for two decades.

**IV. The SAFE Act**

21. The SAFE Act was passed in recognition that existing gun laws, while important tools in the fight against gun violence, were insufficient and that senseless violence – like the acts committed in Webster and Newtown, and those that occur regularly on the streets of

Case 1:13-cv-00291-WMS Document 72 Filed 06/21/13 Page 6 of 7

Rochester – had to stop. In fact, acknowledging the particular damage that assault weapons and LCMs have done to this area, Governor Cuomo signed the SAFE Act in Rochester.

22. Through its common sense reforms, the SAFE Act makes it less likely that such devastating acts of gun violence will happen in New York again.

23. In particular, the SAFE Act's strengthened bans on assault weapons and LCMs, including its seven-round load limit for magazines, now restrict access to those deadly weapons and decrease the damage caused by their use, both in Rochester and throughout the State.

24. The assault weapons and LCM bans also help reduce crime by making it safer to execute search warrants, because of the lower likelihood that the subjects of the warrant will be equipped with such weapons. Where subjects are equipped with assault weapons and LCMs, the police are overmatched and put in grave danger. Law enforcement officers are safer, and therefore better able to protect the public, with the SAFE Act's assault weapons and LCM bans in place.

25. The assault weapons and LCM bans also provide a legal basis for police disruption of violent crime before it happens because the illegality of such weapons provides the basis for finding reasonable suspicion to stop or probable cause to arrest. [There have been NO arrests under Rochester's possession of an assault weapon ordinance dating back to 2005 (oldest available data)]

26. Banning assault weapons and LCMs will not compromise people's ability to defend themselves in their homes, because numerous other weapons are available and more suited to that purpose.

27. Assault weapons equipped with LCMs are not suited to self-defense in the home. Because the fire power of assault weapons is so great, rounds that miss their target can penetrate

Case 1:13-cv-00291-WMS Document 72 Filed 06/21/13 Page 7 of 7

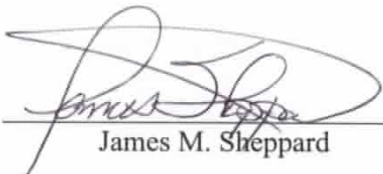
walls and injure or kill innocent family members, neighbors, bystanders, and passersby. And the ease with which a person wielding an assault weapon can keep shooting until the rounds are spent only exacerbates the dangers of such needless collateral damage

28. The SAFE Act's provisions regarding ammunition sales, including those that require background checks and face-to-face sales of ammunition and prevent the anonymous bulk sale of ammunition over the internet, are also likely to increase public safety by preventing those not legally entitled to purchase ammunition from ordering unlimited rounds on the internet or by mail. Law-abiding citizens still may purchase as many rounds of ammunition as they desire to. But this provision is a common sense step to prevent those who should not be permitted to buy ammunition from doing so.

29. In sum, under the SAFE Act, law enforcement will have the tools it needs to crack down on gun violence, allow police to track weapon ownership, regulate ammunition sales and keep New York's communities safer. The SAFE Act's bans on assault weapons and LCMs, including its seven-round load limit for magazines, will not end all gun violence, but they provide law enforcement important tools to significantly reduce violent incidents such as deadly mass shootings, gang shootings, and shootings of police officers. The SAFE Act makes the State of New York a national model for sensible gun control.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 21, 2013



James M. Sheppard

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

-----X

New York State Rifle and Pistol Association, Inc.;	:
Westchester County Firearms Owners Association, Inc.;	:
Sportsmen’s Association for Firearms Education, Inc.;	: <b>Civil Action Number:</b>
New York State Amateur Trapshooting Association, Inc.;	: <b>1:13-cv-00291 (WMS)</b>
Bedell Custom; Beikirch Ammunition Corporation;	:
Blueline Tactical & Police Supply, LLC; Batavia Marine &	:
Sporting Supply, LLC; William Nojay; Thomas Galvin;	:
and Roger Horvath,	:
Plaintiffs,	:
	:
-against-	:
	:
	:
Andrew M. Cuomo, Governor of the State of New York;	:
Eric T. Schneiderman, Attorney General of the State of	:
New York; Joseph A. D’Amico, Superintendent of the	:
New York State Police; Lawrence Friedman, District	:
Attorney for Genesee County; and Gerald J. Gill, Chief of	:
Police for the Town of Lancaster, New York,	:
	:
Defendants.	:

-----X

**THE STATE DEFENDANTS’ STATEMENT OF UNDISPUTED MATERIAL FACTS IN  
SUPPORT OF STATE DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT**

Pursuant to Local Rule 56(a)(1) of the Civil Rules of the United States District Court for the Western District of New York, Defendants Andrew M. Cuomo, Governor of the State of New York; Eric T. Schneiderman, Attorney General of the State of New York and Joseph A. D’Amico, Superintendent of the New York State Police (hereinafter “State Defendants”), sued in their official capacities only, by and through their attorney, ERIC T. SCHNEIDERMAN, Attorney General of the State of New York, submit the State Defendants’ Statement Of Undisputed Material Facts In Support Of State Defendants’ Cross-Motion For Summary

Case 1:13-cv-00291-WMS Document 73 Filed 06/21/13 Page 2 of 12

Judgment.<sup>1</sup> Citations to exhibits in the State Defendants' Statement of Undisputed Material Fact, unless otherwise noted, are to those exhibits listed in the declaration of William J. Taylor, Jr., dated June 21, 2013, and collectively annexed in the accompanying appendix, submitted in support of the State Defendants' Cross-Motion for Summary Judgment.

## **I. THE SECOND AMENDMENT AND THE REGULATION OF GUNS**

1. The Second Amendment right to keep and bear arms is an enumerated right but is limited and subject to regulation. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570, 623-28 (2008); *McDonald v. City of Chicago*, 130 S. Ct. 3020, 3047 (2010); *United States v. Decastro*, 682 F.3d 160, 165 (2d Cir. 2012); *United States v. Zaleski*, 489 F. App'x 474, 475 (2d Cir. 2012), *cert. denied*, 133 S. Ct. 554 (2012); *Heller v. District of Columbia*, 670 F.3d 1244, 1262 (D.C. Cir. 2011) ("*Heller II*"); and *People v. James*, 94 Cal. Rptr. 3d 576 (Ct. App. 2009); Declaration of Franklin E. Zimring ("*Zimring Decl.*") ¶ 6.

2. In *Heller*, the Supreme Court stated that "[l]ike most rights, the right secured by the Second Amendment is not unlimited [and] not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose." *Heller*, 554 U.S. at 626.

3. In *Heller*, the Supreme Court stated that "the Second Amendment right, whatever its nature, extends only to certain types of weapons", *id.* at 623 (citing *United States v. Miller*, 307 U.S. 174, 178-82 (1939)), and that weapons "most useful in military service" may be restricted, even if that would leave citizens with access only to "small arms." *Id.* at 627-28; *see id.* at 624-25; *see also* Zimring Decl. ¶ 6.

---

<sup>1</sup> This Statement of Undisputed Material Facts is submitted prior to the filing of a responsive pleading or the conducting of any discovery. As such, these facts are undisputed for purposes of State Defendants' dispositive motion only and, to the extent the action continues, State Defendants reserve the right to subsequently dispute the facts as alleged in plaintiffs' First Amended Complaint, dated April 11, 2013.

Case 1:13-cv-00291-WMS Document 73 Filed 06/21/13 Page 3 of 12

4. The Supreme Court, in *Heller*, also recognized the long history of government prohibitions on the carrying of “dangerous and unusual weapons.” *Heller*, 554 U.S. at 627 (citing 4 Blackstone 148-149 (1769)).

5. In *McDonald v. City of Chicago*, 130 S. Ct. 3020, 3026 (2010), the Supreme Court stated that the Second Amendment right is not “absolute” and that “[s]tate and local experimentation with reasonable firearms regulations will continue under the Second Amendment.” *Id.* at 3046-47.

6. Local and state governments, as well as the federal government, have long regulated firearms, including regulating the importation, possession and/or sale of weapons deemed dangerous or unusual. Zimring Decl. ¶¶ 7, 9-11; Ex. 50 (Brief for Professional Historians and Law Professors Saul Cornell, Paul Finkelman, Stanley N. Katz, and David T. Kong As *Amici Curiae* in Support of Appellees, *Heller v. District of Columbia*, 10-7036 (D.C. Cir.) (“*Heller II* Historians Brief”)); National Firearms Act of 1934, 48 Stat. 1236 (26 U.S.C. §§ 5801-5826); Gun Control Act of 1968, 18 U.S.C. § 922 *et seq.*

7. In the 1980s and 1990s, following a number of highly publicized mass shooting incidents, many federal, state and local laws were enacted which restricted weapons characterized as “assault weapons” as well as large capacity magazines. *See* Declaration of Christopher S. Koper (“Koper Decl.”) ¶ 9; Zimring Decl. ¶¶ 12, 13.

8. On September 13, 1994, the federal government enacted, as part of the Violent Crime Control and Law Enforcement of 1994, the Public Safety and Recreational Firearms Use Protection Act. Pub. L. No. 103-322, tit. XI, subtit. A, 108 Stat. 1796, 1996-2010 (1994) (codified at subsections of 18 U.S.C. §§ 921-22) (repealed by Pub. L. 103-322, § 110105(2)). This legislation (the “federal assault weapons ban”), established a ten-year prohibition on (i)



Case 1:13-cv-00291-WMS Document 73 Filed 06/21/13 Page 4 of 12

certain semiautomatic rifles, pistols, and shotguns which possessed two features from a list of enumerated features; and (ii) certain “large capacity ammunition feeding devices” (“LCMs”) capable of holding more than ten rounds. *See* Koper Decl. ¶¶ 9, 27-37.

9. The federal assault weapons ban did not ban LCMs manufactured on or before the effective date of the law (*i.e.*, on or before September 13, 1994). Such LCMs were “grandfathered” in and thus remained legal to possess and transfer. 18 U.S.C. § 921(a)(31)(A) (repealed); *id.* § 922(v)(2) (repealed); *id.* § 922(w)(2) (repealed); *see* Koper Decl. ¶ 36.

10. The Bureau of Alcohol, Tobacco, Firearms and Explosives (the “ATF”) has long blocked the importation of certain models of firearms deemed not suitable for sporting purposes. *See* Ex.10 (2011 ATF Study) at 3; Ex. 11 (1989 ATF Study) at 6-7; Ex. 12(1998 ATF Study) at 1, 11.

11. In 1998, after the passage of the federal assault weapons ban, the ability to accept a large-capacity magazine made for a military rifle was added to the list of disqualifying features, as the ATF determined that semiautomatic rifles with this feature “are attractive to certain criminals” and “cannot fairly be characterized as sporting rifles.” Ex.12 (1998 ATF Study) at 2-3, 36-38. These import bans remain in effect, even since the expiration of the federal assault weapons ban in 2004. *See* <http://www.atf.gov/firearms/faq/saws-and-lcafds.html#expiration-importation> (last visited June 20, 2013).

12. The ATF has determined that “semiautomatic assault rifles...represent a distinctive type of rifle distinguished by certain general characteristics which are common to the modern military assault rifle.” Ex. 9 (H.R. Rep. No. 103-489) at 17. Those characteristics are often characterized as “military” because of their associated military applications, design intended for offensive or combat situations, or indeed because they are civilian copies of military

weapons and can use, for example, magazines made for those military weapons. Bruen Decl. ¶¶ 15, 16, 17-23; Koper Decl. ¶ 31; Ex. 12 (1998 ATF Study) at 5; *Richmond Boro*, 97 F.3d at 684-85; *Heller II*, 670 F.3d at 1262-63. For example, pistol grips and thumbhole stocks, which aid a shooter in retaining control of a firearm while holding it at his or her hip, have been found to facilitate the rapid and continuous fire of ammunition without precise aiming. (Bruen Decl. ¶ 19; Ex. 12 (1998 ATF Study) at ex. 5); see *Richmond Boro*, 97 F.3d at 685; *Heller II*, 670 F.3d at 1262-63. Such features have been recognized as “serv[ing] specific, combat-functional ends” and their “net effect . . . is a capability for lethality -- more wounds, more serious, in more victims -- far beyond that of firearms in general, including other semiautomatic guns.” Ex. 9 (H.R. Rep. 103-489) at 18-20; Bruen Decl. ¶¶ 13-26; Ex. 10 (2011 ATF Study) at 9-12; Ex. 12 (1998 ATF Study) at ex. 5; Ex. 11 (1989 ATF Report).

13. It has been reported that assault weapons fire almost as rapidly as fully automatic machine guns. Ex. 31 (2008 Brady Center report).

14. In 2000, New York enacted its own ban on assault weapons and LCMs which mirrored the federal assault weapons ban. 2000 N.Y. Laws, ch. 189, § 10; Zimring Decl. ¶ 13.

15. The 2000 New York ban adopted a “two feature test” identical to the 1994 federal assault weapons ban and also banned LCMs but grandfathered in those manufactured on or before the effective date of the federal ban (*i.e.*, on or before September 13, 1994). 2000 N.Y. Laws, ch. 189, § 10; see Bruen Decl. ¶ 29.

## II. THE SAFE ACT

16. On January 15, 2013, the Secure Ammunition and Firearms Enforcement Act (the “SAFE Act”) was signed into law in New York. 2013 N.Y. Laws, ch.1; see Zimring Decl. ¶ 14; Bruen Decl. ¶ 5.

Case 1:13-cv-00291-WMS Document 73 Filed 06/21/13 Page 6 of 12

17. The SAFE Act amended New York's assault weapons ban by, among other things, amending the definition of "assault weapon" to include certain semiautomatic weapons with detachable magazines that possess one rather than two of the enumerated characteristics. Penal Law § 265.00(22); *see* Zimring Decl. ¶ 14; Bruen Decl. ¶ 9.

18. Under the SAFE Act, New York's assault weapons ban now applies to any gun that is semiautomatic, has the ability to accept a detachable magazine (in the case of rifles and pistols), and possesses at least *one* of the enumerated features. Penal Law § 265.00(22); Bruen Decl. ¶ 14.

19. The SAFE Act also added to the list of military-style features that make a semiautomatic firearm an assault weapon.. Bruen Decl. ¶ 15.

20. Under New York law, a rifle is an assault weapon if it is semiautomatic, able to accept a detachable magazine and has at least one of these seven military-style characteristics: (i) a folding or telescoping stock; (ii) a pistol grip that protrudes conspicuously beneath the action of a weapon; (iii) a thumbhole stock; (iv) a second handgrip or a protruding grip that can be held by the non-trigger hand; (v) a bayonet mount; (vi) a flash suppressor, muzzle brake, muzzle compensator, or a threaded barrel designed to accommodate the same; or (vii) a grenade launcher. *Id.* § 265.00(22)(a). Of these seven features, the third, fourth, and portions of the sixth (*i.e.*, the muzzle brake and muzzle compensator) are new. The rest were a part of both the 1994 federal ban and New York's own assault weapons ban prior to the SAFE Act. Penal Law § 265.00(22); Bruen Decl. ¶ 17.

21. A shotgun is an assault weapon under New York law if it is semiautomatic and has at least one of the following five military-style characteristics: (i) a folding or telescoping stock; (ii) a thumbhole stock; (iii) a second handgrip or protruding grip that can be held by the

Case 1:13-cv-00291-WMS Document 73 Filed 06/21/13 Page 7 of 12

non-trigger hand; (iv) a fixed magazine capacity in excess of seven rounds; or (v) an ability to accept a detachable magazine. Penal Law § 265.00(22); Bruen Decl. ¶ 24. Of these features, the second and third are new and the fourth was amended as New York law moved from a two-feature to a one-feature test (changing the maximum capacity in a fixed magazine to seven from five rounds to correspond to the new seven-round load limit for magazines). The SAFE Act also removed the pistol grip as a banned feature for shotguns as it moved from the two-feature to one-feature test. The first and fifth features were a part of both the 1994 federal ban and New York's own assault weapons ban prior to the SAFE Act. Penal Law § 265.00(22); Bruen Decl. ¶ 24.

22. Pistols are assault weapons prohibited by the SAFE Act if they are semiautomatic, able to accept a detachable magazine, and have at least one of the following eight military characteristics: (i) a folding or telescoping stock; (ii) a thumbhole stock; (iii) a second handgrip or a protruding grip that can be held by the non-trigger hand; (iv) capacity to accept an ammunition magazine that attaches to the pistol outside of the pistol grip; (v) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer; (vi) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned; (vii) a manufactured weight of 50 ounces or more when the pistol is unloaded; or (viii) a semiautomatic version of an automatic rifle, shotgun or firearm. Of these eight features, the first, second, and third are new. The rest were a part of both the 1994 federal ban and New York's own assault weapons ban prior to the SAFE Act. Penal Law § 265.00(22); Bruen Decl. ¶ 25.

23. The SAFE Act does not ban assault weapons that were lawfully possessed prior to its effective date of January 15, 2013. Those who lawfully possessed assault weapons at that time may continue to do so; they need only register their firearm within fifteen months (*i.e.*, by

Case 1:13-cv-00291-WMS Document 73 Filed 06/21/13 Page 8 of 12

April 15, 2004) with the State Police. Penal Law §§ 265.00(22)(g)(v), 400.00(16-a); Bruen Decl. ¶ 27.

24. The SAFE Act also amended New York's existing ban on LCMs to ban all LCMs that have the capacity to hold more than ten rounds of ammunition, including those that were grandfathered in under the original assault weapons ban. Penal Law § 265.00(23); *id.* § 265.02(8); *id.* § 265.36; Bruen Decl. ¶ 28.

25. In addition, the SAFE Act limits to seven the number of rounds of ammunition that one may load into a magazine (unless at a gun range or recognized shooting competition, where ten-round magazines may be loaded to full capacity). Penal Law § 265.37; *id.* § 265.20(a)(7-f); Bruen Decl. ¶ 28.

26. Under the SAFE Act, hundreds of different types and models of handguns, rifles and shotguns, remain available to New York citizens for self-defense, providing alternatives to assault weapons for those New Yorkers seeking “to acquire a firearm for self-defense” or other lawful purposes. *See* Penal Law § 265.00(22)(g); Bruen Decl. ¶¶ 3, 7, 12-13, 41; Declaration of Kathleen M. Rice, District Attorney of Nassau County, New York (“Rice Decl.”) ¶ 14; Eugene Volokh, *Implementing the Right to Keep and Bear Arms for Self-Defense: An Analytical Framework and a Research Agenda*, 56 UCLA L. Rev. 1443, 1489 (2009) at 1485-86, 1489 (noting “the availability of close substitutes for assault weapons”); Plaintiffs’ Memorandum of Law in Support of Application for Preliminary Injunction (“Pls PI Mem.”) at 22-23.

27. Semiautomatic firearms without a banned feature, firearms with manual actions (*i.e.*, bolt, pump, lever or slide action), and those hundreds of makes and models specifically exempted in “Appendix A” to the federal assault weapons ban are all legal in New York. Penal Law § 265.00(22). Additionally, the website maintained by the New York State Police pursuant

Case 1:13-cv-00291-WMS Document 73 Filed 06/21/13 Page 9 of 12

to the SAFE Act, lists at least 145 specified pistols, more than 150 specified rifles, and at least 40 specified shotguns are explicitly not banned as assault weapons under New York law. Bruen Decl. ¶¶ 12-13.

28. The SAFE Act does not limit the number of guns or magazines which may be owned. People wishing to fire more than seven rounds at once have the option of switching magazines or reloading or using multiple firearms. *See* Pls.' PI Mem. at 20, 28-29; Declaration of Gary Kleck at 3-5; Volokh, *supra*, at 1489 (noting that “the ability to switch magazines in seconds, which nearly all semiautomatic weapons possess, should suffice for the extremely rare instances when more rounds were needed”).

**III. NEW YORK HAS A COMPELLING INTEREST IN RESTRICTING ASSAULT WEAPONS AND LCMS WHICH POSE PARTICULAR PUBLIC SAFETY RISKS.**

29. In *Heller*, the Supreme Court noted the problem of gun-related violence in the United States and held that the Constitution leaves government with a “variety of tools” for combating that problem. *Heller*, 554 U.S. at 636.

30. The Second Circuit has held that “New York has substantial, indeed compelling, governmental interests in public safety and crime prevention.” *Kachalsky v. County of Westchester*, 701 F.3d 81, 97 (2d Cir. 2012); *Kachalsky v. Cacace*, 817 F. Supp. 2d 235, 270 (S.D.N.Y. 2011) (District Court decision) (noting the State’s substantial interest in reducing the use of guns in crime).

31. Assault weapons and LCMS have frequently been employed in highly publicized mass shootings, and are disproportionately used in the murders of law enforcement officers, crimes for which weapons with greater firepower would seem particularly useful. *See Updated*

Case 1:13-cv-00291-WMS Document 73 Filed 06/21/13 Page 10 of 12

*Assessment of the Federal Assault Weapons Ban*, pp. 14-19, 87; Koper Decl. ¶ 8; Zimring Decl. ¶¶ 5, 12, 14, 16-18.

32. One recent study has determined that, out of 62 mass shootings in the United States over the past three decades, more than half involved assault weapons and/or large-capacity magazines -- with the great majority of these weapons obtained legally. (Koper Decl. ¶¶ 12, 13; *see also* Ex. 39 (2013 Mayors Against Illegal Guns study) (finding that, in mass shootings over the past four years, shooters who used assault weapons and/or high-capacity magazines shot over twice as many people and killed 57 percent more people than shooters who did not use these weapons); Allen Decl. 16-20, 22.

33. Studies have reported that when mass shootings involved assault weapons or high capacity magazines, the numbers of rounds fired, and the number of deaths and injuries was much higher. *See, e.g.*, Ex. 39 (2013 Mayors Against Illegal Guns study); Allen Decl. ¶ 21, n. 15.

34. LCMs (those with a capacity to hold more than 10 rounds of ammunition), as well as guns loaded with more than seven rounds of ammunition, are often used in mass shootings; LCMs were used in more than half of the mass shootings since 1982 (at least 34 out of 66 mass shootings) and the presence of LCMs in mass shooting incidents is linked with an increased number of shots fired and an increased average number of fatalities and injuries. Allen Decl. ¶¶ 18, 19, 20, 30; Zimring Decl. ¶¶ 17, 18; Bruen Decl. ¶ 9; Koper, ¶ 13.

35. LCMs and assault weapons also implicate other law enforcement concerns, as well, including the ability to overpower or hold off law enforcement; they are disproportionately used in the murders of law enforcement officers; and they pose risk to unintended victims. *See, e.g.*, Declaration of Chief James M. Sheppard, at ¶¶ 9-15, 26-28; Bruen Decl. ¶ 9; (Koper Decl.

---

Case 1:13-cv-00291-WMS Document 73 Filed 06/21/13 Page 11 of 12

8; Ex. 32 (Koper 2004) at 10, 15 & n.12, 17-18, 87; Ex. 34 (Koper 2013) at 160-61; Ex. 35 (Koper 1997) at 98-100; *see Heller II*, 670 F.3d at 1262-63; Ex. 9 (H.R. Rep. No. 103-489) at 13; *Richmond Boro*, 896 F. Supp. at 282-83 (citing evidence from Manhattan, Brooklyn, and Bronx District Attorneys regarding the use of assault weapons in crime); Sheppard Decl. 9, 10, 13, 14, 24, 28, and 29; Rice Decl. 8, 9, 10, 12; Bruen Decl. 9, 10, 41; (Ex. 37 (2003 Violence Policy Ctr. Report) at 5.); *Richmond Boro Gun Club v. City of New York*, 896 F. Supp. 276, 282-83 (E.D.N.Y. 1995), *aff'd*, 97 F.3d 681, 684-86 (2d Cir. 1996) (citing to Bureau of Alcohol, Tobacco and Firearms ban on the importation of certain assault rifles at least in part because of their increasing use in crime, particularly the drug trade).

36. The FBI has determined that, in 2003, 20% of law enforcement officers killed in the line of duty were killed with an assault weapon. Ex. 37 (2003 Violence Policy Ctr. Report) at 5.

37. Courts and legislative tribunals have cited evidence that shots fired from assault weapons may be powerful enough to penetrate walls, increasing the threat of stray bullets harming family members, neighbors, and passersby and other reports have indicated that they are inappropriate for home self-defense. *See, e.g., Richmond Boro Gun Club v. City of New York*, 896 F. Supp. 276, 282-83 (E.D.N.Y. 1995), *aff'd*, 97 F.3d 681, 684-86 (2d Cir. 1996) (Citing statement by Kings County New York District Attorney that assault weapons pose a danger to innocent bystanders because of their ability to spray fire large numbers of rounds and the penetrating power of those rounds); *Heller II*, 698 F. Supp. 2d 179, 193-194 (D.D.C. 2010)(District Court decision); *see also* Rosenthal & Winkler, *supra*, at 232; (Ex. 31 (2008 Brady Center report) at 16. *See also* Bruen Decl. ¶ 13; Sheppard Decl. ¶ 27.



Case 1:13-cv-00291-WMS Document 73 Filed 06/21/13 Page 12 of 12

38. The press has reported several instances where, when a person shooting in a public venue stops to reload to continue his shooting, that pause provided the opportunity for bystanders to intervene. *See, e.g.*, Zimring Decl. ¶ 19; Ex. 58 (collected articles).

39. Additionally, the pause necessitated when a mass shooter or other criminal has to reload or change guns, in addition to perhaps permitting a bystander to step in, may also allow potential victims the opportunity to reach safety or law enforcement an opportunity to intervene. Rice Decl. ¶ 9; Sheppard Decl. ¶ 14; Koper Decl. ¶ 62.

Dated: New York, New York  
June 21, 2013

ERIC T. SCHNEIDERMAN  
Attorney General of the  
State of New York  
Attorney for State Defendants  
By:

*/s/ William J. Taylor, Jr.*  
William Taylor  
Assistant Attorney General  
120 Broadway - 24<sup>th</sup> Floor  
New York, New York 10271  
(212) 416 - 8426

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

NEW YORK STATE RIFLE AND PISTOL  
ASSOCIATION, INC.; WESTCHESTER  
COUNTY FIREARMS OWNERS  
ASSOCIATION, INC.; SPORTSMEN'S  
ASSOCIATION FOR FIREARMS EDUCATION,  
INC.; NEW YORK STATE AMATEUR  
TRAPSHOOTING ASSOCIATION, INC.;  
BEDELL CUSTOM; BEIKIRCH AMMUNITION  
CORPORATION; BLUELINE TACTICAL &  
POLICE SUPPLY, LLC; BATAVIA MARINE &  
SPORTING SUPPLY; WILLIAM NOJAY,  
THOMAS GALVIN, and ROGER HORVATH,

13-cv-00291-WMS

Plaintiffs,

-v.-

ANDREW M. CUOMO, Governor of the State of  
New York; ERIC T. SCHNEIDERMAN, Attorney  
General of the State of New York; JOSEPH A.  
D'AMICO, Superintendent of the New York State  
Police; LAWRENCE FRIEDMAN, District  
Attorney for Genesee County; and GERALD J.  
GILL, Chief of Police for the Town of Lancaster,  
New York,

Defendants.

**DECLARATION OF WILLIAM J. TAYLOR, JR.**

WILLIAM J. TAYLOR, JR., an attorney duly admitted to practice before this Court,  
declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an Assistant Attorney General in the office of ERIC T. SCHNEIDERMAN,  
Attorney General of the State of New York, attorney for defendants Andrew Cuomo, Governor  
of the State of New York; Eric T. Schneiderman, Attorney General of the State of New York;

Case 1:13-cv-00291-WMS Document 74 Filed 06/21/13 Page 2 of 7

and Joseph A. D'Amico, Superintendent of the New York State Police (collectively, the "State Defendants") in the above-captioned action.

2. I submit this declaration in support of the State Defendants' Cross-Motion to Dismiss and/or for Summary Judgment and in Opposition to the Plaintiffs' Motion for a Preliminary Injunction, for the limited purpose of providing the Court with true and accurate copies of the following documents contained in the annexed Appendix, and referenced in the accompanying Memorandum of Law in Opposition to Plaintiffs' Motion for a Preliminary Injunction and in Support of State Defendants' Motion to Dismiss and/or for Summary Judgment, dated June 21, 2013, State Defendants' Statement of Undisputed Material Facts in Support of State Defendants' Motion for Summary Judgment, submitted herewith in support of the State Defendants' motion:

Exhibit	Exhibit Description
1	Amended Complaint, <i>New York State Rifle and Pistol Association, Inc. v. Cuomo</i> , Case No. 13-cv-00291 (W.D.N.Y.), ECF No. 17 (" <b>Am. Cmpl.</b> ")
2	Law Center to Prevent Gun Violence, <i>Introduction to Gun Violence Statistics</i> , Nov. 18, 2012 (" <b>LCPGV Statistics</b> ")
3	United States Centers for Disease Control, <i>2005-2010 United States Homicide Firearm Deaths and Rates per 100,000</i> (" <b>CDC 2005-2010</b> ")
4	United States Centers for Disease Control, <i>2010 United States Firearm Deaths and Rates per 100,000</i> (" <b>CDC 2010</b> ")
5	Governor's Program Bill, 2013, <i>Memorandum in Support of the Secure Ammunition and Firearms Enforcement Act</i> , 2013 N.Y. Laws, ch. 1 (the "SAFE Act") (" <b>2013 Governor's Mem.</b> ")
6	New York State Assembly <i>Memorandum in Support of the SAFE Act</i> (" <b>2013 Assembly Memo</b> ")
7	New York State Senate <i>Introducer's Memorandum in Support of the SAFE Act</i> , 2013 (" <b>2013 Senate Mem.</b> ")

Exhibit	Exhibit Description
8	Violent Crime Control and Law Enforcement Act of 1994 (“ <b>federal assault weapons ban</b> ”), Public Law 103-22-Sept. 13, 1994,
9	House of Representatives Committee on the Judiciary Report 103-489, Public Safety and Recreational Firearms Use Protection Act, May 2, 1994 (“ <b>Judiciary Comm. Report</b> ”)
10	United States Bureau of Alcohol, Tobacco and Firearms (“ATF”), Firearms and Explosives Industry Division, <i>Study on the Importability of Certain Shotguns</i> , January 2011 (“ <b>2011 ATF Study</b> ”)
11	ATF, <i>Report and Recommendation on the Importability of Certain Semiautomatic Rifles</i> , July 6, 1989 (“ <b>1989 ATF Study</b> ”)
12	ATF, <i>Study on the Sporting Suitability of Modified Semiautomatic Rifles</i> , April 1998 (“ <b>1998 AFT Study</b> ”)
13	Laws of New York, Chapter 189, Text (“ <b>2000 Assault Weapons Ban</b> ”)
14	Governor’s <i>Program Bill Memorandum</i> , 2000 Assault Weapons Ban (“ <b>2000 Governor’s Mem.</b> ”)
15	New York State Senate Introducer’s Memorandum in Support, 2000 Assault Weapons Ban (“ <b>2000 Senate Mem.</b> ”)
16	New York Assembly Debate Excerpt, pp 161-168, June 23, 2000 (“ <b>6/23/2000 Assembly Debate</b> ”)
17	New York Senate Debate Excerpt, pp. 6137-6152, June 22, 2000 (“ <b>6/22/2000 Senate Debate</b> ”)
18	<i>Governor Proposes Five Point Plan to Combat Gun Violence</i> , Mar. 15, 2000 (“ <b>Gov. 2000 Press Release</b> ”)
19	ATF, <i>Report on the Importability of Certain Shotguns</i> , July 2, 2012 (“ <b>2012 ATF Study</b> ”)
20	City of Buffalo, Chapter 180. Firearms, Arrows and Other Weapons (“ <b>Buffalo Ordinance</b> ”)
21	City of Rochester, Chapter 47.Dangerous Articles (“ <b>Rochester Ordinance</b> ”)
22	City of Albany, Chapter 193. Firearms and Ammunition (“ <b>Albany Ordinance</b> ”)
23	New York City Administrative Code, §§ 10.301, 10.303.1, 10.305, 10.306

<b>Exhibit</b>	<b>Exhibit Description</b>
24	Laws of New York, 2013, Chapter 1 (“ <b>SAFE Act</b> ”)
25	Governor’s Press Release, <i>Governor Cuomo Signs NY SAFE Act in Rochester</i> , January 16, 2013
26	New York State Assault Weapon Registration Form (“ <b>Reg. Form</b> ”)
27	New York State Assembly Debate Excerpt, pp. 65, 127, January 15, 2013 (“ <b>Assembly Debate 1/15/13</b> ”)
28	Prepared Testimony by Laurence H. Tribe, Carl M. Loeb University Professor and Professor of Constitutional Law, Harvard Law School, <i>Proposals to Reduce Gun Violence: Protecting Our Communities While Respecting the Second Amendment</i> , Senate Judiciary Committee Subcommittee on the Constitution, Civil Rights and Human Rights. February 12, 2003, (“ <b>2013 Tribe Testimony</b> ”)
29	Testimony of Brian J. Siebel, Senior Attorney, Brady Center to Prevent Gun Violence, before the Council of the District of Columbia, Oct. 1, 2008, Exhibit to Appellees’ Statutory Addendum, <i>Heller v. District of Columbia</i> , 10-7036 (“ <b>Brady Center Testimony</b> ”)
30	<i>The Return of the Assault Rifle; High-Powered Weapons Seem to be Regaining Their Deadly Role in WNY Crime and Violence</i> , The Buffalo News, Nov. 21, 2010, Lou Michel. (“ <b>Buffalo News</b> ”)
31	<i>Assault Weapons: Mass Produced Mayhem</i> , Brady Center to Prevent Gun Violence, October 2008 (“ <b>2008 Brady Report</b> ”)
32	<i>Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003</i> , Christopher S. Koper, July 2004 (“ <b>Koper 2004</b> ”)
33	<i>Banning Assault Weapons – A Legal Primer for State and Local Action</i> , Legal Community Against Violence, April 2004 (“ <b>LCAV 2004 Primer</b> ”)
34	<i>America’s Experience with the Federal Assault Weapons Ban, 1994-2004, Key Findings and Implications</i> , Christopher S. Koper (chapter in <i>Reducing Gun Violence in America: Informing Policy with Evidence and Analysis</i> ) (“ <b>Koper 2013</b> ”)
35	<i>Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994: Final Report</i> . The Urban Institute, March 13, 1997 (“ <b>Koper 1997</b> ”)

Case 1:13-cv-00291-WMS Document 74 Filed 06/21/13 Page 5 of 7

Exhibit	Exhibit Description
36	Statement of Professors of Constitutional Law: The Second Amendment and the Constitutionality of the Proposed Gun Violence Prevention Legislation, January 3, 2013 (“ <b>Professors’ Statement</b> ”)
37	“ <i>Officer Down</i> ”: <i>Assault Weapons and the War on Law Enforcement</i> , Violence Policy Center, May 2003 (“ <b>VPC 2003</b> ”)
38	<i>More Than Half of Mass Shooters Used Assault Weapons and High-Capacity Magazines</i> , Mother Jones, Feb. 27, 2013, Follman, Aronson, Lee (“MJ 2/27/13”), available at <a href="http://www.motherjones.com/politics/2013/02/assault-weapons-high-capacity-magazines-mass-shootings-feinstein">http://www.motherjones.com/politics/2013/02/assault-weapons-high-capacity-magazines-mass-shootings-feinstein</a>
39	<i>Analysis of Recent Mass Shootings, January 2009 – January 2013</i> , Mayors Against Illegal Guns (“ <b>Mayors Analysis</b> ”)
40	ATF, <i>Assault Weapons Profile</i> , April 1994 (“ <b>ATF AW Profile</b> ”)
41	Declaration of Mark Overstreet, <i>Heller v. District of Columbia</i> , 10-7036 (D.C. Cir.), ECF No. 23-7 (“ <b>Overstreet Heller II Decl.</b> ”)
42	<i>Firearm Justifiable Homicides and Non-Fatal Self-Defense Gun Use: An Analysis of Federal Bureau of Investigation and National Crime Victimization Survey Data</i> , Violence Policy Center, 2013 (“ <b>VPC 2013 Self-Defense</b> ”)
43	<i>Private Guns, Public Health</i> , David Hemenway (U. Mich. Press 2007) (“ <b>Hemenway 2007</b> ”)
44	The Gun Debate’s New Mythical Number: How Many Defensive Uses Per Year? Philip J. Cook; Jens Ludwig; David Hemenway, <i>Journal of Policy Analysis and Management</i> , Vol. 16, No. 3, Special Issue: The New Public Management in New Zealand and beyond. (Summer, 1997) (“ <b>Hemenway, Cook 1997</b> ”)
45	Images of Rifles that are Not Classified as Assault Weapons (“ <b>Non-AW Rifles</b> ”)
46	Images of Pistols that are Not Classified as Assault Weapons (“ <b>Non-AW Pistols</b> ”)
47	Images of Shotguns that are Not Classified as Assault Weapons (“ <b>Non-AW Shotguns</b> ”)
48	New York Assembly Debate Excerpts, pp. 282-284, 297, 342, Mar. 28, 2013, (“ <b>3/28/13 Assembly Debate</b> ”)
49	<i>The Police Department’s 9-Millimeter Revolution</i> , The New York Times, Feb. 15, 1999, Raymond W. Kelly (“ <b>NYT Opinion 1999</b> ”)

Case 1:13-cv-00291-WMS Document 74 Filed 06/21/13 Page 6 of 7

Exhibit	Exhibit Description
50	Brief for Professional Historians and Law Professors Saul Cornell, Paul Finkelman, Stanley N. Katz, and David T. Kong As <i>Amici Curiae</i> in Support of Appellees, <i>Heller v. District of Columbia</i> , 10-7036 (D.C. Cir.), ECF No. 1266982 (“ <b>Heller Historians Brief</b> ”)
51	<i>On Target: The Impact of the 1994 Federal Assault Weapon Act</i> , Brady Center to Prevent Gun Violence, March 2004 (“ <b>Brady 2004 Impact Study</b> ”)
52	New York State Assembly Debate Excerpt, pp. 13-14, 18-19, May 24, 2005 (“ <b>5/24/05 Assembly Debate</b> ”)
53	New York State Assembly Debate Excerpt, pp. 62-72, Jan. 9, 2006 (“ <b>1/9/06 Assembly Debate</b> ”)
54	<i>United States of Assault Weapons, Gunmakers Evading the Federal Assault Weapons Ban</i> , Violence Policy Center, July 2004 (“ <b>VPC July 2004 U.S. of AW</b> ”)
55	<i>A Further Examination of Data Contained in the Study On Target Regarding Effects of the 1994 Federal Assault Weapons Ban</i> , Violence Policy Center, April 2004 (“ <b>VPC 2004 Further Exam. of On Target</b> ”)
56	<i>In Virginia, high-yield clip seizures rise</i> , Washington Post, Jan. 23, 2011 (“ <b>WaPo 1/23/11</b> ”), available at <a href="http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012203452.html">http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012203452.html</a>
57	<i>High-capacity magazines saw drop during ban, data indicate</i> , Washington Post, Jan. 13, 2013, available at <a href="http://articles.washingtonpost.com/2013-01-10/news/36272948_1_magazines-and-assault-weapons-33-round-magazine-high-capacity-magazines">http://articles.washingtonpost.com/2013-01-10/news/36272948_1_magazines-and-assault-weapons-33-round-magazine-high-capacity-magazines</a>
58	<u>Collected Articles</u> : <i>Heroes of the Tuscon Shooting: “Something Had to be Done,”</i> ABC News, Jan. 10, 2011; <i>Texas Capitol Gunman Was Reloading When Troopers Tackled Him</i> , 10KWTX, Jan. 22, 2010; <i>Church Gunman Brought 76 Shells and Expected to Use Them</i> , ABC News, July 28, 2008; <i>Shootings in a Schoolhouse: The Hero; A Wounded Teenager</i> , NY Times May 23, 1998; <i>Death on the L.I.R.R.: The Rampage; Gunman on a Train Aisle Passes Out Death</i> , NY Times Dec. 9, 1993.
59	Testimony of Chief Jim Johnson, Baltimore County, Maryland, Chair, National Law Enforcement Partnership to Prevent Gun Violence, Senate Judiciary Committee Hearing, Jan. 30, 2013 (“ <b>Baltimore Police Chief Testimony</b> ”)
60	Excerpts from Amended Complaint New York State Rifle and Pistol Association, Inc. v. City of New York, 13-2115 (S.D.N.Y)

Case 1:13-cv-00291-WMS Document 74 Filed 06/21/13 Page 7 of 7

Exhibit	Exhibit Description
61	Images from SAFE Act website, Pictures of Rifles – Banned Features (“ <b>Banned Rifles</b> ”)
62	Images from SAFE Act website, Pictures of Shotguns – Banned Features (“ <b>Banned Shotguns</b> ”)
63	Images from SAFE Act website, Pictures of Pistols – Banned Features (“ <b>Banned Pistols</b> ”)
64	<i>The Criminal Purchase of Firearm Ammunition</i> , Injury Prevention, 2006 (“ <b>Criminal Purchase</b> ”)
65	Images from SAFE Act website, Listing of Rifles that Are Classified as Assault Weapons (“ <b>AW Rifles</b> ”)
66	Images from SAFE Act website, Listing of Shotguns that Are Classified as Assault Weapons (“ <b>AW Shotguns</b> ”)
67	Images from SAFE Act website, Listing of Pistols that Are Classified as Assault Weapons (“ <b>AW Pistols</b> ”)
68	Bureau of Justice Statistics, <i>Selected Findings: Guns Used in Crime</i> , July 1995 (“ <b>Guns in Crime BJS 1995</b> ”)
69	SAFE Act Amendment
70	<i>Statement of Professors of Constitutional Law: The Second Amendment and the Constitutionality of the Proposed Gun Violence Prevention Legislation</i> , January 3, 2013 (“ <b>Professors’ Statement</b> ”)


I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed in New York, New York, this 21st day of June, 2013.

Dated: New York, New York  
June 21, 2013




/s/ William J. Taylor, Jr.  
William J. Taylor, Jr.





**TO  
PREVENT GUN VIOLENCE**  
BECAUSE SMART GUN LAWS SAVE LIVES

[SIGN UP »](#) [DONATE »](#)

[ABOUT US](#)

[LAWS & POLICIES](#)

[THE SECOND AMENDMENT](#)

[STUDIES & STATISTICS](#)

[TAKE ACTION](#)

### Introduction to Gun Violence Statistics

Published November 18, 2012

[Tweet](#) 26 [Like](#) 115


The United States experiences epidemic levels of gun violence, claiming over 30,000 lives annually, according to the U.S. Centers for Disease Control and Prevention. For every person who dies from a gunshot wound, two others are wounded. Every year, approximately 100,000 Americans are victims of gun violence. In addition to those who are killed or injured, there are countless others whose lives are forever changed by the deaths of and injuries to their loved ones.


Gun violence touches every segment of our society. It increases the probability of deaths in incidents of domestic violence, raises the likelihood of fatalities by those who intend to injure others and among those who attempt suicide, places children and young people at special risk, and disproportionately affects communities of color.


Mass shooting tragedies like the school shootings at Virginia Tech in April 2007 and Northern Illinois University in February 2008 – or the 1993 office shooting in San Francisco that led to the formation of the Law Center to Prevent Gun Violence – receive significant media attention. However, gun deaths and injuries in the U.S. usually occur quietly, without national press coverage, every day.


[PERMALINK](#)


#### TAKE ACTION


  
JOIN


  
VOLUNTEER

  
ATTEND

  
SPONSOR

 **WHAT THE STUDIES SHOW**

 **KNOW YOUR GUN LAWS**

 **THE TRUTH ABOUT THE SECOND AMENDMENT**


#### LATEST TWEETS

[Follow @smartgunlaws](#)

Copyright 2012 Law Center to Prevent Gun Violence. All Rights Reserved. [Legal Disclosure](#), [Contact Us](#). Site by [Something in the Universe](#)

1 of 1

6/20/2013 12:30:34 PM 97 of 295



[SIGN UP »](#) [DONATE »](#)

f t

ABOUT US
LAWS & POLICIES
THE SECOND AMENDMENT
STUDIES & STATISTICS
TAKE ACTION

### Statistics on Gun Deaths & Injuries

Posted on November 18, 2012

[Tweet](#) 158 [Like](#) 1.7k

In 2010, guns took the lives of 31,076 Americans in homicides, suicides and unintentional shootings. This is the equivalent of more than 85 deaths **each day** and more than three deaths **each hour**.

73,505 Americans were treated in hospital emergency departments for non-fatal gunshot wounds in 2010.

Firearms were the third-leading cause of injury-related deaths nationwide in 2010, following poisoning and motor vehicle accidents.

Between 1955 and 1975, the Vietnam War killed over 58,000 American soldiers – less than the number of civilians killed with guns in the U.S. in an average two-year period.

In the first seven years of the U.S.-Iraq War, over 4,400 American soldiers were killed. Almost as many civilians are killed with guns in the U.S., however, *every seven weeks*.

#### Homicide

Guns were used in 11,078 homicides in the U.S. in 2010, comprising almost 35% of all gun deaths, and over 68% of all homicides.

On average, 33 gun homicides were committed each day for the years 2005-2010.

Regions and states with higher rates of gun ownership have significantly higher rates of homicide than states with lower rates of gun ownership.

Where guns are prevalent, there are significantly more homicides, particularly gun homicides.

#### Suicide

Firearms were used in 19,392 suicides in the U.S. in 2010, constituting almost 62% of all gun deaths.

Over 50% of all suicides are committed with a firearm.

On average, 49 gun suicides were committed each day for the years 2005-2010.

White males, about 40% of the U.S. population, accounted for over 80% of firearm suicides in 2010.

A study of California handgun purchasers found that in the first year after the purchase of a handgun, suicide was the leading cause of death among the purchasers.

Firearms were used in nearly 44% of suicide deaths among persons under age 25 in 2010.

More than 75% of guns used in suicide attempts and unintentional injuries of 0-19 year-olds were stored in the residence of the victim, a relative, or a friend.


The risk of suicide increases in homes where guns are kept loaded and/or unlocked.

#### Unintentional Deaths and Injuries


In 2010, unintentional firearm injuries caused the deaths of 606 people.

From 2005-2010, almost 3,800 people in the U.S. died from unintentional shootings.


### TAKE ACTION




JOIN




VOLUNTEER




ATTEND




SPONSOR



WHAT THE STUDIES SHOW



KNOW YOUR GUN LAWS



THE TRUTH ABOUT THE SECOND AMENDMENT

### LATEST TWEETS

---

[Follow @smartgunlaws](#)

Over 1,300 victims of unintentional shootings for the period 2005–2010 were under 25 years of age.

People of all age groups are significantly more likely to die from unintentional firearm injuries when they live in states with more guns, relative to states with fewer guns. On average, states with the highest gun levels had nine times the rate of unintentional firearms deaths compared to states with the lowest gun levels.

A federal government study of unintentional shootings found that 8% of such shooting deaths resulted from shots fired by children under the age of six.

The U.S. General Accounting Office has estimated that 31% of unintentional deaths caused by firearms might be prevented by the addition of two devices: a child-proof safety lock (8%) and a loading indicator (23%).

1. Nat'l Ctr. for Injury Prevention & Control, U.S. Centers for Disease Control and Prevention, *Web-Based Injury Statistics Query & Reporting System (WISQARS) Injury Mortality Reports, 1999-2010 for National, Regional, and States* (Dec. 2012), [http://webappa.cdc.gov/sas/webnrcsp/data/restriction\\_rg.html](http://webappa.cdc.gov/sas/webnrcsp/data/restriction_rg.html) (hereinafter *WISQARS Injury Mortality Reports, 1999-2010*). Note: Users must agree to data use restrictions on the CDC site prior to accessing data. [↗]
2. Nat'l Ctr. for Injury Prevention & Control, U.S. Centers for Disease Control and Prevention, *Web-Based Injury Statistics Query & Reporting System (WISQARS) Nonfatal Injury Reports*, at <http://webappa.cdc.gov/sas/webnrcsp/nfides2001.htm> (last visited Feb. 20, 2012) (hereinafter *WISQARS Nonfatal Injury Reports*). [↗]
3. Nat'l Ctr. for Injury Prevention and Control, U.S. Centers for Disease Control and Prevention, *Web-Based Injury Statistics Query & Reporting System (WISQARS) Leading Causes of Death Reports, 1999-2010 for National, Regional, and States (RESTRICTED)*, at [http://www.cdc.gov/injury/wisqars/leading\\_causes\\_death.html](http://www.cdc.gov/injury/wisqars/leading_causes_death.html) (last visited Nov. 26, 2012). [↗]
4. U.S. Department of Defense, Statistical Information Analysis Division, *Personnel & Military Casualty Statistics, U.S. Military Casualties in Southeast Asia - Vietnam Conflict - Casualty Summary As of May 16, 2008*, at <http://headapp.dmdc.osd.mil/personnel/CASUALTY/vietnam.pdf> (last visited Feb. 10, 2012); *WISQARS Injury Mortality Reports, 1999-2010*, *supra* note 1. [↗]
5. U.S. Department of Defense, *Operation Iraqi Freedom (OIF) U.S. Casualty Status, Fatalities as of March 12, 2012, 10 a.m. EST*, at <http://www.defense.gov/news/casualty.pdf> (last visited Feb. 10, 2012); *WISQARS Injury Mortality Reports, 1999-2010*, *supra* note 1. [↗]
6. *WISQARS Injury Mortality Reports, 1999-2010*, *supra* note 1. [↗]
7. *Id.* [↗]
8. Matthew Miller, Deborah Acraef & David Hemenway, *Rates of Household Firearm Ownership and Homicide Across US Regions and States, 1988-1997*, 92 *Am. J. Pub. Health* 1299 (2002). [↗]
9. David Hemenway, *Private Guns*, *Public Health* 65 (2004). [↗]
10. *WISQARS Injury Mortality Reports, 1999-2010*, *supra* note 1. [↗]
11. *Id.* [↗]
12. *Id.* [↗]
13. *Id.* [↗]
14. Gary J. Wintemute et al., *Mortality Among Repeat Purchasers of Handguns*, 341 *New Eng. J. Med.* 1583, 1585 (Nov. 18, 1999). [↗]
15. *WISQARS Injury Mortality Reports, 1999-2010*, *supra* note 1. [↗]
16. David C. Grossman, Donald T. Reay & Stephanie A. Baker, *Self-inflicted & Unintentional Firearm Injuries Among Children & Adolescents: The Source of the Firearm*, 153 *Archives Pediatric & Adolescent Med.* 875 (Aug. 1999), at <http://archpedi.ama-assn.org/cgi/content/short/153/8/875>. [↗]
17. Matthew Miller & David Hemenway, *The Relationship Between Firearms and Suicide: A Review of the Literature, & Aggression & Violent Behavior* 59, 63-65 (1999) (summarizing the findings of multiple studies). [↗]
18. *WISQARS Injury Mortality Reports, 1999-2010*, *supra* note 1. [↗]
19. *Id.* [↗]
20. *Id.* [↗]
21. Matthew Miller, Deborah Acraef & David Hemenway, *Firearm Availability and Unintentional Firearm Deaths*, 33 *Accident Analysis & Prevention* 477 (July 2001). [↗]
22. U.S. General Accounting Office, *Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could Be Prevented* 17 (Mar. 1991), at [http://www.gao.gov/assets/15/4/150203\\_143619.pdf](http://www.gao.gov/assets/15/4/150203_143619.pdf). [↗]
23. *Id.* A loading indicator, also known as a "chamber load indicator," is a safety device that indicates at a glance whether a firearm is loaded and whether a round remains in the chamber. [↗]

PERMALINK

A-659

WISQARS Injury Mortality Report Case 1:13-cv-00291-WMS Document 74-3 Filed 06/21/13 Page 1 of 1  
http://w2bappa.cdc.gov/cgi-bin/broker.exe

**2005 - 2010, United States**  
**Homicide Firearm Deaths and Rates per 100,000**  
All Races, Both Sexes, All Ages  
ICD-10 Codes: X93-X95, \*U01.4

Number of Deaths	Population***	Crude Rate	Age-Adjusted Rate**
72,525	1,814,738,751	4.00	4.01

[Download Results in a Spreadsheet \(CSV\) File](#)

[Help with Download](#)

Reports for All Ages include those of unknown age.

\* Rates based on 20 or fewer deaths may be unstable. Use with caution.

\*\* Standard Population is 2000, all races, both sexes.

\*\*\* Population estimates are aggregated for multi-year reports to produce rates.

Produced by: National Center for Injury Prevention and Control, CDC

Data Source: NCHS Vital Statistics System for numbers of deaths. Bureau of Census for population estimates.

A-660

WISQARS Injury Mortality Report Case 1:13-cv-00291-WMS Document 74-4 Filed 06/21/13 Page 1 of 3  
http://wqapp.cdc.gov/cgi-bin/broker.exe

**2010, United States**  
**Firearm Deaths and Rates per 100,000**  
All Races, Both Sexes, All Ages  
ICD-10 Codes: W32-W34,X72-X74,X93-X95,Y22-Y24,  
Y35.0,\*U01.4

Number of Deaths	Population	Crude Rate	Age-Adjusted Rate**
31,672	308,745,538	10.26	10.07

[Download Results in a Spreadsheet \(CSV\) File](#)

[Help with Download](#)

Reports for All Ages include those of unknown age.

\* Rates based on 20 or fewer deaths may be unstable. Use with caution.

\*\* Standard Population is 2000, all races, both sexes.

Produced by: National Center for Injury Prevention and Control, CDC  
Data Source: NCHS Vital Statistics System for numbers of deaths. Bureau of Census for population estimates.

A-661

SAS Output

Case 1:13-cv-00291-WMS Document 74-4 Filed 06/21/13 Page 2 of 3  
http://www.bappa.cdc.gov/cgi-bin/broker.exe

**Overall Firearm Gunshot Nonfatal Injuries and Rates per 100,000**  
2010, United States, All Races, Both Sexes, All Ages  
Disposition: All Cases

<u>Number of injuries</u>	<u>Population</u>	<u>Crude Rate</u>	<u>Age-Adjusted Rate**</u>
73,505	308,745,538	23.81	23.97

[Download Results in a Spreadsheet \(CSV\) File](#)

[Help with Download](#)

Reports for All Ages include those of unknown age.

\*\* Standard Population is 2000, all races, both sexes.

Produced by: National Center for Injury Prevention and Control, CDC

Data Source: NEISS All Injury Program operated by the Consumer Product Safety Commission for numbers of injuries. Bureau of Census for population estimates.

A-662

SAS Output

Case 1:13-cv-00291-WMS Document 74-4 Filed 06/21/18 Page 3 of 3  
http://www.courts.ca.gov/cgi-bin/broker.exe

**Overall Firearm Gunshot Nonfatal Injuries and Rates per 100,000**  
2011, United States, All Races, Both Sexes, All Ages  
Disposition: All Cases

<u>Number of injuries</u>	<u>Population</u>	<u>Crude Rate</u>	<u>Age-Adjusted Rate**</u>
73,883	311,591,917	23.71	23.64

[Download Results in a Spreadsheet \(CSV\) File](#)

[Help with Download](#)

Reports for All Ages include those of unknown age.

\*\* Standard Population is 2000, all races, both sexes.

Produced by: National Center for Injury Prevention and Control, CDC

Data Source: NEISS All Injury Program operated by the Consumer Product Safety Commission for numbers of injuries. Bureau of Census for population estimates.

**PROGRAM BILL # 1**

**GOVERNOR'S PROGRAM BILL**

**2013**

**MEMORANDUM IN SUPPORT**

**AN ACT to amend the criminal procedure law, the correction law, the family court act, the executive law, the general business law, the judiciary law, the mental hygiene law, the penal law and the surrogate's court procedure act, in relation to suspension and revocation of firearms licenses; private sale or disposal of firearms, rifles or shotguns and establishing a minimum age to possess a firearm; to amend the family court act, the domestic relations law and the criminal procedure law, in relation to providing for the mandatory suspension or revocation of the firearms license of a person against whom an order of protection or a temporary order of protection has been issued under certain circumstances, or upon violation of any such order; to amend the penal law, in relation to community guns and the criminal sale of a firearm and in relation to the definitions of aggravated and first degree murder; to amend chapter 408 of the laws of 1999 constituting Kendra's Law, in relation to extending the expiration thereof; and to amend the education law, in relation to the New York state school safety improvement teams; and in relation to building aid for metal detectors and safety devices**

**Purpose:**

This legislation will protect New Yorkers by reducing the availability of assault weapons and deterring the criminal use of firearms while promoting a fair, consistent and efficient method of ensuring that sportsmen and other legal gun owners have full enjoyment of the guns to which they are entitled. A thoughtful network of laws provides the toughest, most comprehensive and balanced answer in the nation to gun violence. Through this legislation, New York is the first in the nation to completely ban all pre-1994 high capacity magazines; to ban any magazine that holds more than seven rounds (rather



Case 1:13-cv-00291-WMS Document 74-5 Filed 06/21/13 Page 2 of 9

than a limit of ten) and to both track ammunition purchases in real time to permit alerts on high volume buyers, while also checking on the buyer's background.

In a range of reforms the bill attends to the weaknesses in the state's current regulatory structure to bring a consistency and rationality that must be the cornerstone of a safe society. A single standard across the State will ensure that legal gun owners obtain their licenses expeditiously while those prohibited are denied that privilege. A statewide database will keep the registry current and guard against the dangerous or unstable possessing guns. New rules will close a loophole that excludes private sales of guns from a federal background check; tighten provisions governing gun ownership by persons with serious mental illness; require safe storage of guns for gun owners who live with someone who has been convicted of certain crimes, is under an order of protection, or who has been involuntarily committed as a result of a mental illness. The bill also creates new and enhanced penalties for illegal gun use, and enhances protections for victims of domestic violence by requiring the firearm surrenders and gun license suspension and revocation in cases where an order of protection has been issued.

#### **Summary of Provisions:**

##### **Assault Weapons**

Section 37 of the bill amends Penal Law § 265.00(22) in order to strengthen New York's assault weapon ban, expanding its reach and making it easier to enforce. The proposed amendments replace the existing ban consisting of and a "two-feature" test adopted from the now-expired federal assault weapons ban with a clearer "one-feature" test. The "two-feature" test bans any gun that is semi-automatic, has a detachable magazine (in the case of pistols and rifles), and possesses two features that are commonly associated with military weapons. The "one-feature" test would ban semi-automatic guns with detachable magazines that possess one feature commonly associated with military weapons. This section also adds to the list of "features" that characterize a banned weapon.

Within one year of the effective date, all weapons defined as assault weapons under the new "one-feature" test, as well as weapons grandfathered in under the original assault weapons ban, must be registered. Current owners of these banned weapons may transfer the weapons only to a firearms dealer or transfer to an out of state buyer. All registered owners will be subject to a review of disqualifiers by the State Police.

##### **Ammunition**

Section 38 of the bill amends Penal Law § 265.00(23) to ban all large capacity magazines that have the capacity to hold more than ten rounds of ammunition including those that were grandfathered in under the original assault weapons ban and creates a new ban on magazines that hold more than seven rounds of ammunition. Magazines that can hold more than seven rounds but not more than ten rounds and are currently possessed will be grandfathered in, but may only contain seven rounds of ammunition. Exceptions are made for large capacity magazines that are curios or relics.

Case 1:13-cv-00291-WMS Document 74-5 Filed 06/21/13 Page 3 of 9

Section 39 also adds a new section to Penal Law § 265.00 to define seller of ammunition.

Section 50 of the bill enhances control over sales of ammunition by adding a new Penal Law § 400.03 requiring (1) that sellers of ammunition register with the superintendent of the State police (2) that prior to a sale of ammunition, a seller must run the buyer through a State-created review of disqualifiers to ensure that the buyer is not prohibited by law from possessing ammunition, and (3) that ammunition sales are electronically accessible to the State. In addition, to prevent from purchasing ammunition, the bill requires that any ammunition sold commercially must be conducted by a seller that can perform a background check.

### **Licensing**

Section 49 creates a new Penal Law § 400.02 establishing a statewide gun license and record database. Section 18 amends Section 212 of the Judiciary Law to require that records submitted to the Federal Bureau of Investigation regarding individuals for whom a guardian has been appointed be transmitted to the State and checked against the statewide gun license and record database.

Several sections of the bill strengthen statutory provisions related to the licensing of firearms, shotguns, and rifles. Section 1 amends Criminal Procedure Law (CPL) § 330.20 to require the revocation of any gun license from and the surrender of any gun by a defendant upon an entry of a verdict of not responsible by reason of mental disease or defect, upon the acceptance of a plea of not responsible by reason of mental disease or defect, or upon a finding that a defendant is an incapacitated person pursuant to the CPL. Section 2 adds a new section to the CPL that requires a sentencing judge to demand surrender of a gun license or registration and all guns possessed by the defendant upon judgment of conviction for an offense that requires the seizure of a gun and the revocation of a gun license or registration. Sections 4 through 16 amend the Family Court Act, the Domestic Relations Law and the CPL to require, under certain circumstances, the mandatory suspension or revocation of the firearms license of a person against whom an order of protection or a temporary order of protection has been issued.

Section 48 of the bill amends the Penal Law to require that every county recertify a gun license holder's license every five years. Failure to recertify during this five year period equates to revocation of the license. The section also adds bases for denial of a license to an applicant, including connection of a felony or serious offense, being presently subject to an order of protection; and expands the criteria for denial based on an applicant's history of mental illness.

### **Private Sales**

Under current New York law, background checks on gun purchasers are required for all purchases of guns from gun dealers and at gun shows. Section 17 will expand this requirement by adding a new article to the General Business Law requiring background checks to be completed for all gun sales, except for immediate family. Thus private sellers may transfer a gun only if the buyer has obtained a federal "NICS" check. Further, dealers

Case 1:13-cv-00291-WMS Document 74-5 Filed 06/21/13 Page 4 of 9

must maintain records of private sale background checks, and private sellers may charge a fee of up to \$10 on a transaction. Transfers between immediate family members will be exempt from the requirements of this section.

### **Safe Storage**

To prevent, among other things, unauthorized and unlicensed use of guns, section 47 of the bill adds a new Penal Law § 265.45 establishing safe storage requirements for rifles, shotguns and firearms. Under this new section, a gun owner who lives with someone who the owner has reason to know is prohibited from possessing a gun because the prohibited person has been convicted of a crime punishable by a term of imprisonment exceeding one year, has been adjudicated mentally defective or committed to a mental institution, is subject to a court order of protection or has been convicted of a misdemeanor crime of domestic violence whose sentence has been completed in the last five years must, when the gun is out of the owner's immediate control, keep the gun secured in a safe storage depository (for example, a safe or similar secure container with a lock that can be opened only with a key or combination, or other locking mechanism) or render it incapable of being fired by putting a safety lock on the gun.

### **Provisions Related to Persons with Mental Illness**

Amendments to the Mental Hygiene Law will help ensure that persons who are mentally ill and dangerous cannot retain or obtain a firearm. First, mental health records that are currently sent to NIDCS for a federal background check will also be housed in a New York State database. A new Section 9.46 of the Mental Hygiene Law will require mental health professionals, in the exercise of reasonable professional judgment, to report if an individual they are treating is likely to engage in conduct that will cause serious harm to him- or herself or others. A good faith decision about whether to report will not be a basis for any criminal or civil liability. When a Section 9.46 report is made, the Division of Criminal Justice Services will determine whether the person possesses a firearms license and, if so, will notify the appropriate local licensing official, who must suspend the license. The person's firearms will then be removed.

The bill extends Kendra's Law through 2017 and amends the law by: extending the duration of the initial assisted out-patient treatment order from 6 months to one year; requiring a review before the assisted out-patient treatment order for a mentally ill inmate is terminated; requiring an assisted out-patient treatment order to follow a person from one county to another if he or she changes residence; and will require the Office of Mental Hygiene (OMH) to conduct an assisted out-patient treatment assessment with a state prisoner is being discharged to the community from and OHM hospital.

### **New and Enhanced Criminal Penalties**

Several sections of the bill create new and enhanced penalties for illegal gun use. Sections 33 through 36, known as "Mark's Law," will include the intentional murder of certain first responders in the Class A-I felonies of murder in the first degree and

Case 1:13-cv-00291-WMS Document 74-5 Filed 06/21/13 Page 5 of 9

aggravated murder. The mandatory penalty for a conviction of aggravated murder is life without parole.

A new Penal Law Section 460.22, aggravated enterprise corruption, recognizes the significant threat to public safety posed by organized violent gangs and their illegal purchases of weapons by creating an A-1 felony for cases when members of the enterprise commit certain combinations of offenses. Those combinations are: first, a pattern of criminal activity that constitutes Class B felonies or higher, and at least two of those acts are armed felonies; or second, one act is a Class B violent felony and two acts constitute a violation of the newly added Section 265.17 (3) which prohibits the purchase on behalf of or disposal of a weapon to an individual who is prohibited by law from possessing such a weapon. This provision also addresses the issue of "straw purchasers" where individuals who are not prohibited by law to purchase weapons do so for others, for example, gang members who may not possess a weapon because of a prior conviction or other disability under law.

Section 41 increases the penalty for possession of a firearm on school grounds or on a school bus from a misdemeanor to a Class E Felony. Section 41-a creates a new subdivision of criminal possession of a weapon in the third degree, a Class D violent felony, when a person possesses an unloaded firearm and also commits a drug trafficking felony or possesses an unloaded firearm and also commits any violent felony as part of the same criminal transaction. The mandatory minimum sentence for these new Class D felonies is a three and one-half year determinate sentence, although the court may consider mitigating factors and impose a lesser sentence in some limited circumstances involving drug trafficking.

Section 45 creates the crime of aggravated criminal possession of a weapon, a Class C felony, which is committed when one possesses a loaded firearm under § 255.03 of the Penal Law and also commits any violent felony offense or a drug trafficking felony. The minimum mandatory sentence is 5 years.

Section 32 amends Penal Law § 120.05 by adding a new subdivision 4-a to create the crime of assault in the second degree when a person recklessly causes physical injury to a child by the intentional discharge of a firearm, rifle or shotgun.

Section 43 amends Penal Law § 265.17 to include criminal sale or disposal of a weapon by providing a firearm, rifle or shotgun to a person knowing he or she is prohibited by law from possessing such firearm, rifle or shotgun. The penalty is raised from a Class A misdemeanor to a Class D felony.

Section 31 adds Penal Law § 115.20 making it a Class A misdemeanor to make available, sell, exchange, give or dispose of a community gun that aids a person in committing a crime. A community gun is defined as one that is made available to among or between two or more persons at least one of whom is not authorized pursuant to law to possess such firearm.

### **Safer Schools**

The bill adds a new Section 2801-b to the Education Law to establish New York State School Safety Improvement Teams to review, assess, and make recommendations on School Safety Plans submitted by school districts on a voluntary basis.

Section 3602 of the Education Law is amended to allow school districts that purchase various security devices included in their School Safety Plans to receive state building aid reimbursement at a rate ten percent higher than their current building aid ratio.

Section 55 is the severability clause, and Section 56 establishes the effective date.

### **Existing Law:**

This bill amends the Correction Law, the Criminal Procedure Law, the Domestic Relations Law, the Executive Law, the Family Court Act, the General Business Law, the Judiciary Law, Kendra's Law (Section 18 of Chapter 408 of the Laws of 1999, as amended by Chapter 139 of the Laws of 2010), the Mental Hygiene Law, the Penal Law, and the Surrogates Court Act.

### **Statement in Support:**

In the wrong hands, guns are weapons of untold destruction and heartbreak: family and community members are taken from us in an instant; mass shootings shatter our sense of safety in public spaces; street crimes plague our neighborhoods. Nationwide, gun violence claims over 30,000 lives annually.

While the Second Amendment protects the right to keep and bear arms, the Supreme Court has said that that right is "not unlimited." District of Columbia v. Heller, 554 U.S. 570, 595, 626 (2008). In the Heller case, the Supreme Court explained, "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms." 554 U.S. at 626-27. The Court also recognized there is a "historical tradition of prohibiting the carrying of 'dangerous and unusual' weapons." Id. This piece of legislation heeds the guidance of the Supreme Court by refining and improving the assault weapon ban and increasing the safety of New Yorkers while observing the protections of the Second Amendment.

Some weapons are so dangerous and some ammunition devices so lethal that we simply cannot afford to continue selling them in our state. Assault weapons that have military-style features unnecessary for hunting and sporting purposes are this kind of weapon. The test adopted in this legislation is intended to bring a simplicity of definition focusing on the lethality of the weapon, amplified by the particular features. Given the difficulty of maintaining a list of guns that keeps pace with changes in weapon design, the one-feature test is a more comprehensive means for addressing these dangerous weapons.

### **Ammunition**

The state's previous ban against high capacity magazines faltered because it was impossible to tell the difference between magazines manufactured before or after the effective date of the ban. This bill prohibits possession of all magazines with the capacity to contain more than ten rounds, regardless of the date of manufacture. Going forward, individuals will only be able to obtain magazines that can contain up to seven rounds. Those who currently possess magazines that can contain more than seven rounds will only be permitted to maintain up to seven rounds in such magazines.

The new law also provides a mechanism to identify individual who purchase unusually high volumes of ammunition, either in person or over the Internet. Sellers must run the buyer's name through a State database modeled after the federal "NICS" database to ensure the buyer is not prohibited by law from possessing ammunition. Ammunition sellers are also required to electronically file with the State records of each ammunition sale, including amount sold.

In order to prevent circumvention of these new controls, this bill requires that any seller—whether located in New York or out of state—ship the ammunition to a dealer within New York for in-person pick-up. The dealer is required to maintain records of the ammunition sale and to perform a State review of disqualifiers. Direct shipment of ammunition without a face-to-face transaction prevents a seller from being able to adequately confirm the identity of a buyer through the in-person inspection of a valid photo ID. Without adequate confirmation of a buyer's identity, the benefits of background checks and record keeping are completely circumvented. A law requiring all ammunition sales to culminate in a face-to-face transfer, thereby allowing for effective confirmation of purchaser identity and corresponding background check, is consistent with this scheme.

### **Licensing**

Currently in New York State, outside of New York City, Westchester, Nassau and Suffolk Counties, a gun license never expires. Lack of a renewal procedure means there is no periodic review of a licensee's qualifications. Thus, if a license holder becomes disqualified from carrying a gun subsequent to obtaining a license, he or she will likely retain the license. This law requires every license holder to recertify the licensee's gun license every five years. Failure of a licensee to have his or her license recertified will result in revocation of the license.

In addition, in order to ensure that legal gun license holders receive their licenses as swiftly as possible and to ensure the swift and accurate ability to match license holders with disqualifying events such as a felony conviction, the bill establishes an electronic license and record database. The electronic database will permit regular matching by the State against records of prohibited persons (e.g., those with criminal histories, orders of protection, and mental illnesses that bar gun ownership and licensing) as well as against other databases such as death records to ensure that New York's license records are up to date.

Furthermore, orders of protection are intended to protect victims of domestic violence from their abusers and prevent violent crimes from occurring. This bill enhances protections for victims of domestic violence by strengthening the provisions regarding the possession and surrender of firearms and the suspension and revocation of, and ineligibility for, licenses by individuals who are the respondents in an order of protection. The bill makes changes to the Family Court Act to conform to the 2007 amendments made to the CPL.

### **Private Gun Sales**

Under current New York law, background checks on purchasers are required for all purchases of guns from gun dealers and at gun shows, however, individuals that purchase guns through private sellers are not required to undergo background checks. This bill requires background checks for all gun sales, including private sales, ensuring that otherwise disqualified individuals cannot circumvent the law by obtaining guns buying from a private seller.

### **Safe Storage**

To prevent unauthorized possession and use of guns, this bill requires anyone who owns a gun or who lives with someone who the owner has reason to know is disqualified from possessing a gun under certain provisions of federal law to secure any gun in a safe storage depository or render it incapable of being fired by putting a safety lock on the gun if it is to be outside the owner's direct control.

### **Persons with Mental Illness**

This bill adds provisions to revoke or suspend licenses of individuals with mental illness who, in the opinion of mental health professionals would pose a danger to themselves or others should they possess guns. The bill also extends and expands Kendra's Law to provide additional out-patient treatment services to persons with mental illness.

### **New and Enhanced Criminal Penalties**

The new and amended sections of the Penal Law are focused on the methods by which gun violence is often carried out in our communities, giving law enforcement better tools to punish and deter such conduct. As the presence of illegal guns on our streets endangers the welfare of entire communities, these provisions ensure appropriate penalties for making guns available to prohibited persons, as well as putting our children at risk by, among other dangerous and illegal activities, possessing guns near school grounds. In addition, recognizing the widespread violence caused by gang activity, the bill establishes penalties for participation in gang activity resulting in the commission of a violent crime.

The bill also contains new provisions acknowledging the danger that our first responders face every day as they protect other New Yorkers by establishing an enhanced

Case 1:13-cv-00291-WMS Document 74-5 Filed 06/21/13 Page 9 of 9

penalty for knowingly causing the death of a first responder in the course of his or her duties.

**Legislative History:**

New proposal.

**Budget Implications:**

Any costs related to this bill will be paid out of the Division of State Police capital budget.

**Effective Date:**

The bill will take effect immediately except where otherwise provided.



RETRIEVE BILL

Page 1 of 8

Case 1:13-cv-00291-WMS Document 74-6 Filed 06/21/13 Page 1 of 8

**NEW YORK STATE ASSEMBLY  
MEMORANDUM IN SUPPORT OF LEGISLATION  
submitted in accordance with Assembly Rule III, Sec 1(f)**

**BILL NUMBER:** A2388

**SPONSOR:** Silver (MS)

**TITLE OF BILL:**

An act to amend the criminal procedure law, the correction law, the family court act, the executive law, the general business law, the judiciary law, the mental hygiene law, the penal law and the surrogate's court procedure act, in relation to suspension and revocation of firearms licenses; private sale or disposal of firearms, rifles or shot-guns and establishing a minimum age to possess a firearm; to amend the family court act, the domestic relations law and the criminal procedure law, in relation to providing for the mandatory suspension or revocation of the firearms license of a person against whom an order of protection or a temporary order of protection has been issued under certain circumstances, or upon violation of any such order; to amend the penal law, in relation to community guns and the criminal sale of a firearm and in relation to the definitions of aggravated and first degree murder; to amend chapter 408 of the laws of 1999 constituting Kendra's Law, in relation to extending the expiration thereof; and to amend the education law, in relation to the New York state school safety improvement teams; and in relation to building aid for metal detectors and safety devices

**PURPOSE:**

This legislation will protect New Yorkers by reducing the availability of assault weapons and deterring the criminal use of firearms while promoting a fair, consistent and efficient method of ensuring that sportsmen and other legal gun owners have full enjoyment of the guns to which they are entitled. A thoughtful network of laws provides the toughest, most comprehensive and balanced answer in the nation to gun violence. Through this legislation, New York is the first in the nation to completely ban all pre-1994 high capacity magazines; to ban any magazine that holds more than seven rounds (rather than a limit of ten) and to both track ammunition purchases in real time to permit alerts on high volume buyers, while also checking on the buyer's background.

In a range of reforms the bill attends to the weaknesses in the state's current regulatory structure to bring a consistency and rationality that must be the cornerstone of a safe society. A single standard across the State will ensure that legal gun owners obtain their licenses expeditiously while those prohibited are denied that privilege. A state-wide database will keep the registry current and guard against the dangerous or unstable possessing guns. New rules will close a loophole that excludes private sales of guns from a federal background check; tighten provisions governing gun ownership by persons with serious mental illness; require safe storage of guns for gun owners who live with someone who has been convicted of certain crimes, is under an order of protection, or who has been involuntarily committed as a result of a mental illness. The bill also creates new and enhanced penalties for illegal gun use, and enhances protections for victims of domestic violence by requiring the firearm surrenders and gun license suspension and revocation in cases where an order of protection has been issued.

RETRIEVE BILL

Page 2 of 8

Case 1:13-cv-00291-WMS Document 74-6 Filed 06/21/13 Page 2 of 8

SUMMARY OF PROVISIONS:

## Assault Weapons

Section 37 of the bill amends Penal Law § 265.00(22) in order to strengthen New York's assault weapon ban, expanding its reach and making it easier to enforce. The proposed amendments replace the existing ban consisting of and a "two-feature" test adopted from the now-expired federal assault weapons ban with a clearer "one-feature" test. The "two-feature" test bans any gun that is semi-automatic, has a detachable magazine (in the case of pistols and rifles), and possesses two features that are commonly associated with military weapons. The "one-feature" test would ban semi-automatic guns with detachable magazines that possess one feature commonly associated with military weapons. This section also adds to the list of "features" that characterize a banned weapon.

Within one year of the effective date, all weapons defined as assault weapons under the new "one-feature" test, as well as weapons grandfathered in under the original assault weapons ban, must be registered. Current owners of these banned weapons may transfer the weapons only to a firearms dealer or transfer to an out of state buyer. All registered owners will be subject to a review of disqualifiers by the State Police.

## Ammunition

Section 38 of the bill amends Penal Law § 265.00(23) to ban all large capacity magazines that have the capacity to hold more than ten rounds of ammunition including those that were grandfathered in under the original assault weapons ban and creates a new ban on magazines that hold more than seven rounds of ammunition. Magazines that can hold more than seven rounds but not more than ten rounds and are currently possessed will be grandfathered in, but may only contain seven rounds of ammunition. Exceptions are made for large capacity magazines that are curios or relics.

Section 39 also adds a new section to Penal Law § 265.00 to define seller of ammunition.

Section 50 of the bill enhances control over sales of ammunition by adding a new Penal Law § 400.03 requiring (1) that sellers of ammunition register with the superintendent of the State police (2) that prior to a sale of ammunition, a seller must run the buyer through a State-created review of disqualifiers to ensure that the buyer is not prohibited by law from possessing ammunition, and (3) that ammunition sales are electronically accessible to the State. In addition, to prevent from purchasing ammunition, the bill requires that any ammunition sold commercially must be conducted by a seller that can perform a background check.

## Licensing

Section 49 creates a new Penal Law § 400.02 establishing a statewide gun license and record database. Section 18 amends Section 212 of the Judiciary Law to require that records submitted to the Federal Bureau of Investigation regarding individuals for whom a guardian has been appointed be transmitted to the State and checked against the statewide gun license and record database.

Several sections of the bill strengthen statutory provisions related to the licensing of firearms, shotguns, and rifles. Section 1 amends Criminal Procedure Law (CPL) § 330.20 to require the revocation of any gun license from and the surrender of any gun by a defendant upon an

RETRIEVE BILL

Page 3 of 8

Case 1:13-cv-00291-WMS Document 74-6 Filed 06/21/13 Page 3 of 8

entry of a verdict of not responsible by reason of mental disease or defect, upon the acceptance of a plea of not responsible by reason of mental disease or defect, or upon a finding that a defendant is an incapacitated person pursuant to the CPL. Section 2 adds a new section to the CPL that requires a sentencing judge to demand surrender of a gun license or registration and all guns possessed by the defendant upon judgment of conviction for an offense that requires the seizure of a gun and the revocation of a gun license or registration. Sections 4 through 16 amend the Family Court Act, the Domestic Relations Law and the CPL to require, under certain circumstances, the mandatory suspension or revocation of the firearms license of a person against whom an order of protection or a temporary order of protection has been issued.

Section 48 of the bill amends the Penal Law to require that every county recertify a gun license holder's license every five years. Failure to recertify during this five year period equates to revocation of the license. The section also adds bases for denial of a license to an applicant, including connection of a felony or serious offense, being presently subject to an order of protection; and expands the criteria for denial based on an applicant's history of mental illness.

#### Private Sales

Under current New York law, background checks on gun purchasers are required for all purchases of guns from gun dealers and at gun shows. Section 17 will expand this requirement by adding a new article to the General Business Law requiring background checks to be completed for all gun sales, except for immediate family. Thus private sellers may transfer a gun only if the buyer has obtained a federal "NICS" check. Further, dealers must maintain records of private sale background checks, and private sellers may charge a fee of up to \$10 on a transaction. Transfers between immediate family members will be exempt from the requirements of this section.

#### Safe Storage

To prevent, among other things, unauthorized and unlicensed use of guns, section 47 of the bill adds a new Penal Law § 265.45 establishing safe storage requirements for rifles, shotguns and firearms. Under this new section, a gun owner who lives with someone who the owner has reason to know is prohibited from possessing a gun because the prohibited person has been convicted of a crime punishable by a term of imprisonment exceeding one year, has been adjudicated mentally defective or committed to a mental institution, is subject to a court order of protection or has been convicted of a misdemeanor crime of domestic violence whose sentence has been completed in the last five years must, when the gun is out of the owner's immediate control, keep the gun secured in a safe storage depository (for example, a safe or similar secure container with a lock that can be opened only with a key or combination, or other locking mechanism) or render it incapable of being fired by putting a safety lock on the gun.

#### Provisions Related to Persons with Mental Illness

Amendments to the Mental Hygiene Law will help ensure that persons who are mentally ill and dangerous cannot retain or obtain a firearm. First, mental health records that are currently sent to NIDCS for a federal background check will also be housed in a New York State database. A new Section 9.46 of the Mental Hygiene Law will require mental health professionals, in the exercise of reasonable professional judgment, to report if an individual they are treating is likely to engage

RETRIEVE BILL

Page 4 of 8

Case 1:13-cv-00291-WMS Document 74-6 Filed 06/21/13 Page 4 of 8

in conduct that will cause serious harm to him- or herself or others. A good faith decision about whether to report will not be a basis for any criminal or civil liability. When a Section 9.46 report is made, the Division of Criminal Justice Services will determine whether the person possesses a firearms license and, if so, will notify the appropriate local licensing official, who must suspend the license. The person's firearms will then be removed.

The bill extends Kendra's Law through 2017 and amends the law by: extending the duration of the initial assisted out-patient treatment order from 6 months to one year; requiring a review before the assisted out-patient treatment order for a mentally ill inmate is terminated; requiring an assisted out-patient treatment order to follow a person from one county to another if he or she changes residence; and will require the Office of Mental Hygiene (OMH) to conduct an assisted out-patient treatment assessment with a state prisoner is being discharged to the community from and OHM hospital.

#### New and Enhanced Criminal Penalties

Several sections of the bill create new and enhanced penalties for illegal gun use. Sections 33 through 36, known as "Mark's Law," will include the intentional murder of certain first responders in the Class A-1 felonies of murder in the first degree and aggravated murder. The mandatory penalty for a conviction of aggravated murder is life without parole.

A new Penal Law Section 460.22, aggravated enterprise corruption, recognizes the significant threat to public safety posed by organized violent gangs and their illegal purchases of weapons by creating an A-1 felony for cases when members of the enterprise commit certain combinations of offenses. Those combinations are: first, a pattern of criminal activity that constitutes Class B felonies or higher, and at least two of those acts are armed felonies; or second, one act is a Class B violent felony and two acts constitute a violation of the newly added Section 265.17 (3) which prohibits the purchase on behalf of or disposal of a weapon to an individual who is prohibited by law from possessing such a weapon. This provision also addresses the issue of "straw purchasers" where individuals who are not prohibited by law to purchase weapons do so for others, for example, gang members who may not possess a weapon because of a prior conviction or other disability under law.

Section 41 increases the penalty for possession of a firearm on school grounds or on a school bus from a misdemeanor to a Class E Felony. Section 41-a creates a new subdivision of criminal possession of a weapon in the third degree, a Class D violent felony, when a person possesses an unloaded firearm and also commits a drug trafficking felony or possesses an unloaded firearm and also commits any violent felony as part of the same criminal transaction. The mandatory minimum sentence for these new Class D felonies is a three and one-half year determinate sentence, although the court may consider mitigating factors and impose a lesser sentence in some limited circumstances involving drug trafficking.

Section 45 creates the crime of aggravated criminal possession of a weapon, a Class C felony, which is committed when one possesses a loaded firearm under § 255.03 of the Penal Law and also commits any violent felony offense or a drug trafficking felony. The minimum mandatory sentence is 5 years.

Section 32 amends Penal Law § 120.05 by adding a new subdivision 4-a to create the crime of assault in the second degree when a person recklessly causes physical injury to a child by the intentional discharge of a firearm, rifle or shotgun.

Section 43 amends Penal Law § 265.17 to include criminal sale or

RETRIEVE BILL

Page 5 of 8

Case 1:13-cv-00291-WMS Document 74-6 Filed 06/21/13 Page 5 of 8

disposal of a weapon by providing a firearm, rifle or shotgun to a person knowing he or she is prohibited by law from possessing such

firearm, rifle or shotgun. The penalty is raised from a Class A misdemeanor to a Class D felony.

Section 31 adds Penal Law § 115.20 making it a Class A misdemeanor to make available, sell, exchange, give or dispose of a community gun that aids a person in committing a crime. A community gun is defined as one that is made available to among or between two or more persons at least one of whom is not authorized pursuant to law to possess such firearm.

#### Safer Schools

The bill adds a new Section 2801-b to the Education Law to establish New York State School Safety Improvement Teams to review, assess, and make recommendations on School Safety Plans submitted by school districts on a voluntary basis. Section 3602 of the Education Law is amended to allow school districts that purchase various security devices included in their School Safety Plans to receive state building aid reimbursement at a rate ten percent higher than their current building aid ratio. Section 55 is the severability clause, and Section 56 establishes the effective date.

#### EXISTING LAW:

This bill amends the Correction Law, the Criminal Procedure Law, the Domestic Relations Law, the Executive Law, the Family Court Act, the General Business Law, the Judiciary Law, Kendra's Law (Section 18 of Chapter 408 of the Laws of 1999, as amended by Chapter 139 of the Laws of 2010), the Mental Hygiene Law, the Penal Law, and the Surrogates Court Act.

#### STATEMENT IN SUPPORT:

In the wrong hands, guns are weapons of untold destruction and heart-break: family and community members are taken from us in an instant; mass shootings shatter our sense of safety in public spaces; street crimes plague our neighborhoods. Nationwide, gun violence claims over 30,000 lives annually.

While the Second Amendment protects the right to keep and bear arms, the Supreme Court has said that that right is "not unlimited." *District of Columbia v. Heller*, 554 U.S. 570, 595, 626 (2008). In the *Heller* case, the Supreme Court explained, "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms." 554 U.S. at 626-27. The Court also recognized there is a "historical tradition of prohibiting the carrying of 'dangerous and unusual' weapons." *Id.* This piece of legislation heeds the guidance of the Supreme Court by refining and improving the assault weapon ban and increasing the safety of New Yorkers while observing the protections of the Second Amendment.

Some weapons are so dangerous and some ammunition devices so lethal that we simply cannot afford to continue selling them in our state. Assault weapons that have military-style features unnecessary for hunting and sporting purposes are this kind of weapon. The test adopted in this legislation is intended to bring a simplicity of definition focusing on the lethality of the weapon, amplified by the particular features. Given the difficulty of maintaining a list of guns that keeps

RETRIEVE BILL

Page 6 of 8

Case 1:13-cv-00291-WMS Document 74-6 Filed 06/21/13 Page 6 of 8

pace with changes in weapon design, the one-feature test is a more comprehensive means for addressing these dangerous weapons.

#### Ammunition

The state's previous ban against high capacity magazines faltered because it was impossible to tell the difference between magazines manufactured before or after the effective date of the ban. This bill prohibits possession of all magazines with the capacity to contain more than ten rounds, regardless of the date of manufacture. Going forward, individuals will only be able to obtain magazines that can contain up to seven rounds. Those who currently possess magazines that can contain more than seven rounds will only be permitted to maintain up to seven rounds in such magazines.

The new law also provides a mechanism to identify individual who purchase unusually high volumes of ammunition, either in person or over the Internet. Sellers must run the buyer's name through a State database modeled after the federal "NICS" database to ensure the buyer is not prohibited by law from possessing ammunition. Ammunition sellers are also required to electronically file with the State records of each ammunition sale, including amount sold.

In order to prevent circumvention of these new controls, this bill requires that any seller--whether located in New York or out of state--ship the ammunition to a dealer within New York for in-person pick-up. The dealer is required to maintain records of the ammunition sale and to perform a State review of disqualifiers. Direct shipment of ammunition without a face-to-face transaction prevents a seller from being able to adequately confirm the identity of a buyer through the in-person inspection of a valid photo ID. Without adequate confirmation of a buyer's identity, the benefits of background checks and record keeping are completely circumvented. A law requiring all ammunition sales to culminate in a face-to-face transfer, thereby allowing for effective confirmation of purchaser identity and corresponding background check, is consistent with this scheme.

#### Licensing

Currently in New York State, outside of New York City, Westchester, Nassau and Suffolk Counties, a gun license never expires. Lack of a renewal procedure means there is no periodic review of a licensee's qualifications. Thus, if a license holder becomes disqualified from carrying a gun subsequent to obtaining a license, he or she will likely retain the license. This law requires every license holder to recertify the licensee's gun license every five years. Failure of a licensee to have his or her license recertified will result in revocation of the license.

In addition, in order to ensure that legal gun license holders receive their licenses as swiftly as possible and to ensure the swift and accurate ability to match license holders with disqualifying events such as a felony conviction, the bill establishes an electronic license and record database. The electronic database will permit regular matching by the State against records of prohibited persons (e.g., those with criminal histories, orders of protection, and mental illnesses that bar gun ownership and licensing) as well as against other databases such as death records to ensure that New York's license records are up to date.

Furthermore, orders of protection are intended to protect victims of domestic violence from their abusers and prevent violent crimes from occurring. This bill enhances protections for victims of domestic violence by strengthening the provisions regarding the possession and surrender of firearms and the suspension and revocation of, and inelig-

RETRIEVE BILL

Page 7 of 8

Case 1:13-cv-00291-WMS Document 74-6 Filed 06/21/13 Page 7 of 8

bility for, licenses by individuals who are the respondents in an order of protection. The bill makes changes to the Family Court Act to conform to the 2007 amendments made to the CPL.

#### Private Gun Sales

Under current New York law, background checks on purchasers are required for all purchases of guns from gun dealers and at gun shows, however, individuals that purchase guns through private sellers are not required to undergo background checks. This bill requires background checks for all gun sales, including private sales, ensuring that otherwise disqualified individuals cannot circumvent the law by obtaining guns buying from a private seller.

#### Safe Storage

To prevent unauthorized possession and use of guns, this bill requires anyone who owns a gun or who lives with someone who the owner has reason to know is disqualified from possessing a gun under certain provisions of federal law to secure any gun in a safe storage depository or render it incapable of being fired by putting a safety lock on the gun if it is to be outside the owner's direct control.

#### Persons with Mental Illness

This bill adds provisions to revoke or suspend licenses of individuals with mental illness who, in the opinion of mental health professionals would pose a danger to themselves or others should they possess guns. The bill also extends and expands Kendra's Law to provide additional out-patient treatment services to persons with mental illness.

#### New and Enhanced Criminal Penalties

The new and amended sections of the Penal Law are focused on the methods by which gun violence is often carried out in our communities, giving law enforcement better tools to punish and deter such conduct. As the presence of illegal guns on our streets endangers the welfare of entire communities, these provisions ensure appropriate penalties for making guns available to prohibited persons, as well as putting our children at risk by, among other dangerous and illegal activities, possessing guns near school grounds. In addition, recognizing the widespread violence caused by gang activity, the bill establishes penalties for participation in gang activity resulting in the commission of a violent crime.

The bill also contains new provisions acknowledging the danger that our first responders face every day as they protect other New Yorkers by establishing an enhanced penalty for knowingly causing the death of a first responder in the course of his or her duties.

#### LEGISLATIVE HISTORY:

New proposal.

#### BUDGET IMPLICATIONS:

Any costs related to this bill will be paid out of the Division of State Police capital budget.

#### EFFECTIVE DATE:

**A-679**

RETRIEVE BILL

Page 8 of 8

Case 1:13-cv-00291-WMS Document 74-6 Filed 06/21/13 Page 8 of 8

The bill will take effect immediately except where otherwise provided.

---



RETRIEVE BILL

Page 1 of 8

Case 1:13-cv-00291-WMS Document 74-7 Filed 06/21/13 Page 1 of 8

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S2230

**SPONSOR:** KLEIN

**TITLE OF BILL:**

An act to amend the criminal procedure law, the correction law, the family court act, the executive law, the general business law, the judiciary law, the mental hygiene law, the penal law and the surrogate's court procedure act, in relation to suspension and revocation of firearms licenses; private sale or disposal of firearms, rifles or shot-guns and establishing a minimum age to possess a firearm; to amend the family court act, the domestic relations law and the criminal procedure law, in relation to providing for the mandatory suspension or revocation of the firearms license of a person against whom an order of protection or a temporary order of protection has been issued under certain circumstances, or upon violation of any such order; to amend the penal law, in relation to community guns and the criminal sale of a firearm and in relation to the definitions of aggravated and first degree murder; to amend chapter 408 of the laws of 1999 constituting Kendra's Law, in relation to extending the expiration thereof; and to amend the education law, in relation to the New York state school safety improvement teams; and in relation to building aid for metal detectors and safety devices

**PURPOSE:**

This legislation will protect New Yorkers by reducing the availability of assault weapons and deterring the criminal use of firearms while promoting a fair, consistent and efficient method of ensuring that sportsmen and other legal gun owners have full enjoyment of the guns to which they are entitled. A thoughtful network of laws provides the toughest, most comprehensive and balanced answer in the nation to gun violence. Through this legislation, New York is the first in the nation to completely ban all pre-1994 high capacity magazines; to ban any magazine that holds more than seven rounds (rather than a limit of ten) and to both track ammunition purchases in real time to permit alerts on high volume buyers, while also checking on the buyer's background.

In a range of reforms the bill attends to the weaknesses in the state's current regulatory structure to bring a consistency and rationality that must be the cornerstone of a safe society. A single standard across the State will ensure that legal gun owners obtain their licenses expeditiously while those prohibited are denied that privilege. A state-wide database will keep the registry current and guard against the dangerous or unstable possessing guns. New rules will close a loophole that excludes private sales of guns from a federal background check; tighten provisions governing gun ownership by persons with serious mental illness; require safe storage of guns for gun owners who live with someone who has been convicted of certain crimes, is under an order of protection, or who has been involuntarily committed as a result of a mental illness. The bill also creates new and enhanced penalties for illegal gun use, and enhances protections for victims of domestic violence by requiring the firearm surrenders and gun license suspension and revocation in cases where an order of protection has been issued.

RETRIEVE BILL

Page 2 of 8

Case 1:13-cv-00291-WMS Document 74-7 Filed 06/21/13 Page 2 of 8

SUMMARY OF PROVISIONS:

## Assault Weapons

Section 37 of the bill amends Penal Law § 265.00(22) in order to strengthen New York's assault weapon ban, expanding its reach and making it easier to enforce. The proposed amendments replace the existing ban consisting of and a "two-feature" test adopted from the now-expired federal assault weapons ban with a clearer "one-feature" test. The "two-feature" test bans any gun that is semi-automatic, has a detachable magazine (in the case of pistols and rifles), and possesses two features that are commonly associated with military weapons. The "one-feature" test would ban semi-automatic guns with detachable magazines that possess one feature commonly associated with military weapons. This section also adds to the list of "features" that characterize a banned weapon.

Within one year of the effective date, all weapons defined as assault weapons under the new "one-feature" test, as well as weapons grandfathered in under the original assault weapons ban, must be registered. Current owners of these banned weapons may transfer the weapons only to a firearms dealer or transfer to an out of state buyer. All registered owners will be subject to a review of disqualifiers by the State Police.

## Ammunition

Section 38 of the bill amends Penal Law § 265.00(23) to ban all large capacity magazines that have the capacity to hold more than ten rounds of ammunition including those that were grandfathered in under the original assault weapons ban and creates a new ban on magazines that hold more than seven rounds of ammunition. Magazines that can hold more than seven rounds but not more than ten rounds and are currently possessed will be grandfathered in, but may only contain seven rounds of ammunition. Exceptions are made for large capacity magazines that are curios or relics.

Section 39 also adds a new section to Penal Law § 265.00 to define seller of ammunition.

Section 50 of the bill enhances control over sales of ammunition by adding a new Penal Law § 400.03 requiring (1) that sellers of ammunition register with the superintendent of the State police (2) that prior to a sale of ammunition, a seller must run the buyer through a State-created review of disqualifiers to ensure that the buyer is not prohibited by law from possessing ammunition, and (3) that ammunition sales are electronically accessible to the State. In addition, to prevent from purchasing ammunition, the bill requires that any ammunition sold commercially must be conducted by a seller that can perform a background check.

## Licensing

Section 49 creates a new Penal Law § 400.02 establishing a statewide gun license and record database. Section 18 amends Section 212 of the Judiciary Law to require that records submitted to the Federal Bureau of Investigation regarding individuals for whom a guardian has been appointed be transmitted to the State and checked against the statewide gun license and record database.

Several sections of the bill strengthen statutory provisions related to the licensing of firearms, shotguns, and rifles. Section 1 amends Criminal Procedure Law (CPL) § 330.20 to require the revocation of any gun license from and the surrender of any gun by a defendant upon an

RETRIEVE BILL

Page 3 of 8

Case 1:13-cv-00291-WMS Document 74-7 Filed 06/21/13 Page 3 of 8

entry of a verdict of not responsible by reason of mental disease or defect, upon the acceptance of a plea of not responsible by reason of mental disease or defect, or upon a finding that a defendant is an incapacitated person pursuant to the CPL. Section 2 adds a new section to the CPL that requires a sentencing judge to demand surrender of a gun license or registration and all guns possessed by the defendant upon judgment of conviction for an offense that requires the seizure of a gun and the revocation of a gun license or registration. Sections 4 through 16 amend the Family Court Act, the Domestic Relations Law and the CPL to require, under certain circumstances, the mandatory suspension or revocation of the firearms license of a person against whom an order of protection or a temporary order of protection has been issued.

Section 48 of the bill amends the Penal Law to require that every county recertify a gun license holder's license every five years. Failure to recertify during this five year period equates to revocation of the license. The section also adds bases for denial of a license to an applicant, including connection of a felony or serious offense, being presently subject to an order of protection; and expands the criteria for denial based on an applicant's history of mental illness.

#### Private Sales

Under current New York law, background checks on gun purchasers are required for all purchases of guns from gun dealers and at gun shows. Section 17 will expand this requirement by adding a new article to the General Business Law requiring background checks to be completed for all gun sales, except for immediate family. Thus private sellers may transfer a gun only if the buyer has obtained a federal "NICS" check. Further, dealers must maintain records of private sale background checks, and private sellers may charge a fee of up to \$10 on a transaction. Transfers between immediate family members will be exempt from the requirements of this section.

#### Safe Storage

To prevent, among other things, unauthorized and unlicensed use of guns, section 47 of the bill adds a new Penal Law § 265.45 establishing safe storage requirements for rifles, shotguns and firearms. Under this new section, a gun owner who lives with someone who the owner has reason to know is prohibited from possessing a gun because the prohibited person has been convicted of a crime punishable by a term of imprisonment exceeding one year, has been adjudicated mentally defective or committed to a mental institution, is subject to a court order of protection or has been convicted of a misdemeanor crime of domestic violence whose sentence has been completed in the last five years must, when the gun is out of the owner's immediate control, keep the gun secured in a safe storage depository (for example, a safe or similar secure container with a lock that can be opened only with a key or combination, or other locking mechanism) or render it incapable of being fired by putting a safety lock on the gun.

#### Provisions Related to Persons with Mental Illness

Amendments to the Mental Hygiene Law will help ensure that persons who are mentally ill and dangerous cannot retain or obtain a firearm. First, mental health records that are currently sent to NIDCS for a federal background check will also be housed in a New York State database. A new Section 9.46 of the Mental Hygiene Law will require mental health professionals, in the exercise of reasonable professional judgment, to report if an individual they are treating is likely to engage

RETRIEVE BILL

Page 4 of 8

Case 1:13-cv-00291-WMS Document 74-7 Filed 06/21/13 Page 4 of 8

in conduct that will cause serious harm to him- or herself or others. A good faith decision about whether to report will not be a basis for any criminal or civil liability. When a Section 9.46 report is made, the Division of Criminal Justice Services will determine whether the person possesses a firearms license and, if so, will notify the appropriate local licensing official, who must suspend the license. The person's firearms will then be removed.

The bill extends Kendra's Law through 2017 and amends the law by: extending the duration of the initial assisted out-patient treatment order from 6 months to one year; requiring a review before the assisted out-patient treatment order for a mentally ill inmate is terminated; requiring an assisted out-patient treatment order to follow a person from one county to another if he or she changes residence; and will require the Office of Mental Hygiene (OMH) to conduct an assisted out-patient treatment assessment with a state prisoner is being discharged to the community from and OHM hospital.

#### New and Enhanced Criminal Penalties

Several sections of the bill create new and enhanced penalties for illegal gun use. Sections 33 through 36, known as "Mark's Law," will include the intentional murder of certain first responders in the Class A-1 felonies of murder in the first degree and aggravated murder. The mandatory penalty for a conviction of aggravated murder is life without parole.

A new Penal Law Section 460.22, aggravated enterprise corruption, recognizes the significant threat to public safety posed by organized violent gangs and their illegal purchases of weapons by creating an A-1 felony for cases when members of the enterprise commit certain combinations of offenses. Those combinations are: first, a pattern of criminal activity that constitutes Class B felonies or higher, and at least two of those acts are armed felonies; or second, one act is a Class B violent felony and two acts constitute a violation of the newly added Section 265.17 (3) which prohibits the purchase on behalf of or disposal of a weapon to an individual who is prohibited by law from possessing such a weapon. This provision also addresses the issue of "straw purchasers" where individuals who are not prohibited by law to purchase weapons do so for others, for example, gang members who may not possess a weapon because of a prior conviction or other disability under law.

Section 41 increases the penalty for possession of a firearm on school grounds or on a school bus from a misdemeanor to a Class E Felony. Section 41-a creates a new subdivision of criminal possession of a weapon in the third degree, a Class D violent felony, when a person possesses an unloaded firearm and also commits a drug trafficking felony or possesses an unloaded firearm and also commits any violent felony as part of the same criminal transaction. The mandatory minimum sentence for these new Class D felonies is a three and one-half year determinate sentence, although the court may consider mitigating factors and impose a lesser sentence in some limited circumstances involving drug trafficking.

Section 45 creates the crime of aggravated criminal possession of a weapon, a Class C felony, which is committed when one possesses a loaded firearm under § 255.03 of the Penal Law and also commits any violent felony offense or a drug trafficking felony. The minimum mandatory sentence is 5 years.

Section 32 amends Penal Law § 120.05 by adding a new subdivision 4-a to create the crime of assault in the second degree when a person recklessly causes physical injury to a child by the intentional discharge of a firearm, rifle or shotgun.

Section 43 amends Penal Law § 265.17 to include criminal sale or

RETRIEVE BILL

Page 5 of 8

Case 1:13-cv-00291-WMS Document 74-7 Filed 06/21/13 Page 5 of 8

disposal of a weapon by providing a firearm, rifle or shotgun to a person knowing he or she is prohibited by law from possessing such

firearm, rifle or shotgun. The penalty is raised from a Class A misdemeanor to a Class D felony.

Section 31 adds Penal Law § 115.20 making it a Class A misdemeanor to make available, sell, exchange, give or dispose of a community gun that aids a person in committing a crime. A community gun is defined as one that is made available to among or between two or more persons at least one of whom is not authorized pursuant to law to possess such firearm.

#### Safer Schools

The bill adds a new Section 2801-b to the Education Law to establish New York State School Safety Improvement Teams to review, assess, and make recommendations on School Safety Plans submitted by school districts on a voluntary basis. Section 3602 of the Education Law is amended to allow school districts that purchase various security devices included in their School Safety Plans to receive state building aid reimbursement at a rate ten percent higher than their current building aid ratio. Section 55 is the severability clause, and Section 56 establishes the effective date.

#### EXISTING LAW:

This bill amends the Correction Law, the Criminal Procedure Law, the Domestic Relations Law, the Executive Law, the Family Court Act, the General Business Law, the Judiciary Law, Kendra's Law (Section 18 of Chapter 408 of the Laws of 1999, as amended by Chapter 139 of the Laws of 2010), the Mental Hygiene Law, the Penal Law, and the Surrogates Court Act.

#### STATEMENT IN SUPPORT:

In the wrong hands, guns are weapons of untold destruction and heart-break: family and community members are taken from us in an instant; mass shootings shatter our sense of safety in public spaces; street crimes plague our neighborhoods. Nationwide, gun violence claims over 30,000 lives annually.

While the Second Amendment protects the right to keep and bear arms, the Supreme Court has said that that right is "not unlimited." *District of Columbia v. Heller*, 554 U.S. 570, 595, 626 (2008). In the *Heller* case, the Supreme Court explained, "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms." 554 U.S. at 626-27. The Court also recognized there is a "historical tradition of prohibiting the carrying of 'dangerous and unusual' weapons." *Id.* This piece of legislation heeds the guidance of the Supreme Court by refining and improving the assault weapon ban and increasing the safety of New Yorkers while observing the protections of the Second Amendment.

Some weapons are so dangerous and some ammunition devices so lethal that we simply cannot afford to continue selling them in our state. Assault weapons that have military-style features unnecessary for hunting and sporting purposes are this kind of weapon. The test adopted in this legislation is intended to bring a simplicity of definition focusing on the lethality of the weapon, amplified by the particular features. Given the difficulty of maintaining a list of guns that keeps

RETRIEVE BILL

Page 6 of 8

Case 1:13-cv-00291-WMS Document 74-7 Filed 06/21/13 Page 6 of 8

pace with changes in weapon design, the one-feature test is a more comprehensive means for addressing these dangerous weapons.

#### Ammunition

The state's previous ban against high capacity magazines faltered because it was impossible to tell the difference between magazines manufactured before or after the effective date of the ban. This bill prohibits possession of all magazines with the capacity to contain more than ten rounds, regardless of the date of manufacture. Going forward, individuals will only be able to obtain magazines that can contain up to seven rounds. Those who currently possess magazines that can contain more than seven rounds will only be permitted to maintain up to seven rounds in such magazines.

The new law also provides a mechanism to identify individual who purchase unusually high volumes of ammunition, either in person or over the Internet. Sellers must run the buyer's name through a State database modeled after the federal "NICS" database to ensure the buyer is not prohibited by law from possessing ammunition. Ammunition sellers are also required to electronically file with the State records of each ammunition sale, including amount sold.

In order to prevent circumvention of these new controls, this bill requires that any seller--whether located in New York or out of state--ship the ammunition to a dealer within New York for in-person pick-up. The dealer is required to maintain records of the ammunition sale and to perform a State review of disqualifiers. Direct shipment of ammunition without a face-to-face transaction prevents a seller from being able to adequately confirm the identity of a buyer through the in-person inspection of a valid photo ID. Without adequate confirmation of a buyer's identity, the benefits of background checks and record keeping are completely circumvented. A law requiring all ammunition sales to culminate in a face-to-face transfer, thereby allowing for effective confirmation of purchaser identity and corresponding background check, is consistent with this scheme.

#### Licensing

Currently in New York State, outside of New York City, Westchester, Nassau and Suffolk Counties, a gun license never expires. Lack of a renewal procedure means there is no periodic review of a licensee's qualifications. Thus, if a license holder becomes disqualified from carrying a gun subsequent to obtaining a license, he or she will likely retain the license. This law requires every license holder to recertify the licensee's gun license every five years. Failure of a licensee to have his or her license recertified will result in revocation of the license.

In addition, in order to ensure that legal gun license holders receive their licenses as swiftly as possible and to ensure the swift and accurate ability to match license holders with disqualifying events such as a felony conviction, the bill establishes an electronic license and record database. The electronic database will permit regular matching by the State against records of prohibited persons (e.g., those with criminal histories, orders of protection, and mental illnesses that bar gun ownership and licensing) as well as against other databases such as death records to ensure that New York's license records are up to date.

Furthermore, orders of protection are intended to protect victims of domestic violence from their abusers and prevent violent crimes from occurring. This bill enhances protections for victims of domestic violence by strengthening the provisions regarding the possession and surrender of firearms and the suspension and revocation of, and inelig-

RETRIEVE BILL

Page 7 of 8

Case 1:13-cv-00291-WMS Document 74-7 Filed 06/21/13 Page 7 of 8

bility for, licenses by individuals who are the respondents in an order of protection. The bill makes changes to the Family Court Act to conform to the 2007 amendments made to the CPL.

#### Private Gun Sales

Under current New York law, background checks on purchasers are required for all purchases of guns from gun dealers and at gun shows, however, individuals that purchase guns through private sellers are not required to undergo background checks. This bill requires background checks for all gun sales, including private sales, ensuring that otherwise disqualified individuals cannot circumvent the law by obtaining guns buying from a private seller.

#### Safe Storage

To prevent unauthorized possession and use of guns, this bill requires anyone who owns a gun or who lives with someone who the owner has reason to know is disqualified from possessing a gun under certain provisions of federal law to secure any gun in a safe storage depository or render it incapable of being fired by putting a safety lock on the gun if it is to be outside the owner's direct control.

#### Persons with Mental Illness

This bill adds provisions to revoke or suspend licenses of individuals with mental illness who, in the opinion of mental health professionals would pose a danger to themselves or others should they possess guns. The bill also extends and expands Kendra's Law to provide additional out-patient treatment services to persons with mental illness.

#### New and Enhanced Criminal Penalties

The new and amended sections of the Penal Law are focused on the methods by which gun violence is often carried out in our communities, giving law enforcement better tools to punish and deter such conduct. As the presence of illegal guns on our streets endangers the welfare of entire communities, these provisions ensure appropriate penalties for making guns available to prohibited persons, as well as putting our children at risk by, among other dangerous and illegal activities, possessing guns near school grounds. In addition, recognizing the widespread violence caused by gang activity, the bill establishes penalties for participation in gang activity resulting in the commission of a violent crime.

The bill also contains new provisions acknowledging the danger that our first responders face every day as they protect other New Yorkers by establishing an enhanced penalty for knowingly causing the death of a first responder in the course of his or her duties.

#### LEGISLATIVE HISTORY:

New proposal.

#### BUDGET IMPLICATIONS:

Any costs related to this bill will be paid out of the Division of State Police capital budget.

#### EFFECTIVE DATE:

**A-687**

RETRIEVE BILL

Page 8 of 8

Case 1:13-cv-00291-WMS Document 74-7 Filed 06/21/13 Page 8 of 8

The bill will take effect immediately except where otherwise provided.

---



Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 1 of 26

108 STAT. 1796

PUBLIC LAW 103-322—SEPT. 13, 1994

Public Law 103-322  
103d Congress

## An Act

To control and prevent crime.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,***SECTION 1. SHORT TITLE.**

This Act may be cited as the "Violent Crime Control and Law Enforcement Act of 1994".

**SEC. 2. TABLE OF CONTENTS.**

The following is the table of contents for this Act:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

**TITLE I—PUBLIC SAFETY AND POLICING**

- Sec. 10001. Short title.
- Sec. 10002. Purposes.
- Sec. 10003. Community policing; "Cops on the Beat".

**TITLE II—PRISONS****Subtitle A—Violent Offender Incarceration and Truth in Sentencing Incentive Grants**

- Sec. 20101. Grants for correctional facilities.
- Sec. 20102. Truth in sentencing incentive grants.
- Sec. 20103. Violent offender incarceration grants.
- Sec. 20104. Matching requirement.
- Sec. 20105. Rules and regulations.
- Sec. 20106. Technical assistance and training.
- Sec. 20107. Evaluation.
- Sec. 20108. Definitions.
- Sec. 20109. Authorization of appropriations.

**Subtitle B—Punishment for Young Offenders**

- Sec. 20201. Certain punishment for young offenders.

**Subtitle C—Alien Incarceration**

- Sec. 20301. Incarceration of undocumented criminal aliens.

**Subtitle D—Miscellaneous Provisions**

- Sec. 20401. Prisoner's place of imprisonment.
- Sec. 20402. Prison impact assessments.
- Sec. 20403. Sentences to account for costs to the Government of imprisonment, release, and probation.
- Sec. 20404. Application to prisoners to which prior law applies.
- Sec. 20405. Crediting of "good time".
- Sec. 20406. Task force on prison construction standardization and techniques.
- Sec. 20407. Efficiency in law enforcement and corrections.
- Sec. 20408. Amendments to the Department of Education Organization Act and the National Literacy Act of 1991.
- Sec. 20409. Appropriate remedies for prison overcrowding.
- Sec. 20410. Congressional approval of any expansion at Lorton and congressional hearings on future needs.

Sept. 13, 1994  
[H.R. 3355]Violent Crime  
Control and Law  
Enforcement  
Act of 1994.  
Inter-  
governmental  
relations.  
42 USC 13701  
note.

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 2 of 26

## PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 1797

- Sec. 20411. Awards of Pell Grants to prisoners prohibited.
- Sec. 20412. Education requirement for early release.
- Sec. 20413. Conversion of closed military installations into Federal prison facilities.
- Sec. 20414. Post-conviction release drug testing—Federal offenders.
- Sec. 20415. Reporting of cash received by criminal court clerks.
- Sec. 20416. Civil rights of institutionalized persons.
- Sec. 20417. Notification of release of prisoners.
- Sec. 20418. Correctional job training and placement.

## TITLE III—CRIME PREVENTION

## Subtitle A—Ounce of Prevention Council

- Sec. 30101. Ounce of Prevention Council.
- Sec. 30102. Ounce of prevention grant program.
- Sec. 30103. Definition.
- Sec. 30104. Authorization of appropriations.

## Subtitle B—Local Crime Prevention Block Grant Program

- Sec. 30201. Payments to local governments.
- Sec. 30202. Authorization of appropriations.
- Sec. 30203. Qualification for payment.
- Sec. 30204. Allocation and distribution of funds.
- Sec. 30205. Utilization of private sector.
- Sec. 30206. Public participation.
- Sec. 30207. Administrative provisions.
- Sec. 30208. Definitions.

## Subtitle C—Model Intensive Grant Programs

- Sec. 30301. Grant authorization.
- Sec. 30302. Uses of funds.
- Sec. 30303. Program requirements.
- Sec. 30304. Applications.
- Sec. 30305. Reports.
- Sec. 30306. Definitions.
- Sec. 30307. Authorization of appropriations.

## Subtitle D—Family and Community Endeavor Schools Grant Program

- Sec. 30401. Community schools youth services and supervision grant program.
- Sec. 30402. Family and community endeavor schools grant program.
- Sec. 30403. Authorization of appropriations.

## Subtitle G—Assistance for Delinquent and At-Risk Youth

- Sec. 30701. Grant authority.
- Sec. 30702. Authorization of appropriations.

## Subtitle H—Police Recruitment

- Sec. 30801. Grant authority.
- Sec. 30802. Authorization of appropriations.

## Subtitle J—Local Partnership Act

- Sec. 31001. Establishment of payment program.
- Sec. 31002. Technical amendment.

## Subtitle K—National Community Economic Partnership

- Sec. 31101. Short title.

## CHAPTER 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

- Sec. 31111. Purpose.
- Sec. 31112. Provision of assistance.
- Sec. 31113. Approval of applications.
- Sec. 31114. Availability of lines of credit and use.
- Sec. 31115. Limitations on use of funds.
- Sec. 31116. Program priority for special emphasis programs.

## CHAPTER 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

- Sec. 31121. Community development corporation improvement grants.
- Sec. 31122. Emerging community development corporation revolving loan funds.

## CHAPTER 3—MISCELLANEOUS PROVISIONS

- Sec. 31131. Definitions.

108 STAT. 1798 PUBLIC LAW 103-322—SEPT. 13, 1994

- Sec. 31132. Authorization of appropriations.
- Sec. 31133. Prohibition.

Subtitle O—Urban Recreation and At-Risk Youth

- Sec. 31501. Purpose of assistance.
- Sec. 31502. Definitions.
- Sec. 31503. Criteria for selection.
- Sec. 31504. Park and recreation action recovery programs.
- Sec. 31505. Miscellaneous and technical amendments.

Subtitle Q—Community-Based Justice Grants for Prosecutors

- Sec. 31701. Grant authorization.
- Sec. 31702. Use of funds.
- Sec. 31703. Applications.
- Sec. 31704. Allocation of funds; limitations on grants.
- Sec. 31705. Award of grants.
- Sec. 31706. Reports.
- Sec. 31707. Authorization of appropriations.
- Sec. 31708. Definitions.

Subtitle S—Family Unity Demonstration Project

- Sec. 31901. Short title.
- Sec. 31902. Purpose.
- Sec. 31903. Definitions.
- Sec. 31904. Authorization of appropriations.

CHAPTER 1—GRANTS TO STATES

- Sec. 31911. Authority to make grants.
- Sec. 31912. Eligibility to receive grants.
- Sec. 31913. Reports.

CHAPTER 2—FAMILY UNITY DEMONSTRATION PROJECT FOR FEDERAL PRISONERS

- Sec. 31921. Authority of the Attorney General.
- Sec. 31922. Requirements.

Subtitle T—Substance Abuse Treatment in Federal Prisons

- Sec. 32001. Substance abuse treatment in Federal prisons.

Subtitle U—Residential Substance Abuse Treatment for State Prisoners

- Sec. 32101. Residential substance abuse treatment for State prisoners.

Subtitle V—Prevention, Diagnosis, and Treatment of Tuberculosis in Correctional Institutions

- Sec. 32201. Prevention, diagnosis, and treatment of tuberculosis in correctional institutions.

Subtitle X—Gang Resistance Education and Training

- Sec. 32401. Gang resistance education and training projects.

TITLE IV—VIOLENCE AGAINST WOMEN

- Sec. 40001. Short title.

Subtitle A—Safe Streets for Women

- Sec. 40101. Short title.

CHAPTER 1—FEDERAL PENALTIES FOR SEX CRIMES

- Sec. 40111. Repeat offenders.
- Sec. 40112. Federal penalties.
- Sec. 40113. Mandatory restitution for sex crimes.
- Sec. 40114. Authorization for Federal victim's counselors.

CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN

- Sec. 40121. Grants to combat violent crimes against women.

CHAPTER 3—SAFETY FOR WOMEN IN PUBLIC TRANSIT AND PUBLIC PARKS

- Sec. 40131. Grants for capital improvements to prevent crime in public transportation.

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 4 of 26

## PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 1799

- Sec. 40132. Grants for capital improvements to prevent crime in national parks.  
 Sec. 40133. Grants for capital improvements to prevent crime in public parks.

## CHAPTER 4—NEW EVIDENTIARY RULES

- Sec. 40141. Sexual history in criminal and civil cases.

## CHAPTER 5—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

- Sec. 40151. Education and prevention grants to reduce sexual assaults against women.  
 Sec. 40152. Training programs.  
 Sec. 40153. Confidentiality of communications between sexual assault or domestic violence victims and their counselors.  
 Sec. 40154. Information programs.  
 Sec. 40155. Education and prevention grants to reduce sexual abuse of runaway, homeless, and street youth.  
 Sec. 40156. Victims of child abuse programs.

## Subtitle B—Safe Homes for Women

- Sec. 40201. Short title.

## CHAPTER 1—NATIONAL DOMESTIC VIOLENCE HOTLINE

- Sec. 40211. Grant for a national domestic violence hotline.

## CHAPTER 2—INTERSTATE ENFORCEMENT

- Sec. 40221. Interstate enforcement.

## CHAPTER 3—ARREST POLICIES IN DOMESTIC VIOLENCE CASES

- Sec. 40231. Encouraging arrest policies.

## CHAPTER 4—SHELTER GRANTS

- Sec. 40241. Grants for battered women's shelters.

## CHAPTER 5—YOUTH EDUCATION

- Sec. 40251. Youth education and domestic violence.

## CHAPTER 6—COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

- Sec. 40261. Establishment of community programs on domestic violence.

## CHAPTER 7—FAMILY VIOLENCE PREVENTION AND SERVICES ACT AMENDMENTS

- Sec. 40271. Grantee reporting.  
 Sec. 40272. Technical amendments.

## CHAPTER 8—CONFIDENTIALITY FOR ABUSED PERSONS

- Sec. 40281. Confidentiality of abused person's address.

## CHAPTER 9—DATA AND RESEARCH

- Sec. 40291. Research agenda.  
 Sec. 40292. State databases.  
 Sec. 40293. Number and cost of injuries.

## CHAPTER 10—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT

- Sec. 40295. Rural domestic violence and child abuse enforcement assistance.

## Subtitle C—Civil Rights for Women

- Sec. 40301. Short title.  
 Sec. 40302. Civil rights.  
 Sec. 40303. Attorney's fees.  
 Sec. 40304. Sense of the Senate concerning protection of the privacy of rape victims.

## Subtitle D—Equal Justice for Women in the Courts Act

- Sec. 40401. Short title.

## CHAPTER 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

- Sec. 40411. Grants authorized.  
 Sec. 40412. Training provided by grants.

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 5 of 26  
108 STAT. 1800 PUBLIC LAW 103-322—SEPT. 13, 1994

Sec. 40413. Cooperation in developing programs in making grants under this title.  
Sec. 40414. Authorization of appropriations.

CHAPTER 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN  
FEDERAL COURTS

Sec. 40421. Authorizations of circuit studies; education and training grants.  
Sec. 40422. Authorization of appropriations.

## Subtitle E—Violence Against Women Act Improvements

Sec. 40501. Pre-trial detention in sex offense cases.  
Sec. 40502. Increased penalties for sex offenses against victims below the age of 16.  
Sec. 40503. Payment of cost of testing for sexually transmitted diseases.  
Sec. 40504. Extension and strengthening of restitution.  
Sec. 40505. Enforcement of restitution orders through suspension of Federal benefits.  
Sec. 40506. National baseline study on campus sexual assault.  
Sec. 40507. Report on battered women's syndrome.  
Sec. 40508. Report on confidentiality of addresses for victims of domestic violence.  
Sec. 40509. Report on recordkeeping relating to domestic violence.

## Subtitle F—National Stalker and Domestic Violence Reduction

Sec. 40601. Authorizing access to Federal criminal information databases.  
Sec. 40602. Grant program.  
Sec. 40603. Authorization of appropriations.  
Sec. 40604. Application requirements.  
Sec. 40605. Disbursement.  
Sec. 40606. Technical assistance, training, and evaluations.  
Sec. 40607. Training programs for judges.  
Sec. 40608. Recommendations on intrastate communication.  
Sec. 40609. Inclusion in national incident-based reporting system.  
Sec. 40610. Report to Congress.  
Sec. 40611. Definitions.

## Subtitle G—Protections for Battered Immigrant Women and Children

Sec. 40701. Alien petitioning rights for immediate relative or second preference status.  
Sec. 40702. Use of credible evidence in spousal waiver applications.  
Sec. 40703. Suspension of deportation.

## TITLE V—DRUG COURTS

Sec. 50001. Drug courts.  
Sec. 50002. Study by the General Accounting Office.

## TITLE VI—DEATH PENALTY

Sec. 60001. Short title.  
Sec. 60002. Constitutional procedures for the imposition of the sentence of death.  
Sec. 60003. Specific offenses for which death penalty is authorized.  
Sec. 60004. Applicability to Uniform Code of Military Justice.  
Sec. 60005. Death penalty for murder by a Federal prisoner.  
Sec. 60006. Death penalty for civil rights murders.  
Sec. 60007. Death penalty for the murder of Federal law enforcement officials.  
Sec. 60008. New offense for the indiscriminate use of weapons to further drug conspiracies.  
Sec. 60009. Foreign murder of United States nationals.  
Sec. 60010. Death penalty for rape and child molestation murders.  
Sec. 60011. Death penalty for sexual exploitation of children.  
Sec. 60012. Murder by escaped prisoners.  
Sec. 60013. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.  
Sec. 60014. Homicides and attempted homicides involving firearms in Federal facilities.  
Sec. 60015. Death penalty for the murder of State or local officials assisting Federal law enforcement officials and State correctional officers.  
Sec. 60016. Protection of court officers and jurors.  
Sec. 60017. Prohibition of retaliatory killings of witnesses, victims, and informants.  
Sec. 60018. Death penalty for murder of Federal witnesses.  
Sec. 60019. Offenses of violence against maritime navigation or fixed platforms.  
Sec. 60020. Torture.  
Sec. 60021. Violence at airports serving international civil aviation.  
Sec. 60022. Terrorist Death Penalty Act.

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 6 of 26

## PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 1801

- Sec. 60023. Weapons of mass destruction.
- Sec. 60024. Enhanced penalties for alien smuggling.
- Sec. 60025. Protection of jurors and witnesses in capital cases.
- Sec. 60026. Appointment of Counsel.

## TITLE VII—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

- Sec. 70001. Mandatory life imprisonment for persons convicted of certain felonies.
- Sec. 70002. Limited grant of authority to Bureau of Prisons.

## TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

- Sec. 80001. Limitation on applicability of mandatory minimum penalties in certain cases.

## TITLE IX—DRUG CONTROL

## Subtitle A—Enhanced Penalties and General Provisions

- Sec. 90101. Enhancement of penalties for drug trafficking in prisons.
- Sec. 90102. Increased penalties for drug-dealing in "drug-free" zones.
- Sec. 90103. Enhanced penalties for illegal drug use in Federal prisons and for smuggling drugs into Federal prisons.
- Sec. 90104. Clarification of narcotic or other dangerous drugs under RICO.
- Sec. 90105. Conforming amendments to recidivist penalty provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act.
- Sec. 90106. Advertising.
- Sec. 90107. Violent crime and drug emergency areas.

## Subtitle B—National Narcotics Leadership Act Amendments

- Sec. 90201. Implementation of National Drug Control Strategy.
- Sec. 90202. Report on reprogramming; office personnel restriction.
- Sec. 90203. National Drug Control Strategy outcome measures.
- Sec. 90204. Counter-Drug Technology Assessment Center.
- Sec. 90205. Special Forfeiture Fund amendments.
- Sec. 90206. Authorization of appropriations.
- Sec. 90207. Adequate staffing of the Office of National Drug Control Policy.
- Sec. 90208. Termination of Office of National Drug Control Policy.

## TITLE X—DRUNK DRIVING PROVISIONS

- Sec. 100001. Short title.
- Sec. 100002. State laws applied in areas of Federal jurisdiction.
- Sec. 100003. Driving while intoxicated prosecution program.

## TITLE XI—FIREARMS

## Subtitle A—Assault Weapons

- Sec. 110101. Short title.
- Sec. 110102. Restriction on manufacture, transfer, and possession of certain semi-automatic assault weapons.
- Sec. 110103. Ban of large capacity ammunition feeding devices.
- Sec. 110104. Study by Attorney General.
- Sec. 110105. Effective date.
- Sec. 110106. Appendix A to section 922 of title 18.

## Subtitle B—Youth Handgun Safety

- Sec. 110201. Prohibition of the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.

## Subtitle C—Licensure

- Sec. 110301. Firearms licensure and registration to require a photograph and fingerprints.
- Sec. 110302. Compliance with State and local law as a condition to license.
- Sec. 110303. Action on firearms license application.
- Sec. 110304. Inspection of firearms licensees' inventory and records.
- Sec. 110305. Reports of theft or loss of firearms.
- Sec. 110306. Responses to requests for information.
- Sec. 110307. Notification of names and addresses of firearms licensees.

## Subtitle D—Domestic Violence

- Sec. 110401. Prohibition against disposal of firearms to, or receipt of firearms by, persons who have committed domestic abuse.

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 7 of 26

108 STAT. 1802

PUBLIC LAW 103-322—SEPT. 13, 1994

## Subtitle E—Gun Crime Penalties

- Sec. 110501. Enhanced penalty for use of a semiautomatic firearm during a crime of violence or a drug trafficking crime.
- Sec. 110502. Enhanced penalty for second offense of using an explosive to commit a felony.
- Sec. 110503. Smuggling firearms in aid of drug trafficking.
- Sec. 110504. Theft of firearms and explosives.
- Sec. 110505. Revocation of supervised release after imprisonment.
- Sec. 110506. Revocation of probation.
- Sec. 110507. Increased penalty for knowingly making false, material Statement in connection with the acquisition of a firearm from a licensed dealer.
- Sec. 110508. Possession of explosives by felons and others.
- Sec. 110509. Summary destruction of explosives subject to forfeiture.
- Sec. 110510. Elimination of outmoded language relating to parole.
- Sec. 110511. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
- Sec. 110512. Using a firearm in the commission of counterfeiting or forgery.
- Sec. 110513. Enhanced penalties for firearms possession by violent felons and serious drug offenders.
- Sec. 110514. Receipt of firearms by nonresident.
- Sec. 110515. Theft of firearms or explosives from licensee.
- Sec. 110516. Disposing of explosives to prohibited persons.
- Sec. 110517. Increased penalty for interstate gun trafficking.
- Sec. 110518. Firearms and explosives conspiracy.
- Sec. 110519. Definition of armor piercing ammunition.

## TITLE XII—TERRORISM

- Sec. 120001. Extension of the statute of limitation for certain terrorism offenses.
- Sec. 120002. Jurisdiction over crimes against United States nationals on certain foreign ships.
- Sec. 120003. Counterfeiting United States currency abroad.
- Sec. 120004. Sentencing guidelines increase for terrorist crimes.
- Sec. 120005. Providing material support to terrorists.

## TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT

- Sec. 130001. Enhancement of penalties for failing to depart, or reentering, after final order of deportation.
- Sec. 130002. Criminal alien tracking center.
- Sec. 130003. Alien witness cooperation and counterterrorism information.
- Sec. 130004. Deportation procedures for certain criminal aliens who are not permanent residents.
- Sec. 130005. Expedited deportation for denied asylum applicants.
- Sec. 130006. Improving border controls.
- Sec. 130007. Expanded special deportation proceedings.
- Sec. 130008. Authority to accept certain assistance.
- Sec. 130009. Passport and visa offenses penalties improvement.
- Sec. 130010. Asylum.

## TITLE XIV—YOUTH VIOLENCE

- Sec. 140001. Prosecution as adults of certain juveniles for crimes of violence.
- Sec. 140002. Commencement of juvenile proceeding.
- Sec. 140003. Separation of juvenile from adult offenders.
- Sec. 140004. Bindover system for certain violent juveniles.
- Sec. 140005. Amendment concerning records of crimes committed by juveniles.
- Sec. 140006. Increased penalties for employing children to distribute drugs near schools and playgrounds.
- Sec. 140007. Increased penalties for Travel Act crimes involving violence and conspiracy to commit contract killings.
- Sec. 140008. Solicitation of minor to commit crime.

## TITLE XV—CRIMINAL STREET GANGS

- Sec. 150001. Criminal street gangs.
- Sec. 150002. Adult prosecution of serious juvenile offenders.
- Sec. 150003. Addition of anti-gang Byrne grant funding objective.
- Sec. 150006. Mentoring program.
- Sec. 150007. Juvenile anti-drug and anti-gang grants in federally assisted low-income housing.
- Sec. 150008. Gang investigation coordination and information collection.
- Sec. 150009. Multijurisdictional gang task forces.

## TITLE XVI—CHILD PORNOGRAPHY

- Sec. 160001. Penalties for international trafficking in child pornography.

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 8 of 26

## PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 1803

- Sec. 160002. Sense of Congress concerning State legislation regarding child pornography.  
 Sec. 160003. Confirmation of intent of Congress in enacting sections 2252 and 2256 of title 18, United States Code.

## TITLE XVII—CRIMES AGAINST CHILDREN

## Subtitle A—Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

- Sec. 170101. Establishment of program.

## Subtitle B—Assaults Against Children

- Sec. 170201. Assaults against children.

## Subtitle C—Missing and Exploited Children

- Sec. 170301. Short title.  
 Sec. 170302. Purpose.  
 Sec. 170303. Establishment of task force.

## TITLE XVIII—RURAL CRIME

## Subtitle A—Drug Trafficking in Rural Areas

- Sec. 180101. Authorizations for rural law enforcement agencies.  
 Sec. 180102. Rural crime and drug enforcement task forces.  
 Sec. 180103. Rural drug enforcement training.  
 Sec. 180104. More agents for the Drug Enforcement Administration.

## Subtitle B—Drug Free Truck Stops and Safety Rest Areas

- Sec. 180201. Drug free truck stops and safety rest areas.

## Subtitle C—Sense of Congress Regarding Funding for Rural Areas

- Sec. 180301. Funding for rural areas.

## TITLE XIX—FEDERAL LAW ENFORCEMENT

- Sec. 190001. Federal judiciary and Federal law enforcement.

## TITLE XX—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

## Subtitle A—Police Corps

- Sec. 200101. Short title.  
 Sec. 200102. Purposes.  
 Sec. 200103. Definitions.  
 Sec. 200104. Establishment of office of the police corps and law enforcement education.  
 Sec. 200105. Designation of lead agency and submission of State plan.  
 Sec. 200106. Scholarship assistance.  
 Sec. 200107. Selection of participants.  
 Sec. 200108. Police corps training.  
 Sec. 200109. Service obligation.  
 Sec. 200110. State plan requirements.  
 Sec. 200111. Assistance to States and localities employing police corps officers.  
 Sec. 200112. Authorization of appropriations.  
 Sec. 200113. Reports to congress.

## Subtitle B—Law Enforcement Scholarship Program

- Sec. 200201. Short title.  
 Sec. 200202. Definitions.  
 Sec. 200203. Allotment.  
 Sec. 200204. Establishment of program.  
 Sec. 200205. Scholarships.  
 Sec. 200206. Eligibility.  
 Sec. 200207. State application.  
 Sec. 200208. Local application.  
 Sec. 200209. Scholarship agreement.  
 Sec. 200210. Authorization of appropriations.

## TITLE XXI—STATE AND LOCAL LAW ENFORCEMENT

## Subtitle A—Byrne Program

- Sec. 210101. Extension of Byrne Grant funding.



Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 9 of 26  
 108 STAT. 1804 PUBLIC LAW 103-322—SEPT. 13, 1994

Subtitle B—Law Enforcement Family Support

Sec. 210201. Law enforcement family support.

Subtitle C—DNA Identification

Sec. 210301. Short title.

Sec. 210302. Funding to improve the quality and availability of DNA analyses for law enforcement identification purposes.

Sec. 210303. Quality assurance and proficiency testing standards.

Sec. 210304. Index to facilitate law enforcement exchange of DNA identification information.

Sec. 210305. Federal Bureau of Investigation.

Sec. 210306. Authorization of appropriations.

Subtitle D—Police Pattern or Practice

Sec. 210401. Cause of action.

Sec. 210402. Data on use of excessive force.

Subtitle E—Improved Training and Technical Automation

Sec. 210501. Improved training and technical automation.

Subtitle F—Other State and Local Aid

Sec. 210601. Reauthorization of Office of Justice Programs.

Sec. 210602. Federal assistance to ease the increased burdens on State court systems resulting from enactment of this Act.

Sec. 210603. Availability of violent crime reduction trust fund to fund activities authorized by the Brady Handgun Violence Prevention Act and the National Child Protection Act of 1993.

TITLE XXII—MOTOR VEHICLE THEFT PREVENTION

Sec. 220001. Short title.

Sec. 220002. Motor vehicle theft prevention program.

Sec. 220003. Altering or removing motor vehicle identification numbers.

TITLE XXIII—VICTIMS OF CRIME

Subtitle A—Victims of Crime

Sec. 230101. Victim's right of allocution in sentencing.

Sec. 230102. Sense of the Senate concerning the right of a victim of a violent crime or sexual abuse to speak at an offender's sentencing hearing and any parole hearing.

Subtitle B—Crime Victims' Fund

Sec. 230201. Allocation of funds for costs and grants.

Sec. 230202. Relationship of crime victim compensation to certain Federal programs.

Sec. 230203. Administrative costs for crime victim compensation.

Sec. 230204. Grants for demonstration projects.

Sec. 230205. Administrative costs for crime victim assistance.

Sec. 230206. Maintenance of effort.

Sec. 230207. Change of due date for required report.

Sec. 230208. Amendment of the Victims of Crime Act.

TITLE XXIV—PROTECTIONS FOR THE ELDERLY

Sec. 240001. Missing Alzheimer's Disease Patient Alert Program.

Sec. 240002. Crimes against the elderly.

TITLE XXV—SENIOR CITIZENS AGAINST MARKETING SCAMS

Sec. 250001. Short title.

Sec. 250002. Enhanced penalties for telemarketing fraud.

Sec. 250003. Increased penalties for fraud against older victims.

Sec. 250004. Rewards for information leading to prosecution and conviction.

Sec. 250005. Authorization of appropriations.

Sec. 250006. Broadening application of mail fraud statute.

Sec. 250007. Fraud and related activity in connection with access devices.

Sec. 250008. Information network.

TITLE XXVI—COMMISSION MEMBERSHIP AND APPOINTMENT

Sec. 260001. Commission membership and appointment.

Sec. 260002. Conforming amendment.

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 10 of 26

## PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 1805

TITLE XXVII—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL  
COMMISSION ON CRIME PREVENTION AND CONTROL

- Sec. 270001. Presidential summit.
- Sec. 270002. Establishment; committees and task forces; representation.
- Sec. 270003. Purposes.
- Sec. 270004. Responsibilities of the Commission.
- Sec. 270005. Administrative matters.
- Sec. 270006. Staff and support services.
- Sec. 270007. Powers.
- Sec. 270008. Report; termination.
- Sec. 270009. Authorization of appropriations.

## TITLE XXVIII—SENTENCING PROVISIONS

- Sec. 280001. Imposition of sentence.
- Sec. 280002. Technical amendment to mandatory conditions of probation.
- Sec. 280003. Direction to United States Sentencing Commission regarding sentencing enhancements for hate crimes.
- Sec. 280004. Authorization of probation for petty offenses in certain cases.
- Sec. 280005. Full-time vice chairs of the United States Sentencing Commission.
- Sec. 280006. Cocaine penalty study.

## TITLE XXIX—COMPUTER CRIME

- Sec. 290001. Computer Abuse Amendments Act of 1994.

TITLE XXX—PROTECTION OF PRIVACY OF INFORMATION IN STATE MOTOR  
VEHICLE RECORDS

- Sec. 300001. Short title.
- Sec. 300002. Prohibition on release and use of certain personal information from State motor vehicle records.
- Sec. 300003. Effective date.

## TITLE XXXI—VIOLENT CRIME REDUCTION TRUST FUND

- Sec. 310001. Creation of Violent Crime Reduction Trust Fund.
- Sec. 310002. Conforming reduction in discretionary spending limits.
- Sec. 310003. Extension of authorizations of appropriations for fiscal years for which the full amount authorized is not appropriated.
- Sec. 310004. Flexibility in making of appropriations.

## TITLE XXXII—MISCELLANEOUS

## Subtitle A—Increases in Penalties

- Sec. 320101. Increased penalties for assault.
- Sec. 320102. Increased penalties for manslaughter.
- Sec. 320103. Increased penalties for civil rights violations.
- Sec. 320104. Penalties for trafficking in counterfeit goods and services.
- Sec. 320105. Increased penalty for conspiracy to commit murder for hire.
- Sec. 320106. Increased penalties for arson.
- Sec. 320107. Increased penalties for drug trafficking near public housing.
- Sec. 320108. Task force and criminal penalties relating to the introduction of nonindigenous species.
- Sec. 320109. Military medals and decorations.

## Subtitle B—Extension of Protection of Civil Rights Statutes

- Sec. 320201. Extension of protection of civil rights statutes.

## Subtitle C—Audit and Report

- Sec. 320301. Audit requirement for State and local law enforcement agencies receiving Federal asset forfeiture funds.
- Sec. 320302. Report to Congress on administrative and contracting expenses.

## Subtitle D—Coordination

- Sec. 320401. Coordination of substance abuse treatment and prevention programs.

## Subtitle E—Gambling

- Sec. 320501. Clarifying amendment regarding scope of prohibition against gambling on ships in international waters.

## Subtitle F—White Collar Crime Amendments

- Sec. 320601. Receiving the proceeds of extortion or kidnapping.

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 11 of 26

108 STAT. 1806

PUBLIC LAW 103-322—SEPT. 13, 1994

- Sec. 320602. Receiving the proceeds of a postal robbery.
- Sec. 320603. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
- Sec. 320604. Miscellaneous amendments to title 18, United States Code.
- Sec. 320605. Federal Deposit Insurance Act amendment.
- Sec. 320606. Federal Credit Union Act amendments.
- Sec. 320607. Addition of predicate offenses to financial institutions rewards statute.
- Sec. 320608. Definition of "savings and loan association" for purposes of the offense of bank robbery and related offenses.
- Sec. 320609. Definition of 1-year period for purposes of the offense of obstruction of a Federal audit.

Subtitle G—Safer Streets and Neighborhoods

- Sec. 320701. Short title.
- Sec. 320702. Limitation on grant distribution.

Subtitle H—Recreational Hunting Safety

- Sec. 320801. Short title.
- Sec. 320802. Obstruction of a lawful hunt.
- Sec. 320803. Civil penalties.
- Sec. 320804. Other relief.
- Sec. 320805. Relationship to State and local law and civil actions.
- Sec. 320806. Regulations.
- Sec. 320807. Rule of construction.
- Sec. 320808. Definitions.

Subtitle I—Other Provisions

- Sec. 320901. Wiretaps.
- Sec. 320902. Theft of major artwork.
- Sec. 320903. Addition of attempted robbery, kidnapping, smuggling, and property damage offenses to eliminate inconsistencies and gaps in coverage.
- Sec. 320904. Gun-free school zones.
- Sec. 320905. Interstate wagering.
- Sec. 320906. Sense of Congress with respect to violence against truckers.
- Sec. 320907. Sense of the Senate regarding a study on out-of-wedlock births.
- Sec. 320908. Sense of the Senate regarding the role of the United Nations in international organized crime control.
- Sec. 320909. *Optional venue for espionage and related offenses.*
- Sec. 320910. Undercover operations.
- Sec. 320911. Misuse of initials "DEA".
- Sec. 320912. Definition of livestock.
- Sec. 320913. Asset forfeiture.
- Sec. 320914. Clarification of definition of a "court of the United States" to include the district courts for Guam, the Northern Mariana Islands, and the Virgin Islands.
- Sec. 320915. Law enforcement personnel.
- Sec. 320916. Authority to investigate violent crimes against travelers.
- Sec. 320917. Extension of statute of limitations for arson.
- Sec. 320918. Sense of Congress concerning child custody and visitation rights.
- Sec. 320919. Edward Byrne Memorial Formula Grant Program.
- Sec. 320920. Sense of the Senate regarding Law Day, U.S.A.
- Sec. 320921. First time domestic violence offender rehabilitation program.
- Sec. 320922. Display of flags at halfstaff.
- Sec. 320923. Financial institution fraud.
- Sec. 320924. Definition of parent for the purposes of the offense of kidnapping.
- Sec. 320926. Hate Crime Statistics Act.
- Sec. 320927. Exemption from Brady background check requirement of return of handgun to owner.
- Sec. 320928. Amendment of the National Child Protection Act of 1993.
- Sec. 320929. Tennessee Valley Authority law enforcement personnel.
- Sec. 320932. Assistant United States attorney residency.
- Sec. 320933. Labels on products.
- Sec. 320934. Non-dischargeability of payment of restitution order.
- Sec. 320935. Admissibility of evidence of similar crimes in sex offense cases.

TITLE XXXIII—TECHNICAL CORRECTIONS

- Sec. 330001. Amendments relating to Federal financial assistance for law enforcement.
- Sec. 330002. General title 18 corrections.
- Sec. 330003. Corrections of erroneous cross references and misdesignations.
- Sec. 330004. Repeal of obsolete provisions in title 18.

108 STAT. 1996

PUBLIC LAW 103-322—SEPT. 13, 1994

Drunk Driving  
Child Protection  
Act of 1994.  
18 USC 1 note.

## TITLE X—DRUNK DRIVING PROVISIONS

### SEC. 100001. SHORT TITLE.

This title may be cited as the “Drunk Driving Child Protection Act of 1994”.

### SEC. 100002. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended—

(1) by striking “For purposes” and inserting “(1) Subject to paragraph (2) and for purposes”; and

(2) by adding at the end the following new paragraph:

“(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, not more than 5 years, or if death of a minor is caused, not more than 10 years, and an additional fine of not more than \$1,000, or both, if—

“(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

“(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

“(B) For the purposes of subparagraph (A), the term ‘minor’ means a person less than 18 years of age.”.

### SEC. 100003. DRIVING WHILE INTOXICATED PROSECUTION PROGRAM.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) by striking “and” at the end of paragraph (20);

(2) by striking the period at the end of paragraph (21) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(22) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles.”.

## TITLE XI—FIREARMS

### Subtitle A—Assault Weapons

Public Safety  
and Recreational  
Firearms Use  
Protection Act.  
18 USC 921 note.

### SEC. 110101. SHORT TITLE.

This subtitle may be cited as the “Public Safety and Recreational Firearms Use Protection Act”.

### SEC. 110102. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMIAUTOMATIC ASSAULT WEAPONS.

(a) RESTRICTION.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.

PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 1997

“(2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed under Federal law on the date of the enactment of this subsection.

“(3) Paragraph (1) shall not apply to—

“(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;

“(B) any firearm that—

“(i) is manually operated by bolt, pump, lever, or slide action;

“(ii) has been rendered permanently inoperable; or

“(iii) is an antique firearm;

“(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

“(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine. The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this subsection is in effect.

“(4) Paragraph (1) shall not apply to—

“(A) the manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement (whether on or off duty);

“(B) the transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

“(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

“(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.”

(b) DEFINITION OF SEMIAUTOMATIC ASSAULT WEAPON.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

“(30) The term ‘semiautomatic assault weapon’ means—

“(A) any of the firearms, or copies or duplicates of the firearms in any caliber, known as—

“(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);

“(ii) Action Arms Israeli Military Industries UZI and Galil;

“(iii) Beretta Ar70 (SC-70);

“(iv) Colt AR-15;

“(v) Fabrique National FN/FAL, FN/LAR, and FNC;

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 14 of 26

108 STAT. 1998

PUBLIC LAW 103-322—SEPT. 13, 1994

“(vi) SWD M-10, M-11, M-11/9, and M-12;

“(vii) Steyr AUG;

“(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

“(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

“(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

“(i) a folding or telescoping stock;

“(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

“(iii) a bayonet mount;

“(iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and

“(v) a grenade launcher;

“(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—

“(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;

“(ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;

“(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;

“(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and

“(v) a semiautomatic version of an automatic firearm; and

“(D) a semiautomatic shotgun that has at least 2 of—

“(i) a folding or telescoping stock;

“(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

“(iii) a fixed magazine capacity in excess of 5 rounds; and

“(iv) an ability to accept a detachable magazine.”.

(c) PENALTIES.—

(1) VIOLATION OF SECTION 922(v).—Section 924(a)(1)(B) of such title is amended by striking “or (q) of section 922” and inserting “(r), or (v) of section 922”.

(2) USE OR POSSESSION DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—Section 924(c)(1) of such title is amended in the first sentence by inserting “, or semiautomatic assault weapon,” after “short-barreled shotgun,”.

(d) IDENTIFICATION MARKINGS FOR SEMIAUTOMATIC ASSAULT WEAPONS.—Section 923(i) of such title is amended by adding at the end the following: “The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured.”.

**SEC. 110103. BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.**

(a) PROHIBITION.—Section 922 of title 18, United States Code, as amended by section 110102(a), is amended by adding at the end the following new subsection:

## PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 1999

“(w)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

“(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on or before the date of the enactment of this subsection.

“(3) This subsection shall not apply to—

“(A) the manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement (whether on or off duty);

“(B) the transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

“(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or

“(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.”

“(4) If a person charged with violating paragraph (1) asserts that paragraph (1) does not apply to such person because of paragraph (2) or (3), the Government shall have the burden of proof to show that such paragraph (1) applies to such person. The lack of a serial number as described in section 923(i) of title 18, United States Code, shall be a presumption that the large capacity ammunition feeding device is not subject to the prohibition of possession in paragraph (1).”

(b) DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.—Section 921(a) of title 18, United States Code, as amended by section 110102(b), is amended by adding at the end the following new paragraph:

“(31) The term ‘large capacity ammunition feeding device’—

“(A) means a magazine, belt, drum, feed strip, or similar device manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994 that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; but

“(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.”

(c) PENALTY.—Section 924(a)(1)(B) of title 18, United States Code, as amended by section 110102(c)(1), is amended by striking “or (v)” and inserting “(v), or (w)”.

(d) IDENTIFICATION MARKINGS FOR LARGE CAPACITY AMMUNITION FEEDING DEVICES.—Section 923(i) of title 18, United States Code, as amended by section 110102(d) of this Act, is amended by adding at the end the following: “A large capacity ammunition

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 16 of 26

108 STAT. 2000

PUBLIC LAW 103-322—SEPT. 13, 1994

feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.”.

18 USC 921 note. **SEC. 110104. STUDY BY ATTORNEY GENERAL.**

(a) **STUDY.**—The Attorney General shall investigate and study the effect of this subtitle and the amendments made by this subtitle, and in particular shall determine their impact, if any, on violent and drug trafficking crime. The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment of this Act.

(b) **REPORT.**—Not later than 30 months after the date of enactment of this Act, the Attorney General shall prepare and submit to the Congress a report setting forth in detail the findings and determinations made in the study under subsection (a).

18 USC 921 note. **SEC. 110105. EFFECTIVE DATE.**

This subtitle and the amendments made by this subtitle—

(1) shall take effect on the date of the enactment of this Act; and

(2) are repealed effective as of the date that is 10 years after that date.

**SEC. 110106. APPENDIX A TO SECTION 922 OF TITLE 18.**

Section 922 of title 18, United States Code, is amended by adding at the end the following appendix:

**“APPENDIX A****Centerfire Rifles—Autoloaders**

Browning BAR Mark II Safari Semi-Auto Rifle  
 Browning BAR Mark II Safari Magnum Rifle  
 Browning High-Power Rifle  
 Heckler & Koch Model 300 Rifle  
 Iver Johnson M-1 Carbine  
 Iver Johnson 50th Anniversary M-1 Carbine  
 Marlin Model 9 Camp Carbine  
 Marlin Model 45 Carbine  
 Remington Nylon 66 Auto-Loading Rifle  
 Remington Model 7400 Auto Rifle  
 Remington Model 7400 Rifle  
 Remington Model 7400 Special Purpose Auto Rifle  
 Ruger Mini-14 Autoloading Rifle (w/o folding stock)  
 Ruger Mini Thirty Rifle

**Centerfire Rifles—Lever & Slide**

Browning Model 81 BLR Lever-Action Rifle  
 Browning Model 81 Long Action BLR  
 Browning Model 1886 Lever-Action Carbine  
 Browning Model 1886 High Grade Carbine  
 Cimarron 1860 Henry Replica  
 Cimarron 1866 Winchester Replicas  
 Cimarron 1873 Short Rifle  
 Cimarron 1873 Sporting Rifle  
 Cimarron 1873 30" Express Rifle  
 Dixie Engraved 1873 Rifle  
 E.M.F. 1866 Yellowboy Lever Actions  
 E.M.F. 1860 Henry Rifle  
 E.M.F. Model 73 Lever-Action Rifle  
 Marlin Model 336CS Lever-Action Carbine  
 Marlin Model 30AS Lever-Action Carbine  
 Marlin Model 444SS Lever-Action Sporter  
 Marlin Model 1894S Lever-Action Carbine



**PUBLIC LAW 103-322—SEPT. 13, 1994****108-STAT. 2001**

Marlin Model 1894CS Carbine  
 Marlin Model 1894CL Classic  
 Marlin Model 1895SS Lever-Action Rifle  
 Mitchell 1858 Henry Replica  
 Mitchell 1866 Winchester Replica  
 Mitchell 1873 Winchester Replica  
 Navy Arms Military Henry Rifle  
 Navy Arms Henry Trapper  
 Navy Arms Iron Frame Henry  
 Navy Arms Henry Carbine  
 Navy Arms 1866 Yellowboy Rifle  
 Navy Arms 1873 Winchester-Style Rifle  
 Navy Arms 1873 Sporting Rifle  
 Remington 7600 Slide Action  
 Remington Model 7600 Special Purpose Slide Action  
 Rossi M92 SRC Saddle-Ring Carbine  
 Rossi M92 SRS Short Carbine  
 Savage 99C Lever-Action Rifle  
 Uberti Henry Rifle  
 Uberti 1866 Sporting Rifle  
 Uberti 1873 Sporting Rifle  
 Winchester Model 94 Side Eject Lever-Action Rifle  
 Winchester Model 94 Trapper Side Eject  
 Winchester Model 94 Big Bore Side Eject  
 Winchester Model 94 Ranger Side Eject Lever-Action Rifle  
 Winchester Model 94 Wrangler Side Eject

**Centerfire Rifles—Bolt Action**

Alpine Bolt-Action Rifle  
 A-Square Caesar Bolt-Action Rifle  
 A-Square Hannibal Bolt-Action Rifle  
 Anschutz 1700D Classic Rifles  
 Anschutz 1700D Custom Rifles  
 Anschutz 1700D Bavarian Bolt-Action Rifle  
 Anschutz 1733D Mannlicher Rifle  
 Barret Model 90 Bolt-Action Rifle  
 Beeman/HW 60J Bolt-Action Rifle  
 Blaser R84 Bolt-Action Rifle  
 BRNO 537 Sporter Bolt-Action Rifle  
 BRNO ZKB 527 Fox Bolt-Action Rifle  
 BRNO ZKK 600, 601, 602 Bolt-Action Rifles  
 Browning A-Bolt Rifle  
 Browning A-Bolt Stainless Stalker  
 Browning A-Bolt Left Hand  
 Browning A-Bolt Short Action  
 Browning Euro-Bolt Rifle  
 Browning A-Bolt Gold Medallion  
 Browning A-Bolt Micro Medallion  
 Century Centurion 14 Sporter  
 Century Enfield Sporter #4  
 Century Swedish Sporter #38  
 Century Mauser 98 Sporter  
 Cooper Model 38 Centerfire Sporter  
 Dakota 22 Sporter Bolt-Action Rifle  
 Dakota 76 Classic Bolt-Action Rifle  
 Dakota 76 Short Action Rifles  
 Dakota 76 Safari Bolt-Action Rifle  
 Dakota 416 Rigby African  
 E.A.A./Sabatti Rover 870 Bolt-Action Rifle  
 Auguste Francotte Bolt-Action Rifles  
 Carl Gustaf 2000 Bolt-Action Rifle  
 Heym Magnum Express Series Rifle  
 Howa Lightning Bolt-Action Rifle  
 Howa Realtree Camo Rifle  
 Interarms Mark X Viscount Bolt-Action Rifle  
 Interarms Mini-Mark X Rifle  
 Interarms Mark X Whitworth Bolt-Action Rifle  
 Interarms Whitworth Express Rifle  
 Iver Johnson Model 5100A1 Long-Range Rifle  
 KDF K15 American Bolt-Action Rifle  
 Krico Model 600 Bolt-Action Rifle

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 18 of 26

108 STAT. 2002

PUBLIC LAW 103-322—SEPT. 13, 1994

Krico Model 700 Bolt-Action Rifles  
 Mauser Model 66 Bolt-Action Rifle  
 Mauser Model 99 Bolt-Action Rifle  
 McMillan Signature Classic Sporter  
 McMillan Signature Super Varminter  
 McMillan Signature Alaskan  
 McMillan Signature Titanium Mountain Rifle  
 McMillan Classic Stainless Sporter  
 McMillan Talon Safari Rifle  
 McMillan Talon Sporter Rifle  
 Midland 1500S Survivor Rifle  
 Navy Arms TU-33/40 Carbine  
 Parker-Hale Model 81 Classic Rifle  
 Parker-Hale Model 81 Classic African Rifle  
 Parker-Hale Model 1000 Rifle  
 Parker-Hale Model 1100M African Magnum  
 Parker-Hale Model 1100 Lightweight Rifle  
 Parker-Hale Model 1200 Super Rifle  
 Parker-Hale Model 1200 Super Clip Rifle  
 Parker-Hale Model 1300C Scout Rifle  
 Parker-Hale Model 2100 Midland Rifle  
 Parker-Hale Model 2700 Lightweight Rifle  
 Parker-Hale Model 2800 Midland Rifle  
 Remington Model Seven Bolt-Action Rifle  
 Remington Model Seven Youth Rifle  
 Remington Model Seven Custom KS  
 Remington Model Seven Custom MS Rifle  
 Remington 700 ADL Bolt-Action Rifle  
 Remington 700 BDL Bolt-Action Rifle  
 Remington 700 BDL Varmint Special  
 Remington 700 BDL European Bolt-Action Rifle  
 Remington 700 Varmint Synthetic Rifle  
 Remington 700 BDL SS Rifle  
 Remington 700 Stainless Synthetic Rifle  
 Remington 700 MTRSS Rifle  
 Remington 700 BDL Left Hand  
 Remington 700 Camo Synthetic Rifle  
 Remington 700 Safari  
 Remington 700 Mountain Rifle  
 Remington 700 Custom KS Mountain Rifle  
 Remington 700 Classic Rifle  
 Ruger M77 Mark II Rifle  
 Ruger M77 Mark II Magnum Rifle  
 Ruger M77RL Ultra Light  
 Ruger M77 Mark II All-Weather Stainless Rifle  
 Ruger M77 RSI International Carbine  
 Ruger M77 Mark II Express Rifle  
 Ruger M77VT Target Rifle  
 Sako Hunter Rifle  
 Sako Fiberclass Sporter  
 Sako Safari Grade Bolt Action  
 Sako Hunter Left-Hand Rifle  
 Sako Classic Bolt Action  
 Sako Hunter LS Rifle  
 Sako Deluxe Lightweight  
 Sako Super Deluxe Sporter  
 Sako Mannlicher-Style Carbine  
 Sako Varmint Heavy Barrel  
 Sako TRG-S Bolt-Action Rifle  
 Sauer 90 Bolt-Action Rifle  
 Savage 110G Bolt-Action Rifle  
 Savage 110CY Youth/Ladies Rifle  
 Savage 110WLE One of One Thousand Limited Edition Rifle  
 Savage 110GXP3 Bolt-Action Rifle  
 Savage 110F Bolt-Action Rifle  
 Savage 110FXP3 Bolt-Action Rifle  
 Savage 110GV Varmint Rifle  
 Savage 112FV Varmint Rifle  
 Savage Model 112FVS Varmint Rifle  
 Savage Model 112BV Heavy Barrel Varmint Rifle  
 Savage 116FSS Bolt-Action Rifle  
 Savage Model 116FSK Kodiak Rifle

PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 2003

Savage 110FP Police Rifle  
 Steyr-Mannlicher Sporter Models SL, L, M, S, S/T  
 Steyr-Mannlicher Luxus Model L, M, S  
 Steyr-Mannlicher Model M Professional Rifle  
 Tikka Bolt-Action Rifle  
 Tikka Premium Grade Rifles  
 Tikka Varmint/Continental Rifle  
 Tikka Whitetail/Battue Rifle  
 Ultra Light Arms Model 20 Rifle  
 Ultra Light Arms Model 28, Model 40 Rifles  
 Voere VEC 91 Lightning Bolt-Action Rifle  
 Voere Model 2165 Bolt-Action Rifle  
 Voere Model 2155, 2150 Bolt-Action Rifles  
 Weatherby Mark V Deluxe Bolt-Action Rifle  
 Weatherby Lasermark V Rifle  
 Weatherby Mark V Crown Custom Rifles  
 Weatherby Mark V Sporter Rifle  
 Weatherby Mark V Safari Grade Custom Rifles  
 Weatherby Weathermark Rifle  
 Weatherby Weathermark Alaskan Rifle  
 Weatherby Classicmark No. 1 Rifle  
 Weatherby Weatherguard Alaskan Rifle  
 Weatherby Vanguard VGX Deluxe Rifle  
 Weatherby Vanguard Classic Rifle  
 Weatherby Vanguard Classic No. 1 Rifle  
 Weatherby Vanguard Weatherguard Rifle  
 Wichita Classic Rifle  
 Wichita Varmint Rifle  
 Winchester Model 70 Sporter  
 Winchester Model 70 Sporter WinTuff  
 Winchester Model 70 SM Sporter  
 Winchester Model 70 Stainless Rifle  
 Winchester Model 70 Varmint  
 Winchester Model 70 Synthetic Heavy Varmint Rifle  
 Winchester Model 70 DBM Rifle  
 Winchester Model 70 DBM-S Rifle  
 Winchester Model 70 Featherweight  
 Winchester Model 70 Featherweight WinTuff  
 Winchester Model 70 Featherweight Classic  
 Winchester Model 70 Lightweight Rifle  
 Winchester Ranger Rifle  
 Winchester Model 70 Super Express Magnum  
 Winchester Model 70 Super Grade  
 Winchester Model 70 Custom Sharpshooter  
 Winchester Model 70 Custom Sporting Sharpshooter Rifle

#### Centerfire Rifles—Single Shot

Armsport 1866 Sharps Rifle, Carbine  
 Brown Model One Single Shot Rifle  
 Browning Model 1885 Single Shot Rifle  
 Dakota Single Shot Rifle  
 Desert Industries G-90 Single Shot Rifle  
 Harrington & Richardson Ultra Varmint Rifle  
 Model 1885 High Wall Rifle  
 Navy Arms Rolling Block Buffalo Rifle  
 Navy Arms #2 Creedmoor Rifle  
 Navy Arms Sharps Cavalry Carbine  
 Navy Arms Sharps Plains Rifle  
 New England Firearms Handi-Rifle  
 Red Willow Armory Ballard No. 5 Pacific  
 Red Willow Armory Ballard No. 1.5 Hunting Rifle  
 Red Willow Armory Ballard No. 8 Union Hill Rifle  
 Red Willow Armory Ballard No. 4.5 Target Rifle  
 Remington-Style Rolling Block Carbine  
 Ruger No. 1B Single Shot  
 Ruger No. 1A Light Sporter  
 Ruger No. 1H Tropical Rifle  
 Ruger No. 1S Medium Sporter  
 Ruger No. 1 RSI International  
 Ruger No. 1V Special Varminter  
 C. Sharps Arms New Model 1874 Old Reliable

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 20 of 26

108 STAT. 2004

PUBLIC LAW 103-322—SEPT. 13, 1994

C. Sharps Arms New Model 1875 Rifle  
 C. Sharps Arms 1875 Classic Sharps  
 C. Sharps Arms New Model 1875 Target & Long Range  
 Shiloh Sharps 1874 Long Range Express  
 Shiloh Sharps 1874 Montana Roughrider  
 Shiloh Sharps 1874 Military Carbine  
 Shiloh Sharps 1874 Business Rifle  
 Shiloh Sharps 1874 Military Rifle  
 Sharps 1874 Old Reliable  
 Thompson/Center Contender Carbine  
 Thompson/Center Stainless Contender Carbine  
 Thompson/Center Contender Carbine Survival System  
 Thompson/Center Contender Carbine Youth Model  
 Thompson/Center TCR '87 Single Shot Rifle  
 Uberti Rolling Block Baby Carbine

**Drillings, Combination Guns, Double Rifles**

Beretta Express SSO O/U Double Rifles  
 Beretta Model 455 SxS Express Rifle  
 Chapuis RGExpress Double Rifle  
 Auguste Francotte Sidelock Double Rifles  
 Auguste Francotte Boxlock Double Rifle  
 Heym Model 55B O/U Double Rifle  
 Heym Model 55FW O/U Combo Gun  
 Heym Model 88b Side-by-Side Double Rifle  
 Kodiak Mk. IV Double Rifle  
 Kreighoff Teck O/U Combination Gun  
 Kreighoff Trumpf Drilling  
 Merkel Over/Under Combination Guns  
 Merkel Drillings  
 Merkel Model 160 Side-by-Side Double Rifles  
 Merkel Over/Under Double Rifles  
 Savage 24F O/U Combination Gun  
 Savage 24F-12T Turkey Gun  
 Springfield Inc. M6 Scout Rifle/Shotgun  
 Tikka Model 412s Combination Gun  
 Tikka Model 412S Double Fire  
 A. Zoli Rifle-Shotgun O/U Combo

**Rimfire Rifles—Autoloaders**

AMT Lightning 25/22 Rifle  
 AMT Lightning Small-Game Hunting Rifle II  
 AMT Magnum Hunter Auto Rifle  
 Anschutz 525 Deluxe Auto  
 Armscor Model 20P Auto Rifle  
 Browning Auto-22 Rifle  
 Browning Auto-22 Grade VI  
 Krico Model 260 Auto Rifle  
 Lakefield Arms Model 64B Auto Rifle  
 Marlin Model 60 Self-Loading Rifle  
 Marlin Model 60ss Self-Loading Rifle  
 Marlin Model 70 HC Auto  
 Marlin Model 9901 Self-Loading Rifle  
 Marlin Model 70P Papoose  
 Marlin Model 922 Magnum Self-Loading Rifle  
 Marlin Model 995 Self-Loading Rifle  
 Norinco Model 22 ATD Rifle  
 Remington Model 522 Viper Autoloading Rifle  
 Remington 552BDL Speedmaster Rifle  
 Ruger 10/22 Autoloading Carbine (w/o folding stock)  
 Survival Arms AR-7 Explorer Rifle  
 Texas Remington Revolving Carbine  
 Voere Model 2115 Auto Rifle

**Rimfire Rifles—Lever & Slide Action**

Browning BL-22 Lever-Action Rifle  
 Marlin 39TDS Carbine  
 Marlin Model 39AS Golden Lever-Action Rifle  
 Remington 572BDL Fieldmaster Pump Rifle  
 Norinco EM-321 Pump Rifle  
 Rossi Model 62 SA Pump Rifle

PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 2005

Rossi Model 62 SAC Carbine  
 Winchester Model 9422 Lever-Action Rifle  
 Winchester Model 9422 Magnum Lever-Action Rifle

**Rimfire Rifles—Bolt Actions & Single Shots**

Anschutz Achiever Bolt-Action Rifle  
 Anschutz 1416D/1516D Classic Rifles  
 Anschutz 1418D/1518D Mannlicher Rifles  
 Anschutz 1700D Classic Rifles  
 Anschutz 1700D Custom Rifles  
 Anschutz 1700 FWT Bolt-Action Rifle  
 Anschutz 1700D Graphite Custom Rifle  
 Anschutz 1700D Bavarian Bolt-Action Rifle  
 Armscor Model 14P Bolt-Action Rifle  
 Armscor Model 1500 Rifle  
 BRNO ZKM-452 Deluxe Bolt-Action Rifle  
 BRNO ZKM 452 Deluxe  
 Beeman/HW 60-J-ST Bolt-Action Rifle  
 Browning A-Bolt 22 Bolt-Action Rifle  
 Browning A-Bolt Gold Medallion  
 Cabanas Phaser Rifle  
 Cabanas Master Bolt-Action Rifle  
 Cabanas Espronceda IV Bolt-Action Rifle  
 Cabanas Leyre Bolt-Action Rifle  
 Chipmunk Single Shot Rifle  
 Cooper Arms Model 36S Sporter Rifle  
 Dakota 22 Sporter Bolt-Action Rifle  
 Krico Model 300 Bolt-Action Rifles  
 Lakefield Arms Mark II Bolt-Action Rifle  
 Lakefield Arms Mark I Bolt-Action Rifle  
 Magtech Model MT-22C Bolt-Action Rifle  
 Marlin Model 880 Bolt-Action Rifle  
 Marlin Model 881 Bolt-Action Rifle  
 Marlin Model 882 Bolt-Action Rifle  
 Marlin Model 883 Bolt-Action Rifle  
 Marlin Model 883SS Bolt-Action Rifle  
 Marlin Model 25MN Bolt-Action Rifle  
 Marlin Model 25N Bolt-Action Repeater  
 Marlin Model 15YN "Little Buckaroo"  
 Mauser Model 107 Bolt-Action Rifle  
 Mauser Model 201 Bolt-Action Rifle  
 Navy Arms TU-KKW Training Rifle  
 Navy Arms TU-33/40 Carbine  
 Navy Arms TU-KKW Sniper Trainer  
 Norinco JW-27 Bolt-Action Rifle  
 Norinco JW-15 Bolt-Action Rifle  
 Remington 541-T  
 Remington 40-XR Rimfire Custom Sporter  
 Remington 541-T HB Bolt-Action Rifle  
 Remington 581-S Sportsman Rifle  
 Ruger 77/22 Rimfire Bolt-Action Rifle  
 Ruger K77/22 Varmint Rifle  
 Ultra Light Arms Model 20 RF Bolt-Action Rifle  
 Winchester Model 52B Sporting Rifle

**Competition Rifles—Centerfire & Rimfire**

Anschutz 64-MS Left Silhouette  
 Anschutz 1808D RT Super Match 54 Target  
 Anschutz 1827B Biathlon Rifle  
 Anschutz 1903D Match Rifle  
 Anschutz 1803D Intermediate Match  
 Anschutz 1911 Match Rifle  
 Anschutz 54.18MS REP Deluxe Silhouette Rifle  
 Anschutz 1913 Super Match Rifle  
 Anschutz 1907 Match Rifle  
 Anschutz 1910 Super Match II  
 Anschutz 54.18MS Silhouette Rifle  
 Anschutz Super Match 54 Target Model 2013  
 Anschutz Super Match 54 Target Model 2007  
 Beeman/Feinwerkbau 2600 Target Rifle  
 Cooper Arms Model TRP-1 ISU Standard Rifle

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 22 of 26

108 STAT. 2006

PUBLIC LAW 103-322—SEPT. 13, 1994

E.A.A./Weihrauch HW 60 Target Rifle  
 E.A.A./HW 660 Match Rifle  
 Finnish Lion Standard Target Rifle  
 Krico Model 360 S2 Biathlon Rifle  
 Krico Model 400 Match Rifle  
 Krico Model 360S Biathlon Rifle  
 Krico Model 500 Kricotronic Match Rifle  
 Krico Model 600 Sniper Rifle  
 Krico Model 600 Match Rifle  
 Lakefield Arms Model 90B Target Rifle  
 Lakefield Arms Model 91T Target Rifle  
 Lakefield Arms Model 92S Silhouette Rifle  
 Marlin Model 2000 Target Rifle  
 Mauser Model 86—SR Specialty Rifle  
 McMillan M—86 Sniper Rifle  
 McMillan Combo M—87/M—88 50-Caliber Rifle  
 McMillan 300 Phoenix Long Range Rifle  
 McMillan M—89 Sniper Rifle  
 McMillan National Match Rifle  
 McMillan Long Range Rifle  
 Parker-Hale M—87 Target Rifle  
 Parker-Hale M—85 Sniper Rifle  
 Remington 40—XB Rangemaster Target Centerfire  
 Remington 40—XR KS Rimfire Position Rifle  
 Remington 40—XBBR KS  
 Remington 40—XC KS National Match Course Rifle  
 Sako TRG—21 Bolt-Action Rifle  
 Steyr-Mannlicher Match SPG—UIT Rifle  
 Steyr-Mannlicher SSG P—I Rifle  
 Steyr-Mannlicher SSG P—III Rifle  
 Steyr-Mannlicher SSG P—IV Rifle  
 Tanner Standard UIT Rifle  
 Tanner 50 Meter Free Rifle  
 Tanner 300 Meter Free Rifle  
 Wichita Silhouette Rifle

#### Shotguns—Autoloaders

American Arms/Franchi Black Magic 48/AL  
 Benelli Super Black Eagle Shotgun  
 Benelli Super Black Eagle Slug Gun  
 Benelli M1 Super 90 Field Auto Shotgun  
 Benelli Montefeltro Super 90 20-Gauge Shotgun  
 Benelli Montefeltro Super 90 Shotgun  
 Benelli M1 Sporting Special Auto Shotgun  
 Benelli Black Eagle Competition Auto Shotgun  
 Beretta A—303 Auto Shotgun  
 Beretta 390 Field Auto Shotgun  
 Beretta 390 Super Trap, Super Skeet Shotguns  
 Beretta Vittoria Auto Shotgun  
 Beretta Model 1201F Auto Shotgun  
 Browning BSA 10 Auto Shotgun  
 Browning BSA 10 Stalker Auto Shotgun  
 Browning A—500R Auto Shotgun  
 Browning A—500G Auto Shotgun  
 Browning A—500G Sporting Clays  
 Browning Auto-5 Light 12 and 20  
 Browning Auto-5 Stalker  
 Browning Auto-5 Magnum 20  
 Browning Auto-5 Magnum 12  
 Churchill Turkey Automatic Shotgun  
 Cosmi Automatic Shotgun  
 Maverick Model 60 Auto Shotgun  
 Mossberg Model 5500 Shotgun  
 Mossberg Model 9200 Regal Semi-Auto Shotgun  
 Mossberg Model 9200 USST Auto Shotgun  
 Mossberg Model 9200 Camo Shotgun  
 Mossberg Model 6000 Auto Shotgun  
 Remington Model 1100 Shotgun  
 Remington 11—87 Premier Shotgun  
 Remington 11—87 Sporting Clays  
 Remington 11—87 Premier Skeet

PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 2007

Remington 11-87 Premier Trap  
 Remington 11-87 Special Purpose Magnum  
 Remington 11-87 SPS-T Camo Auto Shotgun  
 Remington 11-87 Special Purpose Deer Gun  
 Remington 11-87 SPS-BG-Camo Deer/Turkey Shotgun  
 Remington 11-87 SPS-Deer Shotgun  
 Remington 11-87 Special Purpose Synthetic Camo  
 Remington SP-10 Magnum-Camo Auto Shotgun  
 Remington SP-10 Magnum Auto Shotgun  
 Remington SP-10 Magnum Turkey Combo  
 Remington 1100 LT-20 Auto  
 Remington 1100 Special Field  
 Remington 1100 20-Gauge Deer Gun  
 Remington 1100 LT-20 Tournament Skeet  
 Winchester Model 1400 Semi-Auto Shotgun

**Shotguns—Slide Actions**

Browning Model 42 Pump Shotgun  
 Browning BPS Pump Shotgun  
 Browning BPS Stalker Pump Shotgun  
 Browning BPS Pigeon Grade Pump Shotgun  
 Browning BPS Pump Shotgun (Ladies and Youth Model)  
 Browning BPS Game Gun Turkey Special  
 Browning BPS Game Gun Deer Special  
 Ithaca Model 87 Supreme Pump Shotgun  
 Ithaca Model 87 Deerslayer Shotgun  
 Ithaca Deerslayer II Rifled Shotgun  
 Ithaca Model 87 Turkey Gun  
 Ithaca Model 87 Deluxe Pump Shotgun  
 Magtech Model 586-VR Pump Shotgun  
 Maverick Models 88, 91 Pump Shotguns  
 Mossberg Model 500 Sporting Pump  
 Mossberg Model 500 Camo Pump  
 Mossberg Model 500 Muzzleloader Combo  
 Mossberg Model 500 Trophy Slugster  
 Mossberg Turkey Model 500 Pump  
 Mossberg Model 500 Bantam Pump  
 Mossberg Field Grade Model 835 Pump Shotgun  
 Mossberg Model 835 Regal Ulti-Mag Pump  
 Remington 870 Wingmaster  
 Remington 870 Special Purpose Deer Gun  
 Remington 870 SPS-BG-Camo Deer/Turkey Shotgun  
 Remington 870 SPS-Deer Shotgun  
 Remington 870 Marine Magnum  
 Remington 870 TC Trap  
 Remington 870 Special Purpose Synthetic Camo  
 Remington 870 Wingmaster Small Gauges  
 Remington 870 Express Rifle Sighted Deer Gun  
 Remington 879 SPS Special Purpose Magnum  
 Remington 870 SPS-T Camo Pump Shotgun  
 Remington 870 Special Field  
 Remington 870 Express Turkey  
 Remington 870 High Grades  
 Remington 870 Express  
 Remington Model 870 Express Youth Gun  
 Winchester Model 12 Pump Shotgun  
 Winchester Model 42 High Grade Shotgun  
 Winchester Model 1300 Walnut Pump  
 Winchester Model 1300 Slug Hunter Deer Gun  
 Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun  
 Winchester Model 1300 Turkey Gun  
 Winchester Model 1300 Ranger Pump Gun

**Shotguns—Over/Unders**

American Arms/Franchi Falconet 2000 O/U  
 American Arms Silver I O/U  
 American Arms Silver II Shotgun  
 American Arms Silver Skeet O/U  
 American Arms/Franchi Sporting 2000 O/U  
 American Arms Silver Sporting O/U  
 American Arms Silver Trap O/U

Case 1:13-cv-00291-WMS Document 74-8 Filed 06/21/13 Page 24 of 26

108 STAT. 2008

PUBLIC LAW 103-322—SEPT. 13, 1994

American Arms WS/OU 12, TS/OU 12 Shotguns  
 American Arms WT/OU 10 Shotgun  
 Armsport 2700 O/U Goose Gun  
 Armsport 2700 Series O/U  
 Armsport 2900 Tri-Barrel Shotgun  
 Baby Bretton Over/Under Shotgun  
 Beretta Model 686 Ultralight O/U  
 Beretta ASE 90 Competition O/U Shotgun  
 Beretta Over/Under Field Shotguns  
 Beretta Onyx Hunter Sport O/U Shotgun  
 Beretta Model SO5, SO6, SO9 Shotguns  
 Beretta Sporting Clay Shotguns  
 Beretta 687EL Sporting O/U  
 Beretta 682 Super Sporting O/U  
 Beretta Series 682 Competition Over/Unders  
 Browning Citori O/U Shotgun  
 Browning Superlight Citori Over/Under  
 Browning Lightning Sporting Clays  
 Browning Micro Citori Lightning  
 Browning Citori Plus Trap Combo  
 Browning Citori Plus Trap Gun  
 Browning Citori O/U Skeet Models  
 Browning Citori O/U Trap Models  
 Browning Special Sporting Clays  
 Browning Citori GTI Sporting Clays  
 Browning 325 Sporting Clays  
 Centurion Over/Under Shotgun  
 Chapuis Over/Under Shotgun  
 Connecticut Valley Classics Classic Sporter O/U  
 Connecticut Valley Classics Classic Field Waterfowler  
 Charles Daly Field Grade O/U  
 Charles Daly Lux Over/Under  
 E.A.A./Sabatti Sporting Clays Pro-Gold O/U  
 E.A.A./Sabatti Falcon-Mon Over/Under  
 Kassnar Grade I O/U Shotgun  
 Krieghoff K-80 Sporting Clays O/U  
 Krieghoff K-80 Skeet Shotgun  
 Krieghoff K-80 International Skeet  
 Krieghoff K-80 Four-Barrel Skeet Set  
 Krieghoff K-80/RT Shotguns  
 Krieghoff K-80 O/U Trap Shotgun  
 Laurona Silhouette 300 Sporting Clays  
 Laurona Silhouette 300 Trap  
 Laurona Super Model Over/Unders  
 Ljutic LM-6 Deluxe O/U Shotgun  
 Marocchi Conquista Over/Under Shotgun  
 Marocchi Avanza O/U Shotgun  
 Merkel Model 200E O/U Shotgun  
 Merkel Model 200E Skeet, Trap Over/Unders  
 Merkel Model 203E, 303E Over/Under Shotguns  
 Perazzi Mirage Special Sporting O/U  
 Perazzi Mirage Special Four-Gauge Skeet  
 Perazzi Sporting Classic O/U  
 Perazzi MX7 Over/Under Shotguns  
 Perazzi Mirage Special Skeet Over/Under  
 Perazzi MX8/MX8 Special Trap, Skeet  
 Perazzi MX8/20 Over/Under Shotgun  
 Perazzi MX9 Single Over/Under Shotguns  
 Perazzi MX12 Hunting Over/Under  
 Perazzi MX28, MX410 Game O/U Shotguns  
 Perazzi MX20 Hunting Over/Under  
 Piotti Boss Over/Under Shotgun  
 Remington Peerless Over/Under Shotgun  
 Ruger Red Label O/U Shotgun  
 Ruger Sporting Clays O/U Shotgun  
 San Marco 12-Ga. Wildflower Shotgun  
 San Marco Field Special O/U Shotgun  
 San Marco 10-Ga. O/U Shotgun  
 SKB Model 505 Deluxe Over/Under Shotgun  
 SKB Model 685 Over/Under Shotgun  
 SKB Model 885 Over/Under Trap, Skeet, Sporting Clays  
 Stoeger/IGA Condor I O/U Shotgun



## PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 2009

Stoeger/IGA ERA 2000 Over/Under Shotgun  
 Techni-Mec Model 610 Over/Under  
 Tikka Model 412S Field Grade Over/Under  
 Weatherby Athena Grade IV O/U Shotguns  
 Weatherby Athena Grade V Classic Field O/U  
 Weatherby Orion O/U Shotguns  
 Weatherby II, III Classic Field O/Us  
 Weatherby Orion II Classic Sporting Clays O/U  
 Weatherby Orion II Sporting Clays O/U  
 Winchester Model 1001 O/U Shotgun  
 Winchester Model 1001 Sporting Clays O/U  
 Pietro Zanoletti Model 2000 Field O/U

**Shotguns—Side by Sides**

American Arms Brittany Shotgun  
 American Arms Gentry Double Shotgun  
 American Arms Derby Side-by-Side  
 American Arms Grulla #2 Double Shotgun  
 American Arms WS/SS 10  
 American Arms TS/SS 10 Double Shotgun  
 American Arms TS/SS 12 Side-by-Side  
 Arrieta Sidelock Double Shotguns  
 Armsport 1050 Series Double Shotguns  
 Arizaga Model 31 Double Shotgun  
 AYA Boxlock Shotguns  
 AYA Sidelock Double Shotguns  
 Beretta Model 452 Sidelock Shotgun  
 Beretta Side-by-Side Field Shotguns  
 Crucelegui Hermanos Model 150 Double  
 Chapuis Side-by-Side Shotgun  
 E.A.A./Sabatti Saba-Mon Double Shotgun  
 Charles Daly Model Dss Double  
 Ferlib Model F VII Double Shotgun  
 Auguste Francotte Boxlock Shotgun  
 Auguste Francotte Sidelock Shotgun  
 Garbi Model 100 Double  
 Garbi Model 101 Side-by-Side  
 Garbi Model 103A, B Side-by-Side  
 Garbi Model 200 Side-by-Side  
 Bill Hanus Birdgun Doubles  
 Hatfield Uplander Shotgun  
 Merkel Model 8, 47E Side-by-Side Shotguns  
 Merkel Model 47LSC Sporting Clays Double  
 Merkel Model 47S, 147S Side-by-Sides  
 Parker Reproductions Side-by-Side  
 Piotti King No. 1 Side-by-Side  
 Piotti Lunik Side-by-Side  
 Piotti King Extra Side-by-Side  
 Piotti Piuma Side-by-Side  
 Precision Sports Model 600 Series Doubles  
 Rizzini Boxlock Side-by-Side  
 Rizzini Sidelock Side-by-Side  
 Stoeger/IGA Uplander Side-by-Side Shotgun  
 Ugartechea 10-Ga. Magnum Shotgun

**Shotguns—Bolt Actions & Single Shots**

Armsport Single Barrel Shotgun  
 Browning BT-99 Competition Trap Special  
 Browning BT-99 Plus Trap Gun  
 Browning BT-99 Plus Micro  
 Browning Recoilless Trap Shotgun  
 Browning Micro Recoilless Trap Shotgun  
 Desert Industries Big Twenty Shotgun  
 Harrington & Richardson Topper Model 098  
 Harrington & Richardson Topper Classic Youth Shotgun  
 Harrington & Richardson N.W.T.F. Turkey Mag  
 Harrington & Richardson Topper Deluxe Model 098  
 Krieghoff KS-5 Trap Gun  
 Krieghoff KS-5 Special  
 Krieghoff K-80 Single Barrel Trap Gun  
 Ljubic Mono Gun Single Barrel

108 STAT. 2010

PUBLIC LAW 103-322—SEPT. 13, 1994

Ljutic LTX Super Deluxe Mono Gun  
 Ljutic Recoilless Space Gun Shotgun  
 Marlin Model 55 Goose Gun Bolt Action  
 New England Firearms Turkey and Goose Gun  
 New England Firearms N.W.T.F. Shotgun  
 New England Firearms Tracker Slug Gun  
 New England Firearms Standard Pardner  
 New England Firearms Survival Gun  
 Perazzi TM1 Special Single Trap  
 Remington 90-T Super Single Shotgun  
 Snake Charmer II Shotgun  
 Stoeger/IGA Reuna Single Barrel Shotgun  
 Thompson/Center TCR '87 Hunter Shotgun.”.

## Subtitle B—Youth Handgun Safety

### SEC. 110201. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGUN OR AMMUNITION TO, A JUVENILE.

(a) OFFENSE.—Section 922 of title 18, United States Code, as amended by section 110103(a), is amended by adding at the end the following new subsection:

“(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

“(A) a handgun; or

“(B) ammunition that is suitable for use only in a handgun.

“(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

“(A) a handgun; or

“(B) ammunition that is suitable for use only in a handgun.

“(3) This subsection does not apply to—

“(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

“(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

“(ii) with the prior written consent of the juvenile’s parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

“(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

“(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile’s parent or legal guardian and at the direction of an adult who is not prohibited

Case 1:13-cv-00291-WMS Document 74-9 Filed 06/21/13 Page 1 of 49

# HEINONLINE

Citation: 5 Bernard D. Reams Jr. The Omnibus Anti-Crime Act A  
History of the Violent Crime Control and Law  
Act of 1994 Public Law 103-322 September 13 1994 1

Content downloaded/printed from  
HeinOnline (<http://heinonline.org>)  
Wed May 1 14:53:39 2013

- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at <http://heinonline.org/HOL/License>
- The search text of this PDF is generated from uncorrected OCR text.

Case 1:13-cv-00291-WMS Document 74-9 Filed 06/21/13 Page 2 of 49

103D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
2d Session } 103-489

**PUBLIC SAFETY AND RECREATIONAL FIREARMS USE  
PROTECTION ACT**

MAY 2, 1994.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on the Judiciary,  
submitted the following

**REPORT**

together with

**SUPPLEMENTAL AND DISSENTING VIEWS**

[To accompany H.R. 4296]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4296) to make unlawful the transfer or possession of assault weapons, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Public Safety and Recreational Firearms Use Protection Act".

**SEC. 2. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMI-AUTOMATIC ASSAULT WEAPONS.**

(a) RESTRICTION.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.

"(2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed on the date of the enactment of this subsection.

"(3) Paragraph (1) shall not apply to—

79-006

**"(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;**

**"(B) any firearm that—**

**"(i) is manually operated by bolt, pump, lever, or slide action;**

**"(ii) has been rendered permanently inoperable; or**

**"(iii) is an antique firearm;**

**"(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or**

**"(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.**

**The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this Act is in effect.**

**"(4) Paragraph (1) shall not apply to—**

**"(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;**

**"(B) the transfer of a semiautomatic assault weapon by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase firearms for official use;**

**"(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or**

**"(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary."**

**(b) DEFINITION OF SEMIAUTOMATIC ASSAULT WEAPON.—Section 921(a) of such title is amended by adding at the end the following:**

**"(30) The term 'semiautomatic assault weapon' means—**

**"(A) any of the firearms, or copies or duplicates of the firearms, known as—**  
**"(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);**

**"(ii) Action Arms Israeli Military Industries UZI and Galil;**

**"(iii) Beretta Ar70 (SC-70);**

**"(iv) Colt AR-15;**

**"(v) Fabrique National FN/FAL, FN/LAR, and FNC;**

**"(vi) SWD M-10, M-11, M-11/9, and M-12;**

**"(vii) Steyr AUG;**

**"(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and**

**"(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;**

**"(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—**

**"(i) a folding or telescoping stock;**

**"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;**

**"(iii) a bayonet mount;**

**"(iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and**

**"(v) a grenade launcher;**

**"(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—**

**"(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;**

**"(ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;**

**"(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;**

**"(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and**

**"(v) a semiautomatic version of an automatic firearm; and**

**"(D) a semiautomatic shotgun that has at least 2 of—**

**"(i) a folding or telescoping stock;**

**"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;**

“(iii) a fixed magazine capacity in excess of 5 rounds; and  
 “(iv) an ability to accept a detachable magazine.”.

**(c) PENALTIES.—**

(1) VIOLATION OF SECTION 922(v).—Section 924(a)(1)(B) of such title is amended by striking “or (q) of section 922” and inserting “(r), or (v) of section 922”.

(2) USE OR POSSESSION DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—Section 924(c)(1) of such title is amended in the first sentence by inserting “, or semiautomatic assault weapon,” after “short-barreled shotgun,”.

(d) IDENTIFICATION MARKINGS FOR SEMIAUTOMATIC ASSAULT WEAPONS.—Section 923(i) of such title is amended by adding at the end the following: “The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured.”.

**SEC. 3. RECORDKEEPING REQUIREMENTS FOR TRANSFERS OF GRANDFATHERED FIREARMS.**

(a) OFFENSE.—Section 922 of title 18, United States Code, as amended by section 2(a) of this Act, is amended by adding at the end the following:

“(w)(1) It shall be unlawful for a person to sell, ship, or deliver a semiautomatic assault weapon to a person who has not completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

“(2) It shall be unlawful for a person to receive a semiautomatic assault weapon unless the person has completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

“(3) If a person receives a semiautomatic assault weapon from anyone other than a licensed dealer, both the person and the transferor shall retain a copy of the form 4473 completed in connection with the transfer.

“(4) Within 90 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations ensuring the availability of form 4473 to owners of semiautomatic assault weapons.

“(5) As used in this subsection, the term ‘form 4473’ means—

“(A) the form which, as of the date of the enactment of this subsection, is designated by the Secretary as form 4473; or

“(B) any other form which—

“(i) is required by the Secretary, in lieu of the form described in subparagraph (A), to be completed in connection with the transfer of a semiautomatic assault weapon; and

“(ii) when completed, contains, at a minimum, the information that, as of the date of the enactment of this subsection, is required to be provided on the form described in subparagraph (A).”.

(b) PENALTY.—Section 924(a) of such title is amended by adding at the end the following:

“(6) A person who knowingly violates section 922(w) shall be fined not more than \$1,000, imprisoned not more than 6 months, or both. Section 3571 shall not apply to any offense under this paragraph.”.

**SEC. 4. BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.**

(a) PROHIBITION.—Section 922 of title 18, United States Code, as amended by sections 2 and 3 of this Act, is amended by adding at the end the following:

“(x)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

“(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on the date of the enactment of this subsection.

“(3) This subsection shall not apply to—

“(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

“(B) the transfer of a large capacity ammunition feeding device by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase large capacity ammunition feeding devices for official use;

“(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or

“(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.”.

(b) **DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.**—Section 921(a) of such title, as amended by section 2(b) of this Act, is amended by adding at the end the following:

“(31) The term ‘large capacity ammunition feeding device’—

“(A) means—

“(i) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; and

“(ii) any combination of parts from which a device described in clause (i) can be assembled; but

“(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.”.

(c) **LARGE CAPACITY AMMUNITION FEEDING DEVICES TREATED AS FIREARMS.**—Section 921(a)(3) of such title is amended in the first sentence by striking “or (D) any destructive device.” and inserting “(D) any destructive device; or (E) any large capacity ammunition feeding device.”.

(d) **PENALTY.**—Section 924(a)(1)(B) of such title, as amended by section 2(c) of this Act, is amended by striking “or (v)” and inserting “(v), or (x)”.

(e) **IDENTIFICATION MARKINGS FOR LARGE CAPACITY AMMUNITION FEEDING DEVICES.**—Section 923(i) of such title, as amended by section 2(d) of this Act, is amended by adding at the end the following: “A large capacity ammunition feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.”.

#### **SEC. 5. STUDY BY ATTORNEY GENERAL.**

(a) **STUDY.**—The Attorney General shall investigate and study the effect of this Act and the amendments made by this Act, and in particular shall determine their impact, if any, on violent and drug trafficking crime. The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment of this Act.

(b) **REPORT.**—Not later than 30 months after the date of enactment of this Act, the Attorney General shall prepare and submit to the Congress a report setting forth in detail the findings and determinations made in the study under subsection (a).

#### **SEC. 6. EFFECTIVE DATE.**

This Act and the amendments made by this Act—

- (1) shall take effect on the date of the enactment of this Act; and
- (2) are repealed effective as of the date that is 10 years after that date.

#### **SEC. 7. APPENDIX A TO SECTION 922 OF TITLE 18.**

Section 922 of title 18, United States Code, is amended by adding at the end the following appendix:

##### **“APPENDIX A**

##### **Centerfire Rifles—Autoloaders**

Browning BAR Mark II Safari Semi-Auto Rifle  
 Browning BAR Mark II Safari Magnum Rifle  
 Browning High-Power Rifle  
 Heckler & Koch Model 300 Rifle  
 Iver Johnson M-1 Carbine  
 Iver Johnson 50th Anniversary M-1 Carbine  
 Marlin Model 9 Camp Carbine  
 Marlin Model 45 Carbine  
 Remington Nylon 66 Auto-Loading Rifle  
 Remington Model 7400 Auto Rifle  
 Remington Model 7400 Rifle  
 Remington Model 7400 Special Purpose Auto Rifle  
 Ruger Mini-14 Autoloading Rifle (w/o folding stock)  
 Ruger Mini Thirty Rifle

##### **Centerfire Rifles—Lever & Slide**

Browning Model 81 BLR Lever-Action Rifle  
 Browning Model 81 Long Action BLR  
 Browning Model 1886 Lever-Action Carbine  
 Browning Model 1886 High Grade Carbine  
 Cimarron 1860 Henry Replica  
 Cimarron 1866 Winchester Replicas  
 Cimarron 1873 Short Rifle  
 Cimarron 1873 Sporting Rifle  
 Cimarron 1873 30" Express Rifle  
 Dixie Engraved 1873 Rifle  
 E.M.F. 1866 Yellowboy Lever Actions

E.M.F. 1860 Henry Rifle  
 E.M.F. Model 73 Lever-Action Rifle  
 Marlin Model 336CS Lever-Action Carbine  
 Marlin Model 30AS Lever-Action Carbine  
 Marlin Model 444SS Lever-Action Sporter  
 Marlin Model 1894S Lever-Action Carbine  
 Marlin Model 1894CS Carbine  
 Marlin Model 1894CL Classic  
 Marlin Model 1895SS Lever-Action Rifle  
 Mitchell 1858 Henry Replica  
 Mitchell 1866 Winchester Replica  
 Mitchell 1873 Winchester Replica  
 Navy Arms Military Henry Rifle  
 Navy Arms Henry Trapper  
 Navy Arms Iron Frame Henry  
 Navy Arms Henry Carbine  
 Navy Arms 1866 Yellowboy Rifle  
 Navy Arms 1873 Winchester-Style Rifle  
 Navy Arms 1873 Sporting Rifle  
 Remington 7600 Slide Action  
 Remington Model 7600 Special Purpose Slide Action  
 Rossi M92 SRC Saddle-Ring Carbine  
 Rossi M92 SRS Short Carbine  
 Savage 99C Lever-Action Rifle  
 Uberti Henry Rifle  
 Uberti 1866 Sporting Rifle  
 Uberti 1873 Sporting Rifle  
 Winchester Model 94 Side Eject Lever-Action Rifle  
 Winchester Model 94 Trapper Side Eject  
 Winchester Model 94 Big Bore Side Eject  
 Winchester Model 94 Ranger Side Eject Lever-Action Rifle  
 Winchester Model 94 Wrangler Side Eject

#### Centerfire Rifles—Bolt Action

Alpine Bolt-Action Rifle  
 A-Square Caesar Bolt-Action Rifle  
 A-Square Hannibal Bolt-Action Rifle  
 Anschutz 1700D Classic Rifles  
 Anschutz 1700D Custom Rifles  
 Anschutz 1700D Bavarian Bolt-Action Rifle  
 Anschutz 1733D Mannlicher Rifle  
 Barret Model 90 Bolt-Action Rifle  
 Beeman/HW 60J Bolt-Action Rifle  
 Blaser R84 Bolt-Action Rifle  
 BRNO 537 Sporter Bolt-Action Rifle  
 BRNO ZKB 527 Fox Bolt-Action Rifle  
 BRNO ZKK 600, 601, 602 Bolt-Action Rifles  
 Browning A-Bolt Rifle  
 Browning A-Bolt Stainless Stalker  
 Browning A-Bolt Left Hand  
 Browning A-Bolt Short Action  
 Browning Euro-Bolt Rifle  
 Browning A-Bolt Gold Medallion  
 Browning A-Bolt Micro Medallion  
 Century Centurion 14 Sporter  
 Century Enfield Sporter #4  
 Century Swedish Sporter #38  
 Century Mauser 98 Sporter  
 Cooper Model 38 Centerfire Sporter  
 Dakota 22 Sporter Bolt-Action Rifle  
 Dakota 76 Classic Bolt-Action Rifle  
 Dakota 76 Short Action Rifles  
 Dakota 76 Safari Bolt-Action Rifle  
 Dakota 416 Rigby African  
 E.A.A./Sabatti Rover 870 Bolt-Action Rifle  
 Auguste Francotte Bolt-Action Rifles  
 Carl Gustaf 2000 Bolt-Action Rifle  
 Heym Magnum Express Series Rifle  
 Howa Lightning Bolt-Action Rifle  
 Howa Realtree Camo Rifle  
 Interarms Mark X Viscount Bolt-Action Rifle  
 Interarms Mini-Mark X Rifle  
 Interarms Mark X Whitworth Bolt-Action Rifle  
 Interarms Whitworth Express Rifle  
 Iver Johnson Model 5100A1 Long-Range Rifle  
 KDF K15 American Bolt-Action Rifle  
 Krico Model 600 Bolt-Action Rifle  
 Krico Model 700 Bolt-Action Rifles  
 Mauser Model 66 Bolt-Action Rifle  
 Mauser Model 99 Bolt-Action Rifle  
 McMillan Signature Classic Sporter  
 McMillan Signature Super Varminter  
 McMillan Signature Alaskan  
 McMillan Signature Titanium Mountain Rifle  
 McMillan Classic Stainless Sporter  
 McMillan Talon Safari Rifle  
 McMillan Talon Sporter Rifle  
 Midland 1500S Survivor Rifle  
 Navy Arms TU-33/40 Carbine  
 Parker-Hale Model 81 Classic Rifle



Parker-Hale Model 81 Classic African Rifle  
 Parker-Hale Model 1000 Rifle  
 Parker-Hale Model 1100M African Magnum  
 Parker-Hale Model 1100 Lightweight Rifle  
 Parker-Hale Model 1200 Super Rifle  
 Parker-Hale Model 1200 Super Clip Rifle  
 Parker-Hale Model 1300C Scout Rifle  
 Parker-Hale Model 2100 Midland Rifle  
 Parker-Hale Model 2700 Lightweight Rifle  
 Parker-Hale Model 2800 Midland Rifle  
 Remington Model Seven Bolt-Action Rifle  
 Remington Model Seven Youth Rifle  
 Remington Model Seven Custom KS  
 Remington Model Seven Custom MS Rifle  
 Remington 700 ADL Bolt-Action Rifle  
 Remington 700 BDL Bolt-Action Rifle  
 Remington 700 BDL Varmint Special  
 Remington 700 BDL European Bolt-Action Rifle  
 Remington 700 Varmint Synthetic Rifle  
 Remington 700 BDL SS Rifle  
 Remington 700 Stainless Synthetic Rifle  
 Remington 700 MTRSS Rifle  
 Remington 700 BDL Left Hand  
 Remington 700 Camo Synthetic Rifle  
 Remington 700 Safari  
 Remington 700 Mountain Rifle  
 Remington 700 Custom KS Mountain Rifle  
 Remington 700 Classic Rifle  
 Ruger M77 Mark II Rifle  
 Ruger M77 Mark II Magnum Rifle  
 Ruger M77RL Ultra Light  
 Ruger M77 Mark II All-Weather Stainless Rifle  
 Ruger M77 RSI International Carbine  
 Ruger M77 Mark II Express Rifle  
 Ruger M77VT Target Rifle  
 Sako Hunter Rifle  
 Sako Fiberclass Sporter  
 Sako Safari Grade Bolt Action  
 Sako Hunter Left-Hand Rifle  
 Sako Classic Bolt Action  
 Sako Hunter LS Rifle  
 Sako Deluxe Lightweight  
 Sako Super Deluxe Sporter  
 Sako Mannlicher-Style Carbine  
 Sako Varmint Heavy Barrel  
 Sako TRG-S Bolt-Action Rifle  
 Sauer 90 Bolt-Action Rifle  
 Savage 110G Bolt-Action Rifle  
 Savage 110CY Youth/Ladies Rifle  
 Savage 110WLE One of One Thousand Limited Edition Rifle  
 Savage 110GXP3 Bolt-Action Rifle  
 Savage 110F Bolt-Action Rifle  
 Savage 110FXP3 Bolt-Action Rifle  
 Savage 110GV Varmint Rifle  
 Savage 112FV Varmint Rifle  
 Savage Model 112FVS Varmint Rifle  
 Savage Model 112BV Heavy Barrel Varmint Rifle  
 Savage 116FSS Bolt-Action Rifle  
 Savage Model 116FSK Kodiak Rifle  
 Savage 110FP Police Rifle  
 Steyr-Mannlicher Sporter Models SL, L, M, S, S/T  
 Steyr-Mannlicher Luxus Model L, M, S  
 Steyr-Mannlicher Model M Professional Rifle  
 Tikka Bolt-Action Rifle  
 Tikka Premium Grade Rifles  
 Tikka Varmint/Continental Rifle  
 Tikka Whitetail/Battue Rifle  
 Ultra Light Arms Model 20 Rifle  
 Ultra Light Arms Model 28, Model 40 Rifles  
 Voere VEC 91 Lightning Bolt-Action Rifle  
 Voere Model 2165 Bolt-Action Rifle  
 Voere Model 2155, 2150 Bolt-Action Rifles  
 Weatherby Mark V Deluxe Bolt-Action Rifle  
 Weatherby Lasermark V Rifle  
 Weatherby Mark V Crown Custom Rifles  
 Weatherby Mark V Sporter Rifle  
 Weatherby Mark V Safari Grade Custom Rifles  
 Weatherby Weathermark Rifle  
 Weatherby Weathermark Alaskan Rifle  
 Weatherby Classicmark No. 1 Rifle  
 Weatherby Weatherguard Alaskan Rifle  
 Weatherby Vanguard VGX Deluxe Rifle  
 Weatherby Vanguard Classic Rifle  
 Weatherby Vanguard Classic No. 1 Rifle  
 Weatherby Vanguard Weatherguard Rifle  
 Wichita Classic Rifle  
 Wichita Varmint Rifle  
 Winchester Model 70 Sporter  
 Winchester Model 70 Sporter WinTuff  
 Winchester Model 70 SM Sporter

Winchester Model 70 Stainless Rifle  
 Winchester Model 70 Varmint  
 Winchester Model 70 Synthetic Heavy Varmint Rifle  
 Winchester Model 70 DBM Rifle  
 Winchester Model 70 DBM-S Rifle  
 Winchester Model 70 Featherweight  
 Winchester Model 70 Featherweight WinTuff  
 Winchester Model 70 Featherweight Classic  
 Winchester Model 70 Lightweight Rifle  
 Winchester Ranger Rifle  
 Winchester Model 70 Super Express Magnum  
 Winchester Model 70 Super Grade  
 Winchester Model 70 Custom Sharpshooter  
 Winchester Model 70 Custom Sporting Sharpshooter Rifle

#### Centerfire Rifles—Single Shot

Armsport 1866 Sharps Rifle, Carbine  
 Brown Model One Single Shot Rifle  
 Browning Model 1885 Single Shot Rifle  
 Dakota Single Shot Rifle  
 Desert Industries G-90 Single Shot Rifle  
 Harrington & Richardson Ultra Varmint Rifle  
 Model 1885 High Wall Rifle  
 Navy Arms Rolling Block Buffalo Rifle  
 Navy Arms #2 Creedmoor Rifle  
 Navy Arms Sharps Cavalry Carbine  
 Navy Arms Sharps Plains Rifle  
 New England Firearms Handi-Rifle  
 Red Willow Armory Ballard No. 5 Pacific  
 Red Willow Armory Ballard No. 1.5 Hunting Rifle  
 Red Willow Armory Ballard No. 8 Union Hill Rifle  
 Red Willow Armory Ballard No. 4.5 Target Rifle  
 Remington-Style Rolling Block Carbine  
 Ruger No. 1B Single Shot  
 Ruger No. 1A Light Sporter  
 Ruger No. 1H Tropical Rifle  
 Ruger No. 1S Medium Sporter  
 Ruger No. 1 RSI International  
 Ruger No. 1V Special Varminter  
 C. Sharps Arms New Model 1874 Old Reliable  
 C. Sharps Arms New Model 1875 Rifle  
 C. Sharps Arms 1875 Classic Sharps  
 C. Sharps Arms New Model 1875 Target & Long Range  
 Shiloh Sharps 1874 Long Range Express  
 Shiloh Sharps 1874 Montana Roughrider  
 Shiloh Sharps 1874 Military Carbine  
 Shiloh Sharps 1874 Business Rifle  
 Shiloh Sharps 1874 Military Rifle  
 Sharps 1874 Old Reliable  
 Thompson/Center Contender Carbine  
 Thompson/Center Stainless Contender Carbine  
 Thompson/Center Contender Carbine Survival System  
 Thompson/Center Contender Carbine Youth Model  
 Thompson/Center TCR '87 Single Shot Rifle  
 Uberti Rolling Block Baby Carbine

#### Drillings, Combination Guns, Double Rifles

Baretta Express SSO O/U Double Rifles  
 Baretta Model 455 SxS Express Rifle  
 Chapuis REXpress Double Rifle  
 Auguste Francotte Sidelock Double Rifles  
 Auguste Francotte Boxlock Double Rifle  
 Heym Model 55B O/U Double Rifle  
 Heym Model 55FW O/U Combo Gun  
 Heym Model 88b Side-by-Side Double Rifle  
 Kodiak Mk. IV Double Rifle  
 Kreighoff Teck O/U Combination Gun  
 Kreighoff Trumpf Drilling  
 Merkel Over/Under Combination Guns  
 Merkel Drillings  
 Merkel Model 160 Side-by-Side Double Rifles  
 Merkel Over/Under Double Rifles  
 Savage 24F O/U Combination Gun  
 Savage 24F-12T Turkey Gun  
 Springfield Inc. M6 Scout Rifle/Shotgun  
 Tikka Model 412a Combination Gun  
 Tikka Model 412S Double Fire  
 A. Zoli Rifle-Shotgun O/U Combo

#### Rimfire Rifles—Autoloaders

AMT Lightning 25/22 Rifle  
 AMT Lightning Small-Game Hunting Rifle II  
 AMT Magnum Hunter Auto Rifle  
 Anschutz 525 Deluxe Auto  
 Armscor Model 20P Auto Rifle  
 Browning Auto-22 Rifle  
 Browning Auto-22 Grade VI  
 Krico Model 260 Auto Rifle

Lakefield Arms Model 64B Auto Rifle  
 Marlin Model 60 Self-Loading Rifle  
 Marlin Model 60es Self-Loading Rifle  
 Marlin Model 70 HC Auto  
 Marlin Model 9901 Self-Loading Rifle  
 Marlin Model 70P Papoose  
 Marlin Model 922 Magnum Self-Loading Rifle  
 Marlin Model 995 Self-Loading Rifle  
 Norinco Model 22 ATD Rifle  
 Remington Model 522 Viper Autoloading Rifle  
 Remington 552BDL Speedmaster Rifle  
 Ruger 10/22 Autoloading Carbine (w/o folding stock)  
 Survival Arms AR-7 Explorer Rifle  
 Texas Remington Revolving Carbine  
 Voere Model 2115 Auto Rifle

#### Rimfire Rifles—Lever & Slide Action

Browning BL-22 Lever-Action Rifle  
 Marlin 39TDS Carbine  
 Marlin Model 39AS Golden Lever-Action Rifle  
 Remington 572BDL Fieldmaster Pump Rifle  
 Norinco EM-321 Pump Rifle  
 Rossi Model 62 SA Pump Rifle  
 Rossi Model 62 SAC Carbine  
 Winchester Model 9422 Lever-Action Rifle  
 Winchester Model 9422 Magnum Lever-Action Rifle

#### Rimfire Rifles—Bolt Actions & Single Shots

Anschutz Achiever Bolt-Action Rifle  
 Anschutz 1416D/1516D Classic Rifles  
 Anschutz 1418D/1518D Mannlicher Rifles  
 Anschutz 1700D Classic Rifles  
 Anschutz 1700D Custom Rifles  
 Anschutz 1700 FWT Bolt-Action Rifle  
 Anschutz 1700D Graphite Custom Rifle  
 Anschutz 1700D Bavarian Bolt-Action Rifle  
 Armscor Model 14P Bolt-Action Rifle  
 Armscor Model 1500 Rifle  
 BRNO ZKM-452 Deluxe Bolt-Action Rifle  
 BRNO ZKM 452 Deluxe  
 Beeman/HW 60-J-ST Bolt-Action Rifle  
 Browning A-Bolt 22 Bolt-Action Rifle  
 Browning A-Bolt Gold Medallion  
 Cabanas Phaser Rifle  
 Cabanas Master Bolt-Action Rifle  
 Cabanas Espronceda IV Bolt-Action Rifle  
 Cabanas Leyre Bolt-Action Rifle  
 Chipmunk Single Shot Rifle  
 Cooper Arms Model 36S Sporter Rifle  
 Dakota 22 Sporter Bolt-Action Rifle  
 Krico Model 300 Bolt-Action Rifles  
 Lakefield Arms Mark II Bolt-Action Rifle  
 Lakefield Arms Mark I Bolt-Action Rifle  
 Magtech Model MT-22C Bolt-Action Rifle  
 Marlin Model 880 Bolt-Action Rifle  
 Marlin Model 881 Bolt-Action Rifle  
 Marlin Model 882 Bolt-Action Rifle  
 Marlin Model 883 Bolt-Action Rifle  
 Marlin Model 883SS Bolt-Action Rifle  
 Marlin Model 25MN Bolt-Action Rifle  
 Marlin Model 25N Bolt-Action Repeater  
 Marlin Model 15YN "Little Buckaroo"  
 Mauser Model 107 Bolt-Action Rifle  
 Mauser Model 201 Bolt-Action Rifle  
 Navy Arms TU-KKW Training Rifle  
 Navy Arms TU-33/40 Carbine  
 Navy Arms TU-KKW Sniper Trainer  
 Norinco JW-27 Bolt-Action Rifle  
 Norinco JW-15 Bolt-Action Rifle  
 Remington 541-T  
 Remington 40-XR Rimfire Custom sporter  
 Remington 541-T HB Bolt-Action Rifle  
 Remington 581-S Sportsman Rifle  
 Ruger 77/22 Rimfire Bolt-Action Rifle  
 Ruger K77/22 Varmint Rifle  
 Ultra Light Arms Model 20 RF Bolt-Action Rifle  
 Winchester Model 52B Sporting Rifle

#### Competition Rifles—Centerfire & Rimfire

Anschutz 64-MS Left Silhouette  
 Anschutz 1808D RT Super Match 54 Target  
 Anschutz 1827B Biathlon Rifle  
 Anschutz 1903D Match Rifle  
 Anschutz 1803D Intermediate Match  
 Anschutz 1911 Match Rifle  
 Anschutz 54.18MS REP Deluxe Silhouette Rifle  
 Anschutz 1913 Super Match Rifle  
 Anschutz 1907 Match Rifle

Anschutz 1910 Super Match II  
 Anschutz 54.18MS Silhouette Rifle  
 Anschutz Super Match 54 Target Model 2013  
 Anschutz Super Match 54 Target Model 2007  
 Beeman/Feinwerkbau 2600 Target Rifle  
 Cooper Arms Model TRP-1 ISU Standard Rifle  
 E.A.A./Weihrauch HW 60 Target Rifle  
 E.A.A./HW 660 Match Rifle  
 Finnish Lion Standard Target Rifle  
 Krico Model 360 S2 Biathlon Rifle  
 Krico Model 400 Match Rifle  
 Krico Model 360S Biathlon Rifle  
 Krico Model 500 Kricotronic Match Rifle  
 Krico Model 600 Sniper Rifle  
 Krico Model 600 Match Rifle  
 Lakefield Arms Model 90B Target Rifle  
 Lakefield Arms Model 91T Target Rifle  
 Lakefield Arms Model 92S Silhouette Rifle  
 Marlin Model 2000 Target Rifle  
 Mauser Model 86-SR Specialty Rifle  
 McMillan M-86 Sniper Rifle  
 McMillan Combo M-87/M-88 50-Caliber Rifle  
 McMillan 300 Phoenix Long Range Rifle  
 McMillan M-89 Sniper Rifle  
 McMillan National Match Rifle  
 McMillan Long Range Rifle  
 Parker-Hale M-87 Target Rifle  
 Parker-Hale M-85 Sniper Rifle  
 Remington 40-XB Rangemaster Target Centerfire  
 Remington 40-XR KS Rimfire Position Rifle  
 Remington 40-XBRR KS  
 Remington 40-XC KS National Match Course Rifle  
 Sako TRG-21 Bolt-Action Rifle  
 Steyr-Mannlicher Match SPG-UJT Rifle  
 Steyr-Mannlicher SSG P-I Rifle  
 Steyr-Mannlicher SSG P-III Rifle  
 Steyr-Mannlicher SSG P-IV Rifle  
 Tanner Standard UJT Rifle  
 Tanner 50 Meter Free Rifle  
 Tanner 300 Meter Free Rifle  
 Wichita Silhouette Rifle

#### Shotguns—Autoloaders

American Arms/Franchi Black Magic 48/AL  
 Benelli Super Black Eagle Shotgun  
 Benelli Super Black Eagle Slug Gun  
 Benelli M1 Super 90 Field Auto Shotgun  
 Benelli Montefeltro Super 90 20-Gauge Shotgun  
 Benelli Montefeltro Super 90 Shotgun  
 Benelli M1 Sporting Special Auto Shotgun  
 Benelli Black Eagle Competition Auto Shotgun  
 Beretta A-303 Auto Shotgun  
 Beretta 390 Field Auto Shotgun  
 Beretta 390 Super Trap, Super Skeet Shotguns  
 Beretta Vittoria Auto Shotgun  
 Beretta Model 1201F Auto Shotgun  
 Browning BSA 10 Auto Shotgun  
 Browning Bea 10 Stalker Auto Shotgun  
 Browning A-500R Auto Shotgun  
 Browning A-500G Auto Shotgun  
 Browning A-500G Sporting Clays  
 Browning Auto-5 Light 12 and 20  
 Browning Auto-5 Stalker  
 Browning Auto-5 Magnum 20  
 Browning Auto-5 Magnum 12  
 Churchill Turkey Automatic Shotgun  
 Cosmi Automatic Shotgun  
 Maverick Model 60 Auto Shotgun  
 Mossberg Model 5500 Shotgun  
 Mossberg Model 9200 Regal Semi-Auto Shotgun  
 Mossberg Model 9200 USST Auto Shotgun  
 Mossberg Model 9200 Camo Shotgun  
 Mossberg Model 6000 Auto Shotgun  
 Remington Model 1100 Shotgun  
 Remington 11-87 Premier shotgun  
 Remington 11-87 Sporting Clays  
 Remington 11-87 Premier Skeet  
 Remington 11-87 Premier Trap  
 Remington 11-87 Special Purpose Magnum  
 Remington 11-87 SPS-T Camo Auto Shotgun  
 Remington 11-87 Special Purpose Deer Gun  
 Remington 11-87 SPS-BG-Camo Deer/Turkey Shotgun  
 Remington 11-87 SPS-Deer Shotgun  
 Remington 11-87 Special Purpose Synthetic Camo  
 Remington SP-10 Magnum-Camo Auto Shotgun  
 Remington SP-10 Magnum Auto Shotgun  
 Remington SP-10 Magnum Turkey Combo  
 Remington 1100 LT-20 Auto  
 Remington 1100 Special Field  
 Remington 1100 20-Gauge Deer Gun

Remington 1100 LT-20 Tournament Skest  
Winchester Model 1400 Semi-Auto Shotgun

**Shotguns—Slide Actions**

Browning Model 42 Pump Shotgun  
Browning BPS Pump Shotgun  
Browning BPS Stalker Pump Shotgun  
Browning BPS Pigeon Grade Pump Shotgun  
Browning BPS Pump Shotgun (Ladies and Youth Model)  
Browning BPS Game Gun Turkey Special  
Browning BPS Game Gun Deer Special  
Ithaca Model 87 Supreme Pump Shotgun  
Ithaca Model 87 Deerslayer Shotgun  
Ithaca Deerslayer II Rifled Shotgun  
Ithaca Model 87 Turkey Gun  
Ithaca Model 87 Deluxe Pump Shotgun  
Magtech Model 586-VR Pump Shotgun  
Maverick Models 88, 91 Pump Shotguns  
Mossberg Model 500 Sporting Pump  
Mossberg Model 500 Camo Pump  
Mossberg Model 500 Muzzleloader Combo  
Mossberg Model 500 Trophy Slugster  
Mossberg Turkey Model 500 Pump  
Mossberg Model 500 Bantam Pump  
Mossberg Field Grade Model 835 Pump Shotgun  
Mossberg Model 835 Regal Ulti-Mag Pump  
Remington 870 Wingmaster  
Remington 870 Special Purpose Deer Gun  
Remington 870 SPS-BG-Camo Deer/Turkey Shotgun  
Remington 870 SPS-Deer Shotgun  
Remington 870 Marine Magnum  
Remington 870 TC Trap  
Remington 870 Special Purpose Synthetic Camo  
Remington 870 Wingmaster Small Gauges  
Remington 870 Express Rifle Sighted Deer Gun  
Remington 879 SPS Special Purpose Magnum  
Remington 870 SPS-T Camo Pump Shotgun  
Remington 870 Special Field  
Remington 870 Express Turkey  
Remington 870 High Grades  
Remington 870 Express  
Remington Model 870 Express Youth Gun  
Winchester Model 12 Pump Shotgun  
Winchester Model 42 High Grade Shotgun  
Winchester Model 1300 Walnut Pump  
Winchester Model 1300 Slug Hunter Deer Gun  
Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun  
Winchester Model 1300 Turkey Gun  
Winchester Model 1300 Ranger Pump Gun

**Shotguns—Over/Unders**

American Arms/Franchi Falconet 2000 O/U  
American Arms Silver I O/U  
American Arms Silver II Shotgun  
American Arms Silver Skest O/U  
American Arms/Franchi Sporting 2000 O/U  
American Arms Silver Sporting O/U  
American Arms Silver Trap O/U  
American Arms WS/OU 12, TS/OU 12 Shotguns  
American Arms WT/OU 10 Shotgun  
Armsport 2700 O/U Goose Gun  
Armsport 2700 Series O/U  
Armsport 2900 Tri-Barrel Shotgun  
Baby Bretton Over/Under Shotgun  
Beretta Model 686 Ultralight O/U  
Beretta ASE 90 Competition O/U Shotgun  
Beretta Over/Under Field Shotguns  
Beretta Onyx Hunter Sport O/U Shotgun  
Beretta Model SO5, SO8, SO9 Shotguns  
Beretta Sporting Clay Shotguns  
Beretta 687EL Sporting O/U  
Beretta 682 Super Sporting O/U  
Beretta Series 682 Competition Over/Unders  
Browning Citori O/U Shotgun  
Browning Superlight Citori Over/Under  
Browning Lightning Sporting Clays  
Browning Micro Citori Lightning  
Browning Citori Plus Trap Combo  
Browning Citori Plus Trap Gun  
Browning Citori O/U Skest Models  
Browning Citori O/U Trap Models  
Browning Special Sporting Clays  
Browning Citori GTI Sporting Clays  
Browning 325 Sporting Clays  
Centurion Over/Under Shotgun  
Chapuis Over/Under Shotgun  
Connecticut Valley Classics Classic Sporter O/U  
Connecticut Valley Classics Classic Field Waterfowler  
Charles Daly Field Grade O/U

Charles Daly Lux Over/Under  
 E.A.A./Sabatti Sporting Clays Pro-Gold O/U  
 E.A.A./Sabatti Falcon-Mon Over/Under  
 Kassnar Grade I O/U Shotgun  
 Krieghoff K-80 Sporting Clays O/U  
 Krieghoff K-80 Skeet Shotgun  
 Krieghoff K-80 International Skeet  
 Krieghoff K-80 Four-Barrel Skeet Set  
 Krieghoff K-80/RT Shotguns  
 Krieghoff K-80 O/U Trap Shotgun  
 Laurona Silhouette 300 Sporting Clays  
 Laurona Silhouette 300 Trap  
 Laurona Super Model Over/Unders  
 Ljutic LM-6 Deluxe O/U Shotgun  
 Marocchi Conquista Over/Under Shotgun  
 Marocchi Avanza O/U Shotgun  
 Merkel Model 200E O/U Shotgun  
 Merkel Model 200E Skeet, Trap Over/Unders  
 Merkel Model 203E, 303E Over/Under Shotguns  
 Perazzi Mirage Special Sporting O/U  
 Perazzi Mirage Special Four-Gauge Skeet  
 Perazzi Sporting Classic O/U  
 Perazzi MX7 Over/Under Shotguns  
 Perazzi Mirage Special Skeet Over/Under  
 Perazzi MX8/MX8 Special Trap, Skeet  
 Perazzi MX8/20 Over/Under Shotgun  
 Perazzi MX9 Single Over/Under Shotguns  
 Perazzi MX12 Hunting Over/Under  
 Perazzi MX28, MX410 Game O/U Shotguns  
 Perazzi MX20 Hunting Over/Under  
 Piotti Boss Over/Under Shotgun  
 Remington Peerless Over/Under Shotgun  
 Ruger Red Label O/U Shotgun  
 Ruger Sporting Clays O/U Shotgun  
 San Marco 12-Ga. Wildflower Shotgun  
 San Marco Field Special O/U Shotgun  
 San Marco 10-Ga. O/U Shotgun  
 SKB Model 505 Deluxe Over/Under Shotgun  
 SKB Model 685 Over/Under Shotgun  
 SKB Model 885 Over/Under Trap, Skeet, Sporting Clays  
 Stoeger/IGA Condor I O/U Shotgun  
 Stoeger/IGA ERA 2000 Over/Under Shotgun  
 Techni-Mec Model 610 Over/Under  
 Tikka Model 412S Field Grade Over/Under  
 Weatherby Athena Grade IV O/U Shotguns  
 Weatherby Athena Grade V Classic Field O/U  
 Weatherby Orion O/U Shotguns  
 Weatherby II, III Classic Field O/Us  
 Weatherby Orion II Classic Sporting Clays O/U  
 Weatherby Orion II Sporting Clays O/U  
 Winchester Model 1001 O/U Shotgun  
 Winchester Model 1001 Sporting Clays O/U  
 Pietro Zanoletti Model 2000 Field O/U

**Shotguns—Side by Sides**

American Arms Brittany Shotgun  
 American Arms Gentry Double Shotgun  
 American Arms Derby Side-by-Side  
 American Arms Grulla #2 Double Shotgun  
 American Arms WS/SS 10  
 American Arms TS/SS 10 Double Shotgun  
 American Arms TS/SS 12 Side-by-Side  
 Arrieta Sidelock Double Shotguns  
 Armsport 1050 Series Double Shotguns  
 Arizaga Model 31 Double Shotgun  
 AYA Boxlock Shotguns  
 AYA Sidelock Double Shotguns  
 Beretta Model 452 Sidelock Shotgun  
 Beretta Side-by-Side Field Shotguns  
 Crucelegui Hermanos Model 150 Double  
 Chapuis Side-by-Side Shotgun  
 E.A.A./Sabatti Saba-Mon Double Shotgun  
 Charles Daly Model Dss Double  
 Ferlib Model F VII Double Shotgun  
 Auguste Francotte Boxlock Shotgun  
 Auguste Francotte Sidelock Shotgun  
 Garbi Model 100 Double  
 Garbi Model 101 Side-by-Side  
 Garbi Model 103A, B Side-by-Side  
 Garbi Model 200 Side-by-Side  
 Bill Hanus Birdgun Doubles  
 Hatfield Uplander Shotgun  
 Merkel Model 8, 47E Side-by-Side Shotguns  
 Merkel Model 47LSC Sporting Clays Double  
 Merkel Model 47S, 147S Side-by-Sides  
 Parker Reproductions Side-by-Side  
 Piotti King No. 1 Side-by-Side  
 Piotti Lunik Side-by-Side  
 Piotti King Extra Side-by-Side  
 Piotti Puma Side-by-Side

Precision Sports Model 600 Series Doubles  
 Rizzini Boxlock Side-by-Side  
 Rizzini Sidelock Side-by-Side  
 Stoeger/IGA Uplander Side-by-Side Shotgun  
 Ugartechea 10-Ga. Magnum Shotgun

#### Shotguns—Bolt Actions & Single Shots

Armsport Single Barrel Shotgun  
 Browning BT-99 Competition Trap Special  
 Browning BT-99 Plus Trap Gun  
 Browning BT-99 Plus Micro  
 Browning Recoilless Trap Shotgun  
 Browning Micro Recoilless Trap Shotgun  
 Desert Industries Big Twenty Shotgun  
 Harrington & Richardson Topper Model 098  
 Harrington & Richardson Topper Classic Youth Shotgun  
 Harrington & Richardson N.W.T.F. Turkey Mag  
 Harrington & Richardson Topper Deluxe Model 098  
 Krieghoff KS-5 Trap Gun  
 Krieghoff KS-5 Special  
 Krieghoff K-80 Single Barrel Trap Gun  
 Ljutic Mono Gun Single Barrel  
 Ljutic LTX Super Deluxe Mono Gun  
 Ljutic Recoilless Space Gun Shotgun  
 Marlin Model 55 Goose Gun Bolt Action  
 New England Firearms Turkey and Goose Gun  
 New England Firearms N.W.T.F. Shotgun  
 New England Firearms Tracker Slug Gun  
 New England Firearms Standard Pardner  
 New England Firearms Survival Gun  
 Perazzi TM1 Special Single Trap  
 Remington 90-T Super Single Shotgun  
 Snake Charmer II Shotgun  
 Stoeger/IGA Reuna Single Barrel Shotgun  
 Thompson/Center TCR '87 Hunter Shotgun.

#### SUMMARY AND PURPOSE

The purpose of this bill is to create criminal penalties for the manufacture, transfer, or possession of certain firearms within the category of firearms known as "semiautomatic assault weapons." It also creates such penalties for certain ammunition feeding devices, as well as any combination of parts from which such a device can be assembled.

In reporting legislation banning certain assault weapons last Congress, the Committee on the Judiciary said:

The threat posed by criminals and mentally deranged individuals armed with semi-automatic assault weapons has been tragically widespread.<sup>1</sup>

Since then, the use of semiautomatic assault weapons by criminal gangs, drug-traffickers, and mentally deranged persons continues to grow.<sup>2</sup>

H.R. 4296 will restrict the availability of such weapons in the future. The bill protects the rights of persons who lawfully own such weapons on its date of enactment by a universal "grandfathering" clause and specifically exempts certain firearms traditionally used for hunting and other legitimate support. It contains no confiscation or registration provisions; however, it does establish record-keeping requirements for transfers involving grandfathered semiautomatic assault weapons. Such record-keeping is not required for transfers of grandfathered ammunition feeding devices

<sup>1</sup>"Omnibus Crime Control Act of 1991," Report of the Committee on the Judiciary, House of Representatives, on H.R. 3371, 102d Cong., 1st Sess., Rept. 102-242, October 7, 1991, at 202.

<sup>2</sup>See, e.g., Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 Firearms; Chief Sylvester Daughtry, President, International Association of Chiefs of Police; Mr. John Pitta, National Executive Director, Federal Law Enforcement Officers Association).

(or their component parts.) H.R. 4296 expires ("sunsets") on its own terms after 10 years.

#### BACKGROUND

A series of hearings over the last five years on the subject of semiautomatic assault weapons has demonstrated that they are a growing menace to our society of proportion to their numbers.<sup>3</sup> As this Committee said in its report to the last Congress:

The carnage inflicted on the American people by criminals and mentally deranged people armed with Rambo-style, semi-automatic assault weapons has been overwhelming and continuing. Police and law enforcement groups all over the nation have joined together to support legislation that would help keep these weapons out of the hands of criminals.<sup>4</sup>

Since then, evidence continues to mount that these semiautomatic assault weapons are the weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder.

Use in Crimes. On April 25, 1994, the Director of the Federal Bureau of Alcohol, Tobacco and Firearms testified that the percentage of semiautomatic assault weapons among guns traced because of their use in crime is increasing:

In 1990, 5.9 percent of firearms traced were assault weapons. In 1993, that percentage rose to 8.1 percent. Since Justice Department studies have shown that assault weapons make up only about 1 percent of the firearms in circulation, these percentages strongly suggest that they are proportionately more often used in crimes.<sup>5</sup>

Law enforcement officials confirm this statistical evidence in accounts of the rising level of lethality they face from assault weapons on the street. For example, the representative of a national police officers' organization testified:

In the past, we used to face criminals armed with a cheap Saturday Night Special that could fire off six rounds before loading. Now it is not at all unusual for a cop to look down the barrel of a TEC-9 with a 32 round clip. The ready availability of and easy access to assault weapons by criminals has increased so dramatically that police forces across the country are being required to upgrade their service weapons merely as a matter of self-defense and

<sup>3</sup>Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994; Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991; Hearing on Semiautomatic Assault Weapons, Part II, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, July 25, 1991; Hearing on H.R. 1190, Semiautomatic Assault Weapons Act of 1989, and related bills, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, April 5 and 6, 1989.

<sup>4</sup>"Omnibus Crime Control Act of 1991," Report of the Committee on the Judiciary, House of Representatives, on H.R. 3371, 102d Cong, 1st Sess., Rept. 102-242, October 7, 1991, at 203.

<sup>5</sup>Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Hon. John Magaw, Director, Bureau of Alcohol, Tobacco and Firearms).



preservation. The six-shot .38 caliber service revolver, standard law enforcement issue for years, it just no match against a criminal armed with a semi-automatic assault weapon.<sup>6</sup>

A representative of federal law enforcement officers testified that semiautomatic assault weapons “dramatically escalate the firepower or the user” and “have become the weapon of choice for drug runners, hate groups and the mentally unstable.”<sup>7</sup>

The TEC-9 assault pistol is the undisputed favorite of drug traffickers, gang members and violent criminals. Cities across the country confiscate more TEC-9s than any other assault pistol. The prototype for the TEC-9 was originally designed as a submachine gun for the South African government. Now it comes standard with an ammunition magazine holding 36 rounds of 9 mm cartridges. It also has a threaded barrel to accept a silencer, and a barrel shroud to cool the barrel during rapid fire. To any real sportsman or collector, this firearm is a piece of junk, yet is very popular among criminals.<sup>8</sup>

The Secretary of Housing and Urban Development testified that criminal gangs in Chicago routinely use semiautomatic assault weapons to intimidate not only residents but also security guards, forcing the latter to remove metal detectors installed to detect weapons.<sup>9</sup>

Use in Mass Killings and Killings of Law Enforcement Officers. Public concern about semiautomatic assault weapons has grown because of shootings in which large numbers of innocent people have been killed and wounded, and in which law enforcement officers have been murdered.

On April 25, 1994, the Subcommittee on Crime and Criminal Justice heard testimony about several incidents representative of such killings.

On February 22, 1994, Los Angeles (CA) Police Department rookie officer Christy Lynn Hamilton was ambushed and killed by a

<sup>6</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Tony Loizzo, executive vice president, National Association of Police Organizations). See also, Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal Order of Police) (assault weapons “pose a grave and immediate threat to the lives of those sworn to uphold our laws”); Hearing on H.R. 1190, Semiautomatic Assault Weapons Act of 1989, and related bills, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, April 5, 1989 (Testimony of Daniel M. Hartnett, associate director, law enforcement, Bureau of Alcohol, Tobacco and Firearms) (“Fifteen years ago, police rarely encountered armed drug dealers. Today, firearms, especially certain types of semiautomatic weapons, are status symbols and tools of the trade for this country’s most vicious criminals.”)

<sup>7</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

<sup>8</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

<sup>9</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Hon. Henry Cisneros, Secretary, Department of Housing and Urban Development).

drug-abusing teenager using a Colt AR-15. The round that killed Officer Hamilton penetrated a car door, skirted the armhole of her protective vest, and lodged in her chest. The teenager also killed his father, who had given him the gun, and took his own life as well. Officer Hamilton had been voted the most inspirational officer in her graduating class only weeks before her murder. Officer Hamilton's surviving brother testified about the impact of this murder.<sup>10</sup>

On December 7, 1993, a deranged gunman walked through a Long Island Railroad commuter train, shooting commuters. Six died and 19 were wounded. The gunman used a Ruger semiautomatic pistol. Although the pistol itself would not be classified as an assault weapon under this bill, its 15 round ammunition magazine ("clip") would be banned. The gunman had several of these high capacity 15 round magazines and reloaded several times, firing between 30 to 50 rounds before he was overpowered while trying to reload yet again. The parents of one of the murdered victims, Amy Locicero Federici, testified about the impact of this murder.<sup>11</sup>

On February 28, 1993, 4 special agents of the Bureau of Alcohol, Tobacco and Firearms were killed and 15 were wounded while trying to serve federal search and arrest warrants at the Branch Davidian compound in Waco, Texas. The Branch Davidian arsenal included hundreds of assault weapons, including AR-15s, AK-47s, Street Sweepers, MAC10s and MAC-11s, along with extremely high capacity magazines (up to 260 rounds).<sup>12</sup>

Finally, on July 1, 1993, gunman Gian Luigi Ferri Killed 8 people and wounded 6 others in a San Francisco high rise office building. Ferri—who took his own life—used two TEC DC9 assault pistols with 50 round magazines, purchased from a gun dealer in Las Vegas, Nevada. Two witnesses, both of whom lost spouses in the slaughter, and one of whom was herself seriously injured, testified about this incident.<sup>13</sup>

Numerous other notorious incidents involving semiautomatic assault weapons have occurred. They include the January 25, 1993, slaying of 2 CIA employees and wounding of 3 others at McLean, VA, (AK-47), and the January 17, 1989 murder in a Stockton, CA, schoolyard of 5 small children, and wounding of 29 others (AK-47 and 75 round magazine, firing 106 rounds in less than 2 minutes).

Several witnesses who were victims themselves during such incidents testified in opposition to H.R. 4296/H.R. 3527, and in opposition to the banning of any semiautomatic assault weapons or ammunition feeding devices.

Dr. Suzanna Gratia witnessed the brutal murder, in Luby's cafeteria located in Killeen, Texas, of both of her parents who had just

<sup>10</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Ken Brondell, Jr.).

<sup>11</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Jacob Locicero and Arlene Locicero).

<sup>12</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

<sup>13</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Michelle Scully and Steve Sposato).

celebrated their 47 wedding anniversary. Just a few days before, she had removed her gun from her purse and left it in her car to comply with a Texas law which does not allow concealed carrying of a firearm. Dr. Gratia testified:

I am mad at my legislators for legislating me out of a right to protect myself and my family. I would much rather be sitting in jail with a felony offense on my head and have my parents alive. As far as these so-called assault weapons, you say that they don't have any defense use. You tell that to the guy that I saw on a videotape of the Los Angeles riots standing on his rooftop protecting his property and his life from an entire mob with one of these so-called assault weapons. Tell me that he didn't have a legitimate self-defense use.<sup>14</sup>

Ms. Jacquie Miller was shot several times with a semiautomatic assault weapon and left for dead at her place of employment with the Standard Gravure Printing Company in Louisville, Kentucky, when a fellow employee went on a killing spree. Now permanently disabled, Ms. Miller testified:

It completely enrages me that my tragedy is being used against me to deny me and all the law abiding citizens of this country to the right of the firearm of our choosing. I refuse in return to use my tragedy for retribution against innocent people just to make myself feel better for having this misfortune. Enforce the laws against criminals already on the books. After all, there are already over 20,000 of them.<sup>15</sup> More won't do a thing for crime control \* \* \* You cannot ban everything in the world that could be used as a weapon because you fear it, don't understand it, or don't agree with it.

This is America, not Lithuania or China. Our most cherished possession is our Constitution and Bill of Rights. Let's not sell those down the river or we could one day find ourselves in a boat without a paddle against the criminals who think we are easy pickings.<sup>16</sup>

Mr. Phillip Murphy used his lawfully-possessed Colt AR-15 H-BAR Sporter semiautomatic rifle—a gun which would be specifically banned by H.R. 4296—to capture one of Tucson, Arizona's most wanted criminals who was attempting to burglarize the home of Mr. Murphy's parents. The 19-year old criminal he captured was

<sup>14</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (State of Dr. Suzanna Gratia, Copperas Cove, Texas)

<sup>15</sup> The Committee notes that, under the Gun Control Act of 1968 as amended in 1986, it is a Federal felony for a convicted felon to be in possession of any firearm, including an assault weapon, under 18 U.S.C. 922(g)(1). Violations carry up to five years imprisonment and a \$250,000 fine. If a criminal—whether previously convicted or not—is carrying an assault weapon and is involved in a drug trafficking crime, that criminal is subject to a mandatory minimum of 5 years imprisonment and a \$250,000 fine under 18 U.S.C. 924(c)(1). Any criminal who has three prior violent felony and/or serious drug offenses convictions and is in possession of a firearm is subject to a mandatory minimum of 15 years imprisonment and a \$250,000 fine under 18 U.S.C. 924(e)(1).

<sup>16</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Ms. Jacquie Miller, Louisville, Kentucky).

a three-time loser with 34 prior convictions who was violating his third adult State parole for a knife assault. Mr. Murphy testified:

I respectfully urge this Committee and the Congress of the United States to restrain themselves from forcing tens of millions of law-abiding Americans like me to choose between the law and their lives.<sup>17</sup>

The Characteristics of Military-Style Semiautomatic Assault Weapons. The question of what constitutes an assault weapon has been studied by the Congress and the executive branch as the role of these guns in criminal violence has grown.

A Bureau of Alcohol, Tobacco and Firearms working group formed under the Bush administration to consider banning foreign imports of such semiautomatic assault weapons conducted the most recent comprehensive study of military assault weapons and the civilian firearms that are modelled after them.<sup>18</sup> The working group formulated a definition of the civilian version, and a list of the assault weapon characteristics that distinguish them from sporting guns. That technical work has to a large extent been incorporated into H.R. 4296.<sup>19</sup>

The working group settled on the term "semiautomatic assault" for the civilian firearms at issue. That term distinguishes the civilian firearms from the fully automatic military weapons (machine-guns)<sup>20</sup> after which they are modelled and often simply adapted by eliminating the automatic fire feature. The group determined that "semiautomatic assault rifles \* \* \* represent a distinctive type of rifle distinguished by certain general characteristics which are common to the modern military assault rifle."<sup>21</sup>

The group elaborated on the nature of those characteristics as follows:

The modern military assault rifle, such as the U.S. M16, German G3, Belgian FN/FAL, and Soviet AK-47, is a weapon designed for killing or disabling the enemy and \* \* \* has characteristics designed to accomplish this purpose.

We found that the modern military assault rifle contains a variety of physical features and characteristics designed

<sup>17</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Mr. Phillip Murphy, Tucson, Arizona).

<sup>18</sup> U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989.

<sup>19</sup> The ultimate question of law upon which the working group was advising the Secretary of the Treasury was whether these import firearms met a "sporting purpose" test under 18 U.S.C. Code section 925(d). He held that they did not. Although that legal question is not directly posed by this bill, the working group's research and analysis on assault weapons is relevant on the questions of the purposes underlying the design of assault weapons, the characteristics that distinguish them from sporting guns, and the reasons underlying each of the distinguishing features.

<sup>20</sup> An automatic gun fires a continuous stream as long as the trigger is held down, until it has fired all of the cartridges ("rounds" or "bullets") in its magazine (or "clip"). Automatic firearms are also known as machineguns. A semi-automatic gun fires one round, then loads a new round, each time the trigger is pulled until its magazine is exhausted. Manually operated guns require the shooter to manually operate a bolt, slide, pump, or lever action to extract the fired round and load a new round before pulling the trigger.

<sup>21</sup> U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

for military applications which distinguishes it from traditional sporting rifles. These military features and characteristics (other than selective fire) are carried over to the semiautomatic versions of the original military rifle.<sup>22</sup>

The "selective fire" feature to which the working group referred is the ability of the military versions to switch from fully automatic to semiautomatic fire at the option of the user. Since Congress has already banned certain civilian transfer or possession of machineguns,<sup>23</sup> the civilian models of these guns are produced with semiautomatic fire capability only. However, testimony was received by the Subcommittee on Crime and Criminal Justice that it is a relatively simple task to convert<sup>24</sup> a semiautomatic weapon to automatic fire<sup>25</sup> and that semiautomatic weapons can be fired at rates of 300 to 500 rounds per minute, making them virtually indistinguishable in practical effect from machineguns.<sup>26</sup>

The 1989 Report's analysis of assault characteristics which distinguish such firearms from sporting guns was further explained by an ATF representative at a 1991 hearing before the Subcommittee on Crime and Criminal Justice:

We found that the banned rifles represented a distinctive type of rifle characterized by certain military features which differentiated them from the traditional sporting rifles. These include the ability to accept large capacity detachable magazines, bayonets, folding or telescoping stocks, pistol grips, flash suppressors, bipods, grenade launchers and night sights, and the fact that they are semiautomatic versions of military machineguns.<sup>27</sup>

Proponents of these military style semiautomatic assault weapons often dismiss these combat-designed features as merely "cosmetic." The Subcommittee received testimony that, even if these characteristics were merely "cosmetic" in effect, it is precisely those cosmetics that contribute to their usefulness as tools of intimidation by criminals.<sup>28</sup>

However, the expert evidence is that the features that characterize a semiautomatic weapon as an assault weapon are not merely cosmetic, but do serve specific, combat-functional ends. By facilitat-

<sup>22</sup> U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

<sup>23</sup> 18 U.S. Code, section 922(o).

<sup>24</sup> The Committee notes that such conversion is a Federal felony that carries penalties of up to 10 years imprisonment and a \$250,000 fine under 26 U.S.C. 5861.

<sup>25</sup> Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal order of Police).

<sup>26</sup> Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal order of police).

<sup>27</sup> Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Richard Cook, Chief, Firearms Divisions, Bureau of Alcohol, Tobacco and Firearms) at 268.

<sup>28</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms, Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Hon. Henry Cisneros, Secretary, Department of Housing and Urban Development and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Paul J. McNulty, Principal Deputy Director, Office of Policy development, Department of Justice) at 288.

ing the deadly “spray fire” of the weapon or enhancing its portability—a useful attribute in combat but one which serves to enhance the ability to conceal the gun in civilian life.<sup>29</sup>

High-capability magazine, for example, make it possible to fire a large number of rounds without re-loading, then to reload quickly when those rounds are spent.<sup>30</sup> Most of the weapons covered by the proposed legislation come equipped with magazines that hold 30 rounds. Even these magazines, however, can be replaced with magazines that hold 50 or even 100 rounds. Furthermore, expended magazines can be quickly replaced, so that a single person with a single assault weapon can easily fire literally hundreds of rounds within minutes. As noted above, tests demonstrate that semiautomatic guns can be fired at very high rates of fire. In contrast, hunting rifles and shotguns typically have much smaller magazine capabilities—from 3 to 5.

Because of the greater enhanced lethality—numbers of rounds that can be fired quickly without reloading—H.R. 4296 also contains a ban on ammunition magazines which hold more than 10 rounds, as well as any combination of parts from which such a magazine can be assembled.

Barrel shrouds also serve a combat-functional purpose.<sup>31</sup> Gun barrels become very hot when multiple rounds are fired through them quickly. The barrel shroud cools the barrel so that it will not overheat, and provides the shooter with a convenient grip especially suitable for spray-firing.

Similar military combat purposes are served by flash suppressors (designed to help conceal the point of fire in night combat), bayonet mounts, grenade launchers, and pistol grips grafted on long guns.<sup>32</sup>

The net effect of these military combat features is a capability for lethality—more wounds, more serious, in more victims—far beyond

<sup>29</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Richard Cook, Chief, Firearms Division, Bureau of Alcohol, Tobacco and Firearms); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

<sup>30</sup> U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

<sup>31</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

<sup>32</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

that of other firearms in general, including other semiautomatic guns.<sup>33</sup>

#### BRIEF EXPLANATION OF H.R. 4296

H.R. 4296 combines two approaches which have been followed in the past in legislation proposed to control semiautomatic assault weapons—the so-called “list” approach and the “characteristics” approach.

The bill does not ban any semiautomatic assault weapons nor large capacity ammunition feeding device (or component parts) otherwise lawfully possessed on the date of enactment. However, records must be kept by both the transferor and the transferee involved in any transfer of these weapons, but not of the feeding devices (or combination of parts).

The bill explicitly exempts all guns with other than semiautomatic actions—i.e., bolt, slide, pump, and lever actions. In addition, it specifically exempts by make and model 661 long guns most commonly used in hunting and recreational sports,<sup>34</sup> making clear that these semiautomatic assault weapons are not and cannot be subject to any ban.

Section 2(z) of the bill lists 19 specific semiautomatic assault weapons—such as the AK-47, M-10, TEC-9, Uzi, etc.—that are banned.<sup>35</sup> It also defines other assault weapons by specifically enumerating combat style characteristics and bans those semiautomatic assault weapons that have 2 or more of those characteristics.<sup>36</sup>

The bill makes clear that the list of exempted guns is not exclusive. The fact that a gun is not on the exempted list may not be construed to mean that it is banned. Thus, a gun that is not on the list of guns specifically banned by name would only be banned if it met the specific characteristics set out in the characteristics test. No gun may be removed from the exempted list.

H.R. 4296 also bans large capacity ammunition feeding devices—clips that accept more than 10 rounds of ammunition—as well as

<sup>33</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement and testimony of Dr. David Milzman, Associate Director, Trauma Services, Georgetown University Medical Center, Washington, DC); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

<sup>34</sup> See H.R. 4296, Appendix A, for the list.

<sup>35</sup> H.R. 4296 bans the following semiautomatic assault weapons by name (as well as any copies or duplicates, in any caliber): All AK-47 type; Beretta AR-70; Colt AR-15; DC9, 22; FNC; FN-FAL/LAR; Galil; MAC 10, MAC 11-type; Steyr AUG; Street Sweeper; Striker 12; TEC-9; Uzi.

<sup>36</sup> While noting that its list is not all-inclusive, the Bureau of Alcohol, Tobacco, and Firearms has listed the following semi-automatic firearms that would be banned based on their general characteristics:

1. Semi-automatic Rifles: AA Arms AR9 semi-automatic rifle; AMT Lightning 25 rifle; Auto Ordnance Thompson Model 1927 carbines (finned barrel versions); Calico M100 carbine; Colt Sporter Rifle (all variations); Federal XC900 carbine; Federal XC450 carbine; Grendel R31 carbine; Iver Johnson M1 carbine (version w/collapsible stock and bayonet mount); Springfield M1A rifle.

2. Pistols: AA Arms AP9 pistol; Australian Automatic Arms pistol; Auto Ordnance Model 1927A5 pistol; American Arms Spectra pistol; Calico Model M950 pistol; Calico Model 110 pistol; All Claridge Hi-Tec pistol; D Max auto pistol; Grendel P-31 pistol; Heckler & Koch SP89 pistol; Wilkinson Linda pistol.

3. Shotguns: Benelli M1 Super 90 Defense shotgun; Benelli M3 Super 90 shotgun; Franchi LAW 12 shotgun; Franchi SPAS 12 shotgun; USAS 12 shotgun.

any combination of parts from which such a device can be assembled.

The bill exempts all semiautomatic assault weapons and large capacity ammunition feeding devices (as well as any combination of parts) that are lawfully possessed on date of enactment. Owners of such semiautomatic assault weapons need do nothing under the bill unless they wish to transfer the semiautomatic assault weapon.

H.R. 4296 differs significantly from previously-proposed legislation—it is designed to be more tightly focused and more carefully crafted to clearly exempt legitimate sporting guns. Most significantly, the ban in the 1991 proposed bill gave the Bureau of Alcohol, Tobacco, and Firearms authority to ban any weapon which “embodies the same configuration” as the named list of guns. The current bill, H.R. 4296 does not contain any such general authority. Instead, it contains a set of specific characteristics that must be present in order to ban any additional semiautomatic assault weapons.

#### 102D CONGRESS

The Subcommittee on Crime and Criminal Justice held hearings on semiautomatic assault weapons on June 12 and July 25, 1991. A ban on certain semiautomatic assault weapons was included as Subtitle A of Title XX in H.R. 3371, the Omnibus Crime Control Act of 1991. A ban on large capacity ammunition feeding devices was included in the same bill. The bill was reported out of the Judiciary Committee on October 7, 1991. The provisions dealing with semiautomatic assault weapons and large capacity ammunition feeding devices were struck by the House of Representatives by a vote of 247–177 on October 17, 1991.

#### 103D CONGRESS

The Subcommittee on Crime and Criminal Justice held hearings on H.R. 4296 and its predecessor, H.R. 3527, which ban semiautomatic assault weapons, on April 25, 1994. The Subcommittee reported favorably on an amendment in the nature of a substitute to H.R. 4296 on April 26, 1994, by a recorded vote of 8–5.

#### COMMITTEE ACTION

The Committee on the Judiciary met on April 28, 1994 to consider H.R. 4296, as amended. Two amendments were adopted during the Committee’s consideration.

An amendment was offered to provide that the absence of a firearm from the list of guns specifically exempted from the ban may not be construed as evidence that the semiautomatic assault weapon is banned, and that no gun may be removed from the exempt list so long as the Act is in effect. This amendment was adopted by voice vote.

An amendment was offered to delete a provision that barred from owning any firearms those persons convicted of violating the recordkeeping requirements relating to grandfathered weapons. This amendment was adopted by voice vote.



A reporting quorum being present, the Committee on the Judiciary, by a roll call vote of 20 to 15, ordered H.R. 4296, as amended, favorably reported to the House.

#### SECTION-BY-SECTION ANALYSIS

##### SECTION 1—SHORT TITLE

This section provides that the Act may be cited as the “Public Safety and Recreational Firearms Use Protection Act”.

##### SECTION 2—RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMIAUTOMATIC ASSAULT WEAPONS

Subsection 2(a) makes it unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon (including any “copies or duplicates.”)

The ban on transfer and possession does not apply to (1) weapons otherwise lawfully possessed on the date of enactment; (2) any of the firearms (or their replicas or duplicates) listed in Appendix A; (3) any manually operated (bolt, pump, slide, lever action), permanently inoperable, or antique firearms; (4) semiautomatic rifles that cannot accept a detachable magazine that holds more than 5 rounds; or, a semiautomatic shotgun that cannot hold more than 5 rounds in a fixed or detachable magazine.

The fact that a gun is not listed in Appendix A may not be construed to mean that it is banned. No gun listed in Appendix A may be removed from that exempted list so long as the Act is in effect.

Federal departments and agencies and those of States and their subdivisions are exempted. Law enforcement officers authorized to purchase firearms for official use are exempted, as are such officers presented with covered weapons upon retirement who are not otherwise prohibited from receiving such a weapon. Finally, weapons made, transferred, possessed, or imported for the purposes of testing or experiments authorized by the Secretary of the Treasury are exempted.

Subsection 2(b) defines semiautomatic assault weapons, both by name and by characteristics. It lists by name specific firearms, including “copies or duplicates” of such firearms.<sup>37</sup> Characteristics of covered semiautomatic rifles, pistols, and shotguns are defined by separate subsections applicable to each. In the case of rifles and pistols, in addition to being semiautomatic, a gun must be able to accept a detachable magazine and have at least 2 listed characteristics.

In the case of rifles, those characteristics are: (1) folding or telescoping stock; (2) a pistol grip that protrudes conspicuously beneath the action of the weapon; (3) a bayonet mount; (4) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and (5) a grenade launcher.

In the case of pistols, the characteristics are: (1) a magazine that attaches to the pistol outside of the pistol grip; (2) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer; (3) a barrel shroud that permits the

<sup>37</sup> H.R. 4296 bans the following semiautomatic assault weapons by name (as well as any copies or duplicates, in any caliber): All AK-47 type; Beretta AR-70; Colt AR-15; DC9, 22; FNC; FN-FAL/LAR; Galil; MAC 10, MAC 11-type; Steyr AUG; Street Sweeper; Striker 12; TEC-9; Uzi

shooter to hold the firearm without being burned; (4) an unloaded manufactured weight of 50 ounces or more; and (5) a semiautomatic version of an automatic firearm.

In the case of shotguns, covered weapons must have at least 2 of the following four features: (1) a folding or telescoping stock; (2) a pistol grip that protrudes conspicuously beneath the action of the weapon; (3) a fixed magazine capacity in excess of 5 rounds; and (4) an ability to accept a detachable magazine.

The section provides a fine of not more than \$5,000, imprisonment for not more than 5 years, or both, for knowingly violating the ban on manufacture, transfer and possession. It also adds use of a semiautomatic assault weapon to the crimes covered by the mandatory minimum of 5 years under 18 USC Section 924(c)(1) for use in a federal crime of violence or drug trafficking crime.

Finally, the section requires that semiautomatic assault weapons manufactured after the date of enactment must clearly show the date on which the weapon was manufactured.

#### SECTION 3—RECORDKEEPING REQUIREMENTS FOR TRANSFERS OF GRANDFATHERED FIREARMS

This section makes it unlawful to transfer a grandfathered semiautomatic assault weapon unless both the transferor and the transferee complete and retain a copy of federal form 4473 (or its successor). Within 90 days of enactment, the Secretary of the Treasury must issue regulations ensuring the availability of the form to owners of semiautomatic assault weapons. The Committee expects the Secretary to make such forms easily and readily available to such gun owners. The Committee further expects the Secretary to maintain the confidentiality of the requester and to ensure the destruction of any and all information pertaining to any request for such forms immediately upon complying with the request. The Committee does not expect the Secretary to release any such information to any other Department of the Federal, State or local Governments or to use the information in any way other than to comply with the requests for the form. The Committee would consider failure to comply with these expectations a very serious breach.

A person who knowingly violates the recordkeeping requirement shall be fined not more than \$1,000, imprisoned for not more than 6 months or both.

#### SECTION 4—BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES

Subsection 4(a) makes it unlawful for a person to transfer or possess a large capacity ammunition feeding device (which is defined to include any combination of parts from which such a device can be assembled.)

The ban on transfer and possession does not apply to (1) devices (or component parts) otherwise lawfully possessed on the date of enactment; (2) Federal departments and agencies and those of States and their subdivisions; (3) law enforcement officers authorized to purchase ammunition feeding devices for official use; devices transferred to such officers upon retirement who are not otherwise prohibited from receiving them; and (3) devices (or combination of parts) made, transferred, possessed, or imported for the pur-

pose of testing or experiments authorized by the Secretary of the Treasury are exempted.

Subsection 4(b) defines large capacity ammunition feeding device to mean a magazine, belt, drum, feed strip, or similar device that has a capacity of more than 10 rounds, or can be readily restored or converted to accept more than 10 rounds. It includes any combination of parts from which such a device can be assembled. It exempts an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition.

Subsection 4(c) adds large capacity ammunition feeding devices to the definition of "firearm" under 18 US Code section 921(a)(3).

Subsection 4(d) provides a fine of not more than \$5,000, imprisonment for not more than 5 years, or both, for knowingly violating the ban.

Subsection 4(e) requires that large capacity ammunition feeding devices manufactured after the date of enactment be identified by a serial number that clearly shows the device was manufactured after the date or imported after the date of enactment, and such other identification as the Secretary of the Treasury may by regulation prescribe.

#### SECTION 5—STUDY BY ATTORNEY GENERAL

This section requires the Attorney General to study and report to the Congress no later than 30 months after its enactment the effects of the Act, particularly with regard to its impact—if any—on violent and drug-trafficking crime.

The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment.

#### SECTION 6—EFFECTIVE DATE

The Act and the amendment made by the Act take effect on the date of enactment and are repealed effective as of the date that is 10 years after that date.

#### SECTION 7—APPENDIX A TO SECTION 922 OF TITLE 18

This section adds, as Appendix A, a list of firearms that are specifically exempted from the ban on semiautomatic assault weapons.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Operations were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(1)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 4296 will have no significant inflationary impact on prices and costs in the national economy.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill H.R. 4296, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE.  
*Washington, DC, May 2, 1994.*

Hon. JACK BROOKS,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 4296, the Public Safety and Recreational Firearms Use Protection Act, as ordered reported by the House Committee on the Judiciary on April 28, 1994. We estimate that enactment of the bill would result in costs to the federal government over the 1995–1999 period of less than \$500,000 from appropriated amounts. In addition, we estimate that enactment of H.R. 4296 would lead to increases in receipts of less than \$10 million a year from new criminal fines. Such receipts would be deposited in the Crime Victims Fund and spent in the following year. Because the bill could affect direct spending and receipts, pay-as-you-go procedures would apply. The bill would not affect the budgets of state or local governments.

H.R. 4296 would ban the manufacture, transfer, and possession of certain semiautomatic assault weapons not lawfully possessed as of the date of the bill's enactment. The bill also would ban the transfer and possession of certain large-capacity ammunition feeding devices not lawfully possessed as of the date of enactment. In addition, H.R. 4296 would establish recordkeeping requirements for transfers of grandfathered weapons and would direct the Attorney General to conduct a study of the bill's impact. Finally, the bill would create new federal crimes and associated penalties—prison sentences and criminal fines—for violation of its provisions.

The new recordkeeping requirements and the impact study would increase costs to the Department of the Treasury and the Department of Justice, respectively, but we estimate that these costs would be less than \$500,000 over the next several years from appropriated amounts. The imposition of new criminal fines in H.R. 4296 could cause governmental receipts to increase through greater

penalty collections. We estimate that any such increase would be less than \$10 million annually. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the following year. Thus, direct spending from the fund would match the increase in revenues with a one-year lag.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHAPTER 44 OF TITLE 18, UNITED STATES CODE

\* \* \* \* \*

CHAPTER 44—FIREARMS

§ 921. Definitions

(a) As used in this chapter—

(1) \* \* \*

\* \* \* \* \*

(3) The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; [or (D) any destructive device.] *(D) any destructive device; or (E) any large capacity ammunition feeding device.* Such term does not include an antique firearm.

\* \* \* \* \*

(30) The term “semiautomatic assault weapon” means—

(A) any of the firearms, or copies or duplicates of the firearms, known as—

(i) *Norinco, Mitchell, and Poly Technologies Automat Kalashnikovs (all models);*

(ii) *Action Arms Israeli Military Industries UZI and Galil;*

(iii) *Beretta Ar70 (SC-70);*

(iv) *Colt AR-15;*

(v) *Fabrique National FN/FAL, FN/LAR, and FNC;*

(vi) *SWD M-10, M-11, M-11/9, and M-12;*

(vii) *Steyr AUG;*

(viii) *INTRATEC TEC-9, TEC-DC9 and TEC-22; and*

(ix) *revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;*

(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

(i) *a folding or telescoping stock;*

- (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
- (iii) a bayonet mount;
- (iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and
- (v) a grenade launcher;
- (C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—
  - (i) an ammunition magazine that attaches to the pistol outside of the pistol grip;
  - (ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;
  - (iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;
  - (iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and
  - (v) a semiautomatic version of an automatic firearm; and
- (D) a semiautomatic shotgun that has at least 2 of—
  - (i) a folding or telescoping stock;
  - (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
  - (iii) a fixed magazine capacity in excess of 5 rounds; and
  - (iv) an ability to accept a detachable magazine.
- (31) The term “large capacity ammunition feeding device”—
  - (A) means—
    - (i) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; and
    - (ii) any combination of parts from which a device described in clause (i) can be assembled; but
  - (B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

## § 922. Unlawful acts

- (a) It shall be unlawful—

\* \* \* \* \*

(v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.

(2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed on the date of the enactment of this subsection.

(3) Paragraph (1) shall not apply to—

(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;

(B) any firearm that—

(i) is manually operated by bolt, pump, lever, or slide action;

(ii) has been rendered permanently inoperable; or

(iii) is an antique firearm;

(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.

The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this Act is in effect.

(4) Paragraph (1) shall not apply to—

(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

(B) the transfer of a semiautomatic assault weapon by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase firearms for official use;

(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.

(w)(1) It shall be unlawful for a person to sell, ship, or deliver a semiautomatic assault weapon to a person who has not completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

(2) It shall be unlawful for a person to receive a semiautomatic assault weapon unless the person has completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

(3) If a person receives a semiautomatic assault weapon from anyone other than a licensed dealer, both the person and the transferor shall retain a copy of the form 4473 completed in connection with the transfer.

(4) Within 90 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations ensuring the availability of form 4473 to owners of semiautomatic assault weapons.

(5) As used in this subsection, the term "form 4473" means—

(A) the form which, as of the date of the enactment of this subsection, is designated by the Secretary as form 4473; or

(B) any other form which—

(i) is required by the Secretary, in lieu of the form described in subparagraph (A), to be completed in connection with the transfer of a semiautomatic assault weapon; and

(ii) when completed, contains, at a minimum, the information that, as of the date of the enactment of this subsection, is required to be provided on the form described in subparagraph (A).

Case 1:13-cv-00291-WMS Document 74-9 Filed 06/21/13 Page 30 of 49  
29

*(x)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.*

*(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on the date of the enactment of this subsection.*

*(3) This subsection shall not apply to—*

*(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;*

*(B) the transfer of a large capacity ammunition feeding device by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase large capacity ammunition feeding devices for official use;*

*(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or*

*(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.*

#### APPENDIX A

##### Centerfire Rifles—Autoloaders

*Browning BAR Mark II Safari Semi-Auto Rifle  
Browning BAR Mark II Safari Magnum Rifle  
Browning High-Power Rifle  
Heckler & Koch Model 300 Rifle  
Iver Johnson M-1 Carbine  
Iver Johnson 50th Anniversary M-1 Carbine  
Marlin Model 9 Camp Carbine  
Marlin Model 45 Carbine  
Remington Nylon 66 Auto-Loading Rifle  
Remington Model 7400 Auto Rifle  
Remington Model 7400 Rifle  
Remington Model 7400 Special Purpose Auto Rifle  
Ruger Mini-14 Autoloading Rifle (w/o folding stock)  
Ruger Mini Thirty Rifle*

##### Centerfire Rifles—Lever & Slide

*Browning Model 81 BLR Lever-Action Rifle  
Browning Model 81 Long Action BLR  
Browning Model 1886 Lever-Action Carbine  
Browning Model 1886 High Grade Carbine  
Cimarron 1860 Henry Replica  
Cimarron 1866 Winchester Replicas  
Cimarron 1873 Short Rifle  
Cimarron 1873 Sporting Rifle  
Cimarron 1873 30" Express Rifle  
Dixie Engraved 1873 Rifle  
E.M.F. 1866 Yellowboy Lever Actions  
E.M.F. 1860 Henry Rifle  
E.M.F. Model 73 Lever-Action Rifle  
Marlin Model 336CS Lever-Action Carbine  
Marlin Model 30AS Lever-Action Carbine  
Marlin Model 444SS Lever-Action Sporter  
Marlin Model 1894S Lever-Action Carbine  
Marlin Model 1894CS Carbine*



*Marlin Model 1894CL Classic*  
*Marlin Model 1895SS Lever-Action Rifle*  
*Mitchell 1858 Henry Replica*  
*Mitchell 1866 Winchester Replica*  
*Mitchell 1873 Winchester Replica*  
*Navy Arms Military Henry Rifle*  
*Navy Arms Henry Trapper*  
*Navy Arms Iron Frame Henry*  
*Navy Arms Henry Carbine*  
*Navy Arms 1866 Yellowboy Rifle*  
*Navy Arms 1873 Winchester-Style Rifle*  
*Navy Arms 1873 Sporting Rifle*  
*Remington 7600 Slide Action*  
*Remington Model 7600 Special Purpose Side Action*  
*Rossi M92 SRC Saddle-Ring Carbine*  
*Rossi M92 SRS Short Carbine*  
*Savage 99C Lever-Action Rifle*  
*Uberti Henry Rifle*  
*Uberti 1866 Sporting Rifle*  
*Uberti 1873 Sporting Rifle*  
*Winchester Model 94 Side Eject Lever-Action Rifle*  
*Winchester Model 94 Trapper Side Eject*  
*Winchester Model 94 Big Bore Side Eject*  
*Winchester Model 94 Ranger Side Eject Lever-Action Rifle*  
*Winchester Model 94 Wrangler Side Eject*

**Centerfire Rifles—Bolt Action**

*Alpine Bolt-Action Rifle*  
*A-Square Caesar Bolt-Action Rifle*  
*A-Square Hannibal Bolt-Action Rifle*  
*Anschutz 1700D Classic Rifles*  
*Anschutz 1700D Custom Rifles*  
*Anschutz 1700D Bavarian Bolt-Action Rifle*  
*Anschutz 1733D Mannlicher Rifle*  
*Barret Model 90 Bolt-Action Rifle*  
*Beeman/HW 60J Bolt-Action Rifle*  
*Blaser R84 Bolt-Action Rifle*  
*BRNO 537 Sporter Bolt-Action Rifle*  
*BRNO ZKB 527 Fox Bolt-Action Rifle*  
*BRNO ZKK 600, 601, 602 Bolt-Action Rifles*  
*Browning A-Bolt Rifle*  
*Browning A-Bolt Stainless Stalker*  
*Browning A-Bolt Left Hand*  
*Browning A-Bolt Short Action*  
*Browning Euro-Bolt Rifle*  
*Browning A-Bolt Gold Medallion*  
*Browning A-Bolt Micro Medallion*  
*Century Centurion 14 Sporter*  
*Century Enfield Sporter #4*  
*Century Swedish Sporter #38*  
*Century Mauser 98 Sporter*  
*Cooper Model 38 Centerfire Sporter*  
*Dakota 22 Sporter Bolt-Action Rifle*  
*Dakota 76 Classic Bolt-Action Rifle*  
*Dakota 76 Short Action Rifles*  
*Dakota 76 Safari Bolt-Action Rifle*  
*Dakota 416 Rigby African*  
*E.A.A./Sabatti Rover 870 Bolt-Action Rifle*  
*Auguste Francotte Bolt-Action Rifles*  
*Carl Gustaf 2000 Bolt-Action Rifle*  
*Heym Magnum Express Series Rifle*  
*Hova Lightning Bolt-Action Rifle*  
*Hova Realtrec Camo Rifle*  
*Interarms Mark X Viscount Bolt-Action Rifle*  
*Interarms Mini-Mark X Rifle*  
*Interarms Mark X Whitworth Bolt-Action Rifle*  
*Interarms Whitworth Express Rifle*  
*Iver Johnson Model 5100A1 Long-Range Rifle*

*Red Willow Armory Ballard No. 4.5 Target Rifle*  
*Remington-Style Rolling Block Carbine*  
*Ruger No. 1B Single Shot*  
*Ruger No. 1A Light Sporter*  
*Ruger No. 1H Tropical Rifle*  
*Ruger No. 1S Medium Sporter*  
*Ruger No. 1 RSI International*  
*Ruger No. 1V Special Varminter*  
*C. Sharps Arms New Model 1874 Old Reliable*  
*C. Sharps Arms New Model 1875 Rifle*  
*C. Sharps Arms 1875 Classic Sharps*  
*C. Sharps Arms New Model 1875 Target & Long Range*  
*Shiloh Sharps 1874 Long Range Express*  
*Shiloh Sharps 1874 Montana Roughrider*  
*Shiloh Sharps 1874 Military Carbine*  
*Shiloh Sharps 1874 Business Rifle*  
*Shiloh Sharps 1874 Military Rifle*  
*Sharps 1874 Old Reliable*  
*Thompson / Center Contender Carbine*  
*Thompson / Center Stainless Contender Carbine*  
*Thompson / Center Contender Carbine Survival System*  
*Thompson / Center Contender Carbine Youth Model*  
*Thompson / Center TCR '87 Single Shot Rifle*  
*Uberti Rolling Block Baby Carbine*

***Drillings, Combination Guns, Double Rifles***

*Baretta Express SSO O / U Double Rifles*  
*Baretta Model 455 SxS Express Rifle*  
*Chapuis RGEExpress Double Rifle*  
*Auguste Francotte Sidelock Double Rifles*  
*Auguste Francotte Boxlock Double Rifle*  
*Heym Model 55B O / U Double Rifle*  
*Heym Model 55FW O / U Combo Gun*  
*Heym Model 88b Side-by-Side Double Rifle*  
*Kodiak Mk. IV Double Rifle*  
*Kreighoff Teck O / U Combination Gun*  
*Kreighoff Trumpf Drilling*  
*Merkel Over / Under Combination Guns*  
*Merkel Drillings*  
*Merkel Model 160 Side-by-Side Double Rifles*  
*Merkel Over / Under Double Rifles*  
*Savage 24F O / U Combination Gun*  
*Savage 24F-12T Turkey Gun*  
*Springfield Inc. M6 Scout Rifle / Shotgun*  
*Tikka Model 412s Combination Gun*  
*Tikka Model 412S Double Fire*  
*A. Zoli Rifle-Shotgun O / U Combo*

***Rimfire Rifles—Autoloaders***

*AMT Lightning 25/22 Rifle*  
*AMT Lightning Small-Game Hunting Rifle II*  
*AMT Magnum Hunter Auto Rifle*  
*Anschutz 525 Deluxe Auto*  
*Armcor Model 20P Auto Rifle*  
*Browning Auto-22 Rifle*  
*Browning Auto-22 Grade VI*  
*Krico Model 260 Auto Rifle*  
*Lakefield Arms Model 64B Auto Rifle*  
*Marlin Model 60 Self-Loading Rifle*  
*Marlin Model 60ss Self-Loading Rifle*  
*Marlin Model 70 HC Auto*  
*Marlin Model 990l Self-Loading Rifle*  
*Marlin Model 70P Papoose*  
*Marlin Model 922 Magnum Self-Loading Rifle*  
*Marlin Model 995 Self-Loading Rifle*  
*Norinco Model 22 ATD Rifle*  
*Remington Model 522 Viper Autoloading Rifle*

*Remington 552BDL Speedmaster Rifle*  
*Ruger 10/22 Autoloading Carbine (w/o folding stock)*  
*Survival Arms AR-7 Explorer Rifle*  
*Texas Remington Revolving Carbine*  
*Voere Model 2115 Auto Rifle*

***Rimfire Rifles—Lever & Slide Action***

*Browning BL-22 Lever-Action Rifle*  
*Marlin 39TDS Carbine*  
*Marlin Model 39AS Golden Lever-Action Rifle*  
*Remington 572BDL Fieldmaster Pump Rifle*  
*Norinco EM-321 Pump Rifle*  
*Rossi Model 62 SA Pump Rifle*  
*Rossi Model 62 SAC Carbine*  
*Winchester Model 9422 Lever-Action Rifle*  
*Winchester Model 9422 Magnum Lever-Action Rifle*

***Rimfire Rifles—Bolt Actions & Single Shots***

*Anschutz Achiever Bolt-Action Rifle*  
*Anschutz 1416D/1516D Classic Rifles*  
*Anschutz 1418D/1518D Mannlicher Rifles*  
*Anschutz 1700D Classic Rifles*  
*Anschutz 1700D Custom Rifles*  
*Anschutz 1700 FWT Bolt-Action Rifle*  
*Anschutz 1700D Graphite Custom Rifle*  
*Anschutz 1700D Bavarian Bolt-Action Rifle*  
*Armcor Model 14P Bolt-Action Rifle*  
*Armcor Model 1500 Rifle*  
*BRNO ZKM-452 Deluxe Bolt-Action Rifle*  
*BRNO ZKM 452 Deluxe*  
*Beeman/HW 60-J-ST Bolt-Action Rifle*  
*Browning A-Bolt 22 Bolt-Action Rifle*  
*Browning A-Bolt Gold Medallion*  
*Cabanas Phaser Rifle*  
*Cabanas Master Bolt-Action Rifle*  
*Cabanas Espronceda IV Bolt-Action Rifle*  
*Cabanas Leyre Bolt-Action Rifle*  
*Chipmunk Single Shot Rifle*  
*Cooper Arms Model 36S Sporter Rifle*  
*Dakota 22 Sporter Bolt-Action Rifle*  
*Krico Model 300 Bolt-Action Rifles*  
*Lakefield Arms Mark II Bolt-Action Rifle*  
*Lakefield Arms Mark I Bolt-Action Rifle*  
*Magtech Model MT-22C Bolt-Action Rifle*  
*Marlin Model 880 Bolt-Action Rifle*  
*Marlin Model 881 Bolt-Action Rifle*  
*Marlin Model 882 Bolt-Action Rifle*  
*Marlin Model 883 Bolt-Action Rifle*  
*Marlin Model 883SS Bolt-Action Rifle*  
*Marlin Model 25MN Bolt-Action Rifle*  
*Marlin Model 25N Bolt-Action Repeater*  
*Marlin Model 15YN "Little Buckaroo"*  
*Mauser Model 107 Bolt-Action Rifle*  
*Mauser Model 201 Bolt-Action Rifle*  
*Navy Arms TU-KKW Training Rifle*  
*Navy Arms TU-33/40 Carbine*  
*Navy Arms TU-KKW Sniper Trainer*  
*Norinco JW-27 Bolt-Action Rifle*  
*Norinco JW-15 Bolt-Action Rifle*  
*Remington 541-T*  
*Remington 40-XR Rimfire Custom Sporter*  
*Remington 541-T HB Bolt-Action Rifle*  
*Remington 581-S Sportsman Rifle*  
*Ruger 77/22 Rimfire Bolt-Action Rifle*  
*Ruger K77/22 Varmint Rifle*  
*Ultra Light Arms Model 20 RF Bolt-Action Rifle*  
*Winchester Model 52B Sporting Rifle*

**KDF K15 American Bolt-Action Rifle**  
**Krico Model 600 Bolt-Action Rifle**  
**Krico Model 700 Bolt-Action Rifles**  
**Mausser Model 66 Bolt-Action Rifle**  
**Mausser Model 99 Bolt-Action Rifle**  
**McMillan Signature Classic Sporter**  
**McMillan Signature Super Varminter**  
**McMillan Signature Alaskan**  
**McMillan Signature Titanium Mountain Rifle**  
**McMillan Classic Stainless Sporter**  
**McMillan Talon Safari Rifle**  
**McMillan Talon Sporter Rifle**  
**Midland 1500S Survivor Rifle**  
**Navy Arms TU-33/40 Carbine**  
**Parker-Hale Model 81 Classic Rifle**  
**Parker-Hale Model 81 Classic African Rifle**  
**Parker-Hale Model 1000 Rifle**  
**Parker-Hale Model 1100M African Magnum**  
**Parker-Hale Model 1100 Lightweight Rifle**  
**Parker-Hale Model 1200 Super Rifle**  
**Parker-Hale Model 1200 Super Clip Rifle**  
**Parker-Hale Model 1300C Scout Rifle**  
**Parker-Hale Model 2100 Midland Rifle**  
**Parker-Hale Model 2700 Lightweight Rifle**  
**Parker-Hale Model 2800 Midland Rifle**  
**Remington Model Seven Bolt-Action Rifle**  
**Remington Model Seven Youth Rifle**  
**Remington Model Seven Custom KS**  
**Remington Model Seven Custom MS Rifle**  
**Remington 700 ADL Bolt-Action Rifle**  
**Remington 700 BDL Bolt-Action Rifle**  
**Remington 700 BDL Varmint Special**  
**Remington 700 BDL European Bolt-Action Rifle**  
**Remington 700 Varmint Synthetic Rifle**  
**Remington 700 BDL SS Rifle**  
**Remington 700 Stainless Synthetic Rifle**  
**Remington 700 MTRSS Rifle**  
**Remington 700 BDL Left Hand**  
**Remington 700 Camo Synthetic Rifle**  
**Remington 700 Safari**  
**Remington 700 Mountain Rifle**  
**Remington 700 Custom KS Mountain Rifle**  
**Remington 700 Classic Rifle**  
**Ruger M77 Mark II Rifle**  
**Ruger M77 Mark II Magnum Rifle**  
**Ruger M77RL Ultra Light**  
**Ruger M77 Mark II All-Weather Stainless Rifle**  
**Ruger M77 RSI International Carbine**  
**Ruger M77 Mark II Express Rifle**  
**Ruger M77VT Target Rifle**  
**Sako Hunter Rifle**  
**Sako Fiberclass Sporter**  
**Sako Safari Grade Bolt Action**  
**Sako Hunter Left-Hand Rifle**  
**Sako Classic Bolt Action**  
**Sako Hunter LS Rifle**  
**Sako Deluxe Lightweight**  
**Sako Super Deluxe Sporter**  
**Sako Mannlicher-Style Carbine**  
**Sako Varmint Heavy Barrel**  
**Sako TRG-S Bolt-Action Rifle**  
**Sauer 90 Bolt-Action Rifle**  
**Savage 110G Bolt-Action Rifle**  
**Savage 110CY Youth /Ladies Rifle**  
**Savage 110WLE One of One Thousand Limited Edition Rifle**  
**Savage 110GXP3 Bolt-Action Rifle**  
**Savage 110F Bolt-Action Rifle**  
**Savage 110FXP3 Bolt-Action Rifle**

*Savage 110GV Varmint Rifle*  
*Savage 112FV Varmint Rifle*  
*Savage Model 112FVS Varmint Rifle*  
*Savage Model 112BV Heavy Barrel Varmint Rifle*  
*Savage 116FSS Bolt-Action Rifle*  
*Savage Model 116FSK Kodiak Rifle*  
*Savage 110FP Police Rifle*  
*Steyr-Mannlicher Sporter Models SL, L, M, S, S/T*  
*Steyr-Mannlicher Luxus Model L, M, S*  
*Steyr-Mannlicher Model M Professional Rifle*  
*Tikka Bolt-Action Rifle*  
*Tikka Premium Grade Rifles*  
*Tikka Varmint/Continental Rifle*  
*Tikka Whitetail/Battue Rifle*  
*Ultra Light Arms Model 20 Rifle*  
*Ultra Light Arms Model 28, Model 40 Rifles*  
*Voere VEC 91 Lightning Bolt-Action Rifle*  
*Voere Model 2165 Bolt-Action Rifle*  
*Voere Model 2155, 2150 Bolt-Action Rifles*  
*Weatherby Mark V Deluxe Bolt-Action Rifle*  
*Weatherby Lasermark V Rifle*  
*Weatherby Mark V Crown Custom Rifles*  
*Weatherby Mark V Sporter Rifle*  
*Weatherby Mark V Safari Grade Custom Rifles*  
*Weatherby Weathermark Rifle*  
*Weatherby Weathermark Alaskan Rifle*  
*Weatherby Classicmark No. 1 Rifle*  
*Weatherby Weatherguard Alaskan Rifle*  
*Weatherby Vanguard VGX Deluxe Rifle*  
*Weatherby Vanguard Classic Rifle*  
*Weatherby Vanguard Classic No. 1 Rifle*  
*Weatherby Vanguard Weatherguard Rifle*  
*Wichita Classic Rifle*  
*Wichita Varmint Rifle*  
*Winchester Model 70 Sporter*  
*Winchester Model 70 Sporter WinTuff*  
*Winchester Model 70 SM Sporter*  
*Winchester Model 70 Stainless Rifle*  
*Winchester Model 70 Varmint*  
*Winchester Model 70 Synthetic Heavy Varmint Rifle*  
*Winchester Model 70 DBM Rifle*  
*Winchester Model 70 DBM-S Rifle*  
*Winchester Model 70 Featherweight*  
*Winchester Model 70 Featherweight WinTuff*  
*Winchester Model 70 Featherweight Classic*  
*Winchester Model 70 Lightweight Rifle*  
*Winchester Ranger Rifle*  
*Winchester Model 70 Super Express Magnum*  
*Winchester Model 70 Super Grade*  
*Winchester Model 70 Custom Sharpshooter*  
*Winchester Model 70 Custom Sporting Sharpshooter Rifle*

**Centerfire Rifles—Single Shot**

*Armsport 1866 Sharps Rifle, Carbine*  
*Brown Model One Single Shot Rifle*  
*Browning Model 1885 Single Shot Rifle*  
*Dakota Single Shot Rifle*  
*Desert Industries G-90 Single Shot Rifle*  
*Harrington & Richardson Ultra Varmint Rifle*  
*Model 1885 High Wall Rifle*  
*Navy Arms Rolling Block Buffalo Rifle*  
*Navy Arms #2 Creedmoor Rifle*  
*Navy Arms Sharps Cavalry Carbine*  
*Navy Arms Sharps Plains Rifle*  
*New England Firearms Handi-Rifle*  
*Red Willow Armory Ballard No. 5 Pacific*  
*Red Willow Armory Ballard No. 1.5 Hunting Rifle*  
*Red Willow Armory Ballard No. 8 Union Hill Rifle*

**Competition Rifles—Centerfire & Rimfire**

Anschutz 64-MS Left Silhouette  
 Anschutz 1808D RT Super Match 54 Target  
 Anschutz 1827B Biathlon Rifle  
 Anschutz 1903D Match Rifle  
 Anschutz 1803D Intermediate Match  
 Anschutz 1911 Match Rifle  
 Anschutz 54.18MS REP Deluxe Silhouette Rifle  
 Anschutz 1913 Super Match Rifle  
 Anschutz 1907 Match Rifle  
 Anschutz 1910 Super Match II  
 Anschutz 54.18MS Silhouette Rifle  
 Anschutz Super Match 54 Target Model 2013  
 Anschutz Super Match 54 Target Model 2007  
 Beeman /Feinwerkbau 2600 Target Rifle  
 Cooper Arms Model TRP-1 ISU Standard Rifle  
 E.A.A. /Weihrauch HW 60 Target Rifle  
 E.A.A. /HW 660 Match Rifle  
 Finnish Lion Standard Target Rifle  
 Krico Model 360 S2 Biathlon Rifle  
 Krico Model 400 Match Rifle  
 Krico Model 360S Biathlon Rifle  
 Krico Model 500 Kricotronic Match Rifle  
 Krico Model 600 Sniper Rifle  
 Krico Model 600 Match Rifle  
 Lakefield Arms Model 90B Target Rifle  
 Lakefield Arms Model 91T Target Rifle  
 Lakefield Arms Model 92S Silhouette Rifle  
 Marlin Model 2000 Target Rifle  
 Mauser Model 86-SR Specialty Rifle  
 McMillan M-86 Sniper Rifle  
 McMillan Combo M-87/M-88 50-Caliber Rifle  
 McMillan 300 Phoenix Long Range Rifle  
 McMillan M-89 Sniper Rifle  
 McMillan National Match Rifle  
 McMillan Long Range Rifle  
 Parker-Hale M-87 Target Rifle  
 Parker-Hale M-85 Sniper Rifle  
 Remington 40-XB Rangemaster Target Centerfire  
 Remington 40-XR KS Rimfire Position Rifle  
 Remington 40-XBBR KS  
 Remington 40-XC KS National Match Course Rifle  
 Sako TRG-21 Bolt-Action Rifle  
 Steyr-Mannlicher Match SPG-UIT Rifle  
 Steyr-Mannlicher SSG P-I Rifle  
 Steyr-Mannlicher SSG P-III Rifle  
 Steyr-Mannlicher SSG P-IV Rifle  
 Tanner Standard UIT Rifle  
 Tanner 50 Meter Free Rifle  
 Tanner 300 Meter Free Rifle  
 Wichita Silhouette Rifle

**Shotguns—Autoloaders**

American Arms /Franchi Black Magic 48/AL  
 Benelli Super Black Eagle Shotgun  
 Benelli Super Black Eagle Slug Gun  
 Benelli M1 Super 90 Field Auto Shotgun  
 Benelli Montefeltro Super 90 20-Gauge Shotgun  
 Benelli Montefeltro Super 90 Shotgun  
 Benelli M1 Sporting Special Auto Shotgun  
 Benelli Black Eagle Competition Auto Shotgun  
 Beretta A-303 Auto Shotgun  
 Beretta 390 Field Auto Shotgun  
 Beretta 390 Super Trap, Super Sheet Shotguns  
 Beretta Vittoria Auto Shotgun  
 Beretta Model 1201F Auto Shotgun  
 Browning BSA 10 Auto Shotgun

*Browning Bsa 10 Stalker Auto Shotgun*  
*Browning A-500R Auto Shotgun*  
*Browning A-500G Auto Shotgun*  
*Browning A-500G Sporting Clays*  
*Browning Auto-5 Light 12 and 20*  
*Browning Auto-5 Stalker*  
*Browning Auto-5 Magnum 20*  
*Browning Auto-5 Magnum 12*  
*Churchill Turkey Automatic Shotgun*  
*Cosmi Automatic Shotgun*  
*Maverick Model 60 Auto Shotgun*  
*Mossberg Model 5500 Shotgun*  
*Mossberg Model 9200 Regal Semi-Auto Shotgun*  
*Mossberg Model 9200 USST Auto Shotgun*  
*Mossberg Model 9200 Camo Shotgun*  
*Mossberg Model 6000 Auto Shotgun*  
*Remington Model 1100 Shotgun*  
*Remington 11-87 Premier Shotgun*  
*Remington 11-87 Sporting Clays*  
*Remington 11-87 Premier Skeet*  
*Remington 11-87 Premier Trap*  
*Remington 11-87 Special Purpose Magnum*  
*Remington 11-87 SPS-T Camo Auto Shotgun*  
*Remington 11-87 Special Purpose Deer Gun*  
*Remington 11-87 SPS-BG-Camo Deer / Turkey Shotgun*  
*Remington 11-87 SPS-Deer Shotgun*  
*Remington 11-87 Special Purpose Synthetic Camo*  
*Remington SP-10 Magnum-Camo Auto Shotgun*  
*Remington SP-10 Magnum Auto Shotgun*  
*Remington SP-10 Magnum Turkey Combo*  
*Remington 1100 LT-20 Auto*  
*Remington 1100 Special Field*  
*Remington 1100 20-Gauge Deer Gun*  
*Remington 1100 LT-20 Tournament Skeet*  
*Winchester Model 1400 Semi-Auto Shotgun*

***Shotguns—Slide Actions***

*Browning Model 42 Pump Shotgun*  
*Browning BPS Pump Shotgun*  
*Browning BPS Stalker Pump Shotgun*  
*Browning BPS Pigeon Grade Pump Shotgun*  
*Browning BPS Pump Shotgun (Ladies and Youth Model)*  
*Browning BPS Game Gun Turkey Special*  
*Browning BPS Game Gun Deer Special*  
*Ithaca Model 87 Supreme Pump Shotgun*  
*Ithaca Model 87 Deerslayer Shotgun*  
*Ithaca Deerslayer II Rifled Shotgun*  
*Ithaca Model 87 Turkey Gun*  
*Ithaca Model 87 Deluxe Pump Shotgun*  
*Magtech Model 586-VR Pump Shotgun*  
*Maverick Models 88, 91 Pump Shotguns*  
*Mossberg Model 500 Sporting Pump*  
*Mossberg Model 500 Camo Pump*  
*Mossberg Model 500 Muzzleloader Combo*  
*Mossberg Model 500 Trophy Slugster*  
*Mossberg Turkey Model 500 Pump*  
*Mossberg Model 500 Bantam Pump*  
*Mossberg Field Grade Model 835 Pump Shotgun*  
*Mossberg Model 835 Regal Ulti-Mag Pump*  
*Remington 870 Wingmaster*  
*Remington 870 Special Purpose Deer Gun*  
*Remington 870 SPS-BG-Camo Deer / Turkey Shotgun*  
*Remington 870 SPS-Deer Shotgun*  
*Remington 870 Marine Magnum*  
*Remington 870 TC Trap*  
*Remington 870 Special Purpose Synthetic Camo*  
*Remington 870 Wingmaster Small Gauges*  
*Remington 870 Express Rifle Sighted Deer Gun*

Remington 879 SPS Special Purpose Magnum  
 Remington 870 SPS-T Camo Pump Shotgun  
 Remington 870 Special Field  
 Remington 870 Express Turkey  
 Remington 870 High Grades  
 Remington 870 Express  
 Remington Model 870 Express Youth Gun  
 Winchester Model 12 Pump Shotgun  
 Winchester Model 42 High Grade Shotgun  
 Winchester Model 1300 Walnut Pump  
 Winchester Model 1300 Slug Hunter Deer Gun  
 Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun  
 Winchester Model 1300 Turkey Gun  
 Winchester Model 1300 Ranger Pump Gun

**Shotguns—Over/Unders**

American Arms/Franchi Falconet 2000 O/U  
 American Arms Silver I O/U  
 American Arms Silver II Shotgun  
 American Arms Silver Skeet O/U  
 American Arms/Franchi Sporting 2000 O/U  
 American Arms Silver Sporting O/U  
 American Arms Silver Trap O/U  
 American Arms WS/OU 12, TS/OU 12 Shotguns  
 American Arms WT/OU 10 Shotgun  
 Armsport 2700 O/U Goose Gun  
 Armsport 2700 Series O/U  
 Armsport 2900 Tri-Barrel Shotgun  
 Baby Bretton Over/Under Shotgun  
 Beretta Model 686 Ultralight O/U  
 Beretta ASE 90 Competition O/U Shotgun  
 Beretta Over/Under Field Shotguns  
 Beretta Onyx Hunter Sport O/U Shotgun  
 Beretta Model SO5, SO6, SO9 Shotguns  
 Beretta Sporting Clay Shotguns  
 Beretta 687EL Sporting O/U  
 Beretta 682 Super Sporting O/U  
 Beretta Series 682 Competition Over/Unders  
 Browning Citori O/U Shotgun  
 Browning Superlight Citori Over/Under  
 Browning Lightning Sporting Clays  
 Browning Micro Citori Lightning  
 Browning Citori Plus Trap Combo  
 Browning Citori Plus Trap Gun  
 Browning Citori O/U Skeet Models  
 Browning Citori O/U Trap Models  
 Browning Special Sporting Clays  
 Browning Citori GTI Sporting Clays  
 Browning 325 Sporting Clays  
 Centurion Over/Under Shotgun  
 Chapuis Over/Under Shotgun  
 Connecticut Valley Classics Classic Sporter O/U  
 Connecticut Valley Classics Classic Field Waterfowler  
 Charles Daly Field Grade O/U  
 Charles Daly Lux Over/Under  
 E.A.A./Sabatti Sporting Clays Pro-Gold O/U  
 E.A.A./Sabatti Falcon-Mon Over/Under  
 Kassnar Grade I O/U Shotgun  
 Krieghoff K-80 Sporting Clays O/U  
 Krieghoff K-80 Skeet Shotgun  
 Krieghoff K-80 International Skeet  
 Krieghoff K-80 Four-Barrel Skeet Set  
 Krieghoff K-80/RT Shotguns  
 Krieghoff K-80 O/U Trap Shotgun  
 Laurona Silhouette 300 Sporting Clays  
 Laurona Silhouette 300 Trap  
 Laurona Super Model Over/Unders  
 Ljutic LM-6 Deluxe O/U Shotgun



*Marocchi Conquista Over/Under Shotgun*  
*Marocchi Avanza O/U Shotgun*  
*Merkel Model 200E O/U Shotgun*  
*Merkel Model 200E Skeet, Trap Over/Unders*  
*Merkel Model 203E, 303E Over/Under Shotguns*  
*Perazzi Mirage Special Sporting O/U*  
*Perazzi Mirage Special Four-Gauge Skeet*  
*Perazzi Sporting Classic O/U*  
*Perazzi MX7 Over/Under Shotguns*  
*Perazzi Mirage Special Skeet Over/Under*  
*Perazzi MX8/MX8 Special Trap, Skeet*  
*Perazzi MX8/20 Over/Under Shotgun*  
*Perazzi MX9 Single Over/Under Shotguns*  
*Perazzi MX12 Hunting Over/Under*  
*Perazzi MX28, MX410 Game O/U Shotguns*  
*Perazzi MX20 Hunting Over/Under*  
*Piotti Boss Over/Under Shotgun*  
*Remington Peerless Over/Under Shotgun*  
*Ruger Red Label O/U Shotgun*  
*Ruger Sporting Clays O/U Shotgun*  
*San Marco 12-Ga. Wildflower Shotgun*  
*San Marco Field Special O/U Shotgun*  
*San Marco 10-Ga. O/U Shotgun*  
*SKB Model 505 Deluxe Over/Under Shotgun*  
*SKB Model 685 Over/Under Shotgun*  
*SKB Model 885 Over/Under Trap, Skeet, Sporting Clays*  
*Stoeger/IGA Condor I O/U Shotgun*  
*Stoeger/IGA ERA 2000 Over/Under Shotgun*  
*Techni-Mec Model 610 Over/Under*  
*Tikka Model 412S Field Grade Over/Under*  
*Weatherby Athena Grade IV O/U Shotguns*  
*Weatherby Athena Grade V Classic Field O/U*  
*Weatherby Orion O/U Shotguns*  
*Weatherby II, III Classic Field O/Us*  
*Weatherby Orion II Classic Sporting Clays O/U*  
*Weatherby Orion II Sporting Clays O/U*  
*Winchester Model 1001 O/U Shotgun*  
*Winchester Model 1001 Sporting Clays O/U*  
*Pietro Zanoletti Model 2000 Field O/U*

#### **Shotguns—Side by Sides**

*American Arms Brittany Shotgun*  
*American Arms Gentry Double Shotgun*  
*American Arms Derby Side-by-Side*  
*American Arms Grulla #2 Double Shotgun*  
*American Arms WS/SS 10*  
*American Arms TS/SS 10 Double Shotgun*  
*American Arms TS/SS 12 Side-by-Side*  
*Arrieta Sidelock Double Shotguns*  
*Armsport 1050 Series Double Shotguns*  
*Arizaga Model 31 Double Shotgun*  
*AYA Boxlock Shotguns*  
*AYA Sidelock Double Shotguns*  
*Beretta Model 452 Sidelock Shotgun*  
*Beretta Side-by-Side Field Shotguns*  
*Crucelegui Hermanos Model 150 Double*  
*Chapuis Side-by-Side Shotgun*  
*E.A.A./Sabatti Saba-Mon Double Shotgun*  
*Charles Daly Model Dss Double*  
*Ferlib Model F VII Double Shotgun*  
*Auguste Francotte Boxlock Shotgun*  
*Auguste Francotte Sidelock Shotgun*  
*Garbi Model 100 Double*  
*Garbi Model 101 Side-by-Side*  
*Garbi Model 103A, B Side-by-Side*  
*Garbi Model 200 Side-by-Side*  
*Bill Hanus Birdgun Doubles*  
*Hatfield Uplander Shotgun*

*Merkell Model 8, 47E Side-by-Side Shotguns*  
*Merkel Model 47LSC Sporting Clays Double*  
*Merkel Model 47S, 147S Side-by-Sides*  
*Parker Reproductions Side-by-Side*  
*Piotti King No. 1 Side-by-Side*  
*Piotti Lunik Side-by-Side*  
*Piotti King Extra Side-by-Side*  
*Piotti Piuma Side-by-Side*  
*Precision Sports Model 600 Series Doubles*  
*Rizzini Boxlock Side-by-Side*  
*Rizzini Sidelock Side-by-Side*  
*Stoeger/IGA Uplander Side-by-Side Shotgun*  
*Ugartechea 10-Ga. Magnum Shotgun*

**Shotguns—Bolt Actions & Single Shots**

*Armsport Single Barrel Shotgun*  
*Browning BT-99 Competition Trap Special*  
*Browning BT-99 Plus Trap Gun*  
*Browning BT-99 Plus Micro*  
*Browning Recoilless Trap Shotgun*  
*Browning Micro Recoilless Trap Shotgun*  
*Desert Industries Big Twenty Shotgun*  
*Harrington & Richardson Topper Model 098*  
*Harrington & Richardson Topper Classic Youth Shotgun*  
*Harrington & Richardson N.W.T.F. Turkey Mag*  
*Harrington & Richardson Topper Deluxe Model 098*  
*Krieghoff KS-5 Trap Gun*  
*Krieghoff KS-5 Special*  
*Krieghoff K-80 Single Barrel Trap Gun*  
*Ljutic Mono Gun Single Barrel*  
*Ljutic LTX Super Deluxe Mono Gun*  
*Ljutic Recoilless Space Gun Shotgun*  
*Marlin Model 55 Goose Gun Bolt Action*  
*New England Firearms Turkey and Goose Gun*  
*New England Firearms N.W.T.F. Shotgun*  
*New England Firearms Tracker Slug Gun*  
*New England Firearms Standard Pardner*  
*New England Firearms Survival Gun*  
*Perazzi TM1 Special Single Trap*  
*Remington 90-T Super Single Shotgun*  
*Snake Charmer II Shotgun*  
*Stoeger/IGA Reuna Single Barrel Shotgun*  
*Thompson/Center TCR '87 Hunter Shotgun.*

**§ 923. Licensing**

(a) \* \* \*

\* \* \* \* \*

(i) Licensed importers and licensed manufacturers shall identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer. *The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured. A large capacity ammunition feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.*

**§ 924. Penalties**

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), or (f) of this section, or in section 929, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (a)(6), (f), (k), [or (q) of section 922] (r), (v), or (x) of section 922;

\* \* \* \* \*

(6) *A person who knowingly violates section 922(w) shall be fined not more than \$1,000, imprisoned not more than 6 months, or both. Section 3571 shall not apply to any offense under this paragraph.*

\* \* \* \* \*

(c)(1) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for five years, and if the firearm is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, to imprisonment for ten years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to imprisonment for thirty years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for twenty years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.

\* \* \* \* \*

**SUPPLEMENTAL VIEWS OF HON. DAN GLICKMAN**

I supported this bill because it is a narrowly crafted bill focused on specific weapons that have no business being on our streets. It is aimed at rapid fire weapons that have the sole purpose of killing people, and it is aimed at weapons that are more suited for the battlefield than the target range.

I believe that violence in our nation is getting out of hand. It is devastating to read that a student killed a student with a semi-automatic weapon. But it is equally devastating to hear of students killing students with anyone. What we really need to focus on is why students are engaging in violence in the first place. For this reason, I think this legislation must be viewed as part of the effort to reduce crime—in conjunction with the comprehensive crime bill that increases penalties, calls for tougher sentencing, provides for more jails and police officers, and provides for prevention programs.

But we must not abrogate the Second Amendment rights that are provided for in the Constitution. We must be extremely careful that in this legislation and in any legislation in the future, that we are not taking away guns that truly are used for sports, hunting, or self-defense.

I don't believe that this bill is the first step in a long road to banning guns. However, some of my constituents have expressed their fear that the Congress is moving slowly toward banning all guns for all people. We must be absolutely clear that this narrowly crafted legislation is not that first step and is not just a precursor to further, broader federal gun control and federal gun bans. Sport shooters and hunters tell me that they don't want assault weapons on the streets and in the hands of gang members any more than anyone else. But what they don't want is for Congress to take the short step to saying that the hunting rifles are being used on the streets, and should be taken away. And then the handguns are being used on the streets and should be taken away.

I want to make sure that what we are doing has a purpose—that it gets at the weapons that are being used by gang members and others in killing sprees or other random violence. I want to be able to assure the hunters, sport shooters and folks who want to be prepared for self-defense that we're not going to turn around and tell these gun owners that their sporting guns are illegal. This is a good bill, but let's tread very carefully before going any further.

Finally, because I want to make sure that there is no mistake about which guns are banned and which are exempt, especially guns that will be developed in the future, I offered an amendment during Committee markup that was accepted by the Committee. This amendment clarifies that simply because a gun is not on the list of specifically exempted guns, does not mean that that firearm is banned. A firearm must meet the specific criteria set out in the

bill, or be specifically named as a banned gun before it can be banned. In other words, the exempted gun list is not exhaustive.

Furthermore, my amendment makes clear that no gun may be taken off the list of specifically exempted guns as long as the act is in effect. In this way, it is absolutely clear that the intent of Congress is that exempted guns remain exempted.

Case 1:13-cv-00291-WMS Document 74-9 Filed 06/21/13 Page 44 of 49

**DISSENTING VIEWS OF HON. F. JAMES SENSENBRENNER, JR., HON. GEORGE GEKAS, HON. LAMAR S. SMITH, HON. BILL McCOLLUM, HON. HOWARD COBLE, HON. STEVE SCHIFF, AND HON. BOB GOODLATTE**

We strongly oppose H.R. 4296 which would ban a variety of guns. The primary problem with this bill is that it targets law abiding citizens. If this bill passes, simply possessing a shotgun or rifle could land you in jail. You don't have to shoot anybody. You don't have to threaten anyone, just leaving it in the hall closet is enough to land you in jail. Even if you use the gun for self-defense, you can go to jail.

It is already a federal crime for convicted criminals to possess these weapons, or any other gun for that matter. The laws aimed at these criminals should be fully enforced before we start going into the homes of law-abiding citizens and arresting them.

Another problem with this legislation is that simple, cosmetic changes to certain guns would turn those guns from being illegal to, all of a sudden being legal. For example, simply by removing a pistol grip, or a bayonet mount from a rifle saves the owner from going to jail, but leaves the gun's performance unaffected.

Finally, the problem of these guns has been greatly exaggerated. Although semiautomatic weapons are used in the most high profile killings that make it on the nightly news, in fact, more than 99 percent of killers eschew assault rifles and use more prosaic devices. According to statistics from the Justice Department and reports from local law enforcement, five times as many people are kicked or beaten to death than are killed with assault rifles.

Passing this legislation is an excuse to avoid the real issues of violent crime, and threatens the rights of law-abiding citizens. Therefore, we oppose H.R. 4296.

F. JAMES SENSENBRENNER, Jr.  
GEORGE W. GEKAS.  
LAMAR SMITH.  
BILL McCOLLUM.  
HOWARD COBLE.  
STEVE SCHIFF.  
BOB GOODLATTE.

(43)

### DISSENTING VIEWS OF HON. JACK BROOKS

I am strongly opposed to H.R. 4296, the Public Safety and Recreational Firearms Use Protection Act, because it misidentifies the causes of violent crime in the United States; diverts national priorities away from meaningful solutions to the problem of violent crime; punishes honest American gun owners who buy and use firearms for legitimate, lawful purposes such as, but not necessarily limited to, self-defense, target shooting, hunting, and firearms collection; fails to focus the punitive powers of government upon criminals. Most fundamentally, a prohibition on firearms violates the right of individual Americans to keep and bear arms, protected by the Second Amendment to the Constitution of the United States—a stark fact of constitutional life that the proponents of H.R. 4296 conveniently overlook in their zeal to abridge the rights of law-abiding citizens.

Reasons claimed to justify a prohibition on the firearms that would be affected by H.R. 4296 include the assertion that those particular firearms are used often in the commission of violent crimes. Data on the use of the firearms H.R. 4296 labels as “assault weapons” is not comprehensive, but such data as do exist consistently show that “assault weapons” are involved in a small percentage of violent crimes.

Most of the firearms labelled as “assault weapons” in H.R. 4296 are rifles—yet rifles are the general category of firearms used least often in the commission of violent crimes. The FBI Uniform Crime Reports, 1992, the most recent comprehensive data available, shows that rifles of any description are used in 3.1 percent of homicides, for example, while knives are used in 14.5 percent, fists and feet are used in 5 percent, and blunt objects are used in another 5 percent.

Professor Gary Kleck, of Florida State University, the 1993 recipient of the American Society of Criminology’s Hindelang Award, estimates that one-half of 1 percent of violent crimes are committed with “assault weapons.” University of Texas criminologist Sheldon Ekland-Olson estimates that one-quarter of rifle-related homicides may involve rifles chambered for military cartridges, which would include not only so-called “assault” type semi-automatic rifles, but non-semiautomatic rifles as well.

Since 1980, rifle-related homicides have declined by more than a third. According to the Metropolitan Police of Washington, D.C., the city which has the highest per capita rate of homicides of any major city in the United States, between 1980–1993 there occurred only 4 rifle-related homicides out of a total of more than 4,200 homicides in the period. The last rifle homicide during the period was recorded in 1984. Other data from D.C. police show that rifles are used in about one-tenth of 1 percent of robberies and assaults.

(44)

The California Department of Justice surveyed law enforcement agencies in the state in 1990, as the state's legislature addressed "assault weapon" ban legislation there. The California Department of Justice found that only 3.7 percent of the firearms that are used in homicides and assaults were "assault weapons," defined there to include even more firearms than are defined as "assault weapons" in H.R. 4296.

Connecticut State Police report that less than 2 percent of firearms seized by police in the state are "assault weapons"; the Massachusetts State Police report that "assault" type rifles were used in one-half of 1 percent of homicides between 1985-1991.

I believe the proponents of H.R. 4296 are in error in claiming that the Bureau of Alcohol, Tobacco and Firearms (BATF) has traced a large number of "assault weapons" to crime. This claim has been effectively contradicted by both the BATF itself and the Congressional Research Service's (CRS) report on the BATF firearms tracing system. The BATF has stated that it "does not always know if a firearm being traced has been used in a crime." For instance, sometimes a firearm is traced simply to determine the rightful owner after it is found by a law enforcement officer.

Each year, the BATF traces about 50,000 firearms, yet only about 1 percent of these traces relate to "assault weapons" that have been seized by police in the course of investigations of violent crimes. Most "assault weapons" traced relate not to violent crime but to property violations, such as stolen guns being traced so that they may be returned to their lawful owners, violations of the Gun Control Act, and other non-violent circumstances.

As noted by BATF and by CRS in its report to Congress entitled "Assault Weapons: Military-Style Semiautomatic Firearms Facts and Issues" (1992) that firearms traces are not intended to "trace guns to crime," that few "assault weapons" traced relative to violent crime investigations, and that available state and local law enforcement agency data shows relatively little use of "assault weapons" are used frequently in violent crimes.

"Assault weapons" function in the same manner as any other semi-automatic firearm. They fire once with each pull of the trigger, like most firearms. They use the same ammunition as other firearms, both semi-automatic and not. Therefore, "assault weapons" are useful for target shooting, self-defense, hunting, and other legitimate purposes, just as other firearms are.

H.R. 4296 would prohibit rifles that are commonly used for competitive shooting, such as the Springfield N1A and the Colt "AR-15."

Accessories found on some models of "assault weapons," such as folding stocks, flash suppressors, pistol grips, bayonet lugs, and detachable magazines may look menacing to persons unfamiliar with firearms, but there is absolutely no evidence that any of these accessories provide any advantage to a criminal. As has been demonstrated on many occasions, firearms which H.R. 4296 specifically exempts from its prohibition, firearms not equipped with those accessories, can be fired at the same rate, with the same accuracy, and with the same power as "assault weapons."

Time and again, supporters of H.R. 4296 have claimed that "assault weapons" can be "spray-fired from the hip"; but this is simply



not true. The firearms targeted in H.R. 4296 are not machineguns. Machineguns are restricted under the National Firearms Act of 1934. H.R. 4296's guns are semi-automatic, and fire only one shot at a time.

H.R. 4296's limitation on the capacity of ammunition feeding devices would do nothing to reduce the number of rounds available to a criminal. It has been demonstrated frequently that such devices can be switched in less than a second, so a criminal determined to have available a number of rounds greater than H.R. 4296 would permit in a single magazine would need only to possess additional smaller magazines. However, police have reportedly consistently that when criminals fire shots, they rarely discharge more than 2-5 rounds, well below the number of rounds H.R. 4296 would permit in a single magazine.

Most fundamentally, to impinge upon the constitutionally-protected rights of honest, law-abiding Americans on the basis of myth, misinformation, and newspaper headlines is a crime in and of itself. To protect against such a mockery of our Constitution and the infliction of such harm upon our citizens, I intend to oppose H.R. 4296 vigorously on the House floor in the hope that careful reflection will permit cooler heads and the light of reason to prevail.

○

Case 1:13-cv-00291-WMS Document 74-9 Filed 06/21/13 Page 48 of 49

## **Document No. 43**

**A-762**

Case 1:13-cv-00291-WMS Document 74-9 Filed 06/21/13 Page 49 of 49

Case 1:13-cv-00291-WMS Document 74-10 Filed 06/21/13 Page 1 of 34

**U.S. Department of Justice**

Bureau of Alcohol, Tobacco, Firearms and Explosives

**ATF**  
**Study on the Importability of Certain**  
**Shotguns**



**Firearms and Explosives Industry Division**

**January 2011**

TABLE OF CONTENTS

	Page
1. Executive Summary.....	ii
2. Study on the Importability of Certain Shotguns.....	1
3. Background on Shotguns.....	1
4. Background on Sporting Suitability.....	1
5. Methodology.....	5
6. Analysis.....	7
Scope of Sporting Purpose.....	7
Suitability for Sporting Purposes.....	8
7. Conclusion.....	13
8. Exhibits	
1. Shotgun Stock Style Comparison	
2. State Laws	
3. Sample Drum Magazine	
4. Integrated Rail System	
5. Bulk Measurements	
6. Forward Pistol Grip	

Case 1:13-cv-00291-WMS Document 74-10 Filed 06/21/13 Page 3 of 34

ii

Study on the Importability of Certain ShotgunsExecutive Summary

The purpose of this study is to establish criteria that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will use to determine the importability of certain shotguns under the provisions of the Gun Control Act of 1968 (GCA).

The Gun Control Act of 1968 (GCA) generally prohibits the importation of firearms into the United States.<sup>1</sup> However, pursuant to 18 U.S.C. § 925(d), the GCA creates four narrow categories of firearms that the Attorney General must authorize for importation. Under one such category, subsection 925(d)(3), the Attorney General shall approve applications for importation when the firearms are generally recognized as particularly suitable for or readily adaptable to sporting purposes (the “sporting purposes test”).

After passage of the GCA in 1968, a panel was convened to provide input on the sporting suitability standards which resulted in factoring criteria for handgun importations. Then in 1989, and again in 1998, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) conducted studies to determine the sporting suitability and importability of certain firearms under section 925(d)(3). However, these studies focused mainly on a type of firearm described as “semiautomatic assault weapons.” The 1989 study determined that assault rifles contained a variety of physical features that distinguished them from traditional sporting rifles. The study concluded that there were three characteristics that defined semiautomatic assault rifles.<sup>2</sup>

The 1998 study concurred with the conclusions of the 1989 study, but included a finding that “the ability to accept a detachable large capacity magazine originally designed and produced for a military assault weapon should be added to the list of disqualifying military configuration features identified in 1989.”<sup>3</sup> Further, both studies concluded that the scope of “sporting purposes” did not include all lawful activity, but was limited to traditional sports such as hunting, skeet shooting, and trap shooting. This effectively narrowed the universe of firearms considered by each study because a larger number of firearms are “particularly suitable for or readily adaptable to a sporting purpose” if plinking<sup>4</sup> and police or military-style practical shooting competitions are also included as a “sporting purpose.”<sup>5</sup>

Although these studies provided effective guidelines for determining the sporting purposes of rifles, ATF recognized that no similar studies had been completed to determine the sporting

---

<sup>1</sup> Chapter 44, Title 18, United States Code (U.S.C.), at 18 U.S.C. § 922(l).

<sup>2</sup> These characteristics were: (a) a military configuration (ability to accept a detachable magazine, folding/telescoping stocks, pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights); (b) a semiautomatic version of a machinegun; and (c) chambered to accept a centerfire cartridge case having a length of 2.25 inches or less. *1989 Report and Recommendation on the Importability of Certain Semiautomatic Rifles (1989 Study)* at 6-9.

<sup>3</sup> *1998 Department of the Treasury Study on the Sporting Suitability of Modified Semiautomatic Rifles (1998 Study)* at 2.

<sup>4</sup> “Plinking” is shooting at random targets such as bottles and cans. 1989 Report at 10.

<sup>5</sup> *1989 Report* at 8-9; *1998 Study* at 18-19.

suitability of shotguns. A shotgun study working group (working group) was assigned to perform a shotgun study under the § 925(d)(3) sporting purposes test. The working group considered the 1989 and 1998 studies, but neither adopted nor entirely accepted findings from those studies as conclusive as to shotguns.

### Sporting Purpose

Determination of whether a firearm is generally accepted for use in sporting purposes is the responsibility of the Attorney General (formerly the Secretary of the Treasury). As in the previous studies, the working group considered the historical context of “sporting purpose” and that Congress originally intended a narrow interpretation of sporting purpose under § 925(d)(3).

While the 1989 and 1998 studies considered all rifles in making their recommendations, these studies first identified firearm features and subsequently identified those activities believed to constitute a legitimate “sporting purpose.” However, in reviewing the previous studies, the working group believes that it is appropriate to first consider the current meaning of “sporting purpose” as this may impact the “sporting” classification of any shotgun or shotgun features. For example, military shotguns, or shotguns with common military features that are unsuitable for traditional shooting sports, may be considered “particularly suitable for or readily adaptable to sporting purposes” if military shooting competitions are considered a generally recognized sporting purpose. Therefore, in determining the contemporary meaning of sporting purposes, the working group examined not only the traditional sports of hunting and organized competitive target shooting, but also made an effort to consider other shooting activities.

In particular, the working group examined participation in and popularity of practical shooting events as governed by formal rules, such as those of the United States Practical Shooting Association (USPSA) and International Practical Shooting Confederation (IPSC), to determine whether it was appropriate to consider these events a “sporting purpose” under § 925(d)(3). While the number of members reported for USPSA is similar to the membership for other shotgun shooting organizations,<sup>6</sup> the working group ultimately determined that it was not appropriate to use this shotgun study to determine whether practical shooting is “sporting” under § 925(d)(3). A change in ATF’s position on practical shooting has potential implications for rifle and handgun classifications as well. Therefore, the working group believes that a more thorough and complete assessment is necessary before ATF can consider practical shooting as a generally recognized sporting purpose.

The working group agreed with the previous studies in that the activity known as “plinking” is “primarily a pastime” and could not be considered a recognized sport for the purposes of

---

<sup>6</sup> Organization websites report these membership numbers: for the United States Practical Shooting Association, approx. 19,000; Amateur Trapshooting Association, over 35,000 active members; National Skeet Shooting Association, nearly 20,000 members; National Sporting Clays Association, over 22,000 members; Single Action Shooting Society, over 75,000 members.

importation.<sup>7</sup> Because almost any firearm can be used in that activity, such a broad reading of “sporting purpose” would be contrary to the congressional intent in enacting section 925(d)(3). For these reasons, the working group recommends that plinking not be considered a sporting purpose. However, consistent with past court decisions and Congressional intent, the working group recognized hunting and other more generally recognized or formalized competitive events similar to the traditional shooting sports of trap, skeet, and clays.

#### Firearm Features

In reviewing the shotguns used for those activities classified as sporting purposes, the working group examined State hunting laws, rules, and guidelines for shooting competitions and shooting organizations; industry advertisements and literature; scholarly and historical publications; and statistics on participation in the respective shooting sports. Following this review, the working group determined that certain shotgun features are not particularly suitable or readily adaptable for sporting purposes. These features include:

- (1) Folding, telescoping, or collapsible stocks;
- (2) bayonet lugs;
- (3) flash suppressors;
- (4) magazines over 5 rounds, or a drum magazine;
- (5) grenade-launcher mounts;
- (6) integrated rail systems (other than on top of the receiver or barrel);
- (7) light enhancing devices;
- (8) excessive weight (greater than 10 pounds for 12 gauge or smaller);
- (9) excessive bulk (greater than 3 inches in width and/or greater than 4 inches in depth);
- (10) forward pistol grips or other protruding parts designed or used for gripping the shotgun with the shooter’s extended hand.

Although the features listed above do not represent an exhaustive list of possible shotgun features, designs or characteristics, the working group determined that shotguns with any one of these features are most appropriate for military or law enforcement use. Therefore, shotguns containing any of these features are not particularly suitable for nor readily adaptable to generally recognized sporting purposes such as hunting, trap, sporting clay, and skeet shooting. Each of these features and an analysis of each of the determinations are included within the main body of the report.

---

<sup>7</sup> 1989 Study at 10; 1998 Study at 17.



### Study on the Importability of Certain Shotguns

The purpose of this study is to establish criteria that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will use to determine the importability of certain shotguns under the provisions of the Gun Control Act of 1968 (GCA).

### Background on Shotguns

A shotgun is defined by the GCA as “a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.”<sup>8</sup>

Shotguns are traditional hunting firearms and, in the past, have been referred to as bird guns or “fowling” pieces. They were designed to propel multiple pellets of shot in a particular pattern that is capable of killing the game that is being hunted. This design and type of ammunition limits the maximum effective long distance range of shotguns, but increases their effectiveness for small moving targets such as birds in flight at a close range. Additionally, shotguns have been used to fire slugs. A shotgun slug is a single metal projectile that is fired from the barrel. Slugs have been utilized extensively in areas where State laws have restricted the use of rifles for hunting. Additionally, many States have specific shotgun seasons for deer hunting and, with the reintroduction of wild turkey in many States, shotguns and slugs have found additional sporting application.

Shotguns are measured by *gauge* in the United States. The gauge number refers to the “number of equal-size balls cast from one pound of lead that would pass through the bore of a specific diameter.”<sup>9</sup> The largest commonly available gauge is 10 gauge (.0775 in. bore diameter). Therefore, a 10 gauge shotgun will have an inside diameter equal to that of a sphere made from one-tenth of a pound of lead. By far, the most common gauges are 12 (0.729 in. diameter) and 20 (0.614 in. diameter). The smallest shotgun that is readily available is known as a “.410,” which is the diameter of its bore measured in inches. Technically, a .410 is a 67 gauge shotgun.

### Background on Sporting Suitability

The GCA generally prohibits the importation of firearms into the United States.<sup>10</sup> However, the statute exempts four narrow categories of firearms that the Attorney General shall authorize for importation. Originally enacted by Title IV of the Omnibus Crime Control and Safe Streets Act of 1968,<sup>11</sup> and amended by Title I of the GCA<sup>12</sup> enacted that same year, this section provides, in pertinent part:

---

<sup>8</sup> 18 U.S.C. § 921(a)(5).

<sup>9</sup> The Shotgun Encyclopedia at 106.

<sup>10</sup> 18 U.S.C. § 922(l).

<sup>11</sup> Pub. Law 90-351 (June 19, 1968).

<sup>12</sup> Pub. Law 90-618 (October 22, 1968).

Case 1:13-cv-00291-WMS Document 74-10 Filed 06/21/13 Page 7 of 34

- 2 -

the Attorney General shall authorize a firearm . . . to be imported or brought into the United States . . . if the firearm . . . (3) is of a **type** that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and **is generally recognized as particularly suitable for or readily adaptable to sporting purposes**, excluding surplus military firearms, except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled.<sup>13</sup> (Emphasis added)

This section addresses Congress' concern that the United States had become a "dumping ground of the castoff surplus military weapons of other nations,"<sup>14</sup> in that it exempted only firearms with a generally recognized sporting purpose. In recognizing the difficulty in implementing this section, Congress gave the Secretary of the Treasury (now the Attorney General) the discretion to determine a weapon's suitability for sporting purposes. This authority was ultimately delegated to what is now ATF. Immediately after discussing the large role cheap imported .22 caliber revolvers were playing in crime, the Senate Report stated:

[t]he difficulty of defining weapons characteristics to meet this target without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition.<sup>15</sup>

Indeed, Congress granted this discretion to the Secretary even though some expressed concern with its breadth:

[t]he proposed import restrictions of Title IV would give the Secretary of the Treasury unusually broad discretion to decide whether a particular type of firearm is generally recognized as particularly suitable for, or readily adaptable to, sporting purposes. If this authority means anything, it permits Federal officials to differ with the judgment of sportsmen expressed through consumer preference in the marketplace....<sup>16</sup>

Since that time, ATF has been responsible for determining whether firearms are generally recognized as particularly suitable for or readily adaptable to sporting purposes under the statute.

<sup>13</sup> 18 U.S.C. § 925(d)(3). In pertinent part, 26 U.S.C. § 5845(a) includes "a shotgun having a barrel or barrels of less than 18 inches in length."

<sup>14</sup> 90 P.L. 351 (1968).

<sup>15</sup> S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

<sup>16</sup> S. Rep. No. 1097, 90th Cong. 2d Sess. 2155 (1968) (views of Senators Dirksen, Hruska, Thurmond, and Burdick). In *Gun South, Inc. v. Brady*, 877 F.2d 858, 863 (11th Cir. 1989), the court, based on legislative history, found that the GCA gives the Secretary "unusually broad discretion in applying section 925(d)(3)."

Case 1:13-cv-00291-WMS Document 74-10 Filed 06/21/13 Page 8 of 34

- 3 -

On December 10, 1968, the Alcohol and Tobacco Tax Division of the Internal Revenue Service (predecessor to ATF) convened a “Firearm Advisory Panel” to assist with defining “sporting purposes” as utilized in the GCA. This panel was composed of representatives from the military, law enforcement, and the firearms industry. The panel generally agreed that firearms designed and intended for hunting and organized competitive target shooting would fall into the sporting purpose criteria. It was also the consensus that the activity of “plinking” was primarily a pastime and therefore would not qualify. Additionally, the panel looked at criteria for handguns and briefly discussed rifles. However, no discussion took place on shotguns given that, at the time, all shotguns were considered inherently sporting because they were utilized for hunting or organized competitive target competitions.

Then, in 1984, ATF organized the first large scale study aimed at analyzing the sporting suitability of certain firearms. Specifically, ATF addressed the sporting purposes of the Striker-12 and Streetsweeper shotguns. These particular shotguns were developed in South Africa as law enforcement, security and anti-terrorist weapons. These firearms are nearly identical 12-gauge shotguns, each with 12-round capacity and spring-driven revolving magazines. All 12 rounds can be fired from the shotguns within 3 seconds.

In the 1984 study, ATF ruled that the Striker-12 and the Streetsweeper were not eligible for importation under 925(d)(3) because they were not “particularly suitable for sporting purposes.” In doing this, ATF reversed an earlier opinion and specifically rejected the proposition that police or combat competitive shooting events were a generally accepted “sporting purpose.” This 1984 study adopted a narrow interpretation of organized competitive target shooting competitions to include the traditional target events such as trap and skeet. ATF ultimately concluded that the size, weight and bulk of the shotguns made them difficult to maneuver in traditional shooting sports and, therefore, these shotguns were not particularly suitable for or readily adaptable to these sporting purposes. At the same time, however, ATF allowed importation of a SPAS-12 variant shotgun because its size, weight, bulk and *modified* configuration were such that it was particularly suitable for traditional shooting sports.<sup>17</sup> The Striker-12 and Streetsweeper were later classified as “destructive devices” pursuant to the National Firearms Act.<sup>18</sup>

In 1989, and again in 1998, ATF conducted studies to determine whether certain rifles could be imported under section 925(d)(3). The respective studies focused primarily on the application of the sporting purposes test to a type of firearm described as a “semiautomatic assault weapon.” In both 1989 and 1998, ATF was concerned that certain semiautomatic assault weapons had been approved for importation even though they did not satisfy the sporting purposes test.

---

<sup>17</sup> Private letter Ruling of August 9, 1989 from Bruce L. Weininger, Chief, Firearms and Explosives Division.

<sup>18</sup> See ATF Rulings 94-1 and 94-2.

### 1989 Study

In 1989, ATF announced that it was suspending the importation of several semiautomatic assault rifles pending a decision on whether they satisfied the sporting criteria under section 925(d)(3). The 1989 study determined that assault rifles were a “type” of rifle that contained a variety of physical features that distinguished them from traditional sporting rifles. The study concluded that there were three characteristics that defined semiautomatic assault rifles:

- (1) a military configuration (ability to accept a detachable magazine, folding/telescoping stocks, pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights);
- (2) semiautomatic version of a machinegun;
- (3) chambered to accept a centerfire cartridge case having a length of 2.25 inches or less.<sup>19</sup>

The 1989 study then examined the scope of “sporting purposes” as used in the statute.<sup>20</sup> The study noted that “[t]he broadest interpretation could take in virtually any lawful activity or competition which any person or groups of persons might undertake. Under this interpretation, any rifle could meet the “sporting purposes” test.<sup>21</sup> The 1989 study concluded that a broad interpretation would render the statute useless. The study therefore concluded that neither plinking nor “police/combat-type” competitions would be considered sporting activities under the statute.<sup>22</sup>

The 1989 study concluded that semiautomatic assault rifles were “designed and intended to be particularly suitable for combat rather than sporting applications.”<sup>23</sup> With this, the study determined that they were not suitable for sporting purposes and should not be authorized for importation under section 925(d)(3).

### 1998 Study

The 1998 study was conducted after “members of Congress and others expressed concern that rifles being imported were essentially the same as semiautomatic assault rifles previously determined to be nonimportable” under the 1989 study.<sup>24</sup> Specifically, many firearms found to be nonimportable under the 1989 study were later modified to meet the standards outlined in the study. These firearms were then legally imported into the country under section 925(d)(3). ATF commissioned the 1998 study on the sporting suitability of semiautomatic rifles to address concerns regarding these modified firearms.

---

<sup>19</sup> 1989 Report and Recommendation on the ATF Working Group on the Importability of Certain Semiautomatic Rifles (1989 Study).

<sup>20</sup> *Id.* at 8.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* At 9.

<sup>23</sup> *Id.* At 12.

<sup>24</sup> 1998 Study at 1.

The 1998 study identified the firearms in question and determined that the rifles shared an important feature—the ability to accept a large capacity magazine that was originally designed for military firearms. The report then referred to such rifles as Large Capacity Military Magazine rifles or “LCMM rifles.”<sup>25</sup>

The study noted that after 1989, ATF refused to allow importation of firearms that had any of the identified non-sporting features, but made an exception for firearms that possessed only a detachable magazine. Relying on the 1994 Assault Weapons Ban, the 1998 study noted that Congress “sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting.”<sup>26</sup> The study concluded by adopting the standards set forth in the 1989 study and by reiterating the previous determination that large capacity magazines are a military feature that bar firearms from importation under section 925(d)(3).<sup>27</sup>

#### Present Study

While ATF conducted the above mentioned studies on the sporting suitability of rifles, to date, no study has been conducted to address the sporting purposes and importability of shotguns. This study was commissioned for that purpose and to ensure that ATF complies with its statutory mandate under section 925(d)(3).

#### Methodology

To conduct this study, the working group reviewed current shooting sports and the sporting suitability of common shotguns and shotgun features. At the outset, the working group recognized the importance of acknowledging the inherent differences between rifles, handguns and shotguns. These firearms have distinct characteristics that result in specific applications of each weapon. Therefore, in conducting the study, the working group generally considered shotguns without regard to technical similarities or differences that exist in rifles or handguns.

The 1989 and 1998 studies examined particular features and made sporting suitability determinations based on the generally accepted sporting purposes of *rifles*. These studies served as useful references because, in recent years, manufacturers have produced shotguns with features traditionally found only on rifles. These features are typically used by military or law enforcement personnel and provide little or no advantage to sportsmen.

Following a review of the 1989 and 1998 studies, the working group believed that it was necessary to first identify those activities that are considered legitimate “sporting purposes” in the modern era. While the previous studies determined that only “the traditional sports of hunting and organized competitive target shooting” would be considered “sporting,”<sup>28</sup> the working group recognized that sporting purposes may evolve over time. The working group felt

---

<sup>25</sup> 1998 Study at 16.

<sup>26</sup> 1998 Study at 3.

<sup>27</sup> The 1994 Assault Weapons Ban expired Sept. 13, 2004, as part of the law's sunset provision.

<sup>28</sup> 1998 Study at 16

that the statutory language supported this because the term “generally recognized” modifies, not only firearms used for shooting activities, but also the shooting activities themselves. This is to say that an activity is considered “sporting” under section 925(d)(3) if it is generally recognized as such.<sup>29</sup> Therefore, activities that were “generally recognized” as legitimate “sporting purposes” in previous studies are not necessarily the same as those activities that are “generally recognized” as sporting purposes in the modern era. As stated above, Congress recognized the difficulty in legislating a fixed meaning and therefore gave the Attorney General the responsibility to make such determinations. As a result, the working group did not simply accept the proposition that sporting events were limited to hunting and traditional trap and skeet target shooting. In determining whether an activity is now generally accepted as a sporting purpose, the working group considered a broad range of shooting activities.

Once the working group determined those activities that are generally recognized as a “sporting purpose” under section 925(d)(3), it examined numerous shotguns with diverse features in an effort to determine whether any particular firearm was particularly suitable for or readily adaptable to those sports. In coming to a determination, the working group recognized that a shotgun cannot be classified as sporting merely because it may be used for a sporting purpose. During debate on the original bill, there was discussion about the meaning of the term “sporting purposes.” Senator Dodd stated:

Here again I would have to say that if a military weapon is used in a special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event . . . . As I said previously the language says no firearms will be admitted into this country unless they are genuine sporting weapons.<sup>30</sup>

In making a determination on any particular feature, the working group considered State hunting laws, currently available products, scholarly and historical publications, industry marketing, and rules and regulations of organization such as the National Skeet Shooting Association, Amateur Trapshooting Association, National Sporting Clays Association, Single Action Shooting Society, International Practical Shooting Confederation (IPSC), and the United States Practical Shooting Association (USPSA). Analysis of these sources as well as a variety of shotguns led the working group to conclude that certain shotguns were of a type that did not meet the requirements of section 925(d)(3), and therefore, could not lawfully be imported.

---

<sup>29</sup> ATF previously argued this very point in *Gilbert Equipment Company, Inc. v. Higgins*, 709 F.Supp. 1071, 1075 (S.D. Ala. 1989). The court agreed, noting, “according to Mr. Drake, the bureau takes the position...that an event has attained general recognition as being a sport before those uses and/or events can be ‘sporting purposes’ or ‘sports’ under section 925(d)(3). See also Declaration of William T. Drake, Deputy Director, Bureau of Alcohol, Tobacco and Firearms.

<sup>30</sup> 114 Cong. Rec. 27461-462 (1968).

### Analysis

#### A. Scope of Sporting Purposes

In conducting the sporting purposes test on behalf of the Attorney General, ATF examines the physical and technical characteristics of a shotgun and determines whether those characteristics meet this statutory requirement. A shotgun's suitability for a particular sport depends upon the nature and requirements inherent to that sport. Therefore, determining a "sporting purpose" was the first step in this analysis under section 925(d)(3) and is a critical step of the process.

A broad interpretation of "sporting purposes" may include any lawful activity in which a shooter might participate and could include any organized or individual shooting event or pastime. A narrow interpretation of "sporting purposes" would clearly result in a more selective standard governing the importation of shotguns.

Consistent with previous ATF decisions and case law, the working group recognized that a sport or event must "have attained general recognition as being a 'sport,' before those uses and/or events can be 'sporting purposes' or 'sports' under Section 925(d)(3)."<sup>31</sup> The statutory language limits ATF's authority to recognize a particular shooting activity as a "sporting purpose," and therefore requires a narrow interpretation of this term. As stated however, the working group recognized that sporting purposes may change over time, and that certain shooting activities may become "generally recognized" as such.

At the present time, the working group continues to believe that the activity known as "plinking" is not a generally recognized sporting purpose. There is nothing in the legislative history of the GCA to indicate that section 925(d)(3) was meant to recognize every conceivable type of activity or competition that might employ a firearm. Recognition of plinking as a sporting purpose would effectively nullify section 925(d)(3) because it may be argued that *any* shotgun is particularly suitable for or readily adaptable to this activity.

The working group also considered "practical shooting" competitions. Practical shooting events generally measure a shooter's accuracy and speed in identifying and hitting targets while negotiating obstacle-laden shooting courses. In these competitions, the targets are generally stationary and the shooter is mobile, as opposed to clay target shooting where the targets are moving at high speeds mimicking birds in flight. Practical shooting consist of rifle, shotgun and handgun competitions, as well as "3-Gun" competitions utilizing all three types of firearm on one course. The events are often organized by local or national shooting organizations and attempt to categorize shooters by skill level in order to ensure competitiveness within the respective divisions. The working group examined participation in and popularity of practical shooting events as governed under formal rules such as those of the United States Practical Shooting Association (USPSA) and International Practical Shooting Confederation (IPSC) to see

---

<sup>31</sup> Gilbert at 1085.

if it is appropriate to consider these events a legitimate “sporting purpose” under section 925(d)(3).

The USPSA currently reports approximately 19,000 members that participate in shooting events throughout the United States.<sup>32</sup> While USPSA’s reported membership is within the range of members for some other shotgun shooting organizations,<sup>33</sup> organizations involved in shotgun hunting of particular game such as ducks, pheasants and quail indicate significantly more members than any of the target shooting organizations.<sup>34</sup> Because a determination on the sporting purpose of practical shooting events should be made only after an in-depth study of those events, the working group determined that it was not appropriate to use this shotgun study to make a definitive conclusion as to whether practical shooting events are “sporting” for purposes of section 925(d)(3). Any such study must include rifles, shotguns and handguns because practical shooting events use all of these firearms, and a change in position by ATF on practical shooting or “police/combat-type” competitions may have an impact on the sporting suitability of rifles and handguns. Further, while it is clear that shotguns are used at certain practical shooting events, it is unclear whether shotgun use is so prevalent that it is “generally recognized” as a sporting purpose. If shotgun use is not sufficiently popular at such events, practical shooting would have no effect on any sporting suitability determination of shotguns. Therefore, it would be impractical to make a determination based upon one component or aspect of the practical shooting competitions.

As a result, the working group based the following sporting suitability criteria on the traditional sports of hunting, trap and skeet target shooting.

#### B. Suitability for Sporting Purposes

The final step in our review involved an evaluation of shotguns to determine a “type” of firearm that is “generally recognized as particularly suitable or readily adaptable to sporting purposes.” Whereas the 1989 and 1998 studies were conducted in response to Congressional interest pertaining to a certain “type” of firearm, the current study did not benefit from a mandate to focus upon and review a particular type of firearm. Therefore, the current working group determined that it was necessary to consider a broad sampling of shotguns and shotgun features that may constitute a “type.”

Whereas rifles vary greatly in size, function, caliber and design, historically, there is less variation in shotgun design. However, in the past several years, ATF has witnessed increasingly diverse shotgun design. Much of this is due to the fact that some manufacturers are now applying rifle designs and features to shotguns. This has resulted in a type of shotgun that has

---

<sup>32</sup> See [www.uspsa.org](http://www.uspsa.org).

<sup>33</sup> Organization websites report these membership numbers: for the United States Practical Shooting Association, approx. 19,000; Amateur Trapshooting Association, over 35,000 active members; National Skeet Shooting Association, nearly 20,000 members; National Sporting Clays Association, over 22,000 members; Single Action Shooting Society, over 75,000 members.

<sup>34</sup> Organization websites report these membership numbers: Ducks Unlimited, U.S adult 604,902 (Jan. 1, 2010); Pheasants/Quail Forever, over 130,000 North American members (2010) <http://www.pheasantfest.org/page/1/PressReleaseViewer.jsp?pressReleaseId=12406>.



features or characteristics that are based on tactical and military firearms. Following a review of numerous shotguns, literature, and industry advertisements, the working group determined that the following shotgun features and design characteristics are particularly suitable for the military or law enforcement, and therefore, offer little or no advantage to the sportsman. Therefore, we recognized that any shotgun with one or more of these features represent a “type” of firearm that is not “generally recognized as particularly suitable or readily adaptable to sporting purposes” and may not be imported under section 925(d)(3).

(1) Folding, telescoping or collapsible stock.

Shotgun stocks vary in style, but sporting stocks have largely resembled the traditional design.<sup>35</sup> Many military firearms incorporate folding or telescoping stocks. The main advantage of this feature is portability, especially for airborne troops. These stocks allow the firearm to be fired from the folded or retracted position, yet it is difficult to fire as accurately as can be done with an open or fully extended stock. While a folding stock or telescoping stock makes it easier to carry the firearm, its predominant advantage is for military and tactical purposes. A folding or telescoping stock is therefore not found on the traditional sporting shotgun. Note that certain shotguns may utilize adjustable butt plates, adjustable combs, or other designs intended only to allow a shooter to make small custom modifications to a shotgun. These are not intended to make a shotgun more portable, but are instead meant to improve the overall “fit” of the shotgun to a particular shooter. These types of adjustable stocks are sporting and are, therefore, acceptable for importation.

(2) Bayonet Lug.

A bayonet lug is generally a metal mount that allows the installation of a bayonet onto the end of a firearm. While commonly found on rifles, bayonets have a distinct military purpose. Publications have indicated that this may be a feature on military shotguns as well.<sup>36</sup> It enables soldiers to fight in close quarters with a knife attached to their firearm. The working group discovered no generally recognized sporting application for a bayonet on a shotgun.

(3) Flash Suppressor.

Flash suppressors are generally used on military firearms to disperse the muzzle flash in order to help conceal the shooter’s position, especially at night. Compensators are used on military and commercial firearms to assist in controlling recoil and the “muzzle climb” of the shotgun. Traditional sporting shotguns do not have flash suppressors or compensators. However, while compensators have a limited benefit for shooting sports because they allow the shooter to quickly reacquire the target for a second shot, there is no particular benefit in suppressing muzzle flash in

---

<sup>35</sup> Exhibit 1.

<sup>36</sup> *A Collector’s Guide to United States Combat Shotguns* at 156.

sporting shotguns. Therefore, the working group finds that flash suppressors are not a sporting characteristic, while compensators are a sporting feature. However, compensators that, in the opinion of ATF, actually function as flash suppressors are neither particularly suitable nor readily adaptable to sporting purposes.

(4) Magazine over 5 rounds, or a Drum Magazine.

A magazine is an ammunition storage and feeding device that delivers a round into the chamber of the firearm during automatic or semiautomatic firing.<sup>37</sup> A magazine is either integral (tube magazine) to the firearm or is removable (box magazine). A drum magazine is a large circular magazine that is generally detachable and is designed to hold a large amount of ammunition.

The 1989 Study recognized that virtually all modern military firearms are designed to accept large, detachable magazines. The 1989 Study noted that this feature provides soldiers with a large ammunition supply and the ability to reload rapidly. The 1998 Study concurred with this and found that, for rifles, the ability to accept a detachable large capacity magazine was not a sporting feature. The majority of shotguns on the market today contain an integral “tube” magazine. However, certain shotguns utilize removable box magazine like those commonly used for rifles.<sup>38</sup>

In regard to sporting purposes, the working group found no appreciable difference between integral tube magazines and removable box magazines. Each type allowed for rapid loading, reloading, and firing of ammunition. For example, “speed loaders” are available for shotguns with tube-type magazines. These speed loaders are designed to be preloaded with shotgun shells and can reload a shotgun with a tube-type magazine in less time than it takes to change a detachable magazine.

However, the working group determined that magazines capable of holding large amounts of ammunition, regardless of type, are particularly designed and most suitable for military and law enforcement applications. The majority of state hunting laws restrict shotguns to no more than 5 rounds.<sup>39</sup> This is justifiable because those engaged in sports shooting events are not engaging in potentially hostile or confrontational situations, and therefore do not require the large amount of immediately available ammunition, as do military service members and police officers.

Finally, drum magazines are substantially wider and have considerably more bulk than standard clip-type magazines. They are cumbersome and, when attached to the shotgun, make it more difficult for a hunter to engage multiple small moving targets. Further, drum magazines are generally designed to contain more than 5 rounds. Some contain as many as 20 or more

---

<sup>37</sup> Steindler's New Firearms Dictionary at 164.

<sup>38</sup> See Collector's Guide to United States Combat Shotguns at 156-7, noting that early combat shotguns were criticized because of their limited magazine capacity and time consuming loading methods.

<sup>39</sup> Exhibit 2.

rounds.<sup>40</sup> While such magazines may have a military or law enforcement application, the working group determined that they are not useful for any generally recognized sporting purpose. These types of magazines are unlawful to use for hunting in most states, and their possession and manufacture are even prohibited or restricted in some states.<sup>41</sup>

(5) Grenade Launcher Mount.

Grenade launchers are incorporated into military firearms to facilitate the launching of explosive grenades. Such launchers are generally of two types. The first type is a flash suppressor designed to function as a grenade launcher. The second type attaches to the barrel of the firearm either by screws or clamps. Grenade launchers have a particular military application and are not currently used for sporting purposes.

(6) Integrated Rail Systems.<sup>42</sup>

This refers to a mounting rail system for small arms upon which firearm accessories and features may be attached. This includes scopes, sights, and other features, but may also include accessories or features with no sporting purpose, including flashlights, foregrips, and bipods. Rails on the sides and underside of shotguns—including any accessory mount—facilitate installation of certain features lacking any sporting purpose. However, receiver rails that are installed on the top of the receiver and barrel are readily adaptable to sporting purposes because this facilitates installation of optical or other sights.

(7) Light Enhancing Devices.

Shotguns are generally configured with either bead sights, iron sights or optical sights, depending on whether a particular sporting purpose requires the shotgun to be pointed or aimed.<sup>43</sup> Bead sights allow a shooter to “point” at and engage moving targets at a short distance with numerous small projectiles, including birds, trap, skeet and sporting clays. Iron and optical sights are used when a shooter, firing a slug, must “aim” a shotgun at a target, including deer, bear and turkeys.<sup>44</sup> Conversely, many military firearms are equipped with sighting devices that utilize available light to facilitate night vision capabilities. Devices or optics that allow illumination of a target in low-light conditions are generally for military and law enforcement purposes and are not typically found on sporting shotguns because it is generally illegal to hunt at night.

---

<sup>40</sup> Exhibit 3.

<sup>41</sup> See, e.g., Cal Pen Code § 12020; N.J. Stat. § 2C:39-9.

<sup>42</sup> Exhibit 4.

<sup>43</sup> NRA Firearms Sourcebook at 178.

<sup>44</sup> Id.

(8) Excessive Weight.<sup>45</sup>

Sporting shotguns, 12 gauge and smaller, are lightweight (generally less than 10 pounds fully assembled),<sup>46</sup> and are balanced and maneuverable. This aids sportsmen by allowing them to carry the firearm over long distances and rapidly engage a target. Unlike sporting shotguns, military firearms are larger, heavier, and generally more rugged. This design allows the shotguns to withstand more abuse in combat situations.

(9) Excessive Bulk.<sup>47</sup>

Sporting shotguns are generally no more than 3 inches in width or more than 4 inches in depth. This size allows sporting shotguns to be sufficiently maneuverable in allowing hunters to rapidly engage targets. Certain combat shotguns may be larger for increased durability or to withstand the stress of automatic fire. The bulk refers to the fully assembled shotgun, but does not include magazines or accessories such as scopes or sights that are used on the shotgun. For both width and depth, shotguns are measured at the widest points of the action or housing on a line that is perpendicular to the center line of the bore. Depth refers to the distance from the top plane of the shotgun to the bottom plane of the shotgun. Width refers to the length of the top or bottom plane of the firearm and measures the distance between the sides of the shotgun. Neither measurement includes the shoulder stock on traditional sporting shotgun designs.

(10) Forward Pistol Grip or Other Protruding Part Designed or Used for Gripping the Shotgun with the Shooter's Extended Hand.<sup>48</sup>

While sporting shotguns differ in the style of shoulder stock, they are remarkably similar in fore-end design.<sup>49</sup> Generally, sporting shotguns have a foregrip with which the shooter's forward hand steadies and aims the shotgun. Recently, however, some shooters have started attaching forward pistol grips to shotguns. These forward pistol grips are often used on tactical firearms and are attached to those firearms using the integrated rail system. The ergonomic design allows for continued accuracy during sustained shooting over long periods of time. This feature offers little advantage to the sportsman. Note, however, that the working group believes that pistol grips for the trigger hand are prevalent on shotguns and are therefore generally recognized as particularly suitable for sporting purposes.<sup>50</sup>

While the features listed above are the most common non-sporting shotgun features, the working group recognizes that other features, designs, or characteristics may exist. Prior to importation, ATF will classify these shotguns based upon the requirements of section 925(d)(3). The working

---

<sup>45</sup> See generally Gilbert.

<sup>46</sup> Shotgun Encyclopedia 2001 at 264.

<sup>47</sup> Exhibit 5.

<sup>48</sup> Exhibit 6.

<sup>49</sup> See Exhibit 1. See generally NRA Firearms Sourcebook at 121-2.

<sup>50</sup> See Exhibit 1.

group expects the continued application of unique features and designs to shotguns that may include features or designs based upon traditional police or military tactical rifles. However, even if a shotgun does not have one of the features listed above, it may be considered “sporting” only if it meets the statutory requirements under section 925(d)(3). Further, the simple fact that a military firearm or feature *may* be used for a generally recognized sporting purposes is not sufficient to support a determination that it is sporting under 925(d)(3). Therefore, as required by section 925(d)(3), in future sporting classifications for shotguns, ATF will classify the shotgun as sporting only if there is evidence that its features or design characteristics are generally recognized as particularly suitable for or readily adaptable to generally recognized sporting purposes.

The fact that a firearm or feature was initially designed for military or tactical applications, including offensive or defensive combat, may indicate that it is not a sporting firearm. This may be overcome by evidence that the particular shotgun or feature has been so regularly used by sportsmen that it is generally recognized as particularly suitable for or readily adaptable to sporting purposes. Such evidence may include marketing, industry literature and consumer articles, scholarly and historical publications, military publications, the existence of State and local statutes and regulations limiting use of the shotgun or features for sporting purposes, and the overall use and the popularity of such features or designs for sporting purposes according to hunting guides, shooting magazines, State game commissioners, organized competitive hunting and shooting groups, law enforcement agencies or organizations, industry members and trade associations, and interest and information groups. Conversely, a determination that the shotgun or feature was originally designed as an improvement or innovation to an existing sporting shotgun design or feature will serve as evidence that the shotgun is sporting under section 925(d)(3). However, any new design or feature must still satisfy the sporting suitability test under section 925(d)(3) as outlined above.

The Attorney General and ATF are not limited to these factors and therefore may consider any other factor determined to be relevant in making this determination. The working group recognizes the difficulty in applying this standard but acknowledges that Congress specifically intended that the Attorney General perform this function. Therefore, the working group recommends that sporting determinations for shotguns not specifically addressed by this study be reviewed by a panel pursuant to ATF orders, policies and procedures, as appropriate.

#### Conclusion

The purpose of section 925(d)(3) is to provide a limited exception to the general prohibition on the importation of firearms without placing “any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms....”<sup>51</sup> Our determinations will in no way preclude the importation of true sporting shotguns. While it will certainly prevent the importation of certain shotguns, we believe that

---

<sup>51</sup> 90 P.L. 351 (1968).

those shotguns containing the enumerated features cannot be fairly characterized as “sporting” shotguns under the statute. Therefore, it is the recommendation of the working group that shotguns with any of the characteristics or features listed above not be authorized for importation.

Shotgun Stock Style Comparison

Exhibit 1

“Straight” or “English” style stock (Ruger Red Label):



“Pistol grip” style stock (Browning Citori):



“Pistol grip” style stock (Mossberg 935 Magnum Turkey):



“Thumbhole” style stock (Remington SP-10):



Stock with Separate Pistol Grip



A-783

Case 1:13-cv-00291-WMS Document 74-10 Filed 06/21/13 Page 21 of 34  
Hunting Statutes by State

Exhibit 2

State	Gauge	Mag Restriction / plugged with one piece filler requiring disassembly of gun for removal	Attachments	Semi-Auto	Other
Alabama	10 gauge or smaller;	(Species specific) 3 shells			1
Alaska	10 gauge or smaller				
Arizona	10 gauge or smaller	5 shells			
Arkansas	≤ 10 gauge; some zones ≥ .410; ≥ 20 gauge for bear	(Species specific) 3 shells			
California	≤ 10 gauge; Up to 12 gauge in some areas	(Species specific) 3 shells			
Colorado	≥ 20 gauge; Game Mammals ≤ 10 gauge	3 shells			
Connecticut	≤ 10-gauge	(Species specific) 3 shells	telescopic sights		
Delaware	20, 16, 12, 10 gauge	3 shells		Muzzleloaders may be equipped with scopes	2
Florida	Muzzleloading firing ≥ 2 balls ≥ 20-gauge; Migratory birds ≤ 10-gauge; opossums - single-shot .41 -gauge shotguns	(Species specific) 3 shells			
Georgia	≥ 20-gauge; Waterfowl ≤ 10-gauge	5 shells	Scopes are legal		
Hawaii	≤ 10 gauge	(Species specific) 3 shells	some scopes allowed		3
Idaho					
Illinois	20 - 10 gauge; no .410 or 28 gauge allowed	3 shells			
Indiana		(Species specific) 3 shells	Laser sights are legal		



Hunting Statutes by State

Iowa	10-, 12-, 16-, and 20-gauge			
Kansas	≥ 20 gauge; ≤ 10 gauge,	(Species specific) 3 shells	Telescopic sights (scopes)	
Kentucky	up to and including 10-gauge, includes .410-	(Species specific) 3 shells		
Louisiana	≤ 10 gauge	3 shells	Nuisance Animals; infrared, laser sighting devices, or night vision devices	Auto-loading illegal if hold more than 6 cartridges
Maine	10 - 20 gauge	(Species specific) 3 shells	may have any type of sights, including scopes	
Maryland	Muzzle loading ≥ 10 gauge ; Shotgun ≤ 10-gauge	(Species specific) 3 shells	may use a telescopic sight on muzzle loading firearm	
Massachusetts	≤ 10 gauge	(Species specific) 3 shells		Illegal: semi-automatic holding > 6 shells in barrel and magazine combined
Michigan	any gauge	(Species specific) 3 shells		
Minnesota	≤ 10 gauge	(Species specific) 3 shells	Scopes allowed on primitive weapons	
Mississippi	any gauge	(Species specific) 3 shells		
Missouri	≤ 10 gauge	(Species specific) 3 shells		
Montana	≤ 10 gauge	(Species specific) 3 shells		
Nebraska	≥ 20 gauge	(Species specific) 3 shells		Illegal: semi-automatic holding > 6 shells in barrel and magazine combined
Nevada	≤ 10 gauge; ≥ 20 gauge	(Species specific) 3 shells		
New Hampshire	10 - 20 gauge	(Species specific) 3 shells		
New Jersey	≤ 10 gauge; ≥ 20 gauge; or .410 caliber	(Species specific) 3 shells	Require adjustable open iron, peep sight or scope affixed if hunting with slugs. Telescopic sights Permitted	
New Mexico	≥ 28 gauge, ≤ 10 gauge	(Species specific) 3 shells	scopes allowed	No semi-automatic firearm with a capacity to hold more than 6 rounds
New York	Big game ≥ 20 gauge			

A-785

Exhibit 2

Hunting Statutes by State

<b>North Carolina</b>	≤ 10 gauge	(Species specific) 3 shells	
<b>North Dakota</b>	≥ 410 gauge; no ≤ 10 gauge	3 shells (repealed for migratory birds)	
<b>Ohio</b>	≤ 10 gauge	(Species specific) 3 shells	
<b>Oklahoma</b>	≤ 10 gauge	(Species specific) 3 shells	
<b>Oregon</b>	≤ 10 gauge; ≥ 20 gauge	(Species specific) 3 shells	Scopes (permanent and detachable), and sights allowed for visually impaired
<b>Pennsylvania</b>	≤ 10 gauge; ≥ 12 gauge	(Species specific) 3 shells	
<b>Rhode Island</b>	10, 12, 16, or 20-gauge	5 shells	
<b>South Carolina</b>	(Species specific) ≤ 10 gauge	(Species specific) 3 shells	
<b>South Dakota</b>		5 shells	No auto-loading firearm holding > 6 cartridges
<b>Tennessee</b>	Turkey: ≥ 28 gauge	(Species specific) 3 shells	May be equipped with sighting devices
<b>Texas</b>	≤ 10 gauge	(Species specific) 3 shells	scoping or laser sighting devices used by disabled hunters
<b>Utah</b>	≤ 10 gauge; ≥ 20 gauge	(Species specific) 3 shells	
<b>Vermont</b>	≥ 12 gauge	(Species specific) 3 shells	
<b>Virginia</b>	≤ 10 gauge	(Species specific) 3 shells	
<b>Washington</b>	≤ 10 gauge	(Species specific) 3 shells	
<b>West Virginia</b>			
<b>Wisconsin</b>	10, 12, 16, 20 and 28 gauge; no .410 shotgun for deer/bear	(Species specific) 3 shells	
<b>Wyoming</b>			
1	Shotgun/rifle combinations (drilling) permitted		
2	large game training course - Students in optional proficiency qualification bring their own pre-zeroed, ≥ .243 , scoped shotgun no firearm that, in combination with a scope, sling and/or any attachments, weighs more than 16 pounds		
3			
4	no relevant restrictive laws concerning shotguns		

A-786

Exhibit 2

General Firearm Statutes by State

State	Source	Semi-Auto Restrictions	Attachments	Prohibited* (in addition to possession of short-barrel or sawed-off shotguns by non-authorized persons, e.g., law enforcement officers for official duty purposes)
Alabama	Alabama Code, title 13:			
Alaska	Alaska Statutes 11.61.200.(h)			
Arizona	Arizona Rev. Statutes 13-3101.8.	single shot	silencer prohibited	
Arkansas	Arkansas Code Title 5, Chapter 73.			
California	California Penal Code, Part 4.12276. and San Diego Municipal Code 53.31.	San Diego includes under "assault weapon," any shotgun with a magazine capacity of more than 6 rounds		"Assault weapons": Franchi SPAS 12 and LAW 12; Striker 12; Streetsweeper type S/S Inc. ; semiautomatic shotguns having both a folding or telescoping stock and a pistol grip protruding conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip; semiautomatic shotguns capable of accepting a detachable magazine; or shotguns with a revolving cylinder.
Colorado	2 CCR 406-203			
Connecticut	Connecticut Gen. Statutes 53-202a.			"Assault weapons": Steyr AUG; Street Sweeper and Striker 12 revolving cylinder shotguns
D.C	7-2501.01.			

A-787

Exhibit 2

General Firearm Statutes by State

<b>Delaware</b>	7.1.§ 711.	7.1.§ 711. Hunting with automatic-loading gun prohibited; penalty (a) No person shall hunt for game birds or game animals in this State, except as authorized by state-sanctioned federal depredation/conservation orders for selected waterfowl species, with or by means of any automatic-loading or hand-operated repeating shotgun capable of holding more than 3 shells, the magazine of which has not been cut off or plugged with a filler incapable of removal through the loading end thereof, so as to reduce the capacity of said gun to not more than 3 shells at 1 time, in the magazine and chamber combined. (b) Whoever violates this section shall be guilty of a class C environmental misdemeanor. (c) Having in one's possession, while in the act of hunting game birds or game animals, a gun that will hold more than 3 shells at one time in the magazine and chamber combined, except as authorized in subsection (a) of this section, shall be prima facie evidence of violation of this section.
<b>Florida</b>	Florida statutes, Title XLVI.790.001.	
<b>Georgia</b>		
<b>Hawaii</b>	Hawaii Rev. Statutes, Title 10., 134-8.	silencer prohibited
<b>Idaho</b>	Idaho Code, 18-3318.	
<b>Illinois</b>	Code of Ordinances, City of Aurora 29-43.	"Assault weapons": Street Sweeper and Striker 12 revolving cylinder shotguns or semiautomatic shotguns with either a fixed magazine with a capacity over 5 rounds or an ability to accept a detachable magazine and has at least a folding / telescoping stock or a pistol grip that protrudes beneath the action of firearm and which is separate and apart from stock
		Aurora includes under "assault weapon," any shotgun with a magazine capacity of more than 5 rounds

A-788

Exhibit 2

General Firearm Statutes by State

<b>Indiana</b>	<p>Indiana Code 35-47-1-10. and Municipal Code of the City of South Bend 13-95.</p> <p>South Bend under "assault weapon" firearms which have threads, lugs, or other characteristics designed for direct attachment of a silencer, bayonet, flash suppressor, or folding stock; as well as any detachable magazine, drum, belt, feed strip, or similar device which can be readily made to accept more than 15. rounds</p> <p>South Bend includes under "assault weapon," any shotgun with a magazine capacity of more than 9 rounds</p>
<b>Iowa</b>	<p>Iowa Code, Title XVI. 724.1.</p> <p>Includes as an offensive weapon, "a firearm which shoots or is designed to shoot more than one shot, without manual reloading, by a single function of the trigger"</p>
<b>Kansas</b>	
<b>Kentucky</b>	<p>Kentucky Revised Statutes- 150.360</p>
<b>Louisiana</b>	<p>Louisiana RS 56:116.1</p>
<b>Maine</b>	<p>Maine Revised Statutes 12.13.4.915.4.§11214. F.</p>
<b>Maryland</b>	<p>Maryland Code 5-101.</p> <p>"Assault weapons": F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun; Steyr-AUG-SA semi-auto; Holmes model 88 shotgun; Mossberg model 500 Bullpup assault shotgun; Street sweeper assault type shotgun; Striker 12 assault shotgun in all formats; Daewoo USAS 12 semi-auto shotgun</p>

Exhibit 2

General Firearm Statutes by State

<b>Massachusetts</b>	Massachusetts Gen L. 140.121.	under "assault weapon"; any shotgun with (fixed or detachable) magazine capacity of more than 5 rounds	"Assault weapons": revolving cylinder shotguns, e.g., Street Sweeper and Striker 12; also "Large capacity weapon" includes any semiautomatic shotgun fixed with large capacity feeding device (or capable of accepting such), that uses a rotating cylinder capable of accepting more than 5 shells
<b>Michigan</b>	II.2.1. (2)		
<b>Minnesota</b>	Minnesota Statutes 624.711		"Assault weapons": Street Sweeper and Striker-12 revolving cylinder shotgun types as well as USAS-12 semiautomatic shotgun type
<b>Mississippi</b>	Mississippi Code 97-37-1.		
<b>Missouri</b>	Code of State Regulations 10-7.410(1)(G)		silencer prohibited
<b>Montana</b>			
<b>Nebraska</b>	Nebraska Administrative Code Title 163 Chapter 4 001.		
<b>Nevada</b>	Nevada Revised Statutes 503.150 1.		
<b>New Hampshire</b>			
<b>New Jersey</b>	New Jersey Statutes 23:4-13. and 23:4-44. and New Jersey Rev. Statutes 2C39-1.w.	magazine capacity of no more than 5 rounds	"Assault weapons": any shotgun with a revolving cylinder, e.g. "Street Sweeper" or "Striker 12" Franchi SPAS 12 and LAW 12 shotguns or USAS 12 semi-automatic type shotgun; also any semi-automatic shotgun with either a magazine capacity exceeding 6 rounds, a pistol grip, or a folding stock
<b>New Mexico</b>	New Mexico Administrative Code 19.31.6.7H., 19.31.11.10N., 19.31.13.10M. and 19.31.17.10N.		

Exhibit 2

General Firearm Statutes by State

<p><b>New York</b></p>	<p>New York Consolidated Laws 265.00, 22. and Code of the City of Buffalo 1801B.</p>	<p>magazine capacity of no more than 5 rounds</p>	<p>sighting device making a target visible at night may classify a shotgun as an assault weapon</p>	<p>"Assault weapons": Any semiautomatic shotgun with at least two of the following: folding or telescoping stock; pistol grip that protrudes conspicuously beneath the action of the weapon; fixed magazine capacity in excess of five rounds; an ability to accept a detachable magazine; or any revolving cylinder shotguns, e.g., Street Sweeper and Striker 12; Buffalo 1801B. Assault Weapon: (2) A center-fire rifle or shotgun which employs the force of expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which has: (a) A flash suppressor attached to the weapon reducing muzzle flash; (c) A sighting device making a target visible at night; (d) A barrel jacket surrounding all or a portion of the barrel, to dissipate heat therefrom; or (e) A multi-burst trigger activator; (3) Any stockless pistol grip shotgun.</p>
<p><b>North Carolina</b></p>	<p>North Carolina Gen. Statutes 14-288.8</p>		<p>silencer prohibited</p>	
<p><b>North Dakota</b></p>	<p>North Dakota Century Code 20.1-01-09. Section 20.1-04-10, SHOTGUN SHELL-HOLDING CAPACITY RESTRICTION, repealed/eliminated</p>			
<p><b>Ohio</b></p>	<p>Ohio Rev. Code 2923.11. and Columbus City Codes 2323.11.</p>	<p>magazine capacity of no more than 5 rounds</p>		<p>semiautomatic shotgun that was originally designed with or has a fixed magazine or detachable magazine with a capacity of more than five rounds. Columbus includes under "Assault weapon" any semi-automatic shotgun with two or more of the following: pistol grip that protrudes conspicuously beneath the receiver of the weapon; folding, telescoping or thumbhole stock; fixed magazine capacity in excess of 5 standard 2-3/4, or longer, rounds; or ability to accept a detachable magazine; also any shotgun with revolving cylinder</p>
<p><b>Oklahoma</b></p>				
<p><b>Oregon</b></p>	<p>Oregon Rev. Statutes 166.272.</p>		<p>silencer prohibited</p>	
<p><b>Pennsylvania</b></p>	<p>Title 34 Sec. 2308. (a)(4) and (b)(1)</p>			
<p><b>Rhode Island</b></p>	<p>Rule 7, Part III, 3.3 and 3.4</p>			
<p><b>South Carolina</b></p>	<p>SECTION 50-11-310. (E) and ARTICLE 3. SUBARTICLE 1. 123.40</p>			

A-791

Exhibit 2

General Firearm Statutes by State

<b>South Dakota</b>	South Dakota Codified Laws 22.1.2, (8)	silencer prohibited
<b>Tennessee</b>		
<b>Texas</b>		
<b>Utah</b>	Utah Administrative Code R657-5-9. (1), R657-6-6. (1) and R657-9-7.	
<b>Vermont</b>		
<b>Virginia</b>	Virginia Code 18.2-308.	magazine capacity no more than 7 rounds (not applicable for hunting or sport shooting)  "Assault weapons": Striker 12's commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding twelve shotgun shells prohibited
<b>Washington</b>	Washington Administrative Code 232-12-047	
<b>West Virginia</b>	West Virginia statute 8-12-5a.	
<b>Wisconsin</b>	Wisconsin Administrative Code – NR 10.11 and NR 10.12	
<b>Wyoming</b>	Wyoming Statutes, Article 3, Rifles and Shotguns [Repealed] and 23-3-112.	silencer prohibited



A-792

Case 1:13-cv-00291-WMS Document 74-10 Filed 06/21/13 Page 30 of 34

Exhibit 3

Drum Magazine



A-793

Case 1:13-cv-00291-WMS Document 74-10 Filed 06/21/13 Page 31 of 34

Integrated Rail System

Exhibit 4

Sporting



Sporting



Non-Sporting



Non-Sporting



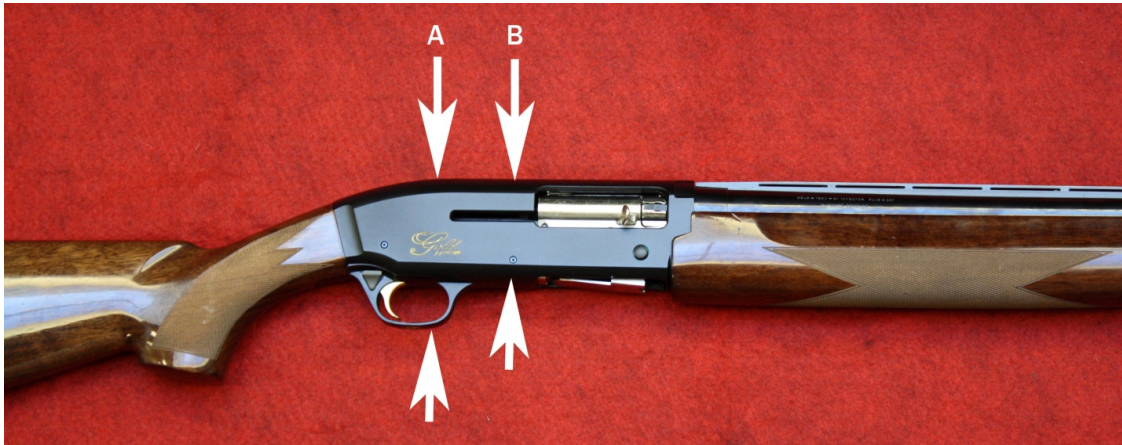
A-794

Case 1:13-cv-00291-WMS Document 74-10 Filed 06/21/13 Page 32 of 34

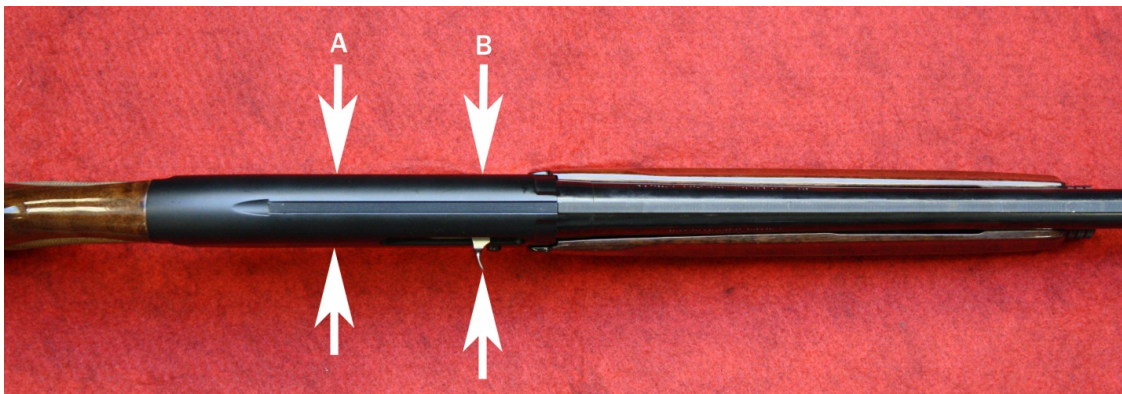
Bulk Measurements

Exhibit 5

Depth refers to the distance from the top plane of the shotgun to the bottom plane of the shotgun. Depth measurement "A" below is INCORRECT; it includes the trigger guard which is not part of the frame or receiver. Depth measurement "B" below is CORRECT; it measures only the depth of the frame or receiver:



Width refers to the length of the top or bottom pane of the firearm and measures the distance between the sides of the shotgun. Width measurement "A" below is CORRECT; it measures only the width of the frame or receiver. Width measurement "B" below is INCORRECT; it includes the charging handle which is not part of the frame or receiver:



A-795

Case 1:13-cv-00291-WMS Document 74-10 Filed 06/21/13 Page 33 of 34

Forward Pistol Grip

Exhibit 6



**A-796**

Case 1:13-cv-00291-WMS Document 74-10 Filed 06/21/13 Page 34 of 34

[PAGE INTENTIONALLY LEFT BLANK]



DEPARTMENT OF  
THE TREASURY  
STUDY ON  
THE SPORTING  
SUITABILITY  
OF MODIFIED  
SEMI-AUTOMATIC  
ASSAULT RIFLES

APRIL 1998

TABLE OF CONTENTS

	Page
1. Executive Summary.....	1
2. Background.....	4
3. Defining the Type of Weapon Under Review.....	16
4. Scope of “Sporting Purposes”.....	16
5. Method of Study.....	19
6. Suitability for Sporting Purposes.....	21
7. Determination.....	36
8. Exhibits:	
White House Memorandum: Importation of Modified Semiautomatic Assault-type Rifles	
Study Rifle Models	
Study Rifles	
ATF Form 4590, Factoring Criteria for Weapons	
Military Configuration	
Memorandum to File From First Meeting of Firearms Advisory Panel	
State Fish and Game Commission Review	
9. Appendix: Summary of Externally Gathered Information	

### EXECUTIVE SUMMARY

On November 14, 1997, the President and the Secretary of the Treasury ordered a review of the importation of certain modified versions of semiautomatic assault rifles into the United States.<sup>1</sup> The decision to conduct this review stemmed in part from concerns expressed by members of Congress and others that the rifles being imported were essentially the same as semiautomatic assault rifles previously determined to be nonimportable in a 1989 decision by the Bureau of Alcohol, Tobacco and Firearms (ATF). The decision also stemmed from the fact that nearly 10 years had passed since the last comprehensive review of the importation of rifles, and many new rifles had been developed during this time.

Under 18 U.S.C. section 925(d)(3), the Secretary shall approve applications for importation only when the firearms are generally recognized as particularly suitable for or readily adaptable to sporting purposes (the “sporting purposes test”). In 1989, ATF denied applications to import a series of semiautomatic versions of automatic-fire military assault rifles. When ATF examined these semiautomatic assault rifles, it found that the rifles, while no longer machineguns, still had a military configuration that was designed for killing and disabling the enemy and that distinguished the rifles from traditional sporting rifles. This distinctively military configuration served as the basis for ATF’s finding that the rifles were not considered sporting rifles under the statute.

The military configuration identified by ATF incorporated eight physical features: ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights. In 1989, ATF took the position that any of these military configuration features, other than the ability to accept a detachable magazine, would make a semiautomatic rifle not importable.

Subsequent to the 1989 decision, certain semiautomatic assault rifles that failed the 1989 sporting purposes test were modified to remove all of the military configuration features other than the ability to accept a detachable magazine. Significantly, most of these modified rifles not only still had the ability to accept a detachable magazine but, more specifically, still had the ability to accept a detachable large capacity magazine that

---

<sup>1</sup> The President and the Secretary directed that all pending and future applications for importation of these rifles not be acted upon until completion of the review. They also ordered that outstanding permits for importation of the rifles be suspended for the duration of the review period. The existence of applications to import 1 million new rifles and outstanding permits for nearly 600,000 other rifles threatened to defeat the purpose of the expedited review unless the Department of the Treasury deferred action on additional applications and temporarily suspended the outstanding permits. (See exhibit 1 for a copy of the November 14, 1997, memorandum directing this review.)

The rifles that are the subject of this review are referred to in this report as “study rifles.”



was originally designed and produced for the military assault rifles from which they were derived. These magazines are referred to in this report as “large capacity military magazines.” Study rifles with the ability to accept such magazines are referred to in this report as “large capacity military magazine rifles,” or “LCMM rifles.” It appears that only one study rifle, the VEPR caliber .308 (an AK47 variant), is not an LCMM rifle. Based on the standard developed in 1989, these modified rifles were found to meet the sporting purposes test. Accordingly, the study rifles were approved for import into the United States.

These modified rifles are the subject of the present review. Like the rifles banned in 1989, the study rifles are semiautomatic rifles based on AK47, FN-FAL, HK91 and 93, Uzi, and SIG SG550 military assault rifles. While there are at least 59 specific model designations of the study rifles, they all fall within the basic designs listed above. There are at least 39 models based on the AK47 design, 8 on the FN-FAL design, 7 on the HK91 and 93 designs, 3 on the Uzi design, and 2 on the SIG SG550 design (see exhibit 2 for a list of the models). Illustrations of some of the study rifles are included in exhibit 3 of this report.

This review takes another look at the entire matter to determine whether the modified rifles approved for importation since 1989 are generally recognized as particularly suitable for or readily adaptable to sporting purposes.<sup>2</sup> We have explored the statutory history of the sporting purposes test and prior administrative and judicial interpretations; reexamined the basic tenets of the 1989 decision; analyzed the physical features of the study rifles, as well as information from a wide variety of sources relating to the rifles’ use and suitability for sporting purposes; and assessed changes in law that might have bearing on the treatment of the rifles.

This review has led us to conclude that the basic finding of the 1989 decision remains valid and that military-style semiautomatic rifles are not importable under the sporting purposes standard. Accordingly, we believe that the Department of the Treasury correctly has been denying the importation of rifles that had any of the distinctly military configuration features identified in 1989, other than the ability to accept a detachable magazine. Our review, however, did result in a finding that the ability to accept a detachable large capacity magazine originally designed and produced for a military assault weapon should be added to the list of disqualifying military configuration features identified in 1989.

Several important changes have occurred since 1989 that have led us to reevaluate the importance of this feature in the sporting purposes test. Most significantly, by passing the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding

---

<sup>2</sup> The study was carried out by a working group composed of ATF and Treasury representatives. The working group’s activities and findings were overseen by a steering committee composed of ATF and Treasury officials.

devices, Congress sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting; rather, firearms with this ability have military purposes and are a crime problem. Specifically, Congress found that these magazines served “combat-functional ends” and were attractive to criminals because they “make it possible to fire a large number of rounds without reloading, then to reload quickly when those rounds are spent.”<sup>3</sup> Moreover, we did not find any evidence that the ability to accept a detachable large capacity military magazine serves any sporting purpose. Accordingly, we found that the ability to accept such a magazine is a critical factor in the sporting purposes test, which must be given the same weight as the other military configuration features identified in 1989.

In addition, the information we collected on the use and suitability of LCMM rifles for hunting and organized competitive target shooting demonstrated that the rifles are not especially suitable for sporting purposes. Although our review of this information indicated that, with certain exceptions, the LCMM rifles sometimes are used for hunting, their actual use in hunting is limited. There are even some general restrictions and prohibitions on the use of semiautomatic rifles for hunting game. Similarly, although the LCMM rifles usually may be used, with certain exceptions, and sometimes are used for organized competitive target shooting, their suitability for this activity is limited. In fact, there are some restrictions and prohibitions on their use.

Furthermore, the information we gathered demonstrated that the LCMM rifles are attractive to certain criminals. We identified specific examples of the LCMM rifles’ being used in violent crime and gun trafficking. In addition, we found some disturbing trends involving the LCMM rifles, including a rapid and continuing increase in crime gun trace requests after 1991 and a rapid “time to crime.” Their ability to accept large capacity military magazines likely plays a role in their appeal to these criminals.

After weighing all the information collected, we found that the LCMM rifles are not generally recognized as particularly suitable for or readily adaptable to sporting purposes and are therefore not importable. However, this decision will in no way preclude the importation of true sporting firearms.

---

<sup>3</sup> H. Rep. No. 103-489, at 18-19.

## BACKGROUND

### Importation of Firearms Under the Gun Control Act

The Gun Control Act of 1968 (GCA)<sup>4</sup> generally prohibits the importation of firearms into the United States.<sup>5</sup> However, the GCA creates four narrow categories of firearms that the Secretary of the Treasury shall authorize for importation. The category that is relevant to this study is found at 18 U.S.C. section 925(d)(3).

The Secretary shall authorize a firearm . . . to be imported or brought into the United States . . . if the firearm . . .

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and **is generally recognized as particularly suitable for or readily adaptable to sporting purposes**, excluding surplus military firearms, except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled. (Emphasis added)

This provision originally was enacted, in a slightly different form, by Title IV of the Omnibus Crime Control and Safe Streets Act of 1968<sup>6</sup> and also was contained in Title I of the GCA, which amended Title IV later that year.

The GCA was enacted in large part "to assist law enforcement authorities in the States and their subdivisions in combating the increasing prevalence of crime in the United States." However, the Senate Report to the act also made clear that Congress did not intend the GCA to place any undue or unnecessary restrictions or burdens on responsible, law-abiding citizens with respect to acquiring, possessing, transporting, or using firearms for lawful activities.<sup>7</sup>

---

<sup>4</sup> Pub. L. No. 90-618.

<sup>5</sup> 18 U.S.C. section 922(l).

<sup>6</sup> Pub. L. No. 90-351.

<sup>7</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d Sess. 22 (1968).

Consistent with this general approach, legislative history indicates that Congress intended the importation standard provided in section 925(d)(3) to exclude military-type weapons from importation to prevent such weapons from being used in crime, while allowing the importation of high-quality sporting rifles. According to the Senate Report, section 925(d)(3) was intended to "curb the flow of surplus military weapons and other firearms being brought into the United States which are not particularly suitable for target shooting or hunting."<sup>8</sup> The report goes on to explain that "[t]he importation of certain foreign-made and military surplus nonsporting firearms has an important bearing on the problem which this title is designed to alleviate [crime]. Thus, the import provisions of this title seem entirely justified."<sup>9</sup> Indeed, during debate on the bill, Senator Dodd, the sponsor of the legislation, stated that "Title IV prohibits importation of arms which the Secretary determines are not suitable for . . . sport . . . . The entire intent of the importation section is to get those kinds of weapons that are used by criminals and have no sporting purpose."<sup>10</sup>

The Senate Report, however, also makes it clear that the importation standards "are designed and intended to provide for the importation of quality made, sporting firearms, including . . . rifles such as those manufactured and imported by Browning and other such manufacturers and importers of firearms."<sup>11</sup> (The rifles being imported by Browning at that time were semiautomatic and manually operated traditional sporting rifles of high quality.) Similarly, the report states that the importation prohibition "would not interfere with the bringing in of currently produced firearms, such as rifles . . . of recognized quality which are used for hunting and for recreational purposes."<sup>12</sup> The reference to recreational purposes is not inconsistent with the expressed purpose of restricting importation to firearms particularly suitable for target shooting or hunting, because firearms particularly suitable for these purposes also can be used for other purposes such as recreational shooting.

During debate on the bill, there was discussion about the meaning of the term "sporting purposes." Senator Dodd stated:

[h]ere again I would have to say that if a military weapon is used in a

---

<sup>8</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d Sess. 22 (1968).

<sup>9</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d Sess. 24 (1968).

<sup>10</sup> 114 Cong. Rec. S 5556, 5582, 5585 (1968).

<sup>11</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d. Sess. 38 (1968).

<sup>12</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d. Sess. 22 (1968).

special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event . . . . As I said previously the language says no firearms will be admitted into this country unless they are genuine sporting weapons.<sup>13</sup>

Legislative history also shows that the determination of a weapon's suitability for sporting purposes is the direct responsibility of the Secretary of the Treasury. The Secretary was given this discretion largely because Congress recognized that section 925(d)(3) was a difficult provision to implement. Immediately after discussing the large role cheap imported .22 caliber revolvers were playing in crime, the Senate Report stated:

[t]he difficulty of defining weapons characteristics to meet this target without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition.<sup>14</sup>

Indeed, Congress granted this discretion to the Secretary even though some expressed concern with its breadth:

[t]he proposed import restrictions of Title IV would give the Secretary of the Treasury unusually broad discretion to decide whether a particular type of firearm is generally recognized as particularly suitable for, or readily adaptable to, sporting purposes. If this authority means anything, it permits Federal officials to differ with the judgment of sportsmen expressed through consumer preference in the marketplace . . . .<sup>15</sup>

Section 925(d)(3) provides that the Secretary shall authorize the importation of a firearm if it is of a "type" that is generally recognized as particularly suitable for or readily adaptable to sporting purposes. The legislative history also makes it clear that the Secretary shall scrutinize types of firearms in exercising his authority under section 925(d). Specifically, the Senate Report to the GCA states that section 925(d) "gives the

Secretary authority to permit the importation of ammunition and certain types of firearms."<sup>16</sup>

---

<sup>13</sup> 114 Cong. Rec. 27461-462 (1968).

<sup>14</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d Sess. 38 (1968).

<sup>15</sup> S. Rep. No. 1097, 90<sup>th</sup> Cong. 2d. Sess. 2155 (1968) (views of Senators Dirksen, Hruska, Thurmond, and Burdick). In Gun South, Inc. v. Brady, F.2d 858, 863 (11<sup>th</sup> Cir. 1989), the court, based on legislative history, found that the GCA gives the Secretary "unusually broad discretion in applying section 925(d)(3)."

<sup>16</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d. Sess. 38 (1968).

The Senate Report to the GCA also recommended that the Secretary establish a council that would provide him with guidance and assistance in determining which firearms meet the criteria for importation into the United States.<sup>17</sup> Accordingly, following the enactment of the GCA, the Secretary established the Firearms Evaluation Panel (FEP) (also known as the Firearms Advisory Panel) to provide guidelines for implementation of the "sporting purposes" test. This panel was composed of representatives from the military, the law enforcement community, and the firearms industry. At the initial meeting of the FEP, it was understood that the panel's role would be advisory only.<sup>18</sup> The panel focused its attention on handguns and recommended the adoption of factoring criteria to evaluate the various types of handguns. These factoring criteria are based upon such considerations as overall length of the firearm, caliber, safety features, and frame construction. ATF thereafter developed an evaluation sheet (ATF Form 4590) that was put into use for evaluating handguns pursuant to section 925(d)(3). (See exhibit 4.)

The FEP did not propose criteria for evaluating rifles and shotguns under section 925(d)(3). Other than surplus military firearms, which Congress addressed separately, the rifles and shotguns being imported prior to 1968 were generally conventional rifles and shotguns specifically intended for sporting purposes. Therefore, in 1968, there was no cause to develop criteria for evaluating the sporting purposes of rifles and shotguns.

#### 1984 Application of the Sporting Purposes Test

The first time that ATF undertook a meaningful analysis of rifles or shotguns under the sporting purposes test was in 1984. At that time, ATF was faced with a new breed of imported shotgun, and it became clear that the historical assumption that all shotguns were sporting was no longer viable. Specifically, ATF was asked to determine whether the Striker-12 shotgun was suitable for sporting purposes. This shotgun is a military/law enforcement weapon initially designed and manufactured in South Africa for riot control. When the importer was asked to submit evidence of the weapon's sporting purposes, it provided information that the weapon was suitable for police/combat-style competitions. ATF determined that this type of competition did not constitute a sporting purpose

under the statute, and that the shotgun was not suitable for the traditional shotgun sports of hunting, and trap and skeet shooting.

---

<sup>17</sup> S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

<sup>18</sup> Gilbert Equipment Co. v. Higgins, 709 F. Supp. 1071, 1083, n. 7 (S.D. Ala. 1989), aff'd without op., 894 F.2d 412 (11<sup>th</sup> Cir. 1990).

### 1986 Firearms Owners Protection Act

On May 19, 1986, Congress passed the Firearms Owners Protection Act,<sup>19</sup> which amended section 925(d)(3) to provide that the Secretary "shall" (instead of "may") authorize the importation of a firearm that is of a type that is generally recognized as particularly suitable for or readily adaptable to sporting purposes. The Senate Report to the law stated "it is anticipated that in the vast majority of cases, [the substitution of 'shall' for 'may' in the authorization section] will not result in any change in current practices."<sup>20</sup> As the courts have found, "[r]egardless of the changes made [by the 1986 law], the firearm must meet the sporting purposes test and it remains the Secretary's obligation to determine whether specific firearms satisfy this test."<sup>21</sup>

### 1986 Application of the Sporting Purposes Test

In 1986, ATF again had to determine whether a shotgun met the sporting purposes test, when the Gilbert Equipment Company requested that the USAS-12 shotgun be classified as a sporting firearm under section 925(d)(3). Again, ATF refused to recognize police/combat-style competitions as a sporting purpose. After examining and testing the weapon, ATF determined its weight, size, bulk, designed magazine capacity, configuration, and other factors prevented it from being classified as particularly suitable for or readily adaptable to the traditional shotgun sports of hunting, and trap and skeet shooting. Accordingly, its importation was denied.

When this decision was challenged in Federal court, ATF argued, in part, that large magazine capacity and rapid reloading ability are military features. The court accepted this argument, finding "the overall appearance and design of the weapon (especially the detachable box magazine . . . ) is that of a combat weapon and not a sporting weapon."<sup>22</sup> In reaching this decision, the court was not persuaded by the importer's argument that box magazines can be lengthened or shortened depending on desired shell capacity.<sup>23</sup> The court also agreed with ATF's conclusion that police/combat-style competitions were not considered sporting purposes.

---

<sup>19</sup> Pub. L. No. 99-308.

<sup>20</sup> S. Rep. No. 98-583, 98<sup>th</sup> Cong. 1<sup>st</sup> Sess. 27 (1984).

<sup>21</sup> Gilbert Equipment Co., 709 F. Supp. at 1083.

<sup>22</sup> Id. at 1089.

<sup>23</sup> Id. at 1087, n. 20 and 1089.

### 1989 Report on the Importability of Semiautomatic Assault Rifles

In 1989, after five children were killed in a California schoolyard by a gunman with a semiautomatic copy of an AK47, ATF decided to reexamine whether certain semiautomatic assault-type rifles met the sporting purposes test. This decision was reached after consultation with the Director of the Office of National Drug Control Policy.

In March and April 1989, ATF announced that it was suspending the importation of certain "assault-type rifles." For the purposes of this suspension, assault-type rifles were those rifles that generally met the following criteria: (1) military appearance; (2) large magazine capacity; and (3) semiautomatic version of a machinegun. An ATF working group was established to reevaluate the importability of these assault-type rifles. On July 6, 1989, the group issued its Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles (hereinafter 1989 report).

In the 1989 report, the working group first discussed whether the assault-type rifles under review fell within a "type" of firearm for the purposes of section 925(d)(3). The working group concluded that most of the assault-type rifles under review represented "a distinctive type of rifle [which it called the "semiautomatic assault rifle"] distinguished by certain general characteristics which are common to the modern military assault rifle."<sup>24</sup> The working group explained that the modern military assault rifle is a weapon designed for killing or disabling the enemy and has characteristics designed to accomplish this purpose. Moreover, it found that these characteristics distinguish modern military assault rifles from traditional sporting rifles.

The characteristics of the modern military assault rifle that the working group identified were as follows: (1) military configuration (which included: ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights) (see exhibit 5 for a thorough discussion of each of these features); (2) ability to fire automatically (i.e., as a machinegun); and (3) chambered to accept a centerfire cartridge case having a length of 2.25 inches or less.<sup>25</sup> In regards to the ability to accept a detachable magazine, the working group explained that:

[v]irtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable

---

<sup>24</sup> 1989 report at 6.

<sup>25</sup> 1989 report at 6.



magazines are not limited to military firearms, most traditional semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity.<sup>26</sup>

The working group emphasized that these characteristics had to be looked at as a whole to determine whether the overall configuration of each of the assault-type rifles under review placed the rifle fairly within the semiautomatic assault rifle type. The semiautomatic assault rifles shared all the above military assault rifle characteristics other than being machineguns.<sup>27</sup>

The working group also addressed the scope of the term "sporting purposes." It concluded that the term should be given a narrow interpretation that focuses on the traditional sports of hunting and organized competitive target shooting. The working group made this determination by looking to the statute, its legislative history, applicable case law, the work of the FEP, and prior interpretations by ATF. In addition, the working group found that the reference to sporting purposes was intended to stand in contrast to military and law enforcement applications. Consequently, it determined that police/combat-type competitions should not be treated as sporting activities.<sup>28</sup>

The working group then evaluated whether the semiautomatic assault rifle type of firearm is generally recognized as particularly suitable for or readily adaptable to traditional sporting applications. This examination took into account technical and marketing data, expert opinions, the recommended uses of the firearms, and information on the actual uses for which the weapons are employed in this country. The working group, however, did not consider criminal use as a factor in its analysis of the importability of this type of firearm.

After analyzing this information, the working group concluded that semiautomatic assault rifles are not a type of firearm generally recognized as particularly suitable for or readily adaptable to sporting purposes. Accordingly, the working group concluded that semiautomatic assault rifles should not be authorized for importation under section 925(d)(3). However, the working group found that some of the assault-type rifles under review (the Valmet Hunter and .22 rimfire caliber rifles), did not fall within the semiautomatic assault rifle type. In the case of the Valmet Hunter, the working group found that although it was based on the operating mechanism of the AK47 assault rifle, it had been substantially

---

<sup>26</sup> 1989 report at 6 (footnote omitted).

<sup>27</sup> The semiautomatic assault rifles were semiautomatic versions of machineguns.

<sup>28</sup> 1989 report at 9-11.

changed so that it was similar to a traditional sporting rifle.<sup>29</sup> Specifically, it did not have any of the military configuration features identified by the working group, except for the ability to accept a detachable magazine.

Following the 1989 study, ATF took the position that a semiautomatic rifle with any of the eight military configuration features identified in the 1989 report, other than the ability to accept a detachable magazine, failed the sporting purposes test and, therefore, was not importable.

#### Gun South, Inc. v. Brady

Concurrent with its work on the 1989 report, ATF was involved in litigation with Gun South, Inc. (GSI). In October 1988 and February 1989, ATF had granted GSI permits to import AUG-SA rifles. As mentioned previously, in March and April of 1989, ATF imposed a temporary suspension on the importation of rifles being reviewed in the 1989 study, which included the AUG-SA rifle. GSI filed suit in Federal court, seeking to prohibit the Government from interfering with the delivery of firearms imported under permits issued prior to the temporary suspension.

The court of appeals found that the Government had the authority to suspend temporarily the importation of GSI's AUG-SA rifles because the GCA "impliedly authorizes" such action.<sup>30</sup> In addition, the court rejected GSI's contention that the suspension was arbitrary and capricious because the AUG-SA rifle had not physically changed, explaining the argument "places too much emphasis on the rifle's structure for determining whether a firearm falls within the sporting purpose exception. While the Bureau must consider the rifle's physical structure, the [GCA] requires the Bureau to equally consider the rifle's use."<sup>31</sup> In addition, the court found that ATF adequately had considered sufficient evidence before imposing the temporary suspension, citing evidence ATF had considered

demonstrating that semiautomatic assault-type rifles were being used with increasing frequency in crime.<sup>32</sup>

---

<sup>29</sup> This finding reflects the fact that the operating mechanism of the AK47 assault rifle is similar to the operating mechanism used in many traditional sporting rifles.

<sup>30</sup> Gun South, Inc. v. Brady, 877 F.2d 858 (11th Cir. 1989). The court of appeals issued its ruling just days before the 1989 report was issued. However, the report was complete before the ruling was issued.

<sup>31</sup> Id.

<sup>32</sup> Id.

Although GSI sued ATF on the temporary suspension of its import permits, once the 1989 report was issued, no one pursued a lawsuit challenging ATF's determination that the semiautomatic assault rifles banned from importation did not meet the sporting purposes test.<sup>33</sup>

#### Violent Crime Control and Law Enforcement Act of 1994

On September 13, 1994, Congress passed the Violent Crime Control and Law Enforcement Act of 1994,<sup>34</sup> which made it unlawful, with certain exceptions, to manufacture, transfer, or possess semiautomatic assault weapons as defined by the statute.<sup>35</sup> The statute defined semiautomatic assault weapons to include 19 named models of firearms (or copies or duplicates of the firearms in any caliber);<sup>36</sup> semiauto-matic rifles that have the ability to accept detachable magazines and have at least two of five features specified in the law; semiautomatic pistols that have the ability to accept detachable magazines and have at least two of five features specified in the law; and semiautomatic shotguns that have at least two of four features specified in the law.<sup>37</sup> However, Congress

<sup>33</sup> After the 1989 report was issued, Mitchell Arms, Inc. asserted takings claims against the Government based upon the suspension and revocation of four permits allowing for the importation of semiautomatic assault rifles and ATF's temporary moratorium on import permits for other rifles. The court found for the Government, holding the injury complained of was not redressable as a taking because Mitchell Arms did not hold a property interest within the meaning of the Just Compensation Clause of the Fifth Amendment. Mitchell Arms v. United States, 26 Cl. Ct. 1 (1992), aff'd, 7 F.3d 212 (Fed. Cir. 1993), cert. denied, 511 U.S. 1106 (1994).

<sup>34</sup> Pub. L. No. 103-22. Title XI, Subtitle A of this act may be cited as the "Public Safety and Recreational Firearms Use Protection Act."

<sup>35</sup> 18 U.S.C. section 922(v).

<sup>36</sup> Chapter 18 U.S.C. section 921(a)(30)(A) states that the term "semiautomatic assault weapon" means "any of the firearms, or copies or duplicates of the firearms in any caliber, known as -," followed by a list of named firearms. Even though section 921(a)(3) defines "firearm" as used in chapter 18 to mean, in part, "the frame or receiver of any such weapon," the use of "firearm" in section 921(a)(30)(A) has not been interpreted to mean a frame or receiver of any of the named weapons, except when the frame or receiver actually is incorporated in one of the named weapons.

Any other interpretation would be contrary to Congress' intent in enacting the assault weapon ban. In the House Report to the assault weapon ban, Congress emphasized that the ban was to be interpreted narrowly. For example, the report explained that the present bill was more tightly focused than earlier drafts which gave ATF authority to ban any weapon which "embodies the same configuration" as the named list of guns in section 921(a)(30)(A); instead, the present bill "contains a set of specific characteristics that must be present in order to ban any additional semiautomatic assault weapons [beyond the listed weapons]." H. Rep. 103-489 at 21.

<sup>37</sup> 18 U.S.C. section 921(a)(30).

exempted from the assault weapon ban any semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition and any semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine.<sup>38</sup>

Although the 1994 law was not directly addressing the sporting purposes test in section 925(d)(3), section 925(d)(3) had a strong influence on the law's content. The technical work of ATF's 1989 report was, to a large extent, incorporated into the 1994 law. The House Report to the 1994 law explained that although the legal question of whether semiautomatic assault weapons met section 925(d)(3)'s sporting purposes test "is not directly posed by [the 1994 law], the working group's research and analysis on assault weapons is relevant on the questions of the purposes underlying the design of assault weapons, the characteristics that distinguish them from sporting guns, and the reasons underlying each of the distinguishing features."<sup>39</sup> As in the 1989 study, Congress focused on the external features of firearms, rather than on their semiautomatic operating mechanism.

The 1994 law also made it unlawful to possess and transfer large capacity ammunition feeding devices manufactured after September 13, 1994.<sup>40</sup> A large capacity ammunition feeding device was generally defined as a magazine, belt, drum, feed strip, or similar device that has the capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition.<sup>41</sup>

Congress passed these provisions of the 1994 law in response to the use of semiautomatic assault weapons and large capacity ammunition feeding devices in crime. Congress had been presented with much evidence demonstrating that these weapons were "the weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder."<sup>42</sup> The House Report to the 1994 law recounts numerous crimes that had occurred involving semiautomatic assault weapons and large capacity magazines that were originally designed and produced for military assault rifles.<sup>43</sup>

---

<sup>38</sup> 18 U.S.C. sections 922(v)(3)(C)&(D).

<sup>39</sup> H. Rep. No. 103-489, at 17, n. 19.

<sup>40</sup> 18 U.S.C. section 922(w).

<sup>41</sup> 18 U.S.C. section 921(a)(31).

<sup>42</sup> H. Rep. No. 103-489, at 13.

<sup>43</sup> H. Rep. No. 103-489, at 14-15.

In enacting the semiautomatic assault weapon and large capacity ammunition feeding device bans, Congress emphasized that it was not preventing the possession of sporting firearms. The House Report, for example, stated that the bill differed from earlier bills in that "it is designed to be more tightly focused and more carefully crafted to clearly exempt legitimate sporting guns."<sup>44</sup> In addition, Congress specifically exempted 661 long guns from the assault weapon ban which are "most commonly used in hunting and recreational sports."<sup>45</sup>

Both the 1994 law and its legislative history demonstrate that Congress recognized that ammunition capacity is a factor in determining whether a firearm is a sporting firearm. For example, large capacity ammunition feeding devices were banned, while rifles and shotguns with small ammunition capacities were exempted from the assault weapon ban. Moreover, the House Report specifically states that the ability to accept a large capacity magazine was a military configuration feature which was not "merely cosmetic," but "serve[d] specific, combat-functional ends."<sup>46</sup> The House Report also explains that, while "[m]ost of the weapons covered by the [ban] come equipped with magazines that hold 30 rounds [and can be replaced with magazines that hold 50 or even 100 rounds], . . . [i]n contrast, hunting rifles and shotguns typically have much smaller magazine capabilities--from 3-5."<sup>47</sup>

Finally, it must be emphasized that the semiautomatic assault weapon ban of section 922(v) is distinct from the sporting purposes test governing imports of section 925(d)(3). Clearly, any weapon banned under section 922(v) cannot be imported into the United States because its possession in the United States would be illegal. However, it is possible that a weapon not defined as a semiautomatic assault weapon under section 922(v) still would not be importable under section 925(d)(3). In order to be importable, the firearm must be of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes regardless of its categorization under section 922(v). The

Secretary's discretion under section 925(d)(3) remains intact for all weapons not banned by the 1994 statute.

#### The Present Review

Prior to the November 14, 1997, decision to conduct this review, certain members of

---

<sup>44</sup> H. Rep. No. 103-489, at 21.

<sup>45</sup> H. Rep. No. 103-489, at 20. None of these 661 guns are study rifles.

<sup>46</sup> H. Rep. No. 103-489, at 18.

<sup>47</sup> H. Rep. No. 103-489, at 19 (footnote omitted).

Congress strongly urged that it was necessary to review the manner in which the Treasury Department is applying the sporting purposes test to the study rifles, in order to ensure that the present practice is consistent with section 925(d)(3) and current patterns of gun use. The fact that it had been nearly 10 years since the last comprehensive review of the importation of rifles (with many new rifles being developed during this time) also contributed to the decision to conduct this review.

### DEFINING THE TYPE OF WEAPON UNDER REVIEW

Section 925 (d) (3) provides that the Secretary shall authorize the importation of a firearm if it is of a "type" that meets the sporting purposes test. Given this statutory mandate, we had to determine whether the study rifles suspended from importation fell within one type of firearm. Our review of the study rifles demonstrated that all were derived from semiautomatic assault rifles that failed to meet the sporting purposes test in 1989 but were later found to be importable when certain military features were removed.

Within this group, we determined that virtually all of the study rifles shared another important feature: The ability to accept a detachable large capacity magazine (e.g., more than 10 rounds) that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 or 93, SIG SG550, or Uzi. (This is the only military configuration feature cited in the 1989 study that remains with any of the study rifles).

We determined that all of the study rifles that shared both of these characteristics fell within a type of firearm which, for the purposes of this report, we call "large capacity military magazine rifles" or "LCMM rifles." It appears that only one study rifle, the VEPR caliber .308--which is based on the AK47 design--does not fall within this type because it does not have the ability to accept a large capacity military magazine.

### SCOPE OF "SPORTING PURPOSES"

As in the 1989 study, we had to determine the scope of "sporting purposes" as used in section 925(d)(3). Looking to the statute, its legislative history, the work of the Firearms Evaluation Panel (see exhibit 6), and prior ATF interpretations, we determined sporting purposes should be given a narrow reading, incorporating only the traditional sports of hunting and organized competitive target shooting (rather than a broader interpretation that could include virtually any lawful activity or competition.)

In terms of the statute itself, the structure of the importation provisions suggests a somewhat narrow interpretation. Firearms are prohibited from importation (section 922(l)), with four specific exceptions (section 925(d)). A broad interpretation permitting a firearm to be imported because someone may wish to use it in some lawful shooting activity would render the general prohibition of section 922(l) meaningless.

Similarly, as discussed in the "Background" section, the legislative history of the GCA indicates that the term sporting purposes narrowly refers to the traditional sports of hunting and organized competitive target shooting. There is nothing in the history to indicate that it was intended to recognize every conceivable type of activity or competition that might employ a firearm.

In addition, the FEP specifically addressed the informal shooting activity of "plinking" (shooting at randomly selected targets such as bottles and cans) and determined that it was not a legitimate sporting purpose under the statute. The panel found that, "while many persons participate in this type of activity and much ammunition was expended in such endeavors, it was primarily a pastime and could not be considered a sport for the purposes of importation. . . ." (See exhibit 6.)

Finally, the 1989 report determined that the term sporting purposes should be given a narrow reading incorporating the traditional rifle sports of hunting and organized competitive target shooting. In addition, the report determined that the statute's reference to sporting purposes was intended to stand in contrast with military and law enforcement applications. This is consistent with ATF's interpretation in the context of the Striker-12 shotgun and the USAS-12 shotgun. It is also supported by the court's decision in Gilbert Equipment Co. v. Higgins.

We received some comments urging us to find "practical shooting" is a sport for the purposes of section 925(d)(3).<sup>48</sup> Further, we received information showing that practical shooting is gaining in popularity in the United States and is governed by an organization that has sponsored national events since 1989. It also has an international organization.

While some may consider practical shooting a sport, by its very nature it is closer to police/combat-style competition and is not comparable to the more traditional types of sports, such as hunting and organized competitive target shooting. Therefore, we are not convinced that practical shooting does, in fact, constitute a sporting purpose under section 925(d)(3).<sup>49</sup> However, even if we were to assume for the sake of argument that practical shooting is a sport for the purposes of the statute, we still would have to decide whether a firearm that could be used in practical shooting meets the sporting purposes test. In other words, it still would need to be determined whether the firearm is of a type that is generally recognized as particularly suitable for or readily adaptable to practical shooting and other sporting purposes.<sup>50</sup> Moreover, the legislative history makes clear that the use of a military weapon in a practical shooting competition would not make that weapon

---

<sup>48</sup> Practical shooting involves moving, identifying, and engaging multiple targets and delivering a number of shots rapidly. In doing this, practical shooting participants test their defensive skills as they encounter props, including walls and barricades, with full or partial targets, "no-shoots," steel reaction targets, movers, and others to challenge them.

<sup>49</sup> As noted earlier, ATF has taken the position that police/combat-style competitions do not constitute a "sporting purpose." This position was upheld in Gilbert Equipment Co., 709 F. Supp. at 1077.

<sup>50</sup> Our findings on the use and suitability of the LCMM rifles in practical shooting competitions are contained in the "Suitability for Sporting Purposes" section of this report.



sporting: “if a military weapon is used in a special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event.”<sup>51</sup> While none of the LCMM rifles are military weapons, they still retain the military feature of the ability to accept a large capacity military magazine.

---

<sup>51</sup> 114 Cong. Rec. 27461-462 (1968) (Sen. Dodd).

### METHOD OF STUDY

As explained in the “Executive Summary” section of this report, the purpose of this study is to review whether modified semiautomatic assault rifles are properly importable under 18 U.S.C. section 925(d)(3). More specifically, we reexamined the conclusions of the 1989 report as applied today to determine whether we are correct to allow importation of the study rifles that have been modified by having certain military features removed. To determine whether such rifles are generally recognized as particularly suitable for or readily adaptable to sporting purposes, the Secretary must consider both the physical features of the rifles and the actual uses of the rifles.<sup>52</sup> Because it appears that all of the study rifles that have been imported to date have the ability to accept a large capacity military magazine,<sup>53</sup> all of the information collected on the study rifles’ physical features and actual uses applies only to the LCMM rifles.

#### **Physical features:**

The discussion of the LCMM rifles’ physical features are contained in the “Suitability for Sporting Purposes” section of this report.

#### **Use:**

We collected relevant information on the use of the LCMM rifles. Although the 1989 study did not consider the criminal use of firearms in its importability analysis, legislative history demonstrates and the courts have found that criminal use is a factor that can be considered in determining whether a firearm meets the requirements of section 925(d)(3).<sup>54</sup> Accordingly, we decided to consider the criminal use of the LCMM rifles in the present analysis.

The term “generally recognized” in section 925(d)(3) indicates that the Secretary should base his evaluation of whether a firearm is of a type that is particularly suitable for or readily adaptable to sporting purposes, in part, on a “community standard” of the firearm’s use.<sup>55</sup> The community standard “may change over time even though the firearm remains the same. Thus, a changing pattern of use may significantly affect whether a firearm is generally recognized as particularly suitable for or readily adaptable to a sporting purpose.”<sup>56</sup> Therefore, to assist the Secretary in determining whether the LCMM rifles presently are of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes, we gathered information from the relevant “community.” The relevant community was defined as persons and groups who are

---

<sup>52</sup> Gun South, Inc., 877 F.2d at 866.

<sup>53</sup> The VEPR caliber .308 discussed on page 16 has not yet been imported.

<sup>54</sup> 114 Cong. Rec. S 5556, 5582, 5585 (1968)(“[t]he entire intent of the importation section [of the sporting purposes test] is to get those kinds of weapons that are used by criminals and have no sporting purposes”) (Sen. Dodd); Gun South, Inc., 877 F.2d at 866.

<sup>55</sup> Gun South, Inc., 877 F.2d at 866.

<sup>56</sup> Id.

knowledgeable about the uses of these firearms or have relevant information about whether these firearms are particularly suitable for sporting purposes. We identified more than 2,000 persons or groups we believed would be able to provide relevant, factual information on these issues. The individuals and groups were selected to obtain a broad range of perspectives on the issues. We conducted surveys to obtain specific information from hunting guides, editors of hunting and shooting magazines, organized competitive shooting groups, State game commissions, and law enforcement agencies and organizations. Additionally, we asked industry members, trade associations, and various interest and information groups to provide relevant information.<sup>57</sup> A detailed presentation of the surveys and responses is included as an appendix to this report.

We also reviewed numerous advertisements and publications, both those submitted by the editors of hunting and shooting magazines and those collected internally, in our search for material discussing the uses of the LCMM rifles. Further, we collected importation data, tracing data, and case studies.<sup>58</sup>

Our findings on use are contained in the “Suitability for Sporting Purposes” section of this report.

---

<sup>57</sup> **Hunting guides:** Guides were asked about specific types of firearms used by their clients. The guides were an easily definable group, versus the entire universe of hunters. We obtained the names of the hunting guides surveyed from the States.

**Editors of hunting and shooting magazines:** Editors were surveyed to determine whether they recommended the LCMM rifles for hunting or organized competitive target shooting and whether they had written any articles on the subject. The list of editors we surveyed was obtained from a directory of firearms-related organizations.

**Organized competitive shooting groups:** Organized groups were asked whether they sponsored competitive events with high-power semiautomatic rifles and whether the LCMM rifles were allowed in those competitions. We felt it was significant to query those who are involved with organized events rather than unofficial activities with no specific rules or guidelines. As with the editors above, the list of groups was obtained from a directory of firearms-related organizations.

**State game commissions:** State officials were surveyed to determine whether the use of the LCMM rifles was prohibited or restricted for hunting in each State.

**Law enforcement agencies and organizations:** Specific national organizations and a sampling of 26 police departments across the country were contacted about their knowledge of the LCMM rifles' use in crime. The national organizations were surveyed with the intent that they would gather input from the wide range of law enforcement agencies that they represent or that they would have access to national studies on the subject.

**Industry members and trade associations:** These groups were included because of their knowledge on the issue.

**Interest and information groups:** These organizations were included because of their wide range of perspectives on the issue.

<sup>58</sup> To assist us with our review of the crime-related information we collected, we obtained the services of Garen J. Wintemute, MD, M.P.H. Director of the Violence Prevention Research Program, University of California, Davis, and Anthony A. Braga, Ph.D., J.F.K. School of Government, Harvard University.

### SUITABILITY FOR SPORTING PURPOSES

The next step in our review was to evaluate whether the LCMM rifles, as a type, are generally recognized as particularly suitable for or readily adaptable to hunting and organized competitive target shooting.<sup>59</sup> The standard applied in making this determination is high. It requires more than a showing that the LCMM rifles may be used or even are sometimes used for hunting and organized competitive target shooting; if this were the standard, the statute would be meaningless. Rather, the standard requires a showing that the LCMM rifles are especially suitable for use in hunting and organized competitive target shooting.

As discussed in the “Method of Study” section, we considered both the physical features of the LCMM rifles and the actual uses of the LCMM rifles in making this determination.

#### Physical Features

**The ability to accept a detachable large capacity magazine that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 or 93, SIG SG550, or Uzi.**

Although the LCMM rifles have been stripped of many of their military features, they all still have the ability to accept a detachable large capacity magazine that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 and 93, SIG SG550, or Uzi; in other words, they still have a feature that was designed for killing or disabling an enemy. As the 1989 report explains:

Virtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable magazines are not limited to military firearms, most traditional

---

<sup>59</sup> One commenter suggests that the Secretary has been improperly applying the “readily adaptable to sporting purposes” provision of the statute. Historically, the Secretary has considered the “particularly suitable for or readily adaptable to” provisions as one standard. The broader interpretation urged by the commenter would make the standard virtually unenforceable. If the Secretary allowed the importation of a firearm which is readily adaptable to sporting purposes, without requiring it actually to be adapted prior to importation, the Secretary would have no control over whether the adaptation actually would occur following the importation.

semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity.<sup>60</sup>

Thus, the 1989 report found the ability to accept a detachable large capacity magazine originally designed and produced for a military assault rifle was a military, not a sporting, feature. Nevertheless, in 1989 it was decided that the ability to accept such a large capacity magazine, in the absence of other military configuration features, would not be viewed as disqualifying for the purposes of the sporting purposes test. However, several important developments, which are discussed below, have led us to reevaluate the weight that should be given to the ability to accept a detachable large capacity military magazine in the sporting purposes test.

Most significantly, we must reevaluate the significance of this military feature because of a major amendment that was made to the GCA since the 1989 report was issued. In 1994, as discussed in the “Background” section of this report, Congress passed a ban on large capacity ammunition feeding devices and semiautomatic assault weapons.<sup>61</sup> In enacting these bans, Congress made it clear that it was not preventing the possession of sporting firearms.<sup>62</sup> Although the 1994 law was not directly addressing the sporting purposes test, section 925(d)(3) had a strong influence on the law's content. As discussed previously, the technical work of ATF's 1989 report was, to a large extent, incorporated into the 1994 law.

Both the 1994 law and its legislative history demonstrate that Congress found that ammunition capacity is a factor in whether a firearm is a sporting firearm. For example, large capacity ammunition feeding devices were banned, while rifles and shotguns with small ammunition capacities were exempted from the assault weapon ban. In other words, Congress found magazine capacity to be such an important factor that a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition will not be banned, even if it contains all five of the assault

---

<sup>60</sup> 1989 report at 6 (footnote omitted). This was not the first time that ATF considered magazine capacity to be a relevant factor in deciding whether a firearm met the sporting purposes test. See Gilbert Equipment Co., 709 F. Supp. at 1089 (“the overall appearance and design of the weapon (especially the detachable box magazine . . .) is that of a combat weapon and not a sporting weapon.”)

<sup>61</sup> The ban on large capacity ammunition feeding devices does not include any such device manufactured on or before September 13, 1994. Accordingly, there are vast numbers of large capacity magazines originally designed and produced for military assault weapons that are legal to transfer and possess (“grandfathered” large capacity military magazines). Presently these grandfathered large capacity military magazines fit the LCMM rifles.

<sup>62</sup> See, for example, H. Rep. No. 103-489, at 21.

weapon features listed in the law. Moreover, unlike the assault weapon ban in which a detachable magazine and at least two physical features are required to ban a rifle, a large capacity magazine in and of itself is banned.

In addition, the House Report specifically states that the ability to accept a large capacity magazine is a military configuration characteristic that is not "merely cosmetic," but "serve[s] specific, combat-functional ends."<sup>63</sup> The House Report also explains that large capacity magazines

make it possible to fire a large number of rounds without re-loading, then to reload quickly when those rounds are spent. Most of the weapons covered by the proposed legislation come equipped with magazines that hold 30 rounds. Even these magazines, however, can be replaced with magazines that hold 50 or even 100 rounds. Furthermore, expended magazines can be quickly replaced, so that a single person with a single assault weapon can easily fire literally hundreds of rounds within minutes. . . . In contrast, hunting rifles and shotguns typically have much smaller magazine capabilities--from 3-5.<sup>64</sup>

Congress specifically exempted 661 long guns from the assault weapon ban that are "most commonly used in hunting and recreational sports."<sup>65</sup> The vast majority of these long guns do not use large capacity magazines. Although a small number of the exempted long guns have the ability to accept large capacity magazines, only four of these exempted long guns were designed to accept large capacity military magazines.<sup>66</sup>

The 1994 law also demonstrates Congress' concern about the role large capacity magazines and firearms with the ability to accept these large capacity magazines play in

---

<sup>63</sup> H. Rep. No. 103-489, at 18.

<sup>64</sup> H. Rep. No. 103-489, at 19 (footnote omitted). The fact that 12 States place a limit on the magazine capacity allowed for hunting, usually 5 or 6 rounds, is consistent with this analysis. (See exhibit 7).

<sup>65</sup> H. Rep. 103-489, at 20.

<sup>66</sup> These four firearms are the Iver Johnson M-1 carbine, the Iver Johnson 50<sup>th</sup> Anniversary M-1 carbine, the Ruger Mini-14 autoloading rifle (without folding stock), and the Ruger Mini Thirty rifle. All of these weapons are manufactured in the United States and are not the subject of this study. In this regard, it should also be noted that Congress can distinguish between domestic firearms and foreign firearms and impose different requirements on the importation of firearms. For example, Congress may ban the importation of certain firearms although similar firearms may be produced domestically. See, for example, B-West Imports v. United States, 75 F.3d 633 (Fed. Cir. 1996).

crime. The House Report for the bill makes reference to numerous crimes involving these magazines and weapons, including the following:<sup>67</sup>

The 1989 Stockton, California, schoolyard shooting in which a gunman with a semiautomatic copy of an AK47 and 75-round magazines fired 106 rounds in less than 2 minutes. Five children were killed and twenty-nine adults and children were injured.

The 1993 shooting in a San Francisco, California, office building in which a gunman using 2 TEC DC9 assault pistols with 50-round magazines killed 8 people and wounded 6 others.

A 1993 shooting on the Long Island Railroad that killed 6 people and wounded 19 others. The gunman had a Ruger semiautomatic pistol, which he reloaded several times with 15-round magazines, firing between 30 to 50 rounds before he was overpowered.

The House Report also includes testimony from a representative of a national police officers' organization, which reflects the congressional concern with criminals' access to firearms that can quickly expel large amounts of ammunition:

In the past, we used to face criminals armed with a cheap Saturday Night Special that could fire off six rounds before [re]loading. Now it is not at all unusual for a cop to look down the barrel of a TEC-9 with a 32 round clip. The ready availability of and easy access to assault weapons by criminals has increased so dramatically that police forces across the country are being required to upgrade their service weapons merely as a matter of self-defense and preservation. The six-shot .38 caliber service revolver, standard law enforcement issue for years, is just no match against a criminal armed with a semiautomatic assault weapon.<sup>68</sup>

Accordingly, by passing the 1994 law, Congress signaled that firearms with the ability to accept detachable large capacity magazines are not particularly suitable for sporting purposes. Although in 1989 we found the ability to accept a detachable large capacity military magazine was a military configuration feature, we must give it more weight, given this clear signal from Congress.

The passage of the 1994 ban on large capacity magazines has had another effect. Under the 1994 ban, it generally is unlawful to transfer or possess a large capacity magazine

---

<sup>67</sup> H. Rep. No. 103-489, at 15 (two of these examples involve handguns).

<sup>68</sup> H. Rep. 103-489, at 13-14 (footnote omitted).

manufactured after September 13, 1994. Therefore, if we require the LCMM rifles to be modified so that they do not accept a large capacity military magazine in order to be importable, a person will not be able to acquire a newly manufactured large capacity magazine to fit the modified rifle. Thus, the modified rifle neither will be able to accept a grandfathered large capacity military magazine, nor can a new large capacity magazine be manufactured to fit it. Accordingly, today, making the ability to accept a large capacity military magazine disqualifying for importation will prevent the importation of firearms which have the ability to expel large amounts of ammunition quickly without reloading.

This was not the case in 1989 or prior to the 1994 ban.

It is important to note that even though Congress reduced the supply of large capacity military magazines by passing the 1994 ban, there are still vast numbers of grandfathered large capacity military magazines available that can be legally possessed and transferred. These magazines currently fit in the LCMM rifles. Therefore, the 1994 law did not eliminate the need to take further measures to prevent firearms imported into the United States from having the ability to accept large capacity military magazines, a nonsporting factor.

Another impetus for reevaluating the existing standard is the development of modified weapons. The 1989 report caused 43 different models of semiautomatic assault rifles to be banned from being imported into the United States. The effect of that determination was that nearly all semiautomatic rifles with the ability to accept detachable large capacity military magazines were denied importation. Accordingly, at the time, there was no need for the ability to accept such a magazine to be a determining factor in the sporting purposes test. This is no longer the case. As discussed earlier, manufacturers have modified the semiautomatic assault rifles disallowed from importation in 1989 by removing all of their military configuration features, except for the ability to accept a detachable magazine. As a result, semiautomatic rifles with the ability to accept detachable large capacity military magazines (and therefore quickly expel large amounts of ammunition) legally have been entering the United States in significant numbers. Accordingly, the development of these modified weapons necessitates reevaluating our existing standards.

Thus, in order to address Congress' concern with firearms that have the ability to expel large amounts of ammunition quickly, particularly in light of the resumption of these weapons coming into the United States, the ability to accept a detachable large capacity military magazine must be given greater weight in the sporting purposes analysis of the LCMM rifles than it presently receives.<sup>69</sup>

---

<sup>69</sup> A firearm that can be easily modified to accept a detachable large capacity military magazine with only minor adjustments to the firearm or the magazine is considered to be a firearm with the ability to accept these magazines. The ROMAK4 is an example of such a firearm: With minor modifications to either the



**Derived from semiautomatic assault rifles that failed to meet the sporting purposes test in 1989 but were later found importable when certain military features were removed.**

All rifles that failed to meet the sporting purposes test in 1989 were found to represent a distinctive type of rifle distinguished by certain general characteristics that are common to the modern military assault rifle. Although the LCMM rifles are based on rifle designs excluded from importation under the 1989 standard, they all were approved for import when certain military features were removed. However, the LCMM rifles all still maintain some characteristics common to the modern military assault rifle. Because the outward appearance of most of the LCMM rifles continues to resemble the military assault rifles from which they are derived, we have examined the issue of outward appearance carefully. Some might prefer the rugged, utilitarian look of these rifles to more traditional sporting guns. Others might recoil from using these rifles for sport because of their nontraditional appearance. In the end, we concluded that appearance alone does not affect the LCMM rifles' suitability for sporting purposes. Available information leads us to believe that the determining factor for their use in crime is the ability to accept a detachable large capacity military magazine.

Use

In the 1989 study, ATF found that all rifles fairly typed as semiautomatic assault rifles should be treated the same. Accordingly, the report stated "[t]he fact that there may be some evidence that a particular rifle of this type is used or recommended for sporting purposes should not control its importability. Rather, all findings as to suitability of these rifles as a whole should govern each rifle within this type."<sup>70</sup> We adopt the same approach for the present study.

**Use for hunting:**

The information we collected on the actual use of the LCMM rifles for hunting medium or larger game suggests that, with certain exceptions, the LCMM rifles sometimes are used for hunting; however, their actual use in hunting is limited.<sup>71</sup> In fact, there are some

---

firearm or a large capacity magazine that was originally designed and produced for a semiautomatic assault rifle based on the AK47 design, the ROMAK4 has the ability to accept the magazine.

<sup>70</sup> 1989 report at 11.

<sup>71</sup> We targeted the surveys toward the hunting of medium and larger game (e.g., turkey and deer) because the LCMM rifles chamber centerfire cartridges and therefore likely would be most suitable for hunting this type of game. We also learned that the LCMM rifles were used to shoot certain varmints (e.g., coyotes and groundhogs), which are generally considered to be pests, not game. Many commented that the LCMM

general restrictions and prohibitions on the use of any semiautomatic rifle for hunting game. Almost half of the States place restrictions on the use of semiautomatic rifles in hunting, mostly involving magazine capacity (5-6 rounds) and what can be hunted with the rifles (see exhibit 7).

Of the 198 hunting guides who responded to our survey, only 26 stated that they had clients who used the LCMM rifles on hunting trips during the past 2 hunting seasons and only 10 indicated that they recommend the LCMM rifles for hunting. In contrast, the vast majority of the guides (152) indicated that none of their clients used the LCMM rifles on hunting trips during the past 2 hunting seasons. In addition, the hunting guides indicated that the most common semiautomatic rifles used by their clients were those made by Browning and Remington.<sup>72</sup> We found significant the comments of the hunting guides indicating that the LCMM rifles were not widely used for hunting.

Of the 13 editors of hunting and shooting magazines who responded to our survey, only 2 stated that their publications recommend specific types of centerfire semiautomatic rifles for use in hunting medium or larger game. These two respondents stated that they recommend all rifles that are safe and of appropriate caliber for hunting, including the LCMM rifles. However, they did not recommend the LCMM rifles based on the Uzi design for hunting big game; these rifles use a 9mm cartridge, which is not an appropriate caliber for this type of game, according to the editors. It is important to note that the LCMM rifles use different cartridges. The LCMM rifles based on the FN-FAL, SIG SG550, and HK91 and 93 designs are chambered for either the .308 Winchester cartridge or the .223 Remington cartridge, depending on the specific model; the LCMM rifles based on the Uzi design are chambered for the 9mm Parabellum cartridge; and the majority of the LCMM rifles based on the AK47 design are chambered for the 7.62 x 39mm cartridge (some are chambered for the .223 Remington cartridge).

Of the five interest and information groups that responded to our survey, three supported the use of the LCMM rifles for hunting. However, one of these groups stated that the

---

rifles were particularly useful on farms and ranches because of their ruggedness, utilitarian design, and reliability.

<sup>72</sup> According to a 1996 study conducted for the Fish and Wildlife Service, only 2 percent of big game hunters surveyed used licensed hunting guides. Therefore, it should be noted that the information provided by the guides we surveyed may not be representative of all hunters. However, we believe that the hunting guides' information is reliable and instructive because of their high degree of experience with and knowledge of hunting.

ammunition used by the LCMM rifle models based on the Uzi design were inadequate for shooting at long distances (i.e., more than 100 yards).

Out of the 70 published articles reviewed from various shooting magazines, only 5 contained relevant information. One of these five articles stated that, in the appropriate calibers, the LCMM rifles could make “excellent” hunting rifles. Two of the articles stated that the 7.62 x 39mm cartridge (used in LCMM rifles based on the AK47 design) could be an effective hunting cartridge. One of the articles that recommended the rifles also recommended modifications needed to improve their performance in hunting. None of the articles suggested that LCMM rifles based on the Uzi design were good hunting rifles. Thus, although the LCMM rifles could be used in hunting, the articles provided limited recommendations for their use as hunting weapons.

In their usage guides, ammunition manufacturers recommend the .308 and the 7.62 x 39mm cartridges (used in LCMM rifles based on the FN-FAL and HK 91 designs, and the AK47 design respectively) for medium game hunting. However, the usage guides do not identify the 9mm cartridge (used in the Uzi design rifles) as being suitable for hunting.

A majority of the importers who provided information said that the LCMM rifles they import are used for hunting deer and similar animals. However, they provided little evidence that the rifles were especially suitable for hunting these animals. Two of the importers who responded also provided input from citizens in the form of letters supporting this position. The letters show a wide variety of uses for the LCMM rifles, including deer hunting, plinking, target shooting, home defense, and competitive shooting.

Our review of all of this information indicates that while these rifles are used for hunting medium and larger game, as well as for shooting varmints, the evidence was not persuasive that there was widespread use for hunting. We did not find any evidence that the ability to accept a large capacity military magazine serves any hunting purpose. Traditional hunting rifles have much smaller magazine capabilities. Furthermore, the mere fact that the LCMM rifles are used for hunting does not mean that they are particularly suitable for hunting or meet the test for importation.

**Use for organized competitive target shooting:**

Of the 31 competitive shooting groups we surveyed that stated they have events using high-power semiautomatic rifles, 18 groups stated that they permit the use of the LCMM rifles for all competitions. However, 13 respondents stated that they restrict or prohibit the LCMM rifles for some competitions, and one group stated that it prohibits the LCMM

rifles for all competitions. These restrictions and prohibitions generally were enacted for the following reasons:

1. High-power rifle competitions generally require accuracy at ranges beyond the capabilities of the 9mm cartridge, which is used by the LCMM rifles based on the Uzi design.
2. The models based on the AK47 design are limited to competitions of 200 yards or less because the 7.62 x 39mm cartridge, which is used by these models, generally has an effective range only between 300 and 500 yards.
3. Certain matches require U.S. military service rifles, and none of the LCMM rifles fall into this category.

The LCMM rifles are permitted in all United States Practical Shooting Association (USPSA) rifle competitions. The USPSA Practical Shooting Handbook, Glossary of Terms, states that “[y]ou can use any safe firearm meeting the minimum caliber (9mm/.38) and power factor (125PF) requirements.” The USPSA has stated that “rifles with designs based on the AR15, AK47, FN-FAL, HK91, HK93, and others are allowed and must be used to be competitive.” Moreover, we received some information indicating that the LCMM rifles actually are used in practical shooting competitions.<sup>73</sup> However, we did not receive any information demonstrating that an LCMM rifle’s ability to accept large capacity military magazines was necessary for its use in practical shooting competitions.

A couple of the interest groups recommended the LCMM rifles for organized competitive target shooting.

None of the 70 published articles read mentioned the use of the LCMM rifles in organized competitive target shooting.

All of the major ammunition manufacturers produce .308 Winchester ammunition (which is used in the LCMM rifle models based on the HK 91 and FN-FAL designs) and .223 Remington ammunition (which is used in the HK 93, the SIG SG550, and some of the study rifle models based on the AK47 design) specifically for competitive shooting for rifles. The major manufacturers and advertisers of 9mm ammunition (which is used in the LCMM rifles based on the Uzi design) identify it as being suitable for pistol target shooting and self-defense.

---

<sup>73</sup> Merely because a rifle is used in a sporting competition, the rifle does not become a sporting rifle. 114 Cong. Rec. 27461-462 (1968).

A majority of the importers who provided information stated that the LCMM rifles they import are permitted in and suitable for organized competitive target shooting. Two of the importers who responded also provided input from citizens in the form of letters and petitions supporting this position. However, the importers provided little evidence that the rifles were especially suitable for organized competitive target shooting.

The information collected on the actual use of the LCMM rifles for organized competitive target shooting suggests that, with certain exceptions, the LCMM rifles usually may be used and sometimes are used for organized competitive target shooting; however, their suitability for this activity is limited. In fact, there are some restrictions and prohibitions on their use. The use of the rifles in competitive target shooting appears more widespread than for hunting and their use for practical shooting was the most significant. Although we are not convinced that practical shooting does in fact constitute a sporting purpose under section 925(d), we note that there was no information demonstrating that rifles with the ability to accept detachable large capacity military magazines were necessary for use in practical shooting. Once again, the presence of this military feature on LCMM rifles suggests that they are not generally recognized as particularly suitable for or readily adaptable to sporting purposes.

#### **Use in crime:**

To fully understand how the LCMM rifles are used, we also examined information available to us on their use in crime. Some disturbing trends can be identified, and it is clear the LCMM rifles are attractive to criminals.

The use of LCMM rifles in violent crime and firearms trafficking is reflected in the cases cited below. It should be noted that the vast majority of LCMM rifles imported during the period 1991-1997 were AK47 variants, which explains their prevalence in the cited cases.

#### **North Philadelphia, Pennsylvania**

From April 1995 to November 1996, a convicted felon used a straw purchaser to acquire at least 55 rifles, including a number of MAK90s. The rifles were then trafficked by the prohibited subject to individuals in areas known for their high crime rates. In one case, the rifles were sold from the parking lot of a local elementary school.

#### **Oakland, California**

On July 8, 1995, a 32-year-old Oakland police officer assisted a fellow officer with a vehicle stop in a residential area. As the first officer searched the rear compartment of the stopped vehicle, a subject from a nearby residence used a Norinco model NMH 90 to shoot the 32-year old officer in the back. The officer later died from the wound.

#### El Paso, Texas

On April 15, 1996, after receiving information from the National Tracing Center, ATF initiated an undercover investigation of a suspected firearms trafficker who had purchased 326 MAK90 semiautomatic rifles during a 6-month period. The individual was found to be responsible for illegally diverting more than 1,000 firearms over the past several years. One of the MAK90 rifles that the subject had purchased was recovered from the scene of a 1996 shootout in Guadalajara, Mexico, between suspected drug traffickers and Mexican authorities. Another MAK90 was recovered in 1997 from the residence of a former Mexican drug kingpin following his arrest for drug-related activities.

#### Charlotte, North Carolina

On May 24, 1996, four armed subjects—one with a MAK90 rifle—carried out a home invasion robbery during which they killed the resident with a 9mm pistol. All four suspects were arrested.

#### Dallas, Texas

In September 1997, an investigation was initiated on individuals distributing crack cocaine from a federally subsidized housing community. During repeated undercover purchases of the narcotics, law enforcement officials noticed that the suspects had firearms in their possession. A search warrant resulted in the seizure of crack cocaine, a shotgun, and a North China Industries model 320 rifle.

#### Chesterfield, Virginia

In November 1997, a MAK90 rifle was used to kill two individuals and wound three others at a party in Chesterfield, Virginia.

#### Orange, California

In December 1997, a man armed with an AKS 762 rifle and two other guns drove to where he was previously employed and opened fire on former coworkers, killing four and injuring three, including a police officer.

#### Baltimore, Maryland

In December 1997, a search warrant was served on a homicide suspect who was armed at the time with three pistols and a MAK90 rifle.

We also studied import and trace information to learn whether the LCMM rifles are used in crime.

Between 1991 and 1997, there were 425,114 LCMM rifles imported into the United States. This represents 7.6 percent of the approximately 5 million rifles imported during this period. The breakdown of the specific variants of LCMM rifles imported follows:

AK-47 variants:	377,934
FN-FAL variants:	37,534
HK variants:	6,495
Uzi variants:	3,141
SIG SG550 variants:	10

During this same time period, ATF traced 632,802 firearms.<sup>74</sup> This included 81,842 rifles of which approximately 3,176 were LCMM rifles.<sup>75</sup> While this number is relatively low compared to the number of total traces, it must be viewed in light of the small number of LCMM rifles imported during this time period and the total number of rifles, both imported domestic, that were available in the United States. A more significant trend is reflected in figure 1.

---

<sup>74</sup> ATF traces crime guns recovered and submitted by law enforcement officials. A crime gun is defined, for purposes of firearms tracing, as any firearm that is illegally possessed, used in a crime, or suspected by law enforcement of being used in a crime. Trace information is used to establish links between criminals and firearms, to investigate illegal firearm trafficking, and to identify patterns of crime gun traces by jurisdiction. A substantial number of firearms used in crime are not recovered by law enforcement agencies and therefore not traced. In addition, not all recovered crime guns are traced. Therefore, trace requests substantially underestimate the number of firearms involved in crimes, and trace numbers contain unknown statistical biases. These problems are being reduced as more law enforcement agencies institute policies of comprehensive crime gun tracing.

<sup>75</sup> The vast majority of LCMM rifles traced during this time period were AK47 variants. Specifically, AK47 variants comprised 95.6 percent of the LCMM rifles traced. This must be viewed within the context that 88 percent of the LCMM rifles imported during this period were AK47 variants.

## Firearms Traces 1991-1997

Year	Total Firearms Traced	Total Rifles Traced	Total Assault <sup>76</sup> Rifles Traced	Total LCMM Rifles Traced
1991	42,442	6,196	656	7
1992	45,134	6,659	663	39
1993	54,945	7,690	852	182
1994	83,137	9,201	735	596
1995	76,847	9,988	717	528
1996	136,062	17,475	1,075	800
1997	194,235	24,633	1,518	1,024
Cumulative Total	632,802	81,842	6,216	3,176

Figure 1

The figures in this table show that between 1991 and 1994, trace requests involving LCMM rifles increased rapidly, from 7 to 596. During the same period, trace requests for assault rifles increased at a slower rate, from 656 to 735. The years 1991 to 1994 are significant because they cover a period between when the ban on the importation of semiautomatic assault rifles was imposed and before the September 13, 1994, ban on semiautomatic assault weapons was enacted. Thus, during the years leading up to the 1994 ban, traces of LCMM rifles were increasing much more rapidly than the traces of the rifles that had been the focus of the 1989 ban, as well as the rifles that were the focus of the 1994 congressional action.

We also compared patterns of importation with trace requests to assess the association of LCMM rifles with criminal involvement. The comparison shows that importation of LCMM rifles in the early 1990s was followed immediately by a rapid rise in the number of trace requests involving LCMM rifles. This is shown in figures 2 and 3.

<sup>76</sup> For purposes of this table, assault rifles include (1) semiautomatic assault rifles banned from importation in 1989 but still available domestically because they had been imported into the United States prior to the ban, (2) domestically produced rifles that would not have qualified for importation after 1989, and (3) semiautomatic assault rifles that were banned in 1994.



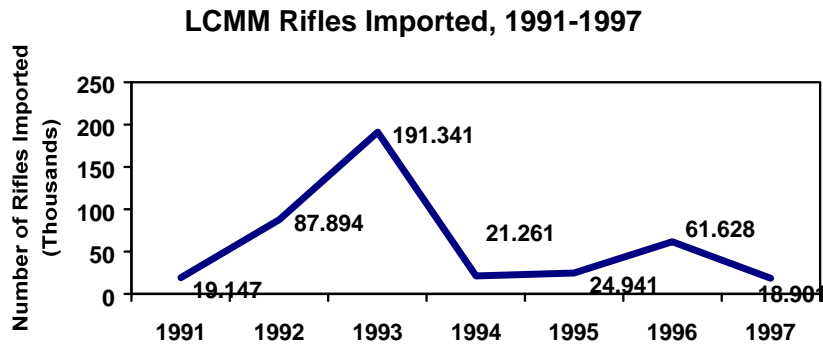


Figure 2

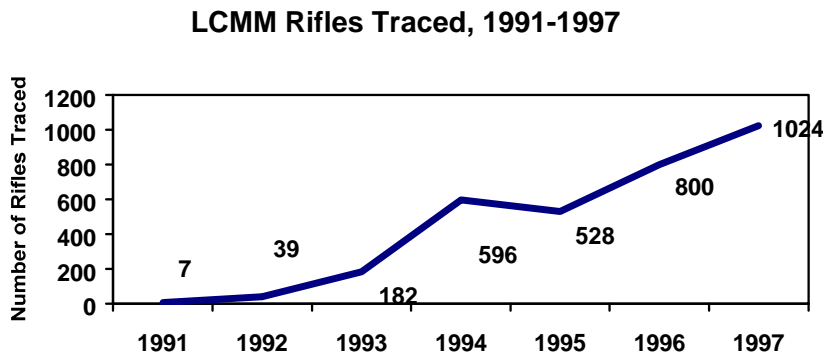


Figure 3

Two aspects of the relationship between importation and trace request patterns are significant. First, the rapid rise in traces following importation indicates that, at least in some cases, very little time elapsed between a particular LCMM rifle’s importation and its recovery by law enforcement. This time lapse is known as “time to crime.” A short time to crime can be an indicator of illegal trafficking. Therefore, trace patterns suggest what the case examples show: LCMM rifles have been associated with illegal trafficking. Second, while LCMM rifles have not been imported in large numbers since 1994,<sup>77</sup> the number of trace requests for LCMM rifles continues to rise. This reflects a sustained and

<sup>77</sup> One reason is that there has been an embargo on the importation of firearms from China since May 1994.

continuing pattern of criminal association for LCMM rifles despite the fact that there were fewer new LCMM rifles available.<sup>78</sup> Moreover, it is reasonable to conclude that if the importation of LCMM rifles resumes, the new rifles would contribute to the continuing rise in trace requests for them.<sup>79</sup>

All of the LCMM rifles have the ability to accept a detachable large capacity military magazine. Thus, they all have the ability to expend large amounts of ammunition quickly. In passing the 1994 ban on semiautomatic assault rifles and large capacity ammunition feeding devices, Congress found that weapons with this ability are attractive to criminals.<sup>80</sup>

Thus, we can infer that the LCMM rifles may be attractive to criminals because in some ways they remain akin to military assault rifles, particularly in their ability to accept a detachable large capacity military magazine.

---

<sup>78</sup> The increase in trace requests also reflects the fact that law enforcement officials were making trace requests for all types of firearms much more frequently beginning in 1996. There were 76,847 trace requests in 1995, 136,062 trace requests in 1996, and 194,235 trace requests in 1997. Traces for assault rifles were increasing by approximately the same percentage as traces for LCMM rifles during these years.

<sup>79</sup> In addition to looking at case studies and tracing and import information, we attempted to get information on the use of the LCMM rifles in crime by surveying national law enforcement agencies and organizations, as well as metropolitan police departments. Twenty-three national law enforcement agencies and organizations were surveyed and five responded. Three of the respondents stated they had no information. The other two provided information that was either outdated or not specific enough to identify the LCMM rifles.

The 26 metropolitan police departments surveyed provided the following information:

- 17 departments had no information to provide.
- 5 departments stated that the LCMM rifles were viewed as crime guns.
- 1 department stated that the LCMM rifles were nonsporting.
- 2 departments stated that the LCMM rifles were used to hunt coyotes in their areas.
- 1 department stated that the LCMM rifles were used for silhouette target shooting.

<sup>80</sup> H. Rep. No. 103-489, at 13, 18, 19.

### DETERMINATION

In 1989, ATF determined that the type of rifle defined as a semiautomatic assault rifle was not generally recognized as particularly suitable for or readily adaptable to sporting purposes. Accordingly, ATF found that semiautomatic assault rifles were not importable into the United States. This finding was based, in large part, on ATF's determination that semiautomatic assault rifles contain certain general characteristics that are common to the modern military assault rifle. These characteristics were designed for killing and disabling the enemy and distinguish the rifles from traditional sporting rifles. One of these characteristics is a military configuration, which incorporates eight physical features: Ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights. In 1989, ATF decided that any of these military configuration features, other than the ability to accept a detachable magazine, would make a semiautomatic assault rifle not importable.

Certain semiautomatic assault rifles that failed the 1989 sporting purposes test were modified to remove all of the military configuration features, except for the ability to accept a detachable magazine. Significantly, most of these modified rifles not only still have the ability to accept a detachable magazine but, more specifically, still have the ability to accept a large capacity military magazine. It appears that only one of the current study rifles, the VEPR caliber .308 (an AK47 variant), does not have the ability to accept a large capacity military magazine and, therefore, is not an LCMM rifle. Based on the standard developed in 1989, these modified rifles were found not to fall within the semiautomatic assault rifle type and were found to meet the sporting purposes test. Accordingly, these rifles were approved for import into the United States.

Members of Congress and others have expressed concerns that these modified semiautomatic assault rifles are essentially the same as the semiautomatic assault rifles determined to be not importable in 1989. In response to such concerns, the present study reviewed the current application of the sporting purposes test to the study rifles to determine whether the statute is being applied correctly and to ensure that the current use of the study rifles is consistent with the statute's criteria for importability.

Our review took another look at the entire matter. We reexamined the basic tenets of the 1989 study, conducted a new analysis of the physical features of the rifles, surveyed a wide variety of sources to acquire updated information relating to use and suitability, and assessed changes in law that might have bearing on the treatment of the study rifles.

This review has led us to conclude that the basic finding of the 1989 decision remains valid and that military-style semiautomatic rifles are not importable under the sporting purposes standard. Accordingly, we believe that the Department of the Treasury correctly has been denying the importation of rifles that had any of the distinctly military

configuration features identified in 1989, other than the ability to accept a detachable magazine. Our review, however, did result in a finding that the ability to accept a detachable large capacity magazine originally designed and produced for a military assault weapon should be added to the list of disqualifying military configuration features identified in 1989.

Several important changes have occurred since 1989 that have led us to reevaluate the importance of this feature in the sporting purposes test. Most significantly, by passing the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding devices, Congress sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting; rather, firearms with this ability have military purposes and are a crime problem. The House Report to the 1994 law emphasizes that the ability to accept a large capacity magazine “serve[s] specific, combat-functional ends.”<sup>81</sup> Moreover, this ability plays a role in increasing a firearm’s “capability for lethality,” creating “more wounds, more serious, in more victims.”<sup>82</sup> Furthermore, the House Report noted semiautomatic assault weapons with this ability are the “weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder.”<sup>83</sup>

Moreover, we did not find any evidence that the ability to accept a detachable large capacity military magazine serves any sporting purpose. The House Report to the 1994 law notes that, while most of the weapons covered by the assault weapon ban come equipped with detachable large capacity magazines, hunting rifles and shotguns typically have much smaller magazine capabilities, from 3 to 5 rounds.<sup>84</sup> Similarly, we found that a number of States limit magazine capacity for hunting to 5 to 6 rounds. We simply found no information showing that the ability to accept a detachable large capacity military magazine has any purpose in hunting or organized competitive target shooting.

Accordingly, we find that the ability to accept a detachable large capacity military magazine is a critical factor in the sporting purposes test that must be given the same weight as the other military configuration features identified in 1989.

The information we collected on the use and suitability of the LCMM rifles for hunting and organized competitive target shooting demonstrated that the rifles are not especially suitable for sporting purposes. Although our study found that the LCMM rifles, as a type, may sometimes be used for hunting, we found no evidence that they are commonly used for hunting. In fact, some of the rifles are unsuitable for certain types of hunting.

---

<sup>81</sup> H. Rep. No. 103-489, at 18.

<sup>82</sup> H. Rep. No. 103-489, at 19.

<sup>83</sup> H. Rep. No. 103-489, at 13.

<sup>84</sup> H. Rep. No. 103-489, at 19 (footnote omitted).

The information we collected also demonstrated that although the LCMM rifles, as a type, may be used for organized competitive target shooting, their suitability for these competitions is limited. There are even some restrictions or prohibitions on their use for certain types of competitions. In addition, we believe that all rifles which are fairly typed as LCMM rifles should be treated the same. Therefore, the fact that there may be some evidence that a particular rifle of this type is used or recommended for sporting purposes should not control its importability. Rather, all findings as to suitability of LCMM rifles as a whole should govern each rifle within this type. The findings as a whole simply did not satisfy the standard set forth in section 925(d)(3).

Finally, the information we gathered demonstrates that the LCMM rifles are attractive to certain criminals. We find that the LCMM rifles' ability to accept a detachable large capacity military magazine likely plays a role in their appeal to these criminals. In enacting the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding devices, Congress recognized the appeal large magazine capacity has to the criminal element.

Weighing all this information, the LCMM rifles, as a type, are not generally recognized as particularly suitable for or readily adaptable to sporting purposes. As ATF found in conducting its 1989 study, although some of the issues we confronted were difficult to resolve, in the end we believe the ultimate conclusion is clear and compelling. The ability of all of the LCMM rifles to accept a detachable large capacity military magazine gives them the capability to expel large amounts of ammunition quickly; this serves a function in combat and crime, but serves no sporting purpose. Given the high standard set forth in section 925(d)(3) and the Secretary's discretion in applying the sporting purposes test, this conclusion was clear.

This decision will in no way preclude the importation of true sporting firearms. It will prevent only the importation of firearms that cannot fairly be characterized as sporting rifles.

Individual importers with existing permits for, and applications to import involving, the LCMM rifles will be notified of this determination in writing. Each of these importers will be given an opportunity to respond and present additional information and arguments. Final action will be taken on permits and applications only after an affected importer has an opportunity to make its case.

Case 1:13-cv-00291-WMS Document 75-2 Filed 06/21/13 Page 41 of 126

Exhibit 1

THE WHITE HOUSE  
WASHINGTON

November 14, 1997

## MEMORANDUM FOR THE SECRETARY OF THE TREASURY

SUBJECT: Importation of Modified Semiautomatic  
Assault-Type Rifles

The Gun Control Act of 1968 restricts the importation of firearms unless they are determined to be particularly suitable for or readily adaptable to sporting purposes. In 1989, the Department of the Treasury (the Department) conducted a review of existing criteria for applying the statutory test based on changing patterns of gun use. As a result of that review, 43 assault-type rifles were specifically banned from importation. However, manufacturers have modified many of those weapons banned in 1989 to remove certain military features without changing their essential operational mechanism. Examples of such weapons are the Galil and the Uzi.

In recent weeks Members of Congress have strongly urged that it is again necessary to review the manner in which the Department is applying the sporting purposes test, in order to ensure that the agency's practice is consistent with the statute and current patterns of gun use. A letter signed by 30 Senators strongly urged that modified assault-type weapons are not properly importable under the statute and that I should use my authority to suspend temporarily their importation while the Department conducts an intensive, expedited review. A recent letter from Senator Dianne Feinstein emphasized again that weapons of this type are designed not for sporting purposes but for the commission of crime. In addition, 34 Members of the House of Representatives signed a letter to Israeli Prime Minister Binyamin Netanyahu requesting that he intervene to stop all sales of Galils and Uzis into the United States. These concerns have caused the Government of Israel to announce a temporary moratorium on the exportation of Galils and Uzis so that the United States can review the importability of these weapons under the Gun Control Act.

2

The number of weapons at issue underscores the potential threat to the public health and safety that necessitates immediate action. Firearms importers have obtained permits to import nearly 600,000 modified assault-type rifles. In addition, there are pending before the Department applications to import more than 1 million additional such weapons. The number of rifles covered by outstanding permits is comparable to that which existed in 1989 when the Bush Administration temporarily suspended import permits for assault-type rifles. The number of weapons for which permits for importation are being sought through pending applications is approximately 10 times greater than in 1989. The number of such firearms for which import applications have been filed has skyrocketed from 10,000 on October 9, 1997, to more than 1 million today.

My Administration is committed to enforcing the statutory restrictions on importation of firearms that do not meet the sporting purposes test. It is necessary that we ensure that the statute is being correctly applied and that the current use of these modified weapons is consistent with the statute's criteria for importability. This review should be conducted at once on an expedited basis. The review is directed to weapons such as the Uzi and Galil that failed to meet the sporting purposes test in 1989, but were later found importable when certain military features were removed. The results of this review should be applied to all pending and future applications.

The existence of outstanding permits for nearly 600,000 modified assault-type rifles threatens to defeat the purpose of the expedited review unless, as in 1989, the Department temporarily suspends such permits. Importers typically obtain authorization to import firearms in far greater numbers than are actually imported into the United States. However, gun importers could effectively negate the impact of any Department determination by simply importing weapons to the maximum amount allowed by their permits. The public health and safety require that the only firearms allowed into the United States are those that meet the criteria of the statute.

Accordingly, as we discussed, you will:

- 1) Conduct an immediate expedited review not to exceed 120 days in length to determine whether modified semiautomatic assault-type rifles are properly importable under the statutory sporting purposes test. The results of this review will govern action on pending and future applications for import permits, which shall not be acted upon until the completion of this review.

A-839

Case 1:13-cv-00291-WMS Document 75-2 Filed 06/21/13 Page 43 of 126

Exhibit 1

3

2) Suspend outstanding permits for importation of modified semiautomatic assault-type rifles for the duration of the 120-day review period. The temporary suspension does not constitute a permanent revocation of any license. Permits will be revoked only if and to the extent that you determine that a particular weapon does not satisfy the statutory test for importation, and only after an affected importer has an opportunity to make its case to the Department.

William J. Curran



## Exhibit 2

STUDY RIFLE MODELS

## AK47 Variants:

MAK90*	SA2000
314*	ARM
56V*	MISR
89*	MISTR
EXP56A*	SA85M
SLG74	Mini PSL
NHM90*	ROMAK 1
NHM90-2*	ROMAK 2
NHM91*	ROMAK 4
SA85M	Hunter rifle
SA93	386S
A93	PS/K
AKS 762	VEPR caliber
VEPR	7.62 x 39mm
caliber .308	

## FN-FAL Variants:

Saiga rifle	L1A1 Sporter
Galil Sporter	FAL Sporter
Haddar	FZSA
Haddar II	SAR4800
WUM 1	X FAL
WUM 2	C3
SLR95	C3A
SLR96	LAR Sporter
SLR97	
SLG94	
SLG95	
SLG96	

## HK Variants:

BT96  
Centurian 2000  
SR9  
PSG1  
MSG90  
G3SA  
SAR8

## Uzi Variants:

Officers 9\*  
320 carbine\*  
Uzi Sporter

## SIG SG550 Variants:

SG550-1  
SG550-2

- These models were manufactured in China and have not been imported since the 1994 embargo on the importation of firearms from China.

Exhibit 3

STUDY RIFLES

The study rifles are semiautomatic firearms based on the AK47, FN-FAL, HK 91 and 93, Uzi, and SIG SG550 designs. Each of the study rifles is derived from a semiautomatic assault rifle. The following are some examples of specific study rifle models grouped by design type. In each instance, a semiautomatic assault rifle is shown above the study rifles for comparison.

AK47 Variants



AK47 semiautomatic assault rifle



MISR



ARM



MAK90



WUM 1

Exhibit 3

FN-FAL Variants



FN-FAL semiautomatic assault rifle

---

---



LIA1 Sporter



SAR 4800

HK 91 and 93 Variants



HK91 semiautomatic assault rifle

---

---



SR9



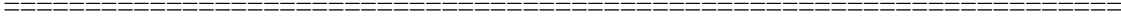
SAR 8

Exhibit 3

Uzi Variants



Uzi semiautomatic assault rifle



320 carbine

SIG SG550 Variants

The following illustration depicts the configuration of a semiautomatic assault rifle based on the SIG SG550 design. No illustrations of modified semiautomatic versions are available.



SIG SG550 semiautomatic assault rifle

A-844

Case 1:13-cv-00291-WMS Document 75-2 Filed 06/21/13 Page 48 of 126

Exhibit 4

DEPARTMENT OF THE TREASURY BUREAU OF ALCOHOL, TOBACCO AND FIREARMS					
FACTORING CRITERIA FOR WEAPONS					
NOTE: The Bureau of Alcohol, Tobacco and Firearms reserves the right to preclude importation of any revolver or pistol which achieves an apparent qualifying score but does not adhere to the provisions of section 925(d)(3) of Amended Chapter 44, Title 18, U.S.C.					
PISTOL			REVOLVER		
MODEL:			MODEL:		
PREREQUISITES			PREREQUISITES		
1. The pistol must have a positive manually operated safety device. 2. The combined length and height must not be less than 10" with the height (right angle measurement to barrel without magazine or extension) being at least 4" and the length being at least 6"			1. Must pass safety test. 2. Must have overall frame (with conventional grips) length (not diagonal) of 4 1/2" minimum. 3. Must have a barrel length of at least 3".		
INDIVIDUAL CHARACTERISTICS	POINT VALUE	POINT SUB-TOTAL	INDIVIDUAL CHARACTERISTICS	POINT VALUE	POINT SUB-TOTAL
OVERALL LENGTH			BARREL LENGTH (Muzzle to Cylinder Face)		
FOR EACH 1/4" OVER 6"	1		LESS THAN 4"	0	
FRAME CONSTRUCTION			FOR EACH 1/4" OVER 4"	1/2	
INVESTMENT CAST OR FORGED STEEL	15		FRAME CONSTRUCTION		
INVESTMENT CAST OR FORGED HTS ALLOY	20		INVESTMENT CAST OR FORGED STEEL	15	
WEAPON WEIGHT W/MAGAZINE (Unloaded)			INVESTMENT CAST OR FORGED HTS ALLOY	20	
PER OUNCE	1		WEAPON WEIGHT (Unloaded)		
CALIBER			PER OUNCE	1	
.22 SHORT AND .25 AUTO	0		CALIBER		
.22 LR AND 7.65mm TO .380 AUTO	3		.22 SHORT TO .25 ACP	0	
9mm PARABELLUM AND OVER	10		.22 LR AND .30 TO .38 S&W	3	
SAFETY FEATURES			.38 SPECIAL	4	
LOCKED BREECH MECHANISM	5		.357 MAG AND OVER	5	
LOADED CHAMBER INDICATOR	5		MISCELLANEOUS EQUIPMENT		
GRIP SAFETY	3		ADJUSTABLE TARGET SIGHTS (Drift or Click)	5	
MAGAZINE SAFETY	5		TARGET GRIPS	5	
FIRING PIN BLOCK OR LOCK	10		TARGET HAMMER AND TARGET TRIGGER	5	
MISCELLANEOUS EQUIPMENT			<b>SAFETY TEST</b> A Double Action Revolver must have a safety feature which automatically (or in a Single Action Revolver by manual operation) causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge. The safety device must withstand the impact of a weight equal to the weight of the revolver dropping from a distance of 36" in a line parallel to the barrel upon the rear of the hammer spur, a total of 5 times.		
EXTERNAL HAMMER	2				
DOUBLE ACTION	10				
DRIFT ADJUSTABLE TARGET SIGHT	5				
CLICK ADJUSTABLE TARGET SIGHT	10				
TARGET GRIPS	5				
TARGET TRIGGER	2				
SCORE ACHIEVED (Qualifying score is 75 points)			SCORE ACHIEVED (Qualifying score is 45 points)		

## Exhibit 5

MILITARY CONFIGURATION

1. Ability to accept a detachable magazine. Virtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable magazines are not limited to military firearms, most traditional semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity. Additionally, some States have a limit on the magazine capacity allowed for hunting, usually five or six rounds.
2. Folding/telescoping stock. Many military firearms incorporate folding or telescoping stocks. The main advantage of this item is portability, especially for airborne troops. These stocks allow the firearm to be fired from the folded position, yet it cannot be fired nearly as accurately as with an open stock. With respect to possible sporting uses of this feature, the folding stock makes it easier to carry the firearm when hiking or backpacking. However, its predominant advantage is for military purposes, and it is normally not found on the traditional sporting rifle.
3. Pistol grips. The vast majority of military firearms employ a well-defined separate pistol grip that protrudes conspicuously beneath the action of the weapon. In most cases, the "straight line design" of the military weapon dictates a grip of this type so that the shooter can hold and fire the weapon. Further, a pistol grip can be an aid in one-handed firing of the weapon in a combat situation. Further, such grips were designed to assist in controlling machineguns during automatic fire. On the other hand, the vast majority of sporting firearms employ a more traditional pistol grip built into the wrist of the stock of the firearm since one-handed shooting is not usually employed in hunting or organized competitive target competitions.
4. Ability to accept a bayonet. A bayonet has distinct military purposes. First, it has a psychological effect on the enemy. Second, it enables soldiers to fight in close quarters with a knife attached to their rifles. No traditional sporting use could be identified for a bayonet.
5. Flash suppressor. A flash suppressor generally serves one or two functions. First, in military firearms it disperses the muzzle flash when the firearm is fired to help conceal the shooter's position, especially at night. A second purpose of some flash suppressors is to assist in controlling the "muzzle climb" of the rifle, particularly when fired as a fully automatic weapon. From the standpoint of a traditional sporting firearm, there is no particular benefit in suppressing muzzle flash. Flash suppressors that also serve to dampen muzzle climb have a limited benefit in sporting uses by allowing the shooter to reacquire

## Exhibit 5

the target for a second shot. However, the barrel of a sporting rifle can be modified by "magna-porting" to achieve the same result. There are also muzzle attachments for sporting firearms to assist in the reduction of muzzle climb. In the case of military-style weapons that have flash suppressors incorporated in their design, the mere removal of the flash suppressor may have an adverse impact on the accuracy of the firearm.

6. Bipods. The majority of military firearms have bipods as an integral part of the firearm or contain specific mounting points to which bipods may be attached. The military utility of the bipod is primarily to provide stability and support for the weapon when fired from the prone position, especially when fired as a fully automatic weapon. Bipods are available accessory items for sporting rifles and are used primarily in long-range shooting to enhance stability. However, traditional sporting rifles generally do not come equipped with bipods, nor are they specifically designed to accommodate them. Instead, bipods for sporting firearms are generally designed to attach to a detachable "slingswivel mount" or simply clamp onto the firearm.
7. Grenade launcher. Grenade launchers are incorporated in the majority of military firearms as a device to facilitate the launching of explosive grenades. Such launchers are generally of two types. The first type is a flash suppressor designed to function as a grenade launcher. The second type attaches to the barrel of the rifle by either screws or clamps. No traditional sporting application could be identified for a grenade launcher.
8. Night sights. Many military firearms are equipped with luminous sights to facilitate sight alignment and target acquisition in poor light or darkness. Their uses are generally for military and law enforcement purposes and are not usually found on sporting firearms since it is generally not legal to hunt at night.

Exhibit 6

[This document has been retyped for clarity.]

## MEMORANDUM TO FILE

## FIREARMS ADVISORY PANEL

The initial meeting of the Firearms Advisory Panel was held in Room 3313, Internal Revenue Building, on December 10, 1968, with all panel members present. Internal Revenue Service personnel in attendance at the meeting were the Director, Alcohol and Tobacco Tax Division, Harold Serr; Chief, Enforcement Branch, Thomas Casey; Chief, Operations Coordination Section, Cecil M. Wolfe, and Firearms Enforcement Officer, Paul Westenberger. Deputy Assistant Commissioner Compliance, Leon Green, visited the meeting several times during the day.

The Director convened the meeting at 10:00 a.m. by welcoming the members and outlining the need for such an advisory body. He then introduced the Commissioner of Internal Revenue, Mr. Sheldon Cohen, to each panel member.

Mr. Cohen spoke to the panel for approximately fifteen minutes. He thanked the members for their willingness to serve on the panel, explained the role of the panel and some of the background which led to the enactment of the Gun Control Act of 1968. Commissioner Cohen explained to the panel members the conflict of interest provisions of regulations pertaining to persons employed by the Federal Government and requested that if any member had any personal interest in any matter that came under discussion or consideration, he should make such interest known and request to be excused during consideration of the matter.

Mr. Seer then explained to the panel the areas in which the Division would seek the advice of the panel and emphasized that the role of the panel would be advisory only, and that it was the responsibility of the Service to make final decisions. He then turned the meeting over to the moderator, Mr. Wolfe.

Mr. Wolfe explained the responsibility of the Service under the import provisions of the Gun Control Act and under the Mutual Security Act. The import provisions were read and discussed.

The panel was asked to assist in defining Sporting purposes as used in the Act. It was generally agreed that firearms designed and intended for hunting and all types of organized competitive target shooting would fall within the sporting purpose category. A discussion was held on the so-called sport of Apinking. It was the consensus that, while many persons



## Exhibit 6

participated in the type of activity and much ammunition was expended in such endeavors, it was primarily a pastime and could not be considered a sport for the purposes of importation since any firearm that could expel a projectile could be used for this purpose without having any characteristics generally associated with target guns.

The point system that had been developed by the Division and another point system formula suggested and furnished by the Southern Gun Distributors through Attorney Michael Desalle, was explained and demonstrated to the panel by Paul Westenberger. Each panel member was given copies of the formulas and requested to study them and endeavor to develop a formula he believed would be equitable and could be applied to all firearms sought to be imported.

A model BM59 Beretta, 7.62 mm, NATO Caliber Sporter Version Rifle was presented to the panel and their advice sought as to their suitability for sporting purposes. It was the consensus that these rifles do have a particular use in target shooting and hunting. Accordingly, it was recommended that importation of this rifle together with the SIG-AMT 7.62mm NATO Caliber Sporting Rifle and the Cetme 7.62mm NATO Caliber Sporting Rifle be authorized for importation. Importation, however, should include the restriction that these weapons must not possess combination flash suppressors/grenade adaptors with outside diameters greater than 20mm (.22 mm is the universal grade adaptor size).

The subject of ammunition was next discussed. Panel members agreed that incendiary and tracer small arms ammunition have no use for sporting purposes. Accordingly, the Internal Revenue Service will not authorize these types of small arms ammunition importation. All other conventional small arms ammunition for pistols, revolvers, rifles and shotguns will be authorized.

The meeting was adjourned at 4:00 p.m.

C.M. Wolfe

Exhibit 7

**STATE FISH AND GAME COMMISSION REVIEW**

STATE RESTRICTION	RIFLE RESTRICTION	MAGAZINE RESTRICTION
Alabama	Not for turkey	
Alaska		
Arizona		Not more than five rounds
Arkansas	Not for turkey	
California		
Colorado		Not more than six rounds
Connecticut*	No rifles on public land	
Delaware	No rifles	
Florida		Not more than five rounds
Georgia	Not for turkey	
Hawaii		
Idaho	Not for turkey	
Illinois	Not for deer or turkey	
Indiana*	Not for deer or turkey	
Iowa	Not for deer or turkey No restrictions on coyote or fox	
Kansas		
Kentucky		
Louisiana	Not for turkey	
Maine*	Not for turkey	
Maryland*		

Case 1:13-cv-00291-WMS Document 75-2 Filed 06/21/13 Page 54 of 126

## Exhibit 7

STATE RESTRICTION	RIFLE RESTRICTION	MAGAZINE RESTRICTION
Massachusetts	Not for deer or turkey	
Michigan	Not for turkey	Not more than six rounds
Minnesota		
Mississippi	Not for turkey	
Missouri	Not for turkey	Chamber and magazine not more than 11 rounds
Montana		
Nebraska		Not more than six rounds
Nevada	Not for turkey	
New Hampshire*	Not for turkey	Not more than five rounds
New Jersey	No rifles	
New Mexico	Not for turkey	
New York*		Not more than six rounds
North Carolina	Not for turkey	
North Dakota	Not for turkey	
Ohio	Not for deer or turkey	
Oklahoma		Not more than seven rounds for .22 caliber
Oregon*		Not more than five rounds
Pennsylvania*	No semiautomatics	

Exhibit 7

STATE RESTRICTION	RIFLE RESTRICTION	MAGAZINE RESTRICTION
Rhode Island	Prohibited except for woodchuck in summer	
South Carolina	Not for turkey	
South Dakota		Not more than five rounds
Tennessee	Not for turkey	
Texas		
Utah	Not for turkey	
Vermont		Not more than six rounds
Virginia*		
Washington	Not for turkey	
West Virginia		
Wisconsin		
Wyoming		

\* Limited restrictions (e.g., specified areas, county restrictions, populated areas, time of day).

Case 1:13-cv-00291-WMS Document 75-2 Filed 06/21/13 Page 56 of 126



DIRECTOR

DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, D.C. 20226O:F:S:DMS  
3310

Dear Sir or Madam:

On November 14, 1997, the President and the Secretary of the Treasury decided to conduct a review to determine whether modified semiautomatic assault rifles are properly importable under Federal law. Under 18 U.S.C. section 925(d)(3), firearms may be imported into the United States only if they are determined to be of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes. The firearms in question are semiautomatic rifles based on the AK47, FN-FAL, HK91, HK93, SIG SG550-1, and Uzi designs.

As part of the review, the Bureau of Alcohol, Tobacco and Firearms (ATF) is interested in receiving information that shows whether any or all of the above types of semiautomatic rifles are particularly suitable for or readily adaptable to hunting or organized competitive target shooting. We are asking that you voluntarily complete the enclosed survey to assist us in gathering this information. We anticipate that the survey will take approximately 15 minutes to complete.

Responses must be received no later than January 9, 1998; those received after that date cannot be included in the review. Responses should be forwarded to the Bureau of Alcohol, Tobacco and Firearms, Department HG, P.O. Box 50860, Washington, DC 20091. We appreciate any information you care to provide.

Sincerely yours,

A handwritten signature in cursive script that reads "John W. Magaw".  
John W. Magaw  
Director

Enclosure

A-853

Case 1:13-cv-00291-WMS Document 75-2 Filed 06/21/13 Page 57 of 126

OMB No. 1512-0542

ATF SURVEY OF HUNTING GUIDES  
FOR RIFLE USAGE

Page 1 of 2

*Please report only on those clients who hunted medium game (for example, turkey) or larger game (for example, deer) with a rifle.*

*For the purposes of this survey, please count only individual clients and NOT the number of trips taken by a client. For example, if you took the same client on more than one trip, count the client only once.*

1. What is the approximate number of your clients who have ever used **manually operated rifles** during the past two hunting seasons of 1995 and 1996?

\_\_\_\_\_ number of clients.

2. What is the approximate number of your clients who have ever used **semiautomatic rifles** during the past two hunting seasons of 1995 and 1996?

\_\_\_\_\_ number of clients.

3. What is the approximate number of your clients who have ever used semiautomatic rifles whose design is based on the **AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi** during the past two hunting seasons of 1995 and 1996?

\_\_\_\_\_ number of clients.

4. From your knowledge, for your clients who use **semiautomatic rifles**, please list the three most commonly used rifles.

Make

Model

Caliber

---

---

---

5. Do you **recommend** the use of any specific rifles by your clients?

\_\_\_\_\_ Yes (Continue to #6)

\_\_\_\_\_ No (You are finished with the survey. Thank you.)

An agency may not conduct or sponsor, and a person is not required to respond to, the collection of information unless it displays a currently valid OMB control number.

A-854

Case 1:13-cv-00291-WMS Document 75-2 Filed 06/21/13 Page 58 of 126

OMB No. 1512-0542

ATF SURVEY OF HUNTING GUIDES  
FOR RIFLE USAGE

Page 2 of 2

6. If your answer to item 5 is "Yes", please identify the specific rifles you **recommend**.

Make Model Caliber

---

---

---

7. Do you **recommend** the use of any semiautomatic rifles whose design is based on the **AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi**?

Yes (*Continue to #8*)  No (*You are finished with the survey. Thank you.*)

8. If your answer to item 7 is "Yes", please identify the specific rifles whose design is based on the **AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi** that you recommend.

Make Model Caliber

---

---

---

An agency may not conduct or sponsor, and a person is not required to respond to, the collection of information unless it displays a currently valid OMB control number.