

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,

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.

13-cv-00291-WMS

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;

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 (" Am. Cmpl. ")
2	Law Center to Prevent Gun Violence, <i>Introduction to Gun Violence Statistics</i> , Nov. 18, 2012 (" LCPGV Statistics ")
3	United States Centers for Disease Control, <i>2005-2010 United States Homicide Firearm Deaths and Rates per 100,000</i> (" CDC 2005-2010 ")
4	United States Centers for Disease Control, <i>2010 United States Firearm Deaths and Rates per 100,000</i> (" CDC 2010 ")
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") (" 2013 Governor's Mem. ")
6	New York State Assembly <i>Memorandum in Support of the SAFE Act</i> (" 2013 Assembly Memo ")
7	New York State Senate <i>Introducer's Memorandum in Support of the SAFE Act</i> , 2013 (" 2013 Senate Mem. ")

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

Exhibit	Exhibit Description
24	Laws of New York, 2013, Chapter 1 (“ SAFE Act ”)
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 (“ Reg. Form ”)
27	New York State Assembly Debate Excerpt, pp. 65, 127, January 15, 2013 (“ Assembly Debate 1/15/13 ”)
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, (“ 2013 Tribe Testimony ”)
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 (“ Brady Center Testimony ”)
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. (“ Buffalo News ”)
31	<i>Assault Weapons: Mass Produced Mayhem</i> , Brady Center to Prevent Gun Violence, October 2008 (“ 2008 Brady Report ”)
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 (“ Koper 2004 ”)
33	<i>Banning Assault Weapons – A Legal Primer for State and Local Action</i> , Legal Community Against Violence, April 2004 (“ LCAV 2004 Primer ”)
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>) (“ Koper 2013 ”)
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 (“ Koper 1997 ”)

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 (“ Professors’ Statement ”)
37	“ <i>Officer Down</i> ”: <i>Assault Weapons and the War on Law Enforcement</i> , Violence Policy Center, May 2003 (“ VPC 2003 ”)
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 http://www.motherjones.com/politics/2013/02/assault-weapons-high-capacity-magazines-mass-shootings-feinstein
39	<i>Analysis of Recent Mass Shootings, January 2009 – January 2013</i> , Mayors Against Illegal Guns (“ Mayors Analysis ”)
40	ATF, <i>Assault Weapons Profile</i> , April 1994 (“ ATF AW Profile ”)
41	Declaration of Mark Overstreet, <i>Heller v. District of Columbia</i> , 10-7036 (D.C. Cir.), ECF No. 23-7 (“ Overstreet Heller II Decl. ”)
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 (“ VPC 2013 Self-Defense ”)
43	<i>Private Guns, Public Health</i> , David Hemenway (U. Mich. Press 2007) (“ Hemenway 2007 ”)
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) (“ Hemenway, Cook 1997 ”)
45	Images of Rifles that are Not Classified as Assault Weapons (“ Non-AW Rifles ”)
46	Images of Pistols that are Not Classified as Assault Weapons (“ Non-AW Pistols ”)
47	Images of Shotguns that are Not Classified as Assault Weapons (“ Non-AW Shotguns ”)
48	New York Assembly Debate Excerpts, pp. 282-284, 297, 342, Mar. 28, 2013, (“ 3/28/13 Assembly Debate ”)
49	<i>The Police Department’s 9-Millimeter Revolution</i> , The New York Times, Feb. 15, 1999, Raymond W. Kelly (“ NYT Opinion 1999 ”)

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 (“ Heller Historians Brief ”)
51	<i>On Target: The Impact of the 1994 Federal Assault Weapon Act</i> , Brady Center to Prevent Gun Violence, March 2004 (“ Brady 2004 Impact Study ”)
52	New York State Assembly Debate Excerpt, pp. 13-14, 18-19, May 24, 2005 (“ 5/24/05 Assembly Debate ”)
53	New York State Assembly Debate Excerpt, pp. 62-72, Jan. 9, 2006 (“ 1/9/06 Assembly Debate ”)
54	<i>United States of Assault Weapons, Gunmakers Evading the Federal Assault Weapons Ban</i> , Violence Policy Center, July 2004 (“ VPC July 2004 U.S. of AW ”)
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 (“ VPC 2004 Further Exam. of On Target ”)
56	<i>In Virginia, high-yield clip seizures rise</i> , Washington Post, Jan. 23, 2011 (“ WaPo 1/23/11 ”), available at http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012203452.html
57	<i>High-capacity magazines saw drop during ban, data indicate</i> , Washington Post, Jan. 13, 2013, available at http://articles.washingtonpost.com/2013-01-10/news/36272948_1_magazines-and-assault-weapons-33-round-magazine-high-capacity-magazines
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 (“ Baltimore Police Chief Testimony ”)
60	Excerpts from Amended Complaint New York State Rifle and Pistol Association, Inc. v. City of New York, 13-2115 (S.D.N.Y)

Exhibit	Exhibit Description
61	Images from SAFE Act website, Pictures of Rifles – Banned Features (“ Banned Rifles ”)
62	Images from SAFE Act website, Pictures of Shotguns – Banned Features (“ Banned Shotguns ”)
63	Images from SAFE Act website, Pictures of Pistols – Banned Features (“ Banned Pistols ”)
64	<i>The Criminal Purchase of Firearm Ammunition</i> , Injury Prevention, 2006 (“ Criminal Purchase ”)
65	Images from SAFE Act website, Listing of Rifles that Are Classified as Assault Weapons (“ AW Rifles ”)
66	Images from SAFE Act website, Listing of Shotguns that Are Classified as Assault Weapons (“ AW Shotguns ”)
67	Images from SAFE Act website, Listing of Pistols that Are Classified as Assault Weapons (“ AW Pistols ”)
68	Bureau of Justice Statistics, <i>Selected Findings: Guns Used in Crime</i> , July 1995 (“ Guns in Crime BJS 1995 ”)
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 (“ Professors’ Statement ”)

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.

**REPORT AND RECOMMENDATION OF THE ATF WORKING GROUP
ON THE IMPORTABILITY OF CERTAIN
SEMIAUTOMATIC RIFLES**

SUSPENSION OF ASSAULT-TYPE RIFLE IMPORTATIONS

On March 14, 1989, ATF announced that it was suspending, effective immediately, the importation of several makes of assault-type rifles, pending a decision as to whether these weapons meet the statutory test that they are of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes. The announcement stated that ATF would not approve, until further notice, the importation of AKS-type weapons, Uzi carbines, FN/FAL-type weapons, FN/FNC-type weapons and Steyr Aug semiautomatic weapons. On April 5, 1989, the suspension was expanded to include all similar assault-type rifles.

For purposes of this suspension, assault-type rifles were rifles which generally met the following criteria:

- a. military appearance
- b. large magazine capacity
- c. semiautomatic version of a machinegun

Based on these criteria, ATF suspended action on pending applications and suspended outstanding permits covering certain firearms listed in Attachment 1. These included both centerfire and .22 rimfire caliber firearms. At that time, ATF indicated that the reexamination of these weapons would take approximately 90 days.

This ATF working group was established to conduct the reevaluation of the importability of these semiautomatic rifles. This report represents the findings and recommendations of the working group.

BACKGROUND

Section 925(d)(3) of Title 18, United States Code, as amended, provides in pertinent part that:

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. . .

This provision was originally enacted by Title IV of the Omnibus Crime Control and Safe Streets Act of 1968, and was also contained in Title I of the Gun Control Act of 1968, which amended Title IV later that year. According to the Senate Report on Title IV, this provision 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.” S. Rep. No. 1097, 90th Cong. 2d Sess. 80, 1968 U.S. Code Cong. and Admin. News 2112, 2167.

Moreover, there is legislative history which indicates that Congress intended the standard to allow the importation of traditional sporting rifles, while excluding military-type rifles. The Senate Report on the Gun Control Act observed 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.” S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968). Significantly, the rifles being imported by Browning at that time were semiautomatic and manually operated traditional sporting rifles of high quality.¹

An explanation of the effect of this section by one of the sponsors of the bill specifically stated that military firearms would not meet the “sporting purposes” test for importation. The mere fact that a military firearm may be used in a sporting event does not make it importable as a sporting firearm².

There is a reference in the Senate Report on Title IV which notes 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, or for personal protection.” S. Rep. No. 1097, 90th Cong. 2d Sess. 80, 1968 U.S. Code Cong. and Admin. News 2112, 2167. However, this language is not inconsistent with the expressed purpose of restricting importation to firearms particularly suitable for target shooting or hunting since firearms particularly suitable for those purposes can obviously be used for other purposes such as recreational shooting and personal protection.

The determination of a weapon’s suitability for sporting purposes “rest[s] directly with the Secretary of the Treasury.” 114 Cong. Rec. 27465 (1968) (Statement of Sen. Murphy). While the legislative history suggests that the term “sporting purposes” refers to the traditional sports of target shooting, trap and skeet shooting, and hunting, the statute itself provides no criteria beyond the “generally recognized” language of section 925(d)(3). S. Rep. No. 1097, 90th Cong. 2d Sess. 80, 1968 U.S. Code Cong. and Admin. News 2167. The Senate Report on the Gun Control Act stated:

The difficulty of defining weapons characteristics to meet this target [of eliminating importation of weapons used in crime] 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.

S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

Following enactment of the Gun Control Act in 1968, the Secretary established a Firearms Evaluation Panel to provide guidelines for implementation of the "sporting purposes" test of section 925(d)(3). This panel was composed of representatives from the military, law enforcement, and the firearms industry. 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. An evaluation sheet (ATF Form 4590) was developed thereafter by ATF and put into use for evaluating handguns pursuant to section 925(d)(3). Attachment 2.

The 1968 Firearms Evaluation Panel did not propose criteria for evaluating rifles and shotguns under section 925(d)(3). Other than surplus military firearms which Congress addressed separately, long guns being imported prior to 1968 were generally conventional rifles and shotguns specifically intended for sporting purposes. Thus, in 1968, there was no cause to develop criteria for evaluating the sporting purposes of rifles and shotguns. Until recently, all rifles and shotguns were approved for importation so long as they were not otherwise excluded by section 925(d)(3). Only rifles and shotguns covered by the National Firearms Act (NFA), 26 U.S.C. S 5845(a) (for example, machineguns and short-barreled rifles and short-barreled shotguns), and surplus military rifles and shotguns had been denied importation.

The Firearms Evaluation Panel did briefly comment on whether a model BM59 Beretta, 7.62mm NATO Caliber Sporter Version Rifle was suitable for sporting purposes. Minutes of the Firearms Advisory Panel, December 10, 1968. Attachment 3. It was the consensus of the Panel that this rifle did have a particular use in target shooting and hunting. Accordingly, it was recommended that importation of the Beretta BM59, together with the SIG-AMT 7.62mm NATO Caliber Sporting Rifle and the Cetme 7.62mm NATO Caliber Sporting Rifle, be authorized for importation. (The Beretta BM59 and the Cetme, the predecessor to the HK91, are two of the rifles whose importation has been suspended. The SIG-AMT is no longer being produced.) However, the Panel recommended that importation of these weapons should include the restriction that they not possess combination flash suppressors/grenade launchers.

The working group found the Panel's consideration of these rifles to be superficial and unpersuasive. The vast majority of the work of the 1968 Panel was devoted to handguns and the establishment of the factoring criteria for the importation of handguns. Indeed, we found compelling evidence that these rifles are not generally recognized as particularly suitable for sporting purposes.

The first time that ATF looked beyond the restrictions on NFA and surplus military rifles and shotguns and undertook a meaningful analysis under the "sporting purposes" test was in 1984. At that time, ATF was faced with a new breed of imported shotgun. It was 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 provide evidence of sporting purposes for the weapon, ATF was provided information that the weapon was suitable for police/combat style competitions. ATF determined that this type of competition did not constitute "sporting purposes" under the statute, and that this shotgun was not suitable for traditional sporting purposes, such as hunting, and trap and skeet shooting. Accordingly, importation was denied. Attachment 4.

Thereafter, in 1986, the Gilbert Equipment Company requested that the USAS-12 shotgun be classified as a sporting firearm under section 925(d)(3). After examination and testing of the weapon, ATF found that it was a semiautomatic version of a selective fire military-type assault shotgun. In this case, ATF determined that, due to its weight, size, bulk, designed magazine capacity, configuration, and other factors, the USAS-12 was not particularly suitable for or readily adaptable to sporting purposes. Again, ATF refused to recognize police/combat competitions as a sporting purpose under section 925(d)(3). The shotgun was reviewed on the basis of its suitability for traditional shotgun sports of hunting, and trap and skeet shooting and its importation was denied. Attachment 5. This decision was upheld by the United States District Court in Gilbert Equipment Company, Inc. v. Higgins, 709 F. Supp. 1071 (S.D. Ala. 1989). The case is currently on appeal to the Eleventh Circuit.

These two cases involving shotguns represent ATF's first thorough examination of the suitability of certain combat-type weapons for sporting purposes. In these cases ATF adopted an interpretation of sporting as being limited to certain traditional sports and not simply any lawful activity in which the weapons might be employed.

ANALYSIS

A. Defining the type of weapon under review.

As noted above, section 925(d)(3) expressly provides that the Secretary shall authorize the importation of a firearm that is of a type that is generally recognized as particularly suitable for 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, in its explanation of section 925(d)(3), the Senate Report on the Gun Control Act stated:

This subsection gives the Secretary authority to permit the importation of ammunition and certain types of firearms--(1) those imported for scientific or research purposes or for use in competition or training under chapter 401 of title 10 of the United States Code; (2) an unserviceable firearm other than a machinegun; (3) those firearms not coming within the purview of the National Firearms Act (26 U.S.C. 5801, et seq.) and suitable for sporting purposes (in the case of surplus military weapons this type is limited to shotguns and rifles) and those taken out of the United States. (Emphasis added.)

S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

In light of the statutory mandate that types of firearms be scrutinized, the working group first attempted to determine whether the semiautomatic rifles suspended from importation fall within a type of firearm.

The working group determined that the semiautomatic rifles in question are generally semiautomatic versions of true selective fire military assault rifles.³ As a class or type of firearm they are often referred to as "assault rifles," "assault-type rifles," "military style rifles," or "paramilitary rifles."⁴ Since we are only concerned with semiautomatic rifles, it is somewhat of a misnomer to refer to these weapons as "assault rifles." True assault rifles are selective fire

weapons that will fire in a fully automatic mode.⁵ For the purposes of this paper, it was necessary to settle on one term that best describes the weapons under consideration, and we will refer to these weapons as "semiautomatic assault rifles." They represent a distinctive type of rifle distinguished by certain general characteristics which are common to the modern military assault rifle. The modern military assault rifle, such as the U.S. M16, German G3, Belgian FN/FAL, and Soviet AK47, is a weapon designed for killing or disabling the enemy and, as described below, has characteristics designed to accomplish this purpose.

We found that the modern military assault rifle contains a variety of physical features and characteristics designed for military applications which distinguishes it from traditional sporting rifles.⁶ These military features and characteristics (other than selective fire) are carried over to the semiautomatic versions of the original military rifle. These features and characteristics are as follows:

1. Military Configuration.

- a. Ability to accept a detachable magazine. Virtually all modern military firearms are designed to accept large, detachable magazines.⁷ 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. In addition, some States have a limit on the magazine capacity allowed for hunting, usually 8 rounds or less.⁸ That a firearm is designed and sold with a large capacity magazine, e.g., 20-30 rounds, is a factor to be considered in determining whether a firearm is a semiautomatic assault rifle.
- b. Folding/telescoping stocks. Many military firearms incorporate folding or telescoping stocks.⁹ 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.
- c. Pistol grips. The vast majority of military firearms employ a well-defined pistol grip that protrudes conspicuously beneath the action of the weapon.¹⁰ 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 competitive target competitions.
- d. Ability to accept a bayonet. A bayonet has distinct military purposes.¹¹ First, it has a psychological affect on the enemy. Second, it enables soldiers to fight in close quarters

with a knife attached to their rifles. We know of no traditional sporting application for a bayonet.

- e. **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 fully automatic.¹² From the standpoint of a traditional sporting firearm, there is no particular benefit in suppressing muzzle flash. Those flash suppressors which also serve to dampen "muzzle climb" have a limited benefit in sporting uses by allowing the shooter to reacquire 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.
 - f. **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.¹³ 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 fully automatic. Bipods are available accessory items for sporting rifles and are used primarily in long-range shooting to enhance stability. However, traditional sporting rifles 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 "sling swivel mount" or simply clamp onto the firearm.
 - g. **Grenade launcher.** Grenade launchers are incorporated in the majority of military firearms as a device to facilitate the launching of explosive grenades.¹⁴ 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 either by screws or clamps. We are not aware of any particular sporting use for grenade launchers.
 - h. **Night sights.** Many military firearms are equipped with luminous sights to facilitate sight alignment and target acquisition in poor light or darkness.¹⁵ Their uses are generally for military and law enforcement purposes and are not usually found on sporting firearms since it is generally illegal to hunt at night.
2. **Whether the weapon is a semiautomatic version of a machinegun.**

The vast majority of modern military firearms are selective fire, *i.e.*, they can shoot either fully automatic or semiautomatic. Since machineguns are prohibited from importation (except for law enforcement use) the manufacturers of such weapons have developed semiautomatic versions of these firearms.¹⁶
 3. **Whether the rifle is chambered to accept a centerfire cartridge case having a length of 2.25 inches or less.**

Modern military assault rifles and submachineguns are generally chambered to accept a centerfire cartridge case of 2.25 inches or less.¹⁷ On the other hand, while many traditional sporting rifles will fire a cartridge of 2.25 inches or less, such firearms usually do not have the other military features outlined in Items 1a-h.

These features and characteristics are not usually found on traditional sporting firearms.¹⁸ This is not to say that a particular rifle having one or more of the listed features should necessarily be classified as a semiautomatic assault rifle. Indeed, many traditional sporting firearms are semiautomatic or have detachable magazines. Thus, the criteria must be viewed in total to determine whether the overall configuration places the rifle fairly within the semiautomatic assault rifle category.

Using these criteria, we determined that, on balance, all of the firearms on the original suspension list are properly included in the semiautomatic assault rifle category, with the exception of the .22 rimfire caliber rifles and the Valmet Hunter. While the .22 rimfire caliber rifles bear a striking resemblance to the true assault rifle, these rifles employ, by and large, conventional .22 rimfire caliber semiautomatic mechanisms.¹⁹ Moreover, they are not semiautomatic versions of a machinegun and contain only a few of the other relevant characteristics. Further, the working group determined that, in general, .22 caliber rifles are generally recognized as suitable for small game hunting. The Valmet Hunter, while based on the operating mechanism of the AK47 assault rifle, has been substantially changed so that it is now akin to a traditional sporting rifle and does not properly fall within the semiautomatic assault rifle category. More specifically, its receiver has been modified and its pistol grips, bayonet, and flash suppressor have been removed. The trigger mechanism has been moved to the rear of the modified receiver to facilitate its use with a traditional sporting stock. Also, its military-style sights have been replaced with traditional sporting-style sights. See Attachment 6.

B. Scope of "Sporting Purposes".

The second step of our process was to determine the scope of "sporting purposes" as used in the statute. This is a critical aspect of the process. The 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. A narrower interpretation which focuses on the traditional sports of hunting and organized marksmanship competition would result in a more selective importation process.²⁰

To determine the proper interpretation, we consulted the statute itself, its legislative history, applicable case law, the work of the original Firearms Evaluation Panel, and prior interpretations by ATF. In terms of the statute itself, the structure of the importation provisions would suggest a somewhat narrow interpretation. In this regard, firearms are prohibited from importation (section 922(1)) with certain specific exceptions (section 925(d)(3)). A broad interpretation which permits virtually any firearm to be imported because someone may wish to use it in some lawful shooting activity would render the statute meaningless.

As discussed earlier, the legislative history suggests a narrow meaning and indicates that the term "sporting purposes" refers to the traditional sports of target shooting, skeet and trap shooting, and hunting. Moreover, the history discussed earlier strongly suggests that Congress intended the provision to allow the importation of traditional sporting type rifles while excluding military type rifles. There is nothing in its history to indicate that it was intended to recognize every conceivable

type of activity or competition which might employ a firearm. To the contrary, the history indicates that mere use in some competition would not make the rifle a sporting rifle.

Finally, the 1968 Firearms Evaluation Panel specifically addressed at least one informal shooting activity and determined that it was not a legitimate sporting purpose under the statute. The panel addressed what is commonly referred to as "plinking" (shooting at randomly selected targets such as bottles and cans). It was the Panel's view that "while many persons participated 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 Attachment 3.

Based on the above, the working group determined that the term "sporting purpose" should properly be given a narrow reading. It was determined that while hunting has been a recognized rifle sport for centuries, and competitive target shooting is a recognized rifle sport, the so-called activity of plinking is not a recognized sport. Moreover, we believe that reference to sporting purposes was intended also to stand in contrast to military and law enforcement applications. Consequently, the working group does not

believe that police/combat-type competitions should be treated as sporting activities. This position is supported by the court's decision in Gilbert Equipment Company, Inc., v Higgins, 709 F. Supp. 1071 (S.D. Ala. 1989) and is consistent with prior interpretations of ATF as noted on pages 4 and 5 in discussing the Striker-12 shotgun and USAS-12 shotgun.

C. Suitability.

The final step in our review involved an evaluation of whether semiautomatic assault rifles are a type of rifle generally recognized as particularly suitable for or readily adaptable to the traditional sporting applications discussed above.

The criminal misuse of semiautomatic assault rifles is a matter of significant public concern and was an important factor in the decision to suspend their importation. Nevertheless, the working group did not consider criminal misuse as a factor in its analysis of the importability of this type of rifle. Instead, the working group confined its analysis to the question of whether this type of rifle meets the test provided in section 925(d)(3).

Rather than criminal misuse, our comprehensive examination of this issue focused on the legal analysis and technical assessment of these firearms discussed earlier. In addition, the working group used the information gathered under Items 1-7 outlined in the next section in determining whether this type of firearm is generally recognized as particularly suitable for sporting purposes. These items take into account technical and marketing data, expert opinions, the recommended uses of the firearms, and data on the actual uses for which the weapons are employed in this country.

In evaluating these firearms, we believe that all rifles which are fairly typed as semiautomatic assault 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.²¹ Rather, all findings as to suitability of these rifles as a whole should govern each rifle within this type.

This is consistent with the approach taken with respect to handguns since 1968. Although certain handguns may be used or recommended for sporting purposes, they may fall within the type of easily concealable handguns barred from importation by the administrative factoring criteria used by ATF to determine the importability of handguns. Furthermore, a pistol specifically designed for target shooting, but lacking a safety as required by the factoring criteria, would be a type of handgun prohibited from importation as not particularly suitable for sporting purposes for this reason. Finally, just as ATF allows handguns to be modified so as to meet the factoring criteria, a semiautomatic assault rifle could be modified into a sporting configuration and be importable, as was done in the case of the Valmet Hunter referred to earlier.

D. Evaluation of Information from Outside Sources

As part of our comprehensive analysis as to whether semiautomatic assault rifles meet the statutory criteria for importation, the following sources of information were also considered:

1. How has the weapon been advertised, marketed and categorized by the manufacturer and/or importer?
2. How has the use of the rifle been described by firearms technical writers?
3. What is the rifle's reported use by importers?
4. Do hunting guides recommend the rifle?
5. Do editors of hunting magazines recommend the rifle?
6. Is the rifle used in target shooting competitions?
7. Do State game commissions allow the use of the rifle to hunt?

Items 1-6 focus upon how the rifles are marketed, advertised, and recommended for use. Item 7 addresses the legal restrictions pertaining to the use of the weapons for sporting purposes.

The working group reviewed the advertising and marketing literature concerning each of the weapons (Item 1) and reviewed evaluations of the firearms by technical writers (Item 2). In addition, the working group solicited information from the importers of the weapons and other knowledgeable sources (Items 3-6).

Questionnaires were drafted and sent out to licensed hunting guides, State game and fish commissions, local hunting associations, competitive shooting groups, and hunting/shooting magazine editors to determine the extent to which the weapons are used for sporting purposes or recommended for such use. The working group believed that the actual uses of the weapons for sporting purposes would be a factor to be considered in determining whether this type of rifle meets the sporting purposes test.

The review of advertising and marketing literature indicates that these rifles are not generally marketed for hunting or competitive shooting. The review of the technical evaluations revealed that these rifles are not regarded as suitable for these sporting activities.²²

To the extent that the technical evaluations made recommendations with respect to the use of the rifles suspended from importation, the majority recommended them for law enforcement or military use or for activities such as collecting, plinking, home and self-defense, and combat target shooting. Only 5 of over 50 evaluations reviewed contained recommendations for the use of these firearms for hunting purposes.

The importers were asked to submit information concerning the sporting uses of the semiautomatic rifles they import. Thirty-nine importers were asked to submit this information and 19 responded. In general, their comments were conclusory and stated that their weapons could be used for sporting purposes. A small number of importers, *e.g.*, Gun South, Inc., and Heckler & Koch, Inc., provided more specific data showing the sporting uses made of their firearms by their customers.

Of 3 hunting associations to whom questionnaires were sent, 2 responded. They stated that they place no restrictions on the use of semiautomatic rifles by their members, on the minimum caliber of ammunition used to hunt large game, or on the number of rounds allowed in semiautomatic rifle magazines. However, over 1,800 hunting guides were sent questionnaires and, of these, 706 responded. Over 73 percent of those responding indicated that their patrons used either bolt or lever action rifles for hunting. Only 10 of the 706 guides indicated that their patrons had used any of the rifles whose importation had been temporarily suspended.

Of the 20 hunting/shooting editors to whom questionnaires were sent, 14 responded. Nine of the fourteen editors recommended semiautomatic rifles for use in hunting large game, including 5 who recommended use of any of the rifles subject to the temporary suspension. Eleven of the fourteen editors recommended semiautomatic rifles for target competitions, including 7 who recommended semiautomatic assault rifles for such use.

The recommendations of editors were contradictory. One editor pointed out that what made the assault rifle successful as a military weapon made the semiautomatic version totally unfit for any other use. On the other hand, another editor stated that semiautomatic rifles had certain advantages over conventional sporting rifles especially for the physically disabled and left-handed shooters. While this may be true, there appears to be no advantage to using a semiautomatic assault rifle as opposed to a semiautomatic sporting rifle.

A total of 54 competitive shooting groups were sent a questionnaire and 53 groups responded (some of the responses were from unsolicited groups). Fifty of these groups indicated that they sponsor high power rifle competition events. While none of the groups prohibited the use of the semiautomatic assault rifles in their competitions, none stated that any of the rifles covered by the temporary suspension were used in a specific event.

Finally, the information gathered under Item 7 reveals that most of these weapons could legally be used in most States for most hunting purposes.

The working group reviewed all of the information gathered under Items 1-6 and determined that while these weapons may legally be used for sporting purposes in most States, the evidence was compelling that, as a type of firearm, the semiautomatic assault rifle is not generally recognized as particularly suitable for sporting purposes. The working group found persuasive the technical and expert evaluations of these firearms which generally did not recommend them as particularly suitable for sporting purposes. The group was also impressed by the comments of the hunting guides which showed that these rifles were not widely used for hunting purposes. The comments of the hunting guides are consistent with the opinion of the technical experts who generally do not recommend the rifles for hunting purposes.

The opinions of the editors were fairly divided with respect to the sporting uses of these rifles. The importers generally recommended their own weapons for such uses. The competitive shooting groups indicated that the rifles could be used in certain shooting events. Thus, while there was some evidence that these rifles could be used for hunting and target shooting, there was no evidence of any widespread use for such purposes. The mere fact that they are not generally prohibited from use for sporting purposes does not mean that the rifles meet the test for importation.

CONCLUSIONS

The working group has dealt with a complex issue, the resolution of which has required the group to take into account interpretations of law, technical assessments of firearms and their physical characteristics, marketing data, the assessment of data compiled from responses to questionnaires and, finally, Bureau expertise with respect to firearms. We fully recognize that particular findings as well as the results will be controversial.

From the cross section of representation within ATF, we have brought to bear our technical, legal, and administrative expertise to resolve the issues in what we believe to be a fair manner, taking into consideration all points of view. While some of the issues were difficult to resolve, in the end we believe that the ultimate conclusion is clear and compelling. These semiautomatic assault rifles were designed and intended to be particularly suitable for combat rather than sporting applications. While these weapons can be used, and indeed may be used by some, for hunting and target shooting, we believe it is clear that they are not generally recognized as particularly suitable for these purposes.

The purpose of section 925(d)(3) was to make a limited exception to the general prohibition on the importation of firearms, to preserve the sportsman's right to sporting firearms. This decision will in no way preclude the importation of true sporting firearms. It will only prevent the importation of military-style firearms which, although popular among some gun owners for collection, self-defense, combat competitions, or plinking, simply cannot be fairly characterized as sporting rifles.

Therefore, it is the finding of the working group that the semiautomatic assault rifle is not a type of firearm generally recognized as particularly suitable for or readily adaptable to sporting purposes and that importation of these rifles should not be authorized under 18 U.S.C. § 925(d)(3).

Based on our evaluation, we recommend that the firearms listed on Attachment 7 not be authorized for importation. For the reasons discussed in this report, we recommend that the firearms listed on Attachment 8 be authorized for importation. These are the .22 rimfire caliber rifles and the Valmet Hunter which we do not believe are properly included in the category of semiautomatic assault rifles. Attachment 9 is a compilation of the responses from the questionnaires. Attachment 10 combines the criteria for identifying semiautomatic assault rifles and the items considered in assessing suitability. Attachments 11 and 12 contain the data compiled for each of the criteria listed in Attachment 10. Finally, Attachment 13 contains the source materials used in locating persons and organizations who were sent questionnaires.

NOTES

1. Paul Wahl, ed., Gun Trader's Guide, 13th Edition, (South Hackensack, NJ. 1987), 155-162.
2. Although a firearm might be recognized as "suitable" for use in traditional sports, it would not meet the statutory criteria unless it were recognized as particularly suitable for such use. Indeed, Senator Dodd made clear that the intent of the legislation was to " [regulate] the importation of firearms by excluding surplus military handguns; and rifles and shotguns that are not truly suitable for sporting purposes." 114 Cong. Rec. 13325 (1968) (Statement of Sen. Dodd) [emphasis added].

Similarly, it is apparent that the drafters of the legislation did not intend for "sports" to include every conceivable type of activity or competition which might employ a firearm; otherwise a "sporting purpose" could be advanced for every firearm sought to be imported. For example, in response to Sen. Hansen's question concerning the meaning of "sporting purposes" in the bill which became section 925(d), Senators Dodd and Hansen engaged in the following colloquy:

Mr. HANSEN. Would the Olympic shooting competition be a "sporting purpose?" "

Mr. DODD. I would think so.

Mr. HANSEN. What about trap and skeet shooting?

Mr. DODD. I would think so. I would think trap and skeet shooting would certainly be a sporting activity.

Mr. HANSEN. Would the Camp Perry national matches be considered a "sporting purpose?"

Mr. DODD. Yes: that would not [sic] fall in that arena. It should be described as a sporting purpose.

Mr. HANSEN. I understand the only difference is in the type of firearms used at Camp Perry which includes a wide variety of military types as well as commercial.

Would all of these firearms be classified as weapons constituting a "sporting purpose?"

Mr. DODD. No. I would not say so. I think when we get into that, we definitely get into military type of weapon for use in matches like these at Camp Perry; but I do not think it is generally described as a sporting weapon. It is a military weapon. I assume they have certain types of competition in which they use these military weapons as they would in an otherwise completely sporting event. I do not think that fact would change the nature of the weapon from a military to a sporting one.

Mr. HANSEN. Is it not true that military weapons are used in Olympic competition also?

Mr. DODD. I do not know. Perhaps the Senator can tell me. I am not well informed on that.

Mr. HANSEN. It is my understanding that they are. Would the Senator be inclined to modify his response if I say that is true? (27461)

Mr. DODD. It is not that I doubt the Senator's word. 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. I think the Senator would agree with that. I do not know how else we could describe it.

Mr. HANSEN. If I understand the Senator correctly, he said that despite the fact that a military weapon may be used in a sporting event it did not, by that action become a sporting rifle. Is that correct?

Mr. DODD. That would seem right to me As I said previously the language says no firearms will be admitted into this country unless they are genuine sporting weapons..... I think the Senator and I know what a genuine sporting gun is.

114 Cong. Rec. 27461-62 (1968).(Emphasis added.)

3. Ken Warner, ed., Gun Digest 1989, (Northbrook, IL 1988), pp. 293-300; William S. Jarrett, ed., Shooter's Bible, No. 80, (Hackensack, NJ 1988), pp. 345-363; Edward Clinton Ezell, Small Arms of the World, (Harrisburg, Pa. 1983), p. 844; Pete Dickey, "The Military Look-Alikes," American Rifleman, (April 1980), p. 31. Also, see generally, Ian V. Hogg, ed., Jane's Infantry Weapons, 1987-88, (New York 1987); Jack Lewis, ed., The Gun Digest Book of Assault Weapons, (Northbrook, IL 1986).
4. Art Blatt, "Tomorrow's State-of-the-Art Sporting Rifle," Guns & Ammo, (July 1981), p. 48; Jarrett, pp. 345-363; Warner, pp. 293-300.
5. Daniel D. Musgrave and Thomas B. Nelson, The World's Assault Rifles, (Virginia, 1967), p. 1.
6. See generally, Angus Laidlaw, ed., Paul Wahl's Big Gun Catalog/1, (Bogota, NJ 1988); Musgrave and Nelson; Hogg; Jarrett; and Warner.

7. Ibid.
8. Arizona, 5 rounds; Colorado, 6 rounds; Michigan 6 rounds; New Hampshire, 5 rounds; New York, 6 rounds; North Carolina, 6 rounds; North Dakota, 8 rounds; Oregon, 5 rounds; Pennsylvania, semiautomatic rifles prohibited; Vermont, 6 rounds.
9. See generally, Hogg; Musgrave and Nelson; Ezell; Warner; Jarrett; Laidlaw; and Lewis.
10. Ibid.
11. Ibid.
12. Ibid.
13. Ibid.
14. Ibid.
15. Ibid.
16. Ezell, p. 844; Dickey, p. 31.
17. Musgrave and Nelson, pp. 11-29; and, see generally, Hogg; and Ezell.
18. Ezell, pp.844-866; and, see generally, Warner; Jarrett; and Laidlaw.
19. See, for example, Walter Rickell, "The Plinker's AK GunsMagazine, (July 1986) p. 21; John Lachuk, "Bantam Battle Rifles," Guns & Ammo, (January 1987), p. 37; John Lachuk, ".22 Erma Carbine," Guns & Ammo, (May 1968), p. 58; JackLewis, "Something New: The AK in Twenty-Two," Gun World, (July 1985), p. 32; Roger Combs, "A Most Unique Carbine," Gun World, (December 1985), p. 28; Garry James, "Mitchell Arms AK-22," Guns & Ammo, (November 1985), p. 72.
20. See note 2, colloquy between Senators Dodd and Hansen.
21. Ibid.
22. See generally, bibliography.

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NOTE: This information was extracted from the document titled, “**Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles**”, published in a memorandum to the Director, Stephen E. Higgins from the Associate Director, Daniel R. Black and approved on July 6, 1989.



DEPARTMENT OF
THE TREASURY
STUDY ON
THE SPORTING
SUITABILITY
OF MODIFIED
SEMI-AUTOMATIC
ASSAULT RIFLES

APRIL 1998

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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.¹ 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

¹ 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.² 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

² 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.”³ 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.

³ H. Rep. No. 103-489, at 18-19.

BACKGROUND

Importation of Firearms Under the Gun Control Act

The Gun Control Act of 1968 (GCA)⁴ generally prohibits the importation of firearms into the United States.⁵ 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 1968⁶ 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.⁷

⁴ Pub. L. No. 90-618.

⁵ 18 U.S.C. section 922(l).

⁶ Pub. L. No. 90-351.

⁷ S. Rep. No. 1501, 90th 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."⁸ 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."⁹ 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."¹⁰

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."¹¹ (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."¹² 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

⁸ S. Rep. No. 1501, 90th Cong. 2d Sess. 22 (1968).

⁹ S. Rep. No. 1501, 90th Cong. 2d Sess. 24 (1968).

¹⁰ 114 Cong. Rec. S 5556, 5582, 5585 (1968).

¹¹ S. Rep. No. 1501, 90th Cong. 2d. Sess. 38 (1968).

¹² S. Rep. No. 1501, 90th 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.¹³

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.¹⁴

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 marketplace¹⁵

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."¹⁶

¹³ 114 Cong. Rec. 27461-462 (1968).

¹⁴ S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

¹⁵ S. Rep. No. 1097, 90th Cong. 2d. Sess. 2155 (1968) (views of Senators Dirksen, Hruska, Thurmond, and Burdick). In *Gun South, Inc. v. Brady*, 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)."

¹⁶ S. Rep. No. 1501, 90th 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.¹⁷ 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.¹⁸ 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.

¹⁷ S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

¹⁸ Gilbert Equipment Co. v. Higgins, 709 F. Supp. 1071, 1083, n. 7 (S.D. Ala. 1989), aff'd without op., 894 F.2d 412 (11th Cir. 1990).

1986 Firearms Owners Protection Act

On May 19, 1986, Congress passed the Firearms Owners Protection Act,¹⁹ 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."²⁰ 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."²¹

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."²² 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.²³ The court also agreed with ATF's conclusion that police/combat-style competitions were not considered sporting purposes.

¹⁹ Pub. L. No. 99-308.

²⁰ S. Rep. No. 98-583, 98th Cong. 1st Sess. 27 (1984).

²¹ Gilbert Equipment Co., 709 F. Supp. at 1083.

²² Id. at 1089.

²³ 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."²⁴ 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.²⁵ 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

²⁴ 1989 report at 6.

²⁵ 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.²⁶

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.²⁷

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.²⁸

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

²⁶ 1989 report at 6 (footnote omitted).

²⁷ The semiautomatic assault rifles were semiautomatic versions of machineguns.

²⁸ 1989 report at 9-11.

changed so that it was similar to a traditional sporting rifle.²⁹ 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.³⁰ 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."³¹ 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.³²

²⁹ 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.

³⁰ 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.

³¹ Id.

³² 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.³³

Violent Crime Control and Law Enforcement Act of 1994

On September 13, 1994, Congress passed the Violent Crime Control and Law Enforcement Act of 1994,³⁴ which made it unlawful, with certain exceptions, to manufacture, transfer, or possess semiautomatic assault weapons as defined by the statute.³⁵ The statute defined semiautomatic assault weapons to include 19 named models of firearms (or copies or duplicates of the firearms in any caliber);³⁶ 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.³⁷ However, Congress

³³ 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).

³⁴ 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."

³⁵ 18 U.S.C. section 922(v).

³⁶ 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.

³⁷ 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.³⁸

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."³⁹ 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, 1994.⁴⁰ 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.⁴¹

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."⁴² 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.⁴³

³⁸ 18 U.S.C. sections 922(v)(3)(C)&(D).

³⁹ H. Rep. No. 103-489, at 17, n. 19.

⁴⁰ 18 U.S.C. section 922(w).

⁴¹ 18 U.S.C. section 921(a)(31).

⁴² H. Rep. No. 103-489, at 13.

⁴³ 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."⁴⁴ In addition, Congress specifically exempted 661 long guns from the assault weapon ban which are "most commonly used in hunting and recreational sports."⁴⁵

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."⁴⁶ 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."⁴⁷

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

⁴⁴ H. Rep. No. 103-489, at 21.

⁴⁵ H. Rep. No. 103-489, at 20. None of these 661 guns are study rifles.

⁴⁶ H. Rep. No. 103-489, at 18.

⁴⁷ 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).⁴⁸ 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).⁴⁹ 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.⁵⁰ Moreover, the legislative history makes clear that the use of a military weapon in a practical shooting competition would not make that weapon

⁴⁸ 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.

⁴⁹ 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.

⁵⁰ 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.”⁵¹ 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.

⁵¹ 114 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.⁵² 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,⁵³ 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).⁵⁴ 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.⁵⁵ 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.”⁵⁶ 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

⁵² Gun South, Inc., 877 F.2d at 866.

⁵³ The VEPR caliber .308 discussed on page 16 has not yet been imported.

⁵⁴ 114 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.

⁵⁵ Gun South, Inc., 877 F.2d at 866.

⁵⁶ 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.⁵⁷ 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.⁵⁸

Our findings on use are contained in the “Suitability for Sporting Purposes” section of this report.

⁵⁷ **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.

⁵⁸ 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.⁵⁹ 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

⁵⁹ 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.⁶⁰

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.⁶¹ In enacting these bans, Congress made it clear that it was not preventing the possession of sporting firearms.⁶² 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

⁶⁰ 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.”)

⁶¹ 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.

⁶² 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."⁶³ 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 3-5.⁶⁴

Congress specifically exempted 661 long guns from the assault weapon ban that are "most commonly used in hunting and recreational sports."⁶⁵ 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.⁶⁶

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

⁶³ H. Rep. No. 103-489, at 18.

⁶⁴ 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).

⁶⁵ H. Rep. 103-489, at 20.

⁶⁶ These four firearms are the Iver Johnson M-1 carbine, the Iver Johnson 50th 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:⁶⁷

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.⁶⁸

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

⁶⁷ H. Rep. No. 103-489, at 15 (two of these examples involve handguns).

⁶⁸ 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.⁶⁹

⁶⁹ 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."⁷⁰ 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.⁷¹ 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.

⁷⁰ 1989 report at 11.

⁷¹ 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.⁷² 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.

⁷² 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.⁷³ 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.

⁷³ 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.⁷⁴ This included 81,842 rifles of which approximately 3,176 were LCMM rifles.⁷⁵ 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.

⁷⁴ 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.

⁷⁵ 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 ⁷⁶ 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.

⁷⁶ 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.

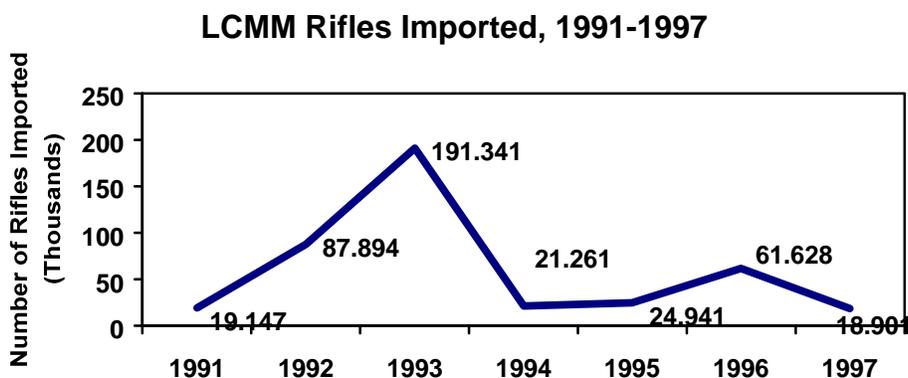


Figure 2

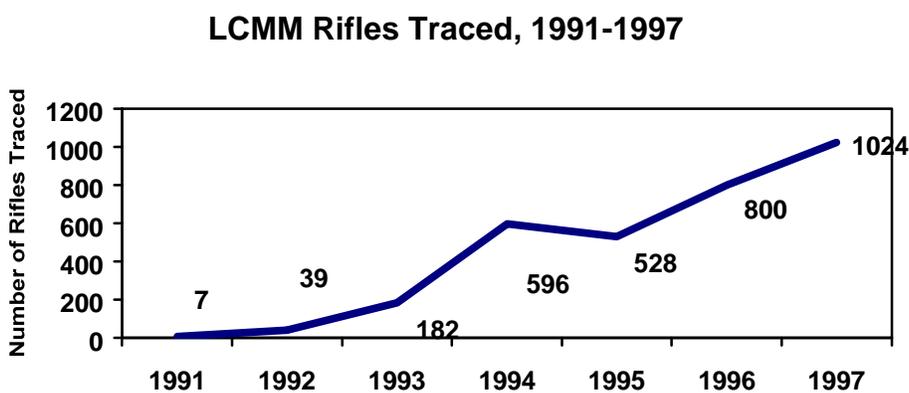


Figure 3

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 1994,⁷⁷ the number of trace requests for LCMM rifles continues to rise. This reflects a sustained and

⁷⁷ 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.⁷⁸ 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.⁷⁹

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.⁸⁰ 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.

⁷⁸ 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.

⁷⁹ 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.

⁸⁰ 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.”⁸¹ Moreover, this ability plays a role in increasing a firearm’s “capability for lethality,” creating “more wounds, more serious, in more victims.”⁸² 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.”⁸³

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.⁸⁴ 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.

⁸¹ H. Rep. No. 103-489, at 18.

⁸² H. Rep. No. 103-489, at 19.

⁸³ H. Rep. No. 103-489, at 13.

⁸⁴ 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.

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.

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.

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.

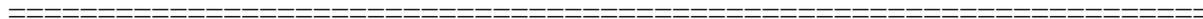
STUDY RIFLES

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

FN-FAL Variants



FN-FAL semiautomatic assault rifle



L1A1 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

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 (<i>Muzzle to Cylinder Face</i>)		
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 (<i>Unloaded</i>)			INVESTMENT CAST OR FORGED HTS ALLOY	20	
PER OUNCE	1		WEAPON WEIGHT (<i>Unloaded</i>)		
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 (<i>Drift or Click</i>)	5	
MAGAZINE SAFETY	5		TARGET GRIPS	5	
FIRING PIN BLOCK OR LOCK	10		TARGET HAMMER AND TARGET TRIGGER	5	
MISCELLANEOUS EQUIPMENT			SAFETY TEST		
EXTERNAL HAMMER	2		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.		
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*		

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).



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

O: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,


John W. Magaw
Director

Enclosure

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.

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

Hunting Guides

case	Number of clients Using			Recommend	
	Manual	Semiauto	AK47 et.al.	Any	AK47 et.al.
A 1	28	0	0	No	
A 2	100	10	0	Yes	No
A 3	18	0	0	No	
A 4	120	40	0	Yes	No
A 5	12	0	0	Yes	No
A 6	80	40	0	No	
A 7	275	25	0	No	
A 8					
A 9	0	0	0		
A 10	0				
A 11	2	5	0	Yes	Yes
A 12	12	0	0	Yes	No
A 13	10	6	0	No	No
A 14	5	7	0	No	
A 15	0	0	0		
A 16	20	0	0	No	No
A 17					
A 18	0	0	0	No	
A 19	17	6	0	No	
A 20	30	8	0	No	
A 21	117	7	0	Yes	No
A 22	160	0	0	Yes	No
A 23	23	1	0	Yes	No
A 24	100	5	0	Yes	No
A 25	210	10	0	Yes	No
A 26	12	4	1	Yes	Yes
A 27	24	3	0	Yes	No
A 28	20	15	0	Yes	No
A 29	4	0	0	No	No
A 30	4	0	0	Yes	No
A 31	100	5	0	No	No
A 32	1	0	0	No	No
A 33			0	No	No
A 34	142	1	0	No	
A 35	78	2	0	Yes	No
A 36	600	200		No	
A 37	20	13	1	No	
A 38	45	15	0	No	
A 39	100	10	0	No	
A 40	80	6	2	Yes	No
A 41	250	25	0	Yes	No
A 42	4	0	0	No	
A 43	14	2	0	No	No
A 44	171	15	0	Yes	No
A 45	54	6	0	Yes	No
A 46	10	6	0	No	
A 47	0	0	0	No	No
A 48	24	0	0	No	
A 49	180	2	0	Yes	No
A 50					
A 51					

Hunting Guides

case	Number of clients Using			Recommend	
	Manual	Semiauto	AK47 et.al.	Any	AK47 et.al.
A 52	24	16	0	No	
A 53	600	100	12	No	
A 54	18	6	0	No	
A 55	0	0	0	No	
A 56	0	0	0	No	
A 57	40	4	0	No	
A 58					
A 59	40	10	0	No	No
A 60	60	2	0	No	No
A 61	63	4	0	Yes	No
A 62	40	4	0	No	
A 63	8	0	0	Yes	No
A 64	27	1	0	Yes	No
A 65	50	9	0	Yes	No
A 66	35	2	0	No	
A 67	6	0	0	Yes	No
A 68	6	3		No	
A 69	50	20	0	No	
A 70		0	0	Yes	No
A 71	27	1	0	Yes	
A 72	85	0	0	Yes	No
A 73	56	24	0	Yes	No
A 74	25	25	0	Yes	No
A 75	100	20	0	No	
A 76	50	15	3	No	
A 77	15	4	0	No	
A 78	12	0	0	Yes	No
A 79	75	0	0	No	
A 80					
A 81	0	0	0	No	
A 82	0	0	0	No	
A 83	12	4	0	No	No
A 84	40	0	0	Yes	No
A 85	24	0	0	No	
A 86	17	0	0	No	No
A 87	16	3	0	Yes	No
A 88	45	10	0	No	
A 89	11	7	7	Yes	Yes
A 90	35	1	0	Yes	No
A 91	25	2	0	Yes	No
A 92	0	0	0		
A 93	75	40	0	Yes	No
A 94	60	2	0	Yes	No
A 95	26	0	0	No	
A 96	20	0		No	No
A 97	65	11	0	Yes	No
A 98	40	5	0	Yes	No
A 99	26	5	0	No	
A 100	13	2	0	No	
A 101					
A 102	45	6	0	No	No

-Hunting Guides

case	Number of clients Using			Recommend	
	Manual	Semiauto	AK47 et.al.	Any	AK47 et.al.
A 103	120	4	0	No	
A 104				Yes	
A 105	150	50	0	No	No
A 106	80	20	0	Yes	No
A 107	40	0	0	No	No
A 108	10	0	0	No	
A 109	160	40	0	Yes	No
A 110	10	10	0	No	No
A 111	6	0	0	No	
A 112					
A 113	150	150	100	Yes	Yes
A 114	50	25	0	No	No
A 115	19	0	0	Yes	No
A 116	80	3	0	No	
A 117	40	10	0	Yes	No
A 118					
A 119	50	0	0	Yes	No
A 120	0	0	0	No	
A 121	0	0	0		
A 122	120	15	0	Yes	No
A 123	10	0	0	Yes	No
A 124	22	0	0	Yes	No
A 125	40	40	20	No	
A 126	50	10	0	Yes	No
A 127	60	20	0	Yes	No
A 128	14	0	0	No	No
A 129	13	16	4	No	
A 130	80	4	0	Yes	No
A 131	12	2	0	Yes	No
A 132		4	0	Yes	No
A 133	50	26	7	No	No
A 134	12	0	0	No	
A 135	2	10	3	No	
A 136	2	1	1	Yes	No
A 137	28	0	0	Yes	No
A 138	45	10		No	
A 139	46	59	0	Yes	No
A 140			0	Yes	No
A 141	40	10	0	No	No
A 142	70	20	0	Yes	No
A 143	50	3	0	No	No
A 144	60	6	0	Yes	No
A 145	140	0	0	Yes	No
A 146	20	4	1	Yes	No
A 147	10	1	0	Yes	No
A 148	0	0	0	No	No
A 149	37	0	0	Yes	No
A 150			0	Yes	No
A 151	6	10	0	No	No
A 152	110	5	0	No	
A 153	15	17		Yes	No

Hunting Guides

case	Number of clients Using			Recommend	
	Manual	Semiauto	AK47 et.al.	Any	AK47 et.al.
A 154	18	4	0	No	
A 155	25	3	0	Yes	No
A 156	60	6	3	No	
A 157	20	0	0	No	
A 158	88	46	0	No	No
A 159	68	19	3	Yes	Yes
A 160	25	5	0	No	
A 161	15	0	0	No	
A 162	75	10	0	No	
B 1				No	
C 1	25	0	0	Yes	No
C 2	55	10	6	Yes	Yes
C 3	60	30	0	No	
C 4	80	20	0	No	
C 5	10	0	0	No	No
C 6	25	6	0	No	
C 7	66	10	1	No	
C 8	24	0	0	Yes	No
C 9	10	15	15	No	
C 10	35	15	9	Yes	Yes
C 11			0	No	
C 12					No
C 13	25	10	0	No	
C 14	60	20	0	Yes	No
C 15	20	0	0	Yes	No
C 16	14	0	0	No	
C 17		0	0	Yes	No
C 18	18	25	5	Yes	Yes
C 19	125	50	5	Yes	No
C 20	20	5	2	No	
C 21		0	0	Yes	No
C 22	30	0	0	No	No
C 23	150	20	0	Yes	No
C 24	60	0	0	No	
C 25	16	7	6	Yes	Yes
C 26	300	650	400	No	
C 27	20	15	8	Yes	Yes
C 28	3	5	2	No	
C 29	45	6	0	Yes	No
C 30				No	
C 31	30	0	0	Yes	No
C 32			0	Yes	No
C 33	35	4	0	Yes	No
C 34	25	5	0	Yes	No
C 35				Yes	No

Hunting Guides

Q4. Three most commonly used rifles				
case	Make	Other Make	Model	Caliber
A 1				
A 2				
A 3				
A 4	Browning		BAR	300
A 5				
A 6	Remington		742	30.06
A 7	Browning		BAR	30.06, .270, 7MM, 300 Mag
A 8				
A 9				
A 10				
A 11	Remington		740-7400	20, 30
A 12				
A 13	Remington		700	7 mm mag
A 14	Remington		7400	270
A 15				
A 16				
A 17				
A 18				
A 19	Browning			30.06
A 20	Remington		742	30.06
A 21				
A 22				
A 23	Browning		?	300 mag
A 24	Remington			30.06
A 25	Remington			30.06
A 26	Browning		BAR	30.06
A 27	Remington			30.06
A 28		?	?	06
A 29				
A 30				
A 31	Browning		automatics	
A 32				
A 33				
A 34	Remington			.3006
A 35	Browning			7 mm
A 36	Browning			30.06
A 37	Browning		BAR	30.06
A 38	Browning		br	7 mm, 300win, 30.06
A 39	Remington		7600	.270 win, .30-06, .280 rem
A 40	Browning		Bar mark II	300 win mag
A 41	Remington			
A 42				
A 43	Remington		7600	243 - 7 mm mag
A 44				30.06, 300 winmag, .338, 270
A 45	Browning		BAR Automatic	30.06

Hunting Guides

Q4. Three most commonly used rifles				
A 46	Browning		BAR	7 mm, 30.06
A 47				
A 48				
A 49				
A 50				
A 51				
A 52	Browning		BAR	7 mm mag/30.06
A 53	Browning		BAR	30.06, 300 wm
A 54	Browning		BAR	30.06
A 55				
A 56				
A 57	Browning		semi-auto	300 mag
A 58				
A 59				
A 60				
A 61	Browning			30.06
A 62	Browning			7 mm
A 63	Browning		BAR	.270 - 300 win mag
A 64	Browning		BAR	30.06
A 65	Browning		semi-auto	.308
A 66	Browning			
A 67				
A 68	Remington		7400	30.06
A 69	Browning			
A 70				
A 71	Browning		Not sure	
A 72				
A 73	Browning		BARR	30.06
A 74	Browning		BAR	300
A 75	Remington		7400 old 752	270 and 30.06
A 76	Browning		BAR	308, 30.06, 300win, 338 win
A 77	Remington			308
A 78	Browning			300, 270, 30.06
A 79				
A 80				
A 81				
A 82				
A 83				30 caliber or bigger for elk
A 84				
A 85				
A 86				
A 87	Browning			30.06 and 7 mm
A 88	Browning		BAR	7 mm, .300, .270
A 89	Other	Russian	SKS	7.62
A 90	Browning			1 or 2 in over 50 years
A 91	Browning			300 win mag

Hunting Guides

Q4. Three most commonly used rifles				
A 92				
A 93				
A 94	Browning		BAR	
A 95				
A 96				
A 97	Browning		BAR	300-06-270
A 98	Browning			300, 30.06
A 99	Other	Savage		7 mm
A 100	Browning		?	7 mm mag
A 101				
A 102	Browning	Only 1 I recall	BAR	30.06
A 103				
A 104				
A 105				
A 106	Browning		BAR	300 win mag
A 107				
A 108				
A 109	Browning			30.06
A 110	Remington		700	30.06, 270, 7 mm
A 111				
A 112				
A 113	Other	Weatherby		300 mag
A 114	Browning			7 m mag
A 115				
A 116				
A 117	Browning			
A 118				
A 119				
A 120				
A 121				
A 122	Browning		U/K	.338 mag
A 123				
A 124				
A 125				
A 126	Remington		742	243, 30.06
A 127	Winchester		?	30.06
A 128	Winchester			270, 306
A 129	Browning		BAR	7 mm and 243
A 130	Browning			30.06
A 131	Browning		BAR	.7 mm mag
A 132	Remington			30.06
A 133			AK 47	223
A 134				
A 135	Remington			270
A 136	Browning		BAR	
A 137				

Hunting Guides

Q4. Three most commonly used rifles				
A	138	Winchester		30.06
A	139	Browning	BAR	270, 7 mm
A	140	Browning		7 mm
A	141			
A	142	Browning		7 mm mag
A	143			
A	144	Browning		30.06
A	145			
A	146	Browning	BDL	7mg
A	147	Browning	BAR	308
A	148			
A	149			
A	150	Remington		
A	151	Browning	BAR	308
A	152	Remington		various 270 - 338
A	153	Browning		30
A	154	Browning	BAR	7 mm mag
A	155			30.06
A	156	Other	BAR	
A	157			
A	158	Remington	280	280
A	159	Browning		7 mm mag
A	160	Remington	Semiauto	30.06
A	161			
A	162	Browning		30.06
B	1			.308, 30-06, .270
C	1			
C	2	Other	AK-47	Antelope Hunter 30
C	3	Browning	Auto	30.06
C	4	Browning	Bar	7mm
C	5			
C	6			
C	7	Browning		30.06
C	8			
C	9	Other	FN-FAL	308
C	10	Remington	742	30.06
C	11	Browning		306
C	12			
C	13	Remington		.06 - 7mm
C	14	Browning	BAR	7mm
C	15			
C	16			
C	17			
C	18	Ruger		Ranch Rifle 223
C	19	Other	AK47	
C	20	Browning	BAR	300 win mag

Hunting Guides

Q4. Three most commonly used rifles				
C 21	Other	Bolt-action or pump		
C 22				
C 23	Browning			30.06
C 24				
C 25	Other	AK47		7.62-39
C 26	Other	HK	93	.308
C 27	Browning		BAR	7mm
C 28	Other	Norinco	SKS Type 56	7.62X39
C 29	Browning		BAR	30.06 -.300
C 30				
C 31				
C 32	Browning			3.06 - 7mm
C 33	Remington			30.06
C 34	Remington		741	.270 - 30.06
C 35	Remington			.270
A 1				
A 2				
A 3				
A 4	Remington		7400	30.06
A 5				
A 6	Browning			30.06
A 7	Remington		700	30.03, 270, 7 mm
A 8				
A 9				
A 10				
A 11	Winchester		100	30
A 12				
A 13	Winchester		70	300 mag
A 14	Remington		7400	30.06
A 15				
A 16				
A 17				
A 18				
A 19	Remington		7400	30.06
A 20	Browning			7 mm mag
A 21				
A 22				
A 23				
A 24	Browning			30.06
A 25	Browning			30.03 to 300 mag
A 26	Remington		Fieldmaster	30.06
A 27				
A 28				
A 29				
A 30				
A 31	Remington		automatics	

Hunting Guides

Q4. Three most commonly used rifles				
A 32				
A 33				
A 34				
A 35				
A 36	Remington			270 - 30.06
A 37	Remington		7400	30.06
A 38				
A 39	Browning		BAR	.270 win, 7 mm mag
A 40	Remington		7400	30.06
A 41	Browning			
A 42				
A 43	Browning		BAR	243 - 7 mm mag
A 44				
A 45				
A 46	Remington		1100	12 gauge
A 47				
A 48				
A 49				
A 50				
A 51				
A 52	Remington		7400	30.06
A 53	Remington		7400/742	30.06
A 54				
A 55				
A 56				
A 57	Remington		semi-auto	30.06
A 58				
A 59				
A 60				
A 61	Other	Savage		7 mm mag
A 62	Remington			30.06
A 63	Remington		742	.270 - 30.06
A 64				
A 65	Winchester		semi-auto	.308
A 66	Remington			
A 67				
A 68	Remington		7400	.308
A 69	Remington			
A 70				
A 71	Remington		742	30.06
A 72				
A 73	Remington			30.06
A 74	Remington		7600	30.06
A 75	Browning		BAR	270/338 and 30.06
A 76	Other	AK-47		30
A 77	Remington			30.06

Hunting Guides

Q4. Three most commonly used rifles				
A 78	Remington		?	300, 270, 30.06
A 79				
A 80				
A 81				
A 82				
A 83				
A 84				
A 85				
A 86				
A 87	Remington			30.06
A 88	Remington		742, 7400	30.06, .270
A 89	Other	Heckler-Koch	HK91	308
A 90	Remington			
A 91	Remington			30.06
A 92				
A 93				
A 94				
A 95				
A 96				
A 97				
A 98	Remington		760	.300, 30.06, 270
A 99	Browning			7 mm
A 100	Remington		742	30.06
A 101				
A 102				
A 103				
A 104				
A 105				
A 106				
A 107				
A 108				
A 109	Winchester			308
A 110				
A 111				
A 112				
A 113	Remington		700	7 mm mag
A 114	Remington		742 Wingmaster	30.06
A 115				
A 116				
A 117	Remington			
A 118				
A 119				
A 120				
A 121				
A 122				
A 123				

Hunting Guides

Q4. Three most commonly used rifles				
A 124				
A 125				
A 126	Ruger		22	
A 127	Marlin		?	.308
A 128	Remington			7 m
A 129				
A 130				
A 131	Browning		BAR	30.06
A 132				
A 133	Ruger		Mini 14	223
A 134				
A 135	Remington			243
A 136	Other	HK 91		
A 137				
A 138	Browning			308
A 139	Remington		742	30.06 - 6 mm
A 140	Remington			30.06
A 141				
A 142	Browning			300 win mag
A 143				
A 144	Browning			7 mm mag
A 145				
A 146	Browning		BDL	300
A 147				
A 148				
A 149				
A 150	Winchester			
A 151	Remington		742	30.06
A 152	Ruger			various 270 - 338
A 153	Winchester			30
A 154	Browning		BAR	30.06
A 155				
A 156	Other	AK-47		
A 157				
A 158	Winchester			338
A 159	Remington			30.06
A 160				
A 161				
A 162	Remington		742	30.06, 270
B 1				
C 1				
C 2				
C 3	Winchester		Auto	30.06
C 4	Browning		Bar	338
C 5				
C 6				

Hunting Guides

Q4. Three most commonly used rifles				
C 7	Remington			30.06
C 8				
C 9	Other	Uzi		9mm
C 10	Other	AK-47	Hunter	7.62x39
C 11	Other	Weatherby		300
C 12				
C 13	Winchester			.06 - 7mm
C 14	Browning			300
C 15				
C 16				
C 17				
C 18	Other	AK-47		
C 19	SigArms		550-1	
C 20	Ruger		Mini 14	.223
C 21				
C 22				
C 23	Remington		742	30.06
C 24				
C 25	Other	MAK-90		7.62-39
C 26	Other	HK	91	0.223
C 27	Remington		7400 Series	30.06
C 28	Remington		7600	30.06
C 29	Remington		742	.308 - 3.06
C 30				
C 31				
C 32	Remington			30.06 - 7mm
C 33	Browning			300 win
C 34	Browning			.270 - 30.06
C 35	Browning			300
A 1				
A 2				
A 3				
A 4	Ruger		Mini 14	223
A 5				
A 6	Other	Savage		270
A 7				
A 8				
A 9				
A 10				
A 11				
A 12				
A 13	Browning		A-bolt	270
A 14				
A 15				
A 16				
A 17				

Hunting Guides

Q4. Three most commonly used rifles				
A 18				
A 19				
A 20				
A 21				
A 22				
A 23				
A 24				
A 25				
A 26	Other	China	SKS	7.62x37
A 27				
A 28				
A 29				
A 30				
A 31				
A 32				
A 33				
A 34				
A 35				
A 36	Winchester			270 - 30.06
A 37				
A 38				
A 39				
A 40	Ruger			44 mag
A 41				
A 42				
A 43	Ruger			223 - 30.06
A 44				
A 45				
A 46				
A 47				
A 48				
A 49				
A 50				
A 51				
A 52				
A 53	Ruger		Mini-14	.223
A 54				
A 55				
A 56				
A 57	Ruger		semi-auto	35 cal
A 58				
A 59				
A 60				
A 61				
A 62	Ruger		Mini 14	223
A 63				

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Q4. Three most commonly used rifles				
A 64				
A 65				
A 66				
A 67				
A 68				
A 69				
A 70				
A 71				
A 72				
A 73				
A 74	Browning		BAR	30.06
A 75				
A 76	Remington			30.06, 270
A 77	Browning			300
A 78				
A 79				
A 80				
A 81				
A 82				
A 83				
A 84				
A 85				
A 86				
A 87				
A 88				
A 89	Other	Springfield Armory	FNG	308
A 90				
A 91				
A 92				
A 93				
A 94				
A 95				
A 96				
A 97				
A 98				
A 99				
A 100				
A 101				
A 102				
A 103				
A 104				
A 105				
A 106				
A 107				
A 108				
A 109				

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Q4. Three most commonly used rifles				
A 110				
A 111				
A 112				
A 113	Other	All		30.06
A 114	Remington		721	270
A 115				
A 116				
A 117				
A 118				
A 119				
A 120				
A 121				
A 122				
A 123				
A 124				
A 125				
A 126	Browning	Remington	Shotguns	12 gauge
A 127	Remington			.308 or 30.06
A 128	Other	Savage		308
A 129				
A 130				
A 131				
A 132				
A 133	Browning		BAR	7 mm
A 134				
A 135	Browning		742	30.06
A 136	Other	AK 47		
A 137				
A 138				
A 139	Other	Weatherby		300 m
A 140				
A 141				
A 142				
A 143				
A 144				
A 145				
A 146	Ruger		#1	7 mag
A 147				
A 148				
A 149				
A 150	Browning			
A 151				
A 152	Browning			various 270 - 338
A 153				
A 154	Browning		BAR	8 mm mag
A 155				

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Q4. Three most commonly used rifles				
A	156	Other	Uzi	
A	157			
A	158	Browning		300
A	159			
A	160			
A	161			
A	162			
B	1			
C	1			
C	2			
C	3	Browning	Auto	270
C	4	Browning	Bar	300
C	5			
C	6			
C	7			
C	8			
C	9	Other	HK91	
C	10	Browning	BAR	30.06
C	11			
C	12			
C	13	Browning		300
C	14			
C	15			
C	16			
C	17			
C	18			
C	19			
C	20	Other	AK47	7.62 x 39
C	21			
C	22			
C	23	Remington	742	308, 270
C	24			
C	25		M1-A1	.223
C	26			
C	27	Winchester	Various	M1 Garand
C	28			30.06
C	29		M1A1	30.06
C	30			
C	31			
C	32			
C	33			
C	34			
C	35			

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 1				
A 2	Ruger			30.06
A 3				
A 4	Other	Weatherby	Mark V	300
A 5				30.06
A 6				
A 7				
A 8				
A 9				
A 10				
A 11				
A 12				
A 13				
A 14				
A 15				
A 16				
A 17				
A 18				
A 19				
A 20				
A 21	Winchester			30.06, .270
A 22	Remington		700	7 mm or larger
A 23	Winchester		70	25 to 30
A 24	Remington		710	30.06
A 25		Any make	Bolt action	Does not recommend
A 26	Winchester		70	30.06 or larger
A 27	Other	Weatherby		300
A 28	Other	bolt action		270 and up
A 29				
A 30		hunter's choice		.270
A 31				
A 32				
A 33				
A 34				
A 35	Winchester		70	300 win mag
A 36				
A 37				
A 38				
A 39				
A 40	Remington			30.06 - 300 win mag
A 41				
A 42				
A 43				
A 44				30.06, 300winmag, 338, 270
A 45	Browning		Bolt Action	25.06 - 328

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 46				
A 47				
A 48				
A 49	Other	Weatherby		300 mag
A 50				
A 51				
A 52				
A 53				
A 54				
A 55				
A 56				
A 57				
A 58				
A 59				
A 60				
A 61	Remington		Bolt Action	300 mag
A 62				
A 63	Other	bolt action repeating rifles		30.06 to .338 winmag
A 64	Winchester		70	338
A 65	Remington		bolt action	308,25-06,243,7 mm mag,30.06,22-250,300 mag all
A 66				
A 67	Ruger		#1	7 mm, 30.06, 7 mm mag
A 68				
A 69				
A 70	Other		Bolt Action	30.06
A 71				300 mag
A 72	Other	Any make	Any model	7 mm, 270, 30.06, 25.06
A 73				
A 74	Browning		BAR	300 win mag
A 75				
A 76				
A 77				
A 78	Browning		Bolt action	
A 79				
A 80				
A 81				
A 82				
A 83				
A 84				
A 85				
A 86				
A 87	Remington		700	30.06, 7 mm, 270
A 88				
A 89	Other	Russian	SKS	7.62
A 90	Other	Weatherby		7 mm mag

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 91	Remington		700	7 mag
A 92				
A 93	Winchester		70	300 mag
A 94	Other	Any bolt action		270 or larger
A 95				
A 96				
A 97	Other	Any bolt action		30 or larger, on semiauto same
A 98				
A 99				
A 100				
A 101				
A 102				
A 103				
A 104				
A 105				
A 106	Other	Weatherby		300 magnum
A 107				
A 108				
A 109	Remington		70	7 mm
A 110				
A 111				
A 112				
A 113				
A 114				
A 115				
A 116				
A 117				magnum
A 118				
A 119	Remington		700	7 mm
A 120				
A 121				
A 122				
A 123				
A 124				
A 125				
A 126				300 mag, 338 mag, 30.06
A 127				
A 128				
A 129				
A 130	Remington		700	7 mm magnum
A 131				
A 132	Other	Weatherby		300 mag
A 133				
A 134				
A 135				

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Q 6. Rifles recommended for clients

case	Make	Other Make	Model	Caliber
A 136				
A 137	Remington		700	7 mm
A 138				
A 139	Browning		BAR	7 m or 270
A 140				
A 141				
A 142				30.06
A 143				
A 144	Browning			from 7 mm mag to 338 mag for deer and elk
A 145	Winchester			30.06
A 146	Browning		BDL	7 mag
A 147	Remington		700 BDL	7 mm
A 148				
A 149				
A 150	Browning		Bolt action	
A 151				
A 152				
A 153	Remington		700	30
A 154				
A 155	Other	Weatherby		300
A 156				
A 157				
A 158				
A 159	Browning	Ruger		243, 30.06, 7 mm mag, 340 weather, .338
A 160				
A 161				
A 162				
B 1				7.62 x 39
C 1	Other	Manually operated		
C 2	Ruger		77	300
C 3				
C 4				
C 5				
C 6				
C 7				
C 8	Remington		700	270
C 9				
C 10	Other	HK	91	.308
C 11				
C 12				
C 13				
C 14	Other	Bolt-action w/ belted mag		Calibers, make and model mean nothing
C 15	Other	Bolt-action		30.06-7mm
C 16				
C 17	Other	Bolt-action		

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
C 18	Ruger		Ranch Rifle	223
C 19				.243 and larger
C 20				
C 21				
C 22				
C 23	Other	Bolt-action		7mm mag
C 24				
C 25	Other	Savage		7mm mag
C 26				
C 27	Winchester		70	30.06
C 28				
C 29	Winchester		70	30.06 - .338
C 30				
C 31	Winchester		Manual, bolt	300
C 32	Remington		All	270 - 7mm
C 33	Winchester		70	30.06 - .300 win
C 34	Other	Bolt-action		270 or larger for elk and deer
C 35	Other	Bolt-action or semiautos		.270 or larger
A 1				
A 2	Remington			7 mm
A 3				
A 4	Winchester		70	300
A 5				
A 6				
A 7				
A 8				
A 9				
A 10				
A 11				
A 12				
A 13				
A 14				
A 15				
A 16				
A 17				
A 18				
A 19				
A 20				
A 21	Remington		70	30.06
A 22	Winchester		70	7 mm or larger
A 23	Remington		700	25 to 30
A 24	Remington			300 Mag
A 25				
A 26	Browning		A bolt	30.06 or larger
A 27				300 win mag, 30.06 or 270

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 28				
A 29				
A 30		hunter's choice		.308
A 31				
A 32				
A 33				
A 34				
A 35	Remington		700 BDL	7 mm
A 36				
A 37				
A 38				
A 39				
A 40	Winchester			30.06 - 300 win mag
A 41				
A 42				
A 43				
A 44				
A 45	Remington		Bolt Action	25.06 - 328
A 46				
A 47				
A 48				
A 49				
A 50				
A 51				
A 52				
A 53				
A 54				
A 55				
A 56				
A 57				
A 58				
A 59				
A 60				
A 61	Other	Savage	Bolt Action	7 mm mag
A 62				
A 63				
A 64	Remington		700	300 win mag
A 65	Other	Weatherby		
A 66				
A 67	Remington		Bolt Action	7 mm, 30.06, 7 mm mag
A 68				
A 69				
A 70			Pump	30.06
A 71				7 mm mag
A 72				

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 73				
A 74	Winchester		7C	300 win mag
A 75				
A 76				
A 77				
A 78	Remington		Bolt Action	
A 79				
A 80				
A 81				
A 82				
A 83				
A 84				
A 85				
A 86				
A 87	Browning			308, 7 mm, 30.06
A 88				
A 89	Other	Heckler-Koch	HK-91	308
A 90				
A 91	Winchester		70	300 mag
A 92				
A 93	Browning		Mark II	300 mag, 280-270-25.06
A 94				
A 95				
A 96				
A 97	Other	Semi-auto		30 cal or larger
A 98				
A 99				
A 100				
A 101				
A 102				
A 103				
A 104				
A 105				
A 106	Remington		700	300 win mag
A 107				
A 108				
A 109	Winchester			300 mag, 30.06
A 110				
A 111				
A 112				
A 113				
A 114				
A 115				
A 116				
A 117				

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 118				
A 119	Other	Weatherby		300
A 120				
A 121				
A 122				
A 123				
A 124				
A 125				
A 126				
A 127				
A 128				
A 129				
A 130				
A 131				
A 132	Other	Weatherby		700 mag
A 133				
A 134				
A 135				
A 136				
A 137	Other	Weatherby		300
A 138				
A 139	Remington		742	30.06 or 6 mm
A 140				
A 141				
A 142				7 mm recommended for deer and elk
A 143				
A 144	Other	Weatherby		from 7 mm mag to 338 for deer
A 145	Other	Weatherby		300
A 146	Browning		BDC	300
A 147				
A 148				
A 149				
A 150	Winchester		Bolt Action	
A 151				
A 152				
A 153	Remington		700	7 mm
A 154				
A 155	Other	Weatherby		7 mm
A 156				
A 157				
A 158				
A 159	Winchester	Remington		340 Weather - .338 mag
A 160				
A 161				
A 162				

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
B 1				
C 1				
C 2	Browning			300
C 3				
C 4				
C 5				
C 6				
C 7				
C 8	Remington		700	280
C 9				
C 10	Winchester		70	.270
C 11				
C 12				
C 13				
C 14				
C 15				
C 16				
C 17	Other	Pump		
C 18	Other	AK-47		
C 19				6mm
C 20				
C 21				
C 22				
C 23	Other	Bolt-action		.30
C 24				
C 25	Other	Bolt-action		30.06
C 26				
C 27	Ruger		77	.300 win mag
C 28				
C 29	Remington		700	30.06-.338
C 30				
C 31	Remington		Manual bolt	300
C 32	Browning		All	.270 - 7mm
C 33	Ruger		77	30.06 - .300 win
C 34				
C 35				
A 1				
A 2	Winchester			375
A 3				
A 4	Winchester		70	270
A 5				
A 6				
A 7				
A 8				
A 9				

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 10				
A 11				
A 12				
A 13				
A 14				
A 15				
A 16				
A 17				
A 18				
A 19				
A 20				
A 21	Remington		70	.270
A 22				
A 23	Other	Any bolt action	1-5 shotmag	25 to 30
A 24	Other	Weatherby		300 mag
A 25				
A 26				
A 27				
A 28				
A 29				
A 30				
A 31				
A 32				
A 33				
A 34				
A 35				
A 36				
A 37				
A 38				
A 39				
A 40	Ruger			30.06 - 300 win mag
A 41				
A 42				
A 43				
A 44				
A 45	Winchester		Bolt Action	25.06 - 328
A 46				
A 47				
A 48				
A 49				
A 50				
A 51				
A 52				
A 53				
A 54				

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 55				
A 56				
A 57				
A 58				
A 59				
A 60				
A 61	Other	Weatherby	Bolt Action	338 mag
A 62				
A 63				
A 64	Other	Weatherby Mark V		300 Wea Mag
A 65	Winchester	Browning		
A 66				
A 67	Winchester	Bolt Action		
A 68				
A 69				
A 70			Bolt Action	7 mm
A 71				
A 72				
A 73				
A 74	Browning		A Bolt	300 win mag
A 75				
A 76				
A 77				
A 78				
A 79				
A 80				
A 81				
A 82				
A 83				
A 84				
A 85				
A 86				
A 87	Other	Weatherby		300, 7 mm, 338
A 88				
A 89	Other	Springfield Armory	FNG	308
A 90				
A 91	Ruger		77	300 mag
A 92				
A 93	Ruger		M77	270, 26-06, 300 mag
A 94				
A 95				
A 96				
A 97				
A 98				
A 99				

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 100				
A 101				
A 102				
A 103				
A 104				
A 105				
A 106	Browning		1895	45-70 govt
A 107				
A 108				
A 109				
A 110				
A 111				
A 112				
A 113				
A 114				
A 115				
A 116				
A 117				
A 118				
A 119	Other	Savage		270 or 30.06
A 120				
A 121				
A 122				
A 123				
A 124				
A 125				
A 126				
A 127				
A 128				
A 129				
A 130				
A 131				
A 132				
A 133				
A 134				
A 135				
A 136				
A 137				
A 138				
A 139				
A 140				
A 141				
A 142				300 winmag recommended
A 143				
A 144	Remington	Weatherby		from 270 to 338 for deer and elk

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 145	Remington			270
A 146	Ruger		#1	7 mag
A 147				
A 148				
A 149				
A 150				All bolt action with a round nose point
A 151				
A 152				
A 153				
A 154				
A 155				
A 156				
A 157				
A 158				
A 159				300mag,416Rigby,375mag,270 mag,500 nitroexpress
A 160				
A 161				
A 162				
B 1				
C 1				
C 2	Other	Sako		300
C 3				
C 4				
C 5				
C 6				
C 7				
C 8				
C 9				
C 10	Winchester		100	.308
C 11				
C 12				
C 13				
C 14				
C 15				
C 16				
C 17	Other	Weatherby		243 to 300
C 18				
C 19				
C 20				
C 21				
C 22				
C 23				
C 24				
C 25				
C 26				

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
C 27	Springfield		M Garard	30.06 - 308
C 28				
C 29	Browning		A bolt	30.06 - .338
C 30				
C 31				
C 32	Ruger		All	.270 - 7 mm
C 33	Browning		A bolt	30.06 - 300 win
C 34				
C 35				

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Q 8. Recommended rifles based on AK47 et.al.					
case	Make	Other Make	Model	Caliber	
A	26	AK47		7.62x37	
A	89	Other	Russian	SKS	7.62
A	113	FN-FAL			
A	159	AK47			
C	2	AK47		Antelope and Varmints and Target Shooters	30
C	10	AK47			7.62x39
C	18	AK47			
C	25	AK47			7.62
C	27	FN-FAL			308
A	26		SKS		7.62x37
A	89	HK91			308
A	113		HK 99		
C	2	AK47		Antelope and Varmints and Target Shooters	243
C	10	HK91			308
C	25		MAK 90		7.62
C	27		Century	L1A1	308
A	89	Other	Springfield Armory	FNG	308
A	113	HK93			
C	10	HK93			223
C	25		M-15		223
C	27	HK91	And clones		308

Additional Comments by Hunting Guides

Additional comments:

- (8) The respondent answered questions 1, 2, 3, and 5 with "None of your business." He then stated in question 4: "It's none of your business what kind, make, model or how many guns law abiding citizens of the U.S. own, prefer to shoot."
- (9) The respondent wrote that he was no longer in business but that he had owned a waterfowl operation and upland bird operation (shotguns only). He added that assault rifles were not true sporting rifles and that they should be limited to use by the military and law enforcement agencies. However, he felt that true sporting weapons that can be modified into some "quasi-assault weapons" should not be restricted. He stated that he supported the effort to get military weapons off the streets but did not want the rights of true sportsmen to be affected.
- (10) Although licensed, the respondent did not guide anyone during the past year.
- (11) The respondent stated in question 6 that he recommends any legal caliber rifle that client is comfortable with and that is capable of killing the desired game.
- (12) For question 6, the respondent replied that he didn't recommend any specific make or model, other than whatever his clients are most comfortable using so long as the weapons are legal for the particular game.
- (15) The respondent stated that his organization was solely recreational wildlife watching and photography.
- (17) The respondent did not answer the questions but informed us that it is illegal in Hawaii to hunt turkey with a rifle.
- (23) The respondent stated that the study rifles were more suitable for militants than sportsmen. He added, "If they want to use these weapons let them go back to the service and use them to defend our country, not against it."
- (25) The respondent stated that, in his 35 years of conducting big game hunts, he had never seen any of the study rifles used for hunting. He suggested that the rifles are made to kill people, not big game.
- (26) The respondent recommended bolt-action rifles for his clients but stated that he doesn't demand that they use such rifles. The respondent recommended the study rifles in close-range situations in which there are multiple targets that may pose a danger to the hunter (e.g., coyotes, foxes, mountain lions, and bears).
- (27) The respondent stated that he recommended the study rifles for hunting but not any specific make.

- (32) The respondent said that most of his clients are bow or pistol hunters. He said that there is little if any use for the study rifles in his outfitting service because it focuses on hunts of mountain lions and bighorn sheep. However, he did recommend the study rifles on target ranges and in competitive shooting situations and cited his right to bear arms.
- (35) The respondent recommended bolt-action rifles for his clients.
- (40) The respondent stated that semiautomatic rifles (such as the AK47) and others are useful for predator hunting.
- (41) The respondent said that he recommended only ranges of calibers deemed suitable but not makes and models of specific rifles.
- (44) The respondent recommended the following calibers for hunting without any specific makes or models: 30.06, 300 Win mag, 338, and 270.
- (47) The respondent stated: "You are asking questions about certain makes of assault rifles, but you are going to end up going after ALL semiautomatic guns. I've spent about 21 years HUNTING with shotguns and I've used semiautomatic models. If you go down the list of times that one new law didn't end up being a whole sloo [sic] of other laws I would be surprised. Maybe some face-to-face with these weapons would be a good thing for politicians. If they see how they are used in 'the Real World' then they may make better amendments."
- (49) The respondent specifically recommended the study rifles only for grizzly bears or moose.
- (50) The respondent stated that his business involved waterfowl hunting, which uses only shotguns.
- (51) The respondent replied: "It is my opinion this is a one sided survey, and does not tell the real meaning and purpose of the survey. And that is to ban all sporting arms in the future. The way this survey is presented is out of line."
- (53) The respondent stated: "I recommend to all my hunters that they join the NRA, vote Republican, and buy a good semi-auto for personal defense."
- (57) The respondent stated that most of his clients use bolt-action rifles. He suggested that semiautomatics are not as accurate as bolt-action rifles.
- (58) The respondent stated that the survey did not pertain to his waterfowl hunting business since only shotguns are used. He added that he did not believe semiautomatics in general present any more threat to the public than other weapons or firearms. However, he suggested that cheaply made assault-type rifles imported from China and other countries are inaccurate and not suitable for hunting.
- (59) The respondent stated that he had no knowledge of the semiautomatic rifles beyond 30.06 or similar calibers for hunting. He added that he did not have a use for "automatic" weapons.

- (64) The respondent stated: "We need to look at weapons and determine what the designer's intent was for the weapon. We really don't need combat weapons in the hunting environment. I personally would refuse to guide for anyone carrying such a weapon."
- (65) The respondent recommended the following calibers for hunting: 7mm, 30.06, .308, .708, 25.06, .243, 22.250, and 300 mag. However, he stated that the study rifles are of no use to the sporting or hunting community whatsoever.
- (71) The respondent stated that he mainly hunts elk but did not recommend any additional information about specific firearms except for using 300 mag and 7 mm mag calibers.
- (73) The respondent recommended any bolt-action or semiautomatic in the 30 or 7mm calibers. However, he stated that he doesn't allow his clients to use any models based on assault rifles: "They are not needed for hunting. A good hunter does not have these."
- (78) The respondent recommended bolt-action rifles for hunting, particularly Browning and Remington.
- (80) Although the respondent stated that he does not conduct guides, he did not see a reason to allow any rifles other those manufactured specifically for hunting and sport shooting: "All assault rifles are for fighting war and killing humans."
- (82) The respondent stated that he used shotguns only.
- (84) The respondent said that he did not allow semiautomatic or automatic rifles in his business. He specifically recommended manually operated rifles.
- (90) The respondent stated that all the semiautomatics like AK47s are absolutely worthless and that he found no redeeming hunting value in any AK47 type of rifle. He further explained that the purpose of hunting is to use the minimum number of shells, not the maximum: "I have only known 1 [person] in 50 years to use an AK47. He shot the deer about 30 times. That wasn't hunting, it was murder." He suggested that he would be willing to testify in Congress against such weapons.
- (92) The respondent stated that he had been contacted in error, as he was not in the hunting guide business.
- (98) The respondent recommended any rifle that a client can shoot the best.
- (101) The respondent wrote a letter saying that his business was too new to provide us with useful information about client use; however, he stated that the Chinese AK47 does a proficient job on deer and similar sizes of game and may be the only rifle that some poor people could afford. He said that he is willing to testify to Congress about the outrageous price of certain weapons.
- (102) The respondent did not recommend rifles but recommended calibers .270, 30.06, .300, and 7mm.

- (103) The respondent stated that he had clients who used semiautomatic rifles, but he didn't know which makes or models.
- (104) The respondent recommended any legal weapons capable of killing game, "including the types mentioned under the 2nd amendment."
- (105) The respondent stated that the semiautomatic rifles used by his clients were Remingtons.
- (112) The respondent stated that he could not provide any useful information because his business was too new.
- (113) The respondent recommended whatever is available to knock down an elk. He recommended specific calibers: 30.06, 300, or 338.
- (115) The respondent questioned why anyone would use a semiautomatic firearm to hunt game: "Anyone using such horrible arms should be shot with one themselves. Any big game animal does not have a chance with a rifle and now you say people can use semiautomatic rifles."
- (116) The respondent had had three clients who used semiautomatics with 30.06 and 270-caliber ammunition; however, he didn't know the makes or models.
- (118) The survey questions were not answered, but the respondent wrote: "This is a stupid survey. No one contends they hunt much for big game with an AK47. The debate is over the right to own one, which the 2nd amendment says we can."
- (119) The respondent recommended bolt-action rifles for hunting.
- (121) The respondent stated that he uses only shotguns in his operation.
- (122) The respondent recommended rifles with the calibers of .270 - 30.06 or larger to the .300 mag or .338 mag. However, he said that anything other than a standard semiautomatic sporting rifle is illegal in Colorado, where his business is conducted.
- (123) The respondent, who is a bighorn sheep outfitter, stated that the semiautomatic rifles have no place in big game hunting. He recommended basic hunting rifles with calibers of 270 or 30.06.
- (124) The respondent, who hunts mainly deer and elk, recommended calibers 270, 30.06, 300 mag, 7mm, 8mm, or 338.
- (125) The respondent said that his clients did use semiautomatics, but he didn't have any specific information about which ones.
- (126) The respondent stated that the study rifles should remain in one's home or on private property. He would like to have some for personal use but would not recommend them for hunting. He further expressed his displeasure with the Brady bill and stated that criminals need to be held accountable for their actions.
- (127) The respondent, who hunts mostly elk and deer, said that the AK47 is not powerful enough to hunt elk; however, it may be ideal for smaller game, like deer or antelope. He recommended any rifles of 30.06 caliber or larger for hunting.

- (131) The respondent recommended bolt-action rifles for his clients with calibers .24, .25, 7 mm, or .30. He cited his preference because of fewer moving parts, their ease to fix, and their lack of sensitivity to weather conditions in the field. He added, however, that he had seen the study rifles used with good success.
- (132) The respondent stated that the study rifles are not worth anything in cold weather.
- (133) The respondent recommended handguns for hunting in calibers 41 or 44 mag.
- (136) The respondent did not recommend any rifles by make, but he did recommend a caliber of .308 or larger for elk.
- (140) The respondent recommended any good bolt or semiautomatic in 270 caliber and up. He added: "I feel the government is too involved in our lives and seek too much control over the people of our country. I am 65 yrs old and see more of our freedom lost every day. I believe in our country but I have little faith in [organizations] like the A.T.F."
- (145) The respondent stated: "Don't send these guns out west. Thanks!"
- (148) The respondent did not hunt turkey or deer and had no additional information to provide.
- (149) The respondent said that he recommends specific rifles to his clients if they ask, usually 270 to 7mm caliber big game rifles.
- (150) The respondent recommended Winchester, Remington, or any other autoloading hunting rifle.
- (152) The respondent said that he recommended caliber sizes but not specific rifles.
- (159) The respondent recommended any gun with which a client can hit a target. He stated that the AK47 could be used for hunting and target shooting.
- (174) The respondent recommended bolt-action rifles to his clients.
- (175) The respondent said that most of his deer-hunting clients use bolt-action rifles, such as Rugers and Remingtons, in calibers of 30.06, 270, or 243. In his duck guide service, only shotguns are used.
- (180) The respondent wrote: "We agree people should not be allowed to have semiautomatics and automatics. This does not mean that you silly bastards in Washington need to push complete or all gun control."
- (182) The respondent felt that the survey is biased because it didn't ask about hunting varmints. He stated that many of the study rifles are suitable for such activity.
- (184) The respondent did not recommend single shots or automatics and only allows bolt action or pumps for use by his clients.

- (188) The respondent wrote that the study guns are good for small game hunting: "I have very good luck with them as they are small, easy to handle, fast-shooting and flat firing guns."
- (192) The respondent submitted a letter with the survey: "I do not recommend the use of semiautomatic weapons for hunting in my area. Most of these weapons are prone to be unreliable because the owner does not know how to properly care for them in adverse weather. The FN-FAL, HK91, HK93, and SIG SG550-1 are excellent and expensive weapons very much suited to competition shooting.
- "Have you surveyed the criminal element on their choice of weapons? I suspect the criminal use of the six weapons you mentioned do law-abiding citizens compare a very small percentage to the same weapon used. I realize that even one wrongful death is too many but now can you justify the over 300,000 deaths per year from government supported tobacco?
- "Gun control does not work - it never has and it never will. What we need are police that capture criminals and a court system with the fortitude to punish them for their crimes."
- (198) The respondent stated that this was his first year in and that it was mainly a bow-hunting business.



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

DEC 10 1997

O:F:S:DMS
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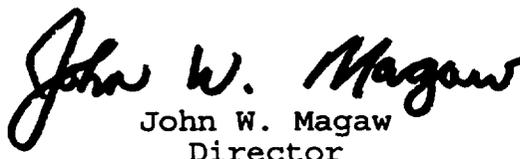
Dear Sir or Madam:

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 your organization 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 30 days following the date of this letter; those received after that date cannot be included in the review. Responses should be forwarded to the Bureau of Alcohol, Tobacco and Firearms, Department HSE, P.O. Box 50860, Washington, DC 20091. We appreciate any information you care to provide.

Sincerely yours,


John W. Magaw
Director

Enclosure

ATF SURVEY OF HUNTING/SHOOTING EDITORS FOR RIFLE USAGE

Page 1 of 2

1. Does your publication recommend specific types of centerfire semiautomatic rifles for use in **hunting medium game (for example, turkey) or larger game (for example, deer)?**

_____ Yes (*Continue*) _____ No (*Skip to #3*)

2. If your answer to item 1 is "Yes", please identify the specific centerfire semiautomatic rifles you recommend.

<u>Make</u>	<u>Model</u>	<u>Caliber</u>
-------------	--------------	----------------

3. Does your publication recommend **against** the use of any semiautomatic rifles whose design is based on the **AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi** for use in **hunting medium game (for example, turkey) or larger game (for example, deer)?**

_____ Yes (*Continue*) _____ No (*Skip to #5*)

_____ Yes, in certain circumstances. Please explain _____

(Continue)

4. If your answer to item 3 is "Yes" or "Yes, in certain circumstances", please identify the specific rifles that you recommend **against** using for **hunting medium game (for example, turkey) or larger game (for example, deer)?**

<u>Make</u>	<u>Model</u>	<u>Caliber</u>
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5. Does your publication recommend specific types of centerfire semiautomatic rifles for use in **high-power rifle competition?**

_____ Yes (*Continue*) _____ No (*Skip to #7*)

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.

ATF SURVEY OF HUNTING/SHOOTING EDITORS
FOR RIFLE USAGE

Page 2 of 2

6. If your answer to item 5 is "Yes", please identify the specific centerfire semiautomatic rifles you recommend.

Make

Model

Caliber

7. Does your publication recommend **against** the use of any semiautomatic rifles whose design is based on the AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi for use in **high-power rifle competition**?

_____ Yes (*Continue*) _____ No (*Skip to #9*)

_____ Yes, in certain circumstances. Please explain _____

(Continue)

8. If your answer to item 7 is "Yes" or "Yes, in certain circumstances", please identify the specific rifles your publication recommends **against** using for **high-power rifle competition**.

Make

Model

Caliber

9. Have you or any other author who contributes to your publication written any articles since 1989 concerning the use of semiautomatic rifles and their suitability for use in hunting or organized competitive shooting? (*Exclude Letters to the Editor.*)

_____ Yes (*Continue*) _____ No (*You are finished with the survey. Thank you.*)

10. If your answer to item 9 is "Yes", please submit a copy of the applicable article(s). Any material you are able to provide will be very beneficial to our study. Please indicate the publication, issue date and page for each article.

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Editors

Comments:

2. If your answer to item 1 is "Yes," please identify the specific centerfire rifles you recommend:
 - (8) Anything except Uzis.
 - (9) All study rifles except Uzi.
 - (12) See attached articles.
3. Please explain circumstances to question 3: Does your publication recommend against the use of any semiautomatic rifles whose design is based on the AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi for use in hunting medium game (for example, turkey) or larger game (for example, deer)?
 - (12) When the caliber is inappropriate or illegal for the specific game species.
4. Other rifle make recommendations in response to question 4: If your answer to item 3 is "Yes" or "Yes, in certain circumstances," please identify the specific rifles that you recommend against using for hunting medium game (for example, turkey) or larger game (for example, deer)?
 - (12) See attached articles.

The following two items are for the responses to question 6: If your answer to item 5 is "Yes," please identify the specific centerfire semiautomatic rifles you recommend:

Model

- (5) Springfield M1A and Colt AR-15.

Caliber

- (5) 7.62m (M1A) and .223 (Colt).

The following items are for questions 9 and 10 on articles written and the submission of these articles with the survey.

Article 1

- (8) No articles enclosed.
- (9) Semiautomatic Takes Tubb to HP Title.
- (10) No articles attached.

Article 2

- (9) AR-15 Spaceguns Invading Match.



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

DIRECTOR

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Dear Sir or Madam:

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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 your organization 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 30 days following the date of this letter; those received after that date cannot be included in the review. Responses should be forwarded to the Bureau of Alcohol, Tobacco and Firearms, Department FG, P.O. Box 50860, Washington, DC 20091. We appreciate any information you care to provide.

Sincerely yours,

John W. Magaw
Director

Enclosure

ATF SURVEY OF STATE FISH AND GAME COMMISSIONS
FOR RIFLE USAGE

Page 1 of 2

State: _____

1. Do the laws in your state place any prohibitions or restrictions (other than seasonal) on the use of **high-power rifles for hunting medium game (for example, turkey) or larger game (for example, deer)**?

_____ Yes (*Continue*) _____ No (*Skip to #2*)

1a. If "Yes", please cite law(s) and briefly describe the restrictions.

2. Do the laws in your state place any prohibitions or restrictions (other than seasonal) on the use of **semiautomatic rifles for hunting medium game (for example, turkey) or larger game (for example, deer)**?

_____ Yes (*Continue*) _____ No (*Skip to #3*)

2a. If "Yes", please cite law(s) and briefly describe the restrictions.

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ATF SURVEY OF STATE FISH AND GAME COMMISSIONS
FOR RIFLE USAGE

Page 2 of 2

(Continue)

3. What, if any, is the minimum caliber or cartridge dimensions that may be used for **hunting medium game (for example, turkey) or larger game (for example, deer)?**

Caliber: _____ OR Dimensions: _____

____ There is no minimum.

4. Does your commission or state collect any data on the types of rifles used in your state for **hunting medium game (for example, turkey) or larger game (for example, deer)?**

____ Yes *(Continue)* ____ No *(You are finished with the survey. Thank you.)*

4a. If "Yes", please provide hard copies of any such available data for the past two hunting seasons of 1995 and 1996. Any data that you provide will be most beneficial to our study.

If you would like us to contact you regarding the data, please provide your name and phone number.

Name: _____ Phone: _____

Survey Fish and Game Commissions for Rifle Usage

STATE	Restrictions		Minimum Caliber or Cartridge		Q5
	Q1	Q2	Q3	Q4	
	HiPwr	Semiauto	Minimum Caliber	Minimum Cartridge	Collect Data
Alabama	Yes	Yes	Any center fire rifle	None	No
Alaska	Yes	No	No Centerfire for big game		No
Arizona	No	Yes	.22 mag or larger		No
Arkansas	Yes	No	None	None	No
California	No	No	See Question 1a	See Question 1a	No
Colorado	Yes	Yes	0.24		No
Connecticut	Yes	Yes			
Delaware	Yes	Yes			
Florida	Yes	Yes	No rimfire for deer		No
Georgia	Yes	No	.22 Centerfire or larger		No
Hawaii	No	No			
Idaho	Yes	Yes	.22 rimfire		No
Illinois	Yes	Yes	None	None	No
Indiana	Yes	Yes	None		No
Iowa	Yes	Yes	not provided		No
Kansas	Yes	Yes	.23 caliber or larger		No
Kentucky	No	No			
Louisiana	Yes	No	.22 Centerfire		No
Maine	Yes	No	.22 mag or larger		No
Maryland	Yes	Yes			
Massachusetts	Yes	No	None	None	Yes
Michigan	Yes	Yes	.23 or larger		No
Minnesota	Yes	No	0.23	1.285"	No
Mississippi	Yes	No	None	None	No
Missouri	Yes	Yes	None	None	No
Montana	No	No	None		No
Nebraska	No	No			
Nevada	No	No			No
New Hampshire	Yes	Yes		above .22 rimfire	No
New Jersey	Yes	Yes	None	None	No
New Mexico	Yes	No	.24 centerfire or larger		No
New York	Yes	Yes	Must be centerfire		No
North Carolina	Yes	No	None	None	No
North Dakota	Yes	Yes	.22 Centerfire or larger		No
Ohio	Yes	No	None	None	No
Oklahoma	Yes	Yes	.22 magnum		No
Oregon	Yes	Yes	.22 or .24 or larger		No
Pennsylvania	Yes	Yes	None	None	No
Rhode Island	Yes	Yes		.229 maximum	No
South Carolina	Yes	No	Must be larger than .22		No
South Dakota	Yes	No	None	None	No
Tennessee	Yes	Yes	.24 or larger caliber		No
Texas	Yes	No	None	None	No
Utah	Yes	No		None	No
Vermont	Yes	No			No
Virginia	Yes	Yes	.23 caliber for deer		No
Washington	Yes	Yes	.240 or larger for coyote		No
West Virginia	No	No		Any centerfire	No
Wisconsin	Yes	No	.22 caliber or larger		No
Wyoming	Yes	No		23/100 bullet dia.	No

State Fish and Game Commissions

Restrictions for High Powered Rifles

1a. Please cite law(s) and briefly describe the restrictions.

Alabama

(19) No automatic weapons, no silenced weapons.

Alaska

(23) Bison hunters must use a caliber capable of firing a 200-grain bullet having 2,000 pounds of energy at 100 yards.

Arkansas

(11) No rifles for turkey.

California

(22) Centerfire for big game, 10 gauge or smaller for resident small game.

Colorado

(10) Semiautomatic rifle may not hold more than 6 rounds.

Connecticut

(39) Shotgun only on public lands. Can use any type of rifle on private land.

Delaware

(40) No rifles - shotguns/muzzle loaders only.

Florida

(25) Machine guns and silencers not permitted for any hunting.

Georgia

(29) No hi-power rifles allowed for turkey hunting.

Hawaii

(49) Must have discharge of 1200 foot pounds.

Idaho

(30) No hi-power rifles allowed for hunting turkey.

Illinois

(12) Turkey or deer may not be hunted with rifle. Deer may not be hunted with muzzle loading rifle. No restriction on rifles for coyote, fox, and woodchuck, etc.

Indiana

(34) No hi-power rifles allowed for deer or turkey hunting. Limited restrictions for specified areas.

Iowa

(26) Cannot use rifles for turkey or deer, only shotgun or bow and arrow. No difference if public or private lands. For coyote or fox, there is no restriction on rifles, magazine size, or caliber.

Kansas

(33) Must use ammunition specifically designed for hunting.

Louisiana

- (6) No rifles for turkey hunting. Rifles for deer hunting must be no smaller than .22 centerfire.

Maine

- (32) No hi-power rifles for turkey and water fowl. Some limited restrictions for specific areas.

Maryland

- (42) Some restrictions based on county. They are allowed in western and southern Maryland. Shotguns only in and around Baltimore and Washington, D.C.

Massachusetts

- (14) Rifles not permitted for hunting deer and turkey.

Michigan

- (27) No turkey hunting with hi-power rifle. No night hunting with hi-power rifle. Deer hunting with hi-power rifle allowed only in lower southern peninsula. Limited restrictions for specific areas.

Minnesota

- (13) Caliber must be at least .23. Ammunition must have a case length of at least 1.285". .30 caliber M1 carbine cartridge may not be used.

Mississippi

- (15) Restricts turkey hunting to shotguns. However quadriplegics may hunt turkey with a rifle.

Missouri

- (5) Rifles not permitted for turkey. Self loading firearms for deer may not have a combined magazine + chamber capacity of more than 11 cartridges.

Nebraska

- (43) Allowed and frequently used, but magazine capacity maximum is six rounds.

Nevada

- (1) Answer to #3 refers to NAS 501.150 and NAS 503.142. Not for turkey.

New Hampshire

- (7) Magazine capacity no more than 5 rounds. Prohibits full metal jacket bullets for hunting. Prohibits deer hunting with rifles in certain towns.

New Jersey

- (17) No rifles.

New Mexico

- (31) No hi-power rifles allowed for hunting turkey.

New York

- (24) No semiautomatics with a magazine capacity of greater than 6 rounds; machineguns and silencers not permitted for any hunting. Limited restrictions for specific areas.

North Carolina

- (20) Centerfire rifles not permitted for turkey hunting.

North Dakota

(28) No hi-power rifles for turkey hunting.

Ohio

(3) Prohibits high power rifles for turkey, deer and migratory birds. High power rifles can be used on all other legal game animals.

Oklahoma

(8) Centerfire rifles only for large game. Magazines for .22 centerfire rifles may not hold more than 7 rounds.

Oregon

(2) OAR 635-65-700(1) must be .24 caliber or larger center fire rifle, no full automatic; OAR 635-65-700(2) hunters shall only use centerfire rifle .22 caliber; OAR-65-700(5) no military or full jacket bullets in original or altered form. Limited restrictions for specific areas.

Pennsylvania

(16) Rifles not permitted in Philadelphia & Pittsburgh areas.

Rhode Island

(44) .22 center fire during the summer for woodchucks.

South Carolina

(18) No rifle for turkey, rifle for deer must be larger than .22 caliber

South Dakota

(50) Magazine not more than five rounds.

Tennessee

(37) No hi-power rifles allowed for turkey hunting.

Texas

(21) Rimfire ammunition not permitted for hunting deer, antelope, and bighorn sheep; machine guns and silencers not permitted for hunting any game animals.

Utah

(9) No rifles for turkey hunting.

Vermont

(47) Turkey size less than 10 gauge. Deer/moose/beer, no restriction on caliber.

Virginia

(48) 23 caliber or larger for deer and bear. No restrictions for turkey. No magazine restrictions, shotgun limited to 3 shells. Restrictions vary from county to county - approximately 90 different rifle restrictions in the State of Virginia based on the county restrictions. Sawed-off firearms are illegal to own unless with a permit, if barrel less than 16 inches for rifle, and 18 inches for shotgun.

Washington

(46) Hunting turkey limited to shotguns. Small game limited to shotguns.

Wisconsin

(36) No .22 rimfire rifles for deer hunting.

Wyoming

(4) Big game and trophy animals, firearm must have a bore diameter of at least 23/100 of an inch.

Restrictions for Semiautomatic Rifles

2a. Please cite law(s) and briefly describe the restrictions.

Alabama

(19) Turkey may not be hunted with a centerfire rifle or rimfire rifle. Semiautomatic rifles of proper caliber are legal for all types of hunting. No restrictions on magazine capacity, except wildlife management areas where centerfire rifles are restricted to 10 round max.

Arizona

(38) Magazine cannot hold more than 5 rounds.

Colorado

(10) Semiautomatic rifle may not hold more than 6 rounds.

Connecticut

(39) Shotgun only on public lands. Any type of rifle can be used on private land.

Delaware

(40) No rifles - shotguns/muzzle loaders only.

Florida

(25) No semiautomatic centerfire rifles having a magazine capacity greater than 5 rounds.

Idaho

(30) No hi-power rifles (including semiautomatic) allowed for turkey hunting.

Illinois

(12) See #1.

Indiana

(34) No hi-power rifles allowed for turkey hunting.

Iowa

(26) Cannot use rifles for turkey or deer, only shotgun or bow and arrow. No difference in public or private land. For coyote or fox, there is no restriction on rifle, magazine size, or caliber.

Kansas

(33) Must use ammunition specifically designed for hunting.

Maryland

(42) Some restrictions. Based on county. Shotguns only in and around Baltimore and Washington, D.C.

Michigan

(27) Unlawful to hunt with semiautomatic rifles capable of holding more than 6 rounds in magazine and barrel. Rimfire (.22 cal) rifles excluded from restrictions.

Missouri

(5) Combined magazine + chamber capacity may not be more than 11 cartridges.

New Hampshire

(7) Turkey may not be hunted with rifles. Rifles may not have magazine capacity of more than 5 cartridges.

New Jersey

(17) No rifles.

New York

(24) No semiautomatics with a magazine capacity of greater than 6 rounds.

North Dakota

(28) No hi-power rifles (including semiautomatics) may be used for hunting turkey.

Oklahoma

(8) See #1.

Oregon

(2) OAR 635-65-700(1) and (2) limits magazine capacity to no more than 5 cartridges.

Pennsylvania

(16) Semiautomatic rifles are not lawful for hunting in Pennsylvania.

Rhode Island

(44) Cannot use semiautomatic during the winter, only during the summer months for woodchucks (during daylight from April 1 to September 30).

Tennessee

(37) No hi-power rifles, including semiautomatics, allowed for turkey hunting.

Vermont

(47) Semiautomatic 5 rounds or less.

Virginia

(48) Semiautomatics are legal wherever rifles can be used. 23 caliber or larger for deer and bear. No restrictions for turkey. No magazine restrictions, shotgun limited to 3 shells. Restrictions vary from county to county - approximately 90 different rifle restrictions in the State of Virginia based on the county restrictions. Sawed-off firearms are illegal to own unless with a permit, if barrel less than 16 inches for rifle, and 18 inches for shotgun. Striker 12 - drums holds 12 or more rounds and is illegal.

Washington

(46) Cannot use fully automatic for hunting.

West Virginia

(45) Cannot use fully automatic firearms for hunting.

Comments Provided by Law Enforcement Agencies

- (1) No research.
- (2) No research.
- (3) NOBLE and others forwarded information to a U.S. Senator on circumstances concerning police officers killed or injured by these weapons. No data was provided.
- (4) No research.
- (7) The organization stated: "Most of the data available on guns and crime does not provide the detail needed to identify the types of guns listed. . . . We have conducted several surveys that refer to assault rifles generically, including the Survey of Inmates in State Correctional Facilities 1991, Survey of Inmates in Local Jails 1995, and the Survey of Adults on Probation 1995. The data on assault weapons has not been analyzed in the recently released Survey of Adults on Probation 1995 or in the yet to be released Survey of Inmates in Local Jails 1995.

"Our report Guns Used in Crime includes the results of an analysis of the stolen data from the FBI's National Crime Information Center database. Our analysis was limited to general categories of guns and calibers of handguns. The recent evaluation of the assault weapons ban funded by the National Institute of Justice analyzed a more recent set of the same data with an emphasis on assault weapons. The results of this evaluation were reported in Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994."

"BJS [Bureau of Justice Statistics] supports the Firearms Research Information System (FARIS). . . . This database contains firearms-related information from surveys, research, evaluations, and statistical reports. . . . We queried this database for any research on assault weapons. The results of the query include both the reports listed above, as well as several others. Please note that in BJS's report Guns Used in Crime refers to the report Assault Weapons and Homicide in New York City prepared by one of our grantees. While the data are from 1993, the report provides interesting insights into the use of assault weapons and homicide. Another source of data on assault weapons and crime is the FBI's Law Enforcement Officers Killed and Assaulted series, which records the type of gun used in killings of police officers. Several of the reports listed in the FARIS query used these data, including Cop Killers: Assault Weapons Attacks on America's Police, and Cops Under Fire: Law Enforcement Officers Killed with Assault Weapons or Guns with High Capacity Magazines."

- (9) Guns in America: National Survey on Private Ownership and Use of Firearms (May 1997) states: The 1994 NSPOF (National Survey of Private Ownership of Firearms) estimates for the total number of privately owned firearms is 192 million: 65 million handguns, 70 million rifles, 49 million shotguns, and 8 million other long guns.



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

DEC 10 1997

O:F:S:DMS
3310

Dear Sir or Madam:

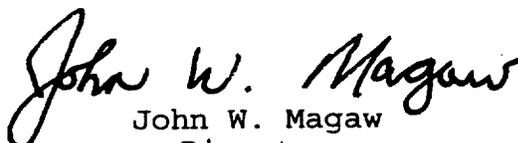
On November 14, 1997, the President and the Secretary of the Treasury decided to conduct a review to determine whether modified semiautomatic assault rifles are properly importable under Federal law. Under 18 U.S.C. section 925(d)(3), firearms may be imported into the United States only if they are determined 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.

Although ATF is not required to seek public comment on this study, the agency would appreciate any factual, relevant information concerning the sporting use suitability of the rifles in question.

Your voluntary response must be received no later than 30 days from the date of this letter; those received after that date cannot be included in the review. Please forward your responses to the Bureau of Alcohol, Tobacco and Firearms, Department TA, P.O. Box 50860, Washington, DC 20091.

Sincerely yours,


John W. Magaw
Director

Comments Provided by Industry Members and Trade Associations

- (12) The respondent felt that definitions and usage should be subject to rulemaking. The respondent stated that limits on "sporting" use do not take into account firearms technology and its derivative uses among millions of disparate consumers. Millions of gun owners currently engage in informal target competition.

The respondent stated that the firearms are suitable for sporting purposes and that ATF's practice of making "ad hoc" revisions to import criteria disrupts legitimate commerce. The respondent recommends that all changes to criteria should be subject to rulemaking.

- (19) The respondent submitted a brochure and a statement supported by seven letters from FFL's who sell the SLR-95 and 97 and ROMAK 1 and 2. The respondent and all the supporting letters attest to the suitability of these guns for hunting because (1) they are excellent for deer or varmint hunting; (2) they are used by many for target shooting; (3) their ammunition is readily available and affordable; and (4) they are excellent for young/new hunters because of low recoil, an inexpensive purchase price, durability, and light weight, as well as being designed only for semiautomatic fire.
- (20) One respondent submitted results of its independently conducted survey, which consisted of 30 questions. The results of the survey suggest that 36 percent of those queried actually use AK47-type rifles for hunting or competition, 38 percent use L1A1-type rifles for hunting or competition, and 38 percent use G3-type rifles for hunting or competition. Other uses include home defense, noncompetitive target shooting, and plinking. Of those queried who do not currently own these types of rifles, 35 percent would use AK-type rifles for hunting or competition, 36 percent would use L1A1-type rifles for hunting or competition, and 37 percent would use G3-type rifles for hunting or competition.
- (22) The respondent claims that the majority of the study rifles' length and calibers can be used only for sporting purposes. The respondent asserts that the only technical detail remaining after the 1989 decision that is similar to a military rifle is the locking system. After 1989, the imported rifles have no physical features of military assault rifles. All have features which can be found on any semiautomatic sporting/hunting rifle.

However, the respondent writes that the Uzi-type carbines are "not suitable for any kind of sporting events other than law enforcement and military competitions because the caliber and locking system do not allow precise shooting over long distances."

- (23) One respondent, who imports the SAR-8 and SAR-4800 that are chambered for .308 Winchester ammunition, states that neither rifle possesses any of the characteristics of either the 1989 determination or the 1994 law. The respondent states that both are permitted in match rifle and other competitions. The respondent states that only two questions should be considered to determine hunting suitability of a rifle: Whether the caliber is adequate to take one or more game species and whether the gun is safe and reliable. The respondent states that there is no factual or legal basis to conclude that the rifles are not "particularly suitable" for sporting purposes.
- (24) The respondent writes: "The particular firearms differ from other guns that are universally acceptable only in cosmetic ways. There is no functional difference between semiautomatic firearms based on the external features that have been keyed on in an attempt to implement the import restrictions of the 1994 Crime Bill. As further attempts to differentiate functionally identical firearms by these features for the purposes of culling out those that might be politically suitable for an administrative import ban is wrong."
- (25) The respondent writes that the SLG95 was developed exclusively for hunting and competitive shooting. The respondent points out that it is capable of single firing only and cannot be reassembled for use as an automatic weapon. It is made for endurance and accuracy to 300 meters.
- (26) The respondent recommends AK47 variants specifically, but believes all study rifles are suitable or adaptable for sporting. The respondent states that a Galil-chambered .308/.223 with a two-position rear sight, adjustable front sight, or scope mount channel, are reliable, durable, accurate, and suitable for hunting and organized competitive shooting. The respondent states that the Uzi, which chambers 9mm and 40 S&W, two-position rear sight, and an adjustable front sight is suitable for organized competitive target shooting.
- (27) The respondent states that the SIG-SG550-1, in its original configuration, never possessed assault rifle features. The respondent states that it was built as a semiautomatic, not a fully automatic that was converted or modified to semiautomatic. It does have protruding pistol grip, and its ergonomics are geared toward its original design of goal-precision shooting. The respondent says that the name "Sniper" was a marketing decision, and it is extremely popular in .223 competitions. Its price isolates the gun to the competitor/collector.

- (28) Letters from H&K users were submitted in support of their continued importation and use as sporting arms. Specifically, the SR9 and PSG1 were said to be clearly suitable and utilized daily for hunting and target shooting. The respondent states that sport is defined as "an active pastime, diversion, recreation" and that the use of these is all the justification needed to allow their importation. The PSG1 has been imported since 1974, and the SR9 since 1990. The semiautomatic feature dates to turn of the century.

The respondent states that the cost would dissuade criminals from using them. The respondent refers to ATF's reports "Crime Gun Analysis (17 Communities)" and "Trace Reports 1993-1996" to show that the H&K SR9 and PSG1 are not used in crime. In the 4-year period covered by the reports, not one was traced.

- (29) The respondent faults the 1989 report both for not sufficiently addressing the issue of ready adaptability, as well as for the limited definition of sporting purposes. The respondent states that sport is defined as "that which diverts, and makes mirth; pastime, diversion." The respondent says that the NRA sponsors many matches, and personally attests to the FN-FAL and HK91 as being perfectly suitable for such matches. The respondent states that the rifles are also used for hunting deer, rabbits, and varmints. Further, the respondent remarks that the use of these rifles in crime is minuscule.

Importer/Individual Letters

On January 15, 1998, the study group received a second submission from Heckler and Koch, dated January 14, 1998. It transmitted 69 letters from individuals who appeared to be answering an advertisement placed in Shotgun News by Heckler and Koch. The study group obtained a copy of the advertisement, which requested that past and current owners of certain H&K rifles provide written accounts of how they use or used these firearms. The advertisement stated that the firearms in question, the SR9 and the PSG1, were used for sporting purposes such as hunting, target shooting, competition, collecting, and informal plinking. The advertisement also referred to the 120-day study and the temporary ban on importation, indicating that certain firearms may be banned in the future.

Synopses of Letters:

1. The writer used his SR9 to hunt deer (photo included).
2. The writer used his SR9 to hunt deer (photo included).
3. The writer used his SR9 for informal target shooting and plinking.
4. The writer used his SR9 for target practice and recreation.
5. The writer (a police officer) used SR9 to hunt. Said that it's too heavy and expensive for criminals.

6. The writer used his SR9 for competition.
7. The writer used H&K rifles such as these around the farm to control wild dog packs.
8. The writer used his SR9 to hunt deer.
9. The writer used his SR9 to hunt, participate in target practice, and compete.
10. The writer used his H&K rifles for informal target shooting.
11. The writer used his SR9 to hunt elk because it's rugged, and to shoot targets.
12. The writer used his SR9 to target practice.
13. The writer used his HK91 to hunt varmints and compete in military rifle matches.
14. The writer does not use the firearms but is familiar with their use for target shooting, hunting, and competition.
15. The writer uses HK firearms for DCM marksmanship competition.
16. The writer used his HK93 for 100-yard club matches and NRA-high power rifle matches.
17. The writer does not own the firearms but enjoys shooting sports and collecting.
18. The writer used his HK91 to hunt deer, boar, and mountain goat and in high-power match competitions.
19. The writer used his SR9 to shoot targets and for competitions.
20. The writer used his HK91 to shoot varmints, hunt small and big game, and shoot long-range silhouettes.
21. The writer used his SR8 to hunt deer, target shoot, and plink.
22. The writer used his HK93 to shoot in club competitions.
23. The writer used his SR9 to shoot targets because the recoil does not impact his arthritis.
24. The writer (a police officer) does not own the firearm but never sees HKs used in crime.
25. The writer used his HKs for target shooting, competition, and collection.
26. The writer does not own the firearms but likes recreational target shooting.
27. Writer does not own the firearms but states, "Don't ban."

28. The writer used his SR9 for hunting deer, varmints, and groundhogs; for target shooting; and for occasional competitions.
29. The writer used his SR9 to hunt deer because it's accurate, rugged, and reliable.
30. The writer used his SR9 to hunt deer and elk.
31. The writer used his SR9 to target shoot.
32. The writer used his SR9 to hunt deer and target shoot.
33. The writer used his HK91 to shoot military rifle 100-yard competitions.
34. The writer used his SR9 for hunting varmints and coyotes, for target shooting, and for competitions.
35. The writer used his SR9 to hunt deer and target shoot.
36. The writer (a former FBI employee) used his SR9 for hunting varmints and for precision and target shooting.
37. The writer used his HK for target shooting and competition.
38. The writer used his SR9 for informal target shooting and plinking and his HK91 for bowling pin matches, high-power rifle competitions, informal target shooting, and plinking.
39. The writer used his SR9 to plink and shoot targets, saying it's too heavy for hunting.
40. The writer has an HK91 as part of his military collection and indicates it may be used for hunting.
41. The writer used his SR9 to target shoot.
42. The writer used his SR9 to hunt deer and target shoot.
43. The writer does not own the firearms but says, "Don't ban."
44. The writer used his SR9 and HK93 for hunting deer, for target shooting, and for home defense.
45. The writer states, "Don't ban."
46. Writer states, "Don't ban."
47. Writer states, "Don't ban."
48. The writer owns an SR9; no use was reported.
49. Writer used his SR9 to compete in club matches and "backyard competitions."
50. The writer used his HK to hunt boar and antelope.

51. The writer states, "Don't ban."
52. The writer (a police officer) does not own the firearms but states that the are not used by criminals.
53. The writer used his HK91 to hunt deer.
54. The writer (a police trainer) says that the PSG1 is used for police sniping and competitive shooting because it's accurate. He says that it's too heavy to hunt with and has attached an article on the PSG1.
55. The writer used her two PSG1s for target shooting and fun.
56. The writer used his SR9 and PSG1 to hunt and target shoot.
57. The writer used his two PSG1s to hunt and target shoot.
58. The writer provides an opinion that the SR9 is used to hunt and target shoot.
59. The writer used his PSG1 for hunting deer and informal target shooting.
60. The writer used his PSG1 to target shoot and plink.
61. The writer states, "Don't ban."
62. The writer used his HK91 to target shoot.
63. The writer used his HK91 to target shoot.
64. The writer (a U.S. deputy marshall) used his SR9 to shoot at the range.
65. The writer used his SR9 to hunt deer and coyotes.
66. The writer used his SR9 to competitively target shoot.
67. The writer used his SR9 to hunt deer and bear.
68. The writer uses military-type rifles like these for predator control on the farm.
69. The writer used his SR9 to target shoot, plink, and compete in DCM matches.

Comments Provided by Interest Groups

- (7) Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994, Final Report. March 13, 1997.
- (8) Identical comments were received from five members of the JPFO. They are against any form of gun control or restriction regardless of the type of firearm. References are made comparing gun control to Nazi Germany.
- (9) The respondent contends that police/military-style competitions, "plinking," and informal target shooting should be considered sporting. Note: The narrative was provided in addition to survey that Century Arms put on the Internet.

The respondent questions ATF's definition of "sporting" purposes. The respondent contends that neither the Bill of Rights nor the Second Amendment places restrictions on firearms based on use.

- (13) Citing the 1989 report, the respondent states that the drafters of the report determined what should be acceptable sports, thus excluding "plinking."

The respondent states that appearance (e.g., military looking) is not a factor in determining firearms' suitability for sporting purposes. It is their function or action that should determine a gun's suitability. Over 50 percent of those engaged in Practical Rifle Shooting use Kalashnikov variants. Further, citing U.S. vs. Smith (1973), the "readily adaptable" determination would fit all these firearms.

- (14) The respondent states that the vast majority of competitive marksmen shoot either domestic or foreign service rifles. Only 2-3 participants at any of 12 matches fire bolt-action match rifles. If service rifles have been modified, they are permitted under NRA rule 3.3.1.

The respondent says that attempts to ban these rifles "is a joke."

- (15) The respondent states that these firearms are used by men and women alike throughout Nebraska. All of the named firearms are used a lot all over the State for hunting. The AK47 has the same basic power of a 30/30 Winchester. All of these firearms function the same as a Browning BAR or a Remington 7400. Because of their design features, they provide excellent performance.
- (16) The respondent states that the Bill of Rights does not show the second amendment connected to "sporting purposes." The respondent says that all of the firearms in question are "service rifles," all can be used in highpower rifle competition (some better than others), but under no circumstances should "sporting use" be used as a test to determine whether they can be sold to the American public. The respondent states that "sporting use" is a totally bogus question.

- (17) The respondent's basic concern is that the scope of our survey is significantly too narrow (i.e., not responsive to the Presidential directive, too narrow to address the problem, and inadequate to the task). The respondent states, "We do not indicate that our determination will impact modifications made to skirt law. We rely on the opinions of the 'gun press.' At a minimum, the Bureau should deny importation of: any semiautomatic capable of accepting with a capacity of more than 10 rounds, and any semiautomatic rifle with a capacity to accept more rounds than permitted by the State with the lowest number of permitted rounds. Deny any semiautomatic that incorporates cosmetically altered 'rule-beating' characteristics. Deny any semiautomatic that can be converted by using parts available domestically to any of the 1994 banned guns/characteristics. Deny any semiautomatic manufactured by any entity controlled by a foreign government. OR manufactured by a foreign entity that also manufactures, assembles or exports assault-type weapons. Deny any semiautomatic that contains a part that is a material component of any assault type weapon made, assembled, or exported by the foreign entity which is the source of the firearm proposed to be imported."

"A material component of any assault type weapon, assembled or exported by the foreign entity, which is, the source of the firearms proposed to be imported. The gun press has fabricated 'sporting' events to justify these weapons. The manner in which we are proceeding is a serious disservice to the American people."

Attachments: That Was Then, This is Now: Assault Weapons: Analysis, New Research, and Legislation: Assault Weapons and Accessories in America; and Cop Killers. All authored by the Violence Policy Center.

- (30) The respondent states, "At least for handguns, and among young adult purchasers who have a prior criminal history, the purchase of an assault-type firearm is an independent risk factor for later criminal activity on the part of the purchaser."

NOTE: The above study was for assault-type handguns used in criminal activity versus other handguns. The study involved only young adults, and caution should be used in extending these results to other adults and purchasers of rifles. However, the respondent states, it is plausible that findings for one class of firearms may pertain to another closely related class.

- (31) The 1996 National Survey of Fishing, Hunting and Wildlife-Associated Recreation. The publication outlines 1996 expenditures for guide use and percentage of hunters using guides for both big game and small game hunting.

- (32) In a memo from the Center to Prevent Handgun Violence the sections are Legal Background, History of Bureau Application of the "Sporting Purposes" Test, The Modified Assault Rifles under Import Suspension Should Be Permanently Barred from Importation, [The Galils and Uzis Should Be Barred from Importation Because They Are Banned by the Federal Assault Weapon Statute, and All the Modified Assault Rifles Should Be Barred from Importation Because They Fail the Sporting Purposes Test]. The conclusion states: "The modified assault rifles currently under suspended permits should be permanently barred from importation because they do not meet the sporting purposes test for importation under the Gun Control Act of 1968 and because certain of the rifles [Galils and Uzis] also are banned by the 1994 Federal assault weapon law."

Comments Provided by Individuals

- (10) The respondent does not recommend the Uzi, but he highly recommends the others for small game and varmints. He feels that the calibers of these are not the caliber of choice for medium or large game; however, he believes that the SIG and H&K are the best-built semiautomatics available.

He can not and will not defend the Uzi, referring to it as a "piece of junk."

The respondent feels that because of their expense and their being hard to find, the study rifles (excluding the Uzi) would not be weapons of choice for illegal activities.

- (11) The respondent questions ATF's definition of "sporting" and "organized shooting." He feels that ATF's definition is too narrow and based on "political pressure."

The respondent feels that the firearms are especially suitable for competitive shooting and hunting and that the restrictions on caliber and number of cartridges should be left to the individual States. He has shot competitively for 25 years.

- (18) The respondent specifically recommends the MAK90 for hunting because its shorter length makes for easier movement through covered areas, it allows for quicker follow-up shots, its open sights allow one to come up upon a target more quickly, and it provides a quicker determination of whether a clear shot exists through the brush than with telescopic sighting.

- (21) The respondent states that the second amendment discusses "arms," not "sporting arms." The respondent further states that taxpayer money was spent on this survey and ATF has an agenda. A gun's original intent (military) has nothing to do with how it is used now. "The solution to today's crime is much the same as it always has been, proper enforcement of existing laws, not the imposition of new freedom-restricting laws on honest people."

Information on Articles Reviewed

- (1) Describes limited availability of Uzi Model B sporter with thumbhole stock.
- (2) Describes rifle and makes political statement concerning 1989 ban.
- (3) Describes Chinese copy of Uzi with thumbhole stock.
- (4) Quality sporting firearms from Russia.
- (5) Short descriptions of rifles and shotguns available. Lead-in paragraph mentions hunting. Does not specifically recommend any of the listed weapons for hunting.
- (6) Geared to retail gun dealers, provides list of available products. States L1A1 Sporter is pinpoint accurate and powerful enough for most North American big game hunting.
- (7) Discusses the use of the rifle for hunting bear, sheep, and coyotes. Describes accuracy and ruggedness. NOTE: The rifle is a pre-1989 ban assault rifle.
- (8) Deals primarily with performance of the cartridge. Makes statement that AK 47-type rifle is adequate for deer hunting at woods ranges.
- (9) Discusses gun ownership in the United States. Highlighted text (not by writers) includes the National Survey of Private Ownership of Firearms that was conducted by Chilton Research Services of Drexel Hill, Pennsylvania during November and December 1994: 70 million rifles are privately held, including 28 million semiautomatics.
- (10) Discusses pre-1989 ban configuration. Describes use in hunting, and makes the statement that "in the appropriate calibers, the military style autoloaders can indeed make excellent rifles, and that their ugly configuration probably gives them better handling qualities than more conventional sporters as the military discovered a long time ago."
- (15) Not article - letter from Editor of Gun World magazine discussing "sport" and various competitions. Note: Attached submitted by Century Arms.
- (16) Letter addressed to "To Whom It May Concern" indicating HK91 (not mentioned but illustrated in photos) is suitable for hunting and accurate enough for competition. Note: Submitted by Century Arms.
- (17) Describes a competition developed to test a hunter's skill. Does not mention any of the rifles at issue.
- (18) Not on point - deals with AR 15.
- (19) Describes function, makes political statement.
- (20) Discusses function and disassembly of rifle.
- (21) Not on point - deals with AR 15 rifle.

- (22) Discusses competition started to show sporting use of rifles banned for sale in California. Unknown if weapons in study were banned in California in 1990.
- (23) Not on point - deals with national matches.
- (24) Not on point - deals with various surplus military rifles.
- (25) Deals with 7.62x39mm ammunition as suitable for deer hunting and mentions the use in SKS rifles, which is a military style semiautomatic but not a part of the study.
- (26) Not on point - deals with reloading.
- (27) Not on point - deals with reloading.
- (28) Not on point - deals with AR15 rifles in competition.
- (29) Not on point - deals with the SKS rifle.
- (30) Not on point - deals with national matches.
- (31) Not on point - deals with national matches.
- (32) Not on point - deals with national matches.
- (33) Not on point - deals with national matches at Camp Perry.
- (34) Not on point - deals with national matches at Camp Perry.
- (35) Not on point - deals with 1989 national matches at Camp Perry.
- (36) Not on point - deals with Browning BAR sporting semiautomatic rifles.
- (38) Not on point - deals with AR15, mentions rifle in caliber 7.62 x 39.
- (39) Not on point - deals with bullet types.
- (40) Not on point - deals with reloading.
- (41) Discusses tracking in snow. Rifles mentioned do not include any rifles in study.
- (42) Deals with deer hunting in general.
- (43) Deals with rifles for varmint hunting. Does not mention rifles in study.
- (44) Not on point - deals with hunting pronghorn antelope.
- (45) Deals with various deer rifles.
- (46) Not on point - deals with two Browning rifles' recoil reducing system.
- (47) Not on point - deals with bolt-action rifles.
- (48) Not on point - deals with ammunition.

- (49) Deals with modifications to AR15 trigger for target shooting.
- (50) Not on point - deals with M1 Garand as a target rifle.
- (51) Not on point - deals with reloading.
- (52) Deals with impact of banning semiautomatic rifles would have on competitors at Camp Perry.
- (53) Deals with economic impact in areas near Camp Perry if semiautomatic rifles banned. Reprint from Akron Beacon Journal.
- (54) Deals with training new competitive shooters - mentions sporting use of assault rifles, i.e., AR15.
- (55) Not on point - article about Nelson Shew.
- (56) Not on point - deals with reloading.
- (57) Not on point - deals with shooting the AR15.
- (58) Not on point - article about AR15 as target rifle.
- (59) Not on point - article about well known competitive shooter.
- (67) Not on point - deals with reloading.
- (68) Discusses semiautomatic versions of M14.
- (69) Discusses gas operation.
- (70) Discusses right adjustment on M1 and M1A rifles.
- (71) Discusses M1A and AR15-type rifles modified to remove them from assault weapon definition, and their use in competition.
- (72) Deals with AR15 type rifle.
- (73) Not on point - deals with AR15.
- (74) Not on point - deals with target rifle based on AR15/M16.
- (75) Not on point - deals with SKS rifle.
- (76) Not on point - deals with reloading 7.62x39mm cartridge.
- (77) Not on point - deals with reloading. Mentions 7.62x39mm.
- (78) Not on point - deals with ammunition performance.
- (79) Deals with .223 Remington caliber ammunition as a hunting cartridge.
- (80) Describes M1A (semiautomatic copy of M14) as a target rifle.
- (81) Not on point - deals with bullet design.
- (82) Not on point - deals with ammunition performance.

Information on Advertisements Reviewed

- (11) Indicates rifles are rugged, reliable and accurate.
- (12) Describes rifles, lists price.
- (13) Sporting versions of AK 47 and FAL.
- (14) Sporting version of AK 47, reliable, accurate.
- (61) Catalog of ammunition - lists uses for 7.62x39mm ammunition.
- (62) Catalog of ammunition - lists uses for 7.62x39mm ammunition.
- (63) Catalog of ammunition - lists uses for 7.62x39mm ammunition.
- (64) Catalog of ammunition - lists uses for 9mm ammunition.
- (65) Catalog of ammunition - lists uses for 9mm ammunition.
- (66) Catalog of ammunition - lists recommended uses for 9mm ammunition.

LAWS OF NEW YORK, 2000

CHAPTER 189

AN ACT to amend the criminal procedure law, the general business law and the penal law, in relation to assault weapons and large capacity ammunition feeding devices, gun locking devices, creating a ballistic identification databank, sales of firearms, rifles or shotguns at gun shows and establishing a minimum age to possess a firearm; to amend the executive law and the state finance law, in relation to establishing a gun trafficking interdiction program and a gun tracer program; to amend the penal law, in relation to requiring the report of a stolen or lost weapon to a police agency; and to authorize a study relating to the availability and effectiveness of existing technology for use of smart guns

Became a law August 8, 2000, with the approval of the Governor. Passed on message of necessity pursuant to Article III, section 14 of the Constitution by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraph (iv) of paragraph (d) of subdivision 5 of section 220.10 of the criminal procedure law, as amended by chapter 33 of the laws of 1999, is amended to read as follows:

(iv) Where the indictment charges the class D violent felony offenses of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02 of the penal law and the provisions of subparagraph (iii) of this paragraph do not apply, or subdivision five, seven or eight of section 265.02 of the penal law, then a plea of guilty must include at least a plea of guilty to a class E violent felony offense.

§ 2. Subparagraph (v) of paragraph (b) of subdivision 3 of section 220.30 of the criminal procedure law, as amended by chapter 33 of the laws of 1999, is amended to read as follows:

(v) A plea of guilty, whether to the entire indictment or part of the indictment, for any crime other than a violent felony offense as defined in section 70.02 of the penal law, may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged the class D violent felony offenses of criminal possession of a weapon in the third degree as defined in subdivision four ~~[or]~~, five, seven or eight of section 265.02 of the penal law; provided, however, a plea of guilty, whether to the entire indictment or part of the indictment, for the class A misdemeanor of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 of the penal law may be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02 of the penal law when the defendant has not been previously convicted of a class A misde-

EXPLANATION--Matter in italics is new; matter in brackets [-] is old law to be omitted.

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meanor defined in the penal law in the five years preceding the commission of the offense.

§ 3. The general business law is amended by adding a new section 396-ee to read as follows:

§ 396-ee. Sale of certain weapons; locking devices therefor. (1) No person, firm or corporation engaged in the retail business of selling rifles, shotguns or firearms, as such terms are defined in section 265.00 of the penal law, shall sell, deliver or transfer any such rifle, shotgun or firearm to another person unless the transferee is provided at the time of sale, delivery or transfer with a gun locking device and a label containing the quoted language specified in subdivision two of this section is either affixed to such rifle, shotgun or firearm or placed in the container in which such rifle, shotgun or firearm is sold, delivered or transferred. For the purposes of this section, the term "gun locking device" shall mean an integrated design feature or an attachable accessory that is resistant to tampering and is effective in preventing the discharge of such rifle, shotgun or firearm by a person who does not have access to the key, combination or other mechanism used to disengage the device. The division of state police shall develop and promulgate rules and regulations setting forth the specific devices or the minimum standards and criteria therefor which constitute an effective gun locking device.

(2) Every person, firm or corporation engaged in the retail business of selling rifles, shotguns or firearms, as such terms are defined in section 265.00 of the penal law, shall, in the place where such rifles, shotguns or firearms are displayed or transferred to the purchaser, post a notice conspicuously stating in bold print that: "The use of a locking device or safety lock is only one aspect of responsible firearm storage. For increased safety firearms should be stored unloaded and locked in a location that is both separate from their ammunition and inaccessible to children and any other unauthorized person."

(3) Any person, firm or corporation who fails to comply with the provisions of this section shall be guilty of a violation punishable as provided in the penal law. Any person, firm, or corporation who fails to comply with the provisions of this section after having been previously convicted of a violation of this section shall be guilty of a class A misdemeanor, punishable as provided in the penal law.

§ 4. The general business law is amended by adding a new section 396-ff to read as follows:

§ 396-ff. Pistol and revolver ballistic identification databank. (1) For the purposes of this section, the following terms shall have the following meanings:

(a) "Manufacturer" means any person, firm or corporation possessing a valid federal license that permits such person, firm or corporation to engage in the business of manufacturing pistols or revolvers or ammunition therefor for the purpose of sale or distribution.

(b) "Shell casing" means that part of ammunition capable of being used in a pistol or revolver that contains the primer and propellant powder to discharge the bullet or projectile.

(2) On and after March first, two thousand one, any manufacturer that ships, transports or delivers a pistol or revolver to any person in this state shall, in accordance with rules and regulations promulgated by the division of state police, include in the container with such pistol or revolver a separate sealed container that encloses:

(a) a shell casing of a bullet or projectile discharged from such pistol or revolver; and

(b) any additional information that identifies such pistol or revolver and shell casing as required by such rules and regulations.

(3) A gunsmith or dealer in firearms licensed in this state shall, within ten days of the receipt of any pistol or revolver from a manufacturer that fails to comply with the provisions of this section, either (a) return such pistol or revolver to such manufacturer, or (b) notify the division of state police of such noncompliance and thereafter obtain a substitute sealed container through participation in a program operated by the state police as provided in subdivision four of this section.

(4) The division of state police shall no later than October first, two thousand, promulgate rules and regulations for the operation of a program which provides a gunsmith or a dealer in firearms licensed in this state with a sealed container enclosing the items specified in subdivision two of this section. The program shall at a minimum:

(a) be operational by January first, two thousand one;
(b) operate in at least five regional locations within the state; and
(c) specify procedures by which such gunsmith or dealer is to deliver a pistol or revolver to the regional program location closest to his or her place of business for testing and prompt return of such pistol or revolver.

(5) On and after March first, two thousand one, a gunsmith or dealer in firearms licensed in this state shall, within ten days of delivering to any person a pistol or revolver received by such gunsmith or dealer in firearms on or after such date, forward to the division of state police, along with the original transaction report required by subdivision twelve of section 400.00 of the penal law, the sealed container enclosing the shell casing from such pistol or revolver either (a) received from the manufacturer, or (b) obtained through participation in the program operated by the division of state police in accordance with subdivision four of this section.

(6) Upon receipt of the sealed container, the division of state police shall cause to be entered in an automated electronic databank pertinent data and other ballistic information relevant to identification of the shell casing and to the pistol or revolver from which it was discharged. The automated electronic databank will be operated and maintained by the division of state police, in accordance with its rules and regulations adopted after consultation with the Federal Bureau of Investigation and the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms to ensure compatibility with national ballistic technology.

(7) Any person, firm or corporation who knowingly violates any of the provisions of this section shall be guilty of a violation, punishable as provided in the penal law. Any person, firm or corporation who knowingly violates any of the provisions of this section after having been previously convicted of a violation of this section shall be guilty of a class A misdemeanor, punishable as provided in the penal law.

§ 5. The general business law is amended by adding a new article 39-DD to read as follows:

ARTICLE 39-DD
SALE OF FIREARMS, RIFLES OR SHOTGUNS
AT GUN SHOWS

Section 895. Definitions.

896. Operation of a gun show.

897. Sale of a firearm, rifle or shotgun at a gun show.

§ 895. Definitions. For the purposes of this article:

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1. "Gun show" means an event sponsored, whether for profit or not, by an individual, national, state or local organization, association or other entity devoted to the collection, competitive use, sporting use, or any other legal use of firearms, rifles or shotguns, or an event at which (a) twenty percent or more of the total number of exhibitors are firearm exhibitors or (b) ten or more firearm exhibitors are participating or (c) a total of twenty-five or more pistols or revolvers are offered for sale or transfer or (d) a total of fifty or more firearms, rifles or shotguns are offered for sale or transfer. The term gun show shall include any building, structure or facility where firearms, rifles or shotguns are offered for sale or transfer and any grounds used in connection with the event.

2. "Firearm exhibitor" means any person, firm, partnership, corporation or company that exhibits, sells, offers for sale, transfers, or exchanges firearms, rifles or shotguns at a gun show.

3. "Gun show operator" means any person, firm, partnership, corporation or company that organizes, produces, sponsors or operates a gun show.

4. "Firearm" has the same meaning as that term is defined in 18 U.S.C. 921(a)(3), but shall not include an "antique firearm" as that term is defined in 18 U.S.C. 921(a)(16).

5. "Rifle" has the same meaning as that term is defined in 18 U.S.C. 921(a)(7).

6. "Shotgun" has the same meaning as that term is defined in 18 U.S.C. 921(a)(5).

§ 896. Operation of a gun show. 1. A gun show operator shall:

(a) at all times during such show conspicuously post and maintain signs stating "A National Instant Criminal Background Check must be completed prior to all firearm sales or transfers, including sales or transfers of rifles or shotguns". Signs must be posted at all entrances to the gun show, at all places where admission tickets to the gun show are sold and not less than four additional locations within the grounds of the gun show;

(b) notify all firearm exhibitors in writing that a national instant criminal background check must be completed prior to all firearm sales or transfers, including sales or transfers of rifles or shotguns; and

(c) provide access at the gun show to a firearm dealer licensed under federal law who is authorized to perform a national instant criminal background check where the seller or transferor of a firearm, rifle or shotgun is not authorized to conduct such a check by (i) requiring firearm exhibitors who are firearm dealers licensed under federal law and who are authorized to conduct a national instant criminal background check to provide such a check at cost or (ii) designating a specific location at the gun show where a firearm dealer licensed under federal law who is authorized to conduct a national instant criminal background check will be present to perform such a check at cost. Any firearm dealer licensed under federal law who performs a national instant criminal background check pursuant to this paragraph shall provide the seller or transferor of the firearm, rifle or shotgun with a copy of the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms Form ATF F 4473 and such dealer shall maintain such form and make such form available for inspection by law enforcement agencies for a period of ten years thereafter.

2. Whenever the attorney general shall believe from evidence satisfactory to him or her that a gun show operator has violated any of the provisions of this section, the attorney general may bring an action or

special proceeding in the supreme court for a judgment enjoining the continuance of such violation and for a civil penalty in an amount not to exceed ten thousand dollars. If it shall appear to the satisfaction of the court or justice that the defendant has violated any provisions of this section, no proof shall be required that any person has been injured thereby nor that the defendant intentionally violated such provision. In such action preliminary relief may be granted under article sixty-three of the civil practice law and rules. In connection with any such proposed application, the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules.

§ 897. Sale of a firearm, rifle or shotgun at a gun show. 1. A national instant criminal background check shall be conducted and no person shall sell or transfer a firearm, rifle or shotgun at a gun show, except in accordance with the provisions of 18 U.S.C. 922(t).

2. No person shall offer or agree to sell or transfer a firearm, rifle or shotgun to another person at a gun show and transfer or deliver such firearm, rifle or shotgun to such person or person acting on his or her behalf thereafter at a location other than the gun show for the purpose of evading or avoiding compliance with 18 U.S.C. 922(t).

3. Any person who knowingly violates any of the provisions of this section shall be guilty of a class A misdemeanor punishable as provided for in the penal law.

§ 6. Paragraphs (c) and (d) of subdivision 1 of section 70.02 of the penal law, paragraph (c) as amended by chapter 635 of the laws of 1999 and paragraph (d) as amended by chapter 378 of the laws of 1998, are amended to read as follows:

(c) Class D violent felony offenses: an attempt to commit any of the class C felonies set forth in paragraph (b); assault in the second degree as defined in section 120.05, stalking in the first degree, as defined in subdivision one of section 120.60, sexual abuse in the first degree as defined in section 130.65, course of sexual conduct against a child in the second degree as defined in section 130.80, aggravated sexual abuse in the third degree as defined in section 130.66, criminal possession of a weapon in the third degree as defined in [~~subdivisions~~ subdivision four, five [~~and~~], six, seven or eight of section 265.02, and intimidating a victim or witness in the second degree as defined in section 215.16.

(d) Class E violent felony offenses: an attempt to commit any of the felonies of criminal possession of a weapon in the third degree as defined in [~~subdivisions~~ subdivision four, five [~~and~~], six, seven or eight of section 265.02 as a lesser included offense of that section as defined in section 220.20 of the criminal procedure law.

§ 7. Paragraph (b) and the opening paragraph of paragraph (c) of subdivision 2 of section 70.02 of the penal law, as amended by chapter 33 of the laws of 1999, are amended to read as follows:

(b) Except as provided in subdivision six of section 60.05 and subdivision four of this section, the sentence imposed upon a person who stands convicted of a class D violent felony offense, other than the offense of criminal possession of a weapon in the third degree as defined in [~~subdivisions~~ subdivision four [~~and~~], five, seven or eight of section 265.02, must be in accordance with the applicable provisions of this chapter relating to sentencing for class D felonies provided, however, that where a sentence of imprisonment is imposed which requires a commitment to the state department of correctional services, such

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sentence shall be a determinate sentence in accordance with paragraph (c) of subdivision three of this section.

Except as provided in subdivision six of section 60.05, the sentence imposed upon a person who stands convicted of the class D violent felony offenses of criminal possession of a weapon in the third degree as defined in [~~subdivisions~~] subdivision four [and], five, seven or eight of section 265.02 or the class E violent felonies of attempted criminal possession of a weapon in the third degree as defined in [~~subdivisions~~] subdivision four [and], five, seven or eight of section 265.02 must be a sentence to a determinate period of imprisonment, or, in the alternative, a definite sentence of imprisonment for a period of no less than one year, except that:

§ 8. Subdivision 3 of section 265.00 of the penal law, as amended by chapter 264 of the laws of 1988, is amended to read as follows:

3. "Firearm" means (a) any pistol or revolver; or (b) a shotgun having one or more barrels less than eighteen inches in length; or (c) a rifle having one or more barrels less than sixteen inches in length; or (d) any weapon made from a shotgun or rifle whether by alteration, modification, or otherwise if such weapon as altered, modified, or otherwise has an overall length of less than twenty-six inches; or (e) an assault weapon. For the purpose of this subdivision the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Firearm does not include an antique firearm.

§ 9. Subdivisions 8 and 9 of section 265.00 of the penal law, subdivision 8 as amended by chapter 588 of the laws of 1972 and subdivision 9 as amended by chapter 462 of the laws of 1974, are amended to read as follows:

8. "Gunsmith" means any person, firm, partnership, corporation or company who engages in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving or trueing, or who performs any mechanical operation on, any firearm, large capacity ammunition feeding device or machine-gun.

9. "Dealer in firearms" means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of, any assault weapon, large capacity ammunition feeding device, pistol or revolver.

§ 10. Section 265.00 of the penal law is amended by adding three new subdivisions 21, 22 and 23 to read as follows:

21. "Semiautomatic" means any repeating rifle, shotgun or pistol, regardless of barrel or overall length, which utilizes a portion of the energy of a firing cartridge or shell to extract the fired cartridge case or spent shell and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge or shell.

22. "Assault weapon" means (a) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least two of the following characteristics:

- (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;

(v) a grenade launcher; or

(b) a semiautomatic shotgun that has at least two of the following characteristics:

(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 five rounds;

(iv) an ability to accept a detachable magazine; or

(c) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least two of the following characteristics:

(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 fifty ounces or more when the pistol is unloaded;

(v) a semiautomatic version of an automatic rifle, shotgun or firearm; or

(d) any of the weapons, or functioning frames or receivers of such weapons, or copies or duplicates of such weapons, 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;

(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;

(e) provided, however, that such term does not include: (i) any rifle, shotgun or pistol that (A) is manually operated by bolt, pump, lever or slide action; (B) has been rendered permanently inoperable; or (C) is an antique firearm as defined in 18 U.S.C. 921(a)(16);

(ii) a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition;

(iii) a semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine;

(iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof, specified in Appendix A to section 922 of 18 U.S.C. as such weapon was manufactured on October first, nineteen hundred ninety-three. The mere fact that a weapon is not listed in Appendix A shall not be construed to mean that such weapon is an assault weapon; or

(v) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or any of the weapons defined in paragraph (d) of this subdivision lawfully possessed prior to September fourteenth, nineteen hundred ninety-four.

23. "Large capacity ammunition feeding device" means a magazine, belt, drum, feed strip, or similar device, manufactured after September thir-

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teenth, nineteen hundred ninety-four, that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition; provided, however, that such term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

§ 11. Subdivisions 4, 5 and 6 of section 265.02 of the penal law, subdivision 4 as added by chapter 1041 of the laws of 1974, subdivision 5 as amended by chapter 175 of the laws of 1981 and subdivision 6 as added by chapter 378 of the laws of 1998, are amended and two new subdivisions 7 and 8 are added to read as follows:

(4) [~~He~~] Such person possesses any loaded firearm. Such possession shall not, except as provided in subdivision one or seven, constitute a violation of this section if such possession takes place in such person's home or place of business~~[-]; or~~

(5) (i) [~~He~~] Such person possesses twenty or more firearms; or (ii) [~~he~~] such person possesses a firearm and has been previously convicted of a felony or a class A misdemeanor defined in this chapter within the five years immediately preceding the commission of the offense and such possession did not take place in the person's home or place of business~~[-]; or~~

(6) [~~He~~] Such person knowingly possesses any disguised gun~~[-]; or~~

(7) Such person possesses an assault weapon; or

(8) Such person possesses a large capacity ammunition feeding device.

§ 12. Section 265.10 of the penal law, subdivisions 1 and 2 as amended by chapter 378 of the laws of 1998, subdivision 3 as amended by chapter 695 of the laws of 1987, subdivision 4 as amended by chapter 233 of the laws of 1980, subdivision 5 as amended by chapter 3 of the laws of 1978 and subdivision 7 as amended by chapter 1041 of the laws of 1974, is amended to read as follows:

§ 265.10 Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances.

1. Any person who manufactures or causes to be manufactured any machine-gun, assault weapon, large capacity ammunition feeding device or disguised gun is guilty of a class D felony. Any person who manufactures or causes to be manufactured any switchblade knife, gravity knife, pilum ballistic knife, metal knuckle knife, billy, blackjack, bludgeon, metal knuckles, Kung Fu star, chuka stick, sandbag, sandclub or slungshot is guilty of a class A misdemeanor.

2. Any person who transports or ships any machine-gun, firearm silencer, assault weapon or large capacity ammunition feeding device or disguised gun, or who transports or ships as merchandise five or more firearms, is guilty of a class D felony. Any person who transports or ships as merchandise any firearm, other than an assault weapon, switchblade knife, gravity knife, pilum ballistic knife, billy, blackjack, bludgeon, metal knuckles, Kung Fu star, chuka stick, sandbag or slungshot is guilty of a class A misdemeanor.

3. Any person who disposes of any machine-gun, assault weapon, large capacity ammunition feeding device or firearm silencer is guilty of a class D felony. Any person who knowingly buys, receives, disposes of, or conceals a machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun is guilty of a class D felony.

4. Any person who disposes of any of the weapons, instruments or appliances specified in subdivision one of section 265.01, except a

firearm, is guilty of a class A misdemeanor, and he is guilty of a class D felony if he has previously been convicted of any crime.

5. Any person who disposes of any of the weapons, instruments, appliances or substances specified in section 265.05 to any other person under the age of sixteen years is guilty of a class A misdemeanor.

6. Any person who wilfully defaces any machine-gun, large capacity ammunition feeding device or firearm is guilty of a class D felony.

7. Any person, other than a wholesale dealer, or gunsmith or dealer in firearms duly licensed pursuant to section 400.00, lawfully in possession of a firearm, who disposes of the same without first notifying in writing the licensing officer in the city of New York and counties of Nassau and Suffolk and elsewhere in the state the executive department, division of state police, Albany, is guilty of a class A misdemeanor.

§ 13. Subdivision 1 of section 265.11 of the penal law, as amended by chapter 310 of the laws of 1995, is amended to read as follows:

(1) sells, exchanges, gives or disposes of a firearm or large capacity ammunition feeding device to another person; or

§ 14. Subdivision 3 of section 265.15 of the penal law, as amended by chapter 219 of the laws of 1995, is amended to read as follows:

3. The presence in an automobile, other than a stolen one or a public omnibus, of any firearm, large capacity ammunition feeding device, defaced firearm, defaced rifle or shotgun, defaced large capacity ammunition feeding device, firearm silencer, explosive or incendiary bomb, bombshell, gravity knife, switchblade knife, pilum ballistic knife, metal knuckle knife, dagger, dirk, stiletto, billy, blackjack, metal knuckles, chuka stick, sandbag, sandclub or slungshot is presumptive evidence of its possession by all persons occupying such automobile at the time such weapon, instrument or appliance is found, except under the following circumstances: (a) if such weapon, instrument or appliance is found upon the person of one of the occupants therein; (b) if such weapon, instrument or appliance is found in an automobile which is being operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his or her trade, then such presumption shall not apply to the driver; or (c) if the weapon so found is a pistol or revolver and one of the occupants, not present under duress, has in his or her possession a valid license to have and carry concealed the same.

§ 14-a. The penal law is amended by adding a new section 265.17 to read as follows:

§ 265.17 Criminal purchase of a weapon.

A person is guilty of criminal purchase of a weapon when:

1. Knowing that he or she is prohibited by law from possessing a firearm, rifle or shotgun because of a prior conviction or because of some other disability which would render him or her ineligible to lawfully possess a firearm, rifle or shotgun in this state, such person attempts to purchase a firearm, rifle or shotgun from another person; or

2. Knowing that it would be unlawful for another person to possess a firearm, rifle or shotgun, he or she purchases a firearm, rifle or shotgun for, on behalf of, or for the use of such other person.

Criminal purchase of a weapon is a class A misdemeanor.

§ 15. Paragraph 2 of subdivision a of section 265.20 of the penal law, as amended by chapter 328 of the laws of 1986, is amended to read as follows:

2. Possession of a machine-gun, large capacity ammunition feeding device, firearm, switchblade knife, gravity knife, pilum ballistic knife, billy or blackjack by a warden, superintendent, headkeeper or

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deputy of a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or detained as witnesses in criminal cases, in pursuit of official duty or when duly authorized by regulation or order to possess the same.

§ 15-a. Subdivision a of section 265.20 of the penal law is amended by adding a new paragraph 7-e to read as follows:

7-e. Possession and use of a pistol or revolver, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by an association or organization described in paragraph 7-a of this subdivision for the purpose of loading and firing the same by a person at least eighteen years of age but under the age of twenty-one who has not been previously convicted of a felony or serious offense, and who does not appear to be, or pose a threat to be, a danger to himself or to others; provided however, that such possession shall be of a pistol or revolver duly licensed to and shall be used under the immediate supervision, guidance and instruction of, a person specified in paragraph seven of this subdivision.

§ 16. Paragraph 8 of subdivision a of section 265.20 of the penal law, as amended by chapter 378 of the laws of 1998, is amended to read as follows:

8. The manufacturer of machine-guns, assault weapons, large capacity ammunition feeding devices, disguised guns, pilum ballistic knives, switchblade or gravity knives, billies or blackjacks as merchandise and the disposal and shipment thereof direct to a regularly constituted or appointed state or municipal police department, sheriff, policeman or other peace officer, or to a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, or to the military service of this state or of the United States.

§ 17. Paragraphs 11 and 16 of subdivision a of section 265.20 of the penal law, paragraph 11 as added by chapter 498 of the laws of 1976 and paragraph 16 as added by chapter 378 of the laws of 1998, are amended to read as follows:

11. Possession of a [~~pistol or revolver~~] firearm or large capacity ammunition feeding device by a police officer or sworn peace officer of another state while conducting official business within the state of New York.

16. The terms "rifle," "shotgun," "pistol," "revolver," and "firearm" as used in paragraphs three, four, five, seven, seven-a, seven-b, nine, nine-a, ten, twelve, thirteen and thirteen-a of this subdivision shall not include a disguised gun or an assault weapon.

§ 18. Subdivision 1 of section 400.00 of the penal law, as amended by chapter 446 of the laws of 1997, is amended to read as follows:

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) twenty-one years of age or older, provided, however, that where such applicant has been honorably discharged from the United States army, navy, marine corps, air force or coast guard, or the national guard of the state of New York, no such age restriction shall apply; (b) of good moral character; [~~(b)~~] (c) who has not been convicted anywhere of a felony or a serious offense; [~~(c)~~] (d) who has stated whether he or she has ever suffered any mental illness or been confined

to any hospital or institution, public or private, for mental illness; ~~(d)~~ (e) who has not had a license revoked or who is not under a suspension or ineligibility order issued pursuant to the provisions of section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act; ~~(e)~~ (f) in the county of Westchester, who has successfully completed a firearms safety course and test as evidenced by a certificate of completion issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor, except that: (i) persons who are honorably discharged from the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York, and produce evidence of official qualification in firearms during the term of service are not required to have completed those hours of a firearms safety course pertaining to the safe use, carrying, possession, maintenance and storage of a firearm; and (ii) persons who were licensed to possess a pistol or revolver prior to the effective date of this paragraph are not required to have completed a firearms safety course and test; and ~~(f)~~ (g) concerning whom no good cause exists for the denial of the license. No person shall engage in the business of gunsmith or dealer in firearms unless licensed pursuant to this section. An applicant to engage in such business shall also be a citizen of the United States, more than twenty-one years of age and maintain a place of business in the city or county where the license is issued. For such business, if the applicant is a firm or partnership, each member thereof shall comply with all of the requirements set forth in this subdivision and if the applicant is a corporation, each officer thereof shall so comply.

§ 19. Subdivision 2 of section 400.00 of the penal law, as amended by chapter 378 of the laws of 1998, is amended to read as follows:

2. Types of licenses. A license for gunsmith or dealer in firearms shall be issued to engage in such business. A license for a pistol or revolver, other than an assault weapon or a disguised gun, shall be issued to (a) have and possess in his dwelling by a householder; (b) have and possess in his place of business by a merchant or storekeeper; (c) have and carry concealed while so employed by a messenger employed by a banking institution or express company; (d) have and carry concealed by a justice of the supreme court in the first or second judicial departments, or by a judge of the New York city civil court or the New York city criminal court; (e) have and carry concealed while so employed by a regular employee of an institution of the state, or of any county, city, town or village, under control of a commissioner of correction of the city or any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, provided that application is made therefor by such commissioner, warden, superintendent or head keeper; (f) have and carry concealed, without regard to employment or place of possession, by any person when proper cause exists for the issuance thereof; and (g) have, possess, collect and carry antique pistols which are defined as follows: (i) any single shot, muzzle loading pistol with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before 1898, which is not designed for using rimfire or conventional centerfire fixed ammunition; and (ii) any replica of any pistol described in clause (i) hereof if such replica--

(1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

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(2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

§ 20. Subdivision 8 of section 400.00 of the penal law, as amended by chapter 320 of the laws of 1992, is amended to read as follows:

8. License: exhibition and display. Every licensee while carrying a pistol or revolver shall have on his or her person a license to carry the same. Every person licensed to possess a pistol or revolver on particular premises shall have the license for the same on such premises. Upon demand, the license shall be exhibited for inspection to any peace officer, who is acting pursuant to his or her special duties, or police officer. A license as gunsmith or dealer in firearms shall be prominently displayed on the licensed premises. A gunsmith or dealer of firearms may conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, state, or local organization, or any affiliate of any such organization devoted to the collection, competitive use or other sporting use of firearms. Any sale or transfer at a gun show must also comply with the provisions of article thirty-nine-DD of the general business law. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the gunsmith or dealer of firearms and retained on the location specified on the license. Nothing in this section shall authorize any licensee to conduct business from any motorized or towed vehicle. A separate fee shall not be required of a licensee with respect to business conducted under this subdivision. Any inspection or examination of inventory or records under this section at such temporary location shall be limited to inventory consisting of, or records related to, firearms held or disposed at such temporary locations. Failure of any licensee to so exhibit or display his or her license, as the case may be, shall be presumptive evidence that he or she is not duly licensed.

§ 21. The executive law is amended by adding a new section 230 to read as follows:

§ 230. Gun trafficking interdiction program. 1. There is hereby created within the division of criminal justice services a gun trafficking interdiction program to be administered by the commissioner of the division of criminal justice services to distribute funds in accordance with the provisions of this section for the purpose of interdicting guns and components of guns illegally entering New York with a focus on those "supplier" states from which substantial numbers of guns illegally enter this state.

2. The superintendent of the division of state police, in cooperation with the United States department of treasury, bureau of alcohol, tobacco and firearms and district attorneys in New York state, shall develop and implement a strategy for the interdiction of guns illegally entering New York from supplier states. The strategy shall include identifying and prosecuting gun traffickers and suppliers of such guns who may be violating federal, state or local laws, and cooperating with the United States department of treasury, bureau of alcohol, tobacco and firearms and appropriate prosecutorial agencies and law enforcement agencies in supplier states in the investigation and enforcement of such laws. District attorneys are authorized to enter into collaborative agreements with prosecutorial and other governmental agencies and entities in

supplier states in an effort to stop the movement of illegal guns into New York.

3. The commissioner of the division of criminal justice services shall award grant monies to district attorneys for programs which are designed to interdict the flow of illegal guns across New York state borders. In order to qualify for such grant monies, a district attorney must submit an application to the commissioner of the division of criminal justice services in accordance with guidelines prescribed by the division of criminal justice services. The application shall identify a strategy and implementation plan for preventing the entry of illegal guns across New York's borders. Funds awarded under this section shall not be used to supplant federal, state or local funds. No more than fifty percent of the funds available pursuant to this section in any one fiscal year shall be awarded for programs within a single city, county, town or village.

4. The superintendent of the division of state police shall establish and maintain within the division a criminal gun clearinghouse as a central repository of information regarding all guns seized, forfeited, found or otherwise coming into the possession of any state or local law enforcement agency which are believed to have been used in the commission of a crime. The superintendent of the division of state police shall adopt and promulgate regulations prescribing reporting procedures for such state or local law enforcement agencies, including the form for reporting such information. In addition to any other information which the superintendent of the division of state police may require, the form shall require (a) the serial number or other identifying information on the gun, if available and (b) a brief description of the circumstances under which the gun came into the possession of the law enforcement agency, including the crime which was or may have been committed with the gun.

5. In any case where a state or local law enforcement agency investigates the commission of a crime in this state and a specific gun is known to have been used in such crime, such agency shall submit a request to the national tracing center of the United States Department of Treasury, bureau of alcohol, tobacco and firearms to trace the movement of such gun and such federal agency shall be requested to provide the superintendent of the division of state police and the local law enforcement agency with the results of such a trace. This subdivision shall not apply where the source of a gun is already known to a local law enforcement agency.

§ 22. The state finance law is amended by adding a new section 97-www to read as follows:

§ 97-www. Gun trafficking interdiction fund. 1. There is hereby established in the custody of the state comptroller a special fund to be known as the "gun trafficking interdiction fund".

2. Such fund shall consist of all moneys appropriated for the purpose of such fund, all other moneys credited or transferred to such fund pursuant to law, all moneys required by the provisions of this section or any other law to be paid into or credited to such fund, and all moneys received by the fund or donated to it.

3. Moneys of such fund shall be available for appropriation and allocation to the division of criminal justice services for the purpose of funding the gun trafficking interdiction program as set forth in section two hundred thirty of the executive law.

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4. Moneys shall be paid out on the audit and warrant of the controller on vouchers certified or approved by the commissioner of the division of criminal justice services.

§ 23. Subdivision 1 of section 400.10 of the penal law, as added by chapter 531 of the laws of 1984, is amended to read as follows:

1. (a) Any owner or other person lawfully in possession of a firearm, rifle or shotgun who suffers the loss or theft of said weapon shall within twenty-four hours of the discovery of the loss or theft report the facts and circumstances of the loss or theft to a police department or sheriff's office.

(b) Whenever a person reports the theft or loss of a firearm, rifle or shotgun to any [~~peace officer~~] police department or sheriff's office, the officer or department receiving such report shall forward notice of such theft or loss to the division of state police via the New York [~~State Automated Criminal Justice Information System~~] Statewide Police Information Network. The notice shall contain information in compliance with the New York Statewide Police Information Network Operating Manual, including the caliber, make, model, manufacturer's name and serial number, if any, and any other distinguishing number or identification mark on the weapon.

§ 24. Section 400.10 of the penal law is amended by adding a new subdivision 3 to read as follows:

3. Notwithstanding any other provision of law, a violation of paragraph (a) of subdivision one of this section shall be punishable only by a fine not to exceed one hundred dollars.

§ 25. The legislature believes that many needless deaths caused by firearms may be prevented by the use of personalized firearms, more commonly known as "smart guns", which may only be fired by the authorized user. As an important first step in the possible use of this new type of personalized or "smart gun", the legislature is hereby directing the division of state police to conduct a comprehensive study of the feasibility of requiring the use of personalized firearms in this state.

The superintendent of the division of state police shall, in consultation with the United States Secretary of the Treasury, bureau of alcohol, tobacco and firearms, the National Law Enforcement and Correction Technology Lab located in Rome, New York, and such other private and public entities as the superintendent deems appropriate, conduct a comprehensive study of the availability and effectiveness of existing technology for the use of personalized firearms, commonly known as "smart guns" which may only be fired by the authorized user. Such study, shall include, but not be limited to, an examination of the availability and effectiveness of personalized firearms that incorporate within their design, and as part of their original manufacture, technology which limits their operational use and an examination of the availability and effectiveness of technology to transform non-personalized firearms into personalized firearms. Such technology may involve a variety of systems, such as mechanical or electronic systems, which restrict the operation of the firearm through radio frequency tagging, touch memory, remote control, fingerprint, magnetic encoding or other automated user identification systems. In addition, the superintendent shall examine and evaluate reports and studies conducted on the use of personalized firearms.

The superintendent of the division of state police shall, in collaboration with the United States Secretary of the Treasury, bureau of alcohol, tobacco and firearms, the National Law Enforcement and Correction Technology Lab located in Rome, New York, and such other

public or private entities as the superintendent deems appropriate, formulate the necessary testing procedures for personalized firearms and test such firearms and prototypes of firearms or observe the testing of firearms and prototypes of firearms, to evaluate the effectiveness and safety of such firearms, including, but not limited to, whether such personalized firearms effectively preclude or prevent the personalized characteristics of such firearms from being deactivated.

A report, with recommendations, shall be submitted to the governor and the legislature not later than October 1, 2001. As part of such report, the superintendent of the division of state police shall make recommendations as to the feasibility or desirability of requiring the use of personalized firearm technology for all firearms manufactured, possessed, sold, offered for sale, received, transferred, shipped, transported or distributed within this state, including whether, or to what extent the use of personalized firearm technology may not be appropriate for certain categories of firearms. For purposes of this section, the terms: (a) "authorized user" means the person who lawfully owns the firearm or a person to whom the owner has given express consent to lawfully use the firearm; and (b) "firearm" means a pistol or revolver.

§ 26. Nothing in this act shall be construed to prohibit a municipality or other unit of local government from adopting or maintaining a stricter standard regulating the subject matters contained in sections three, ten or the amendments made to paragraph (a) of subdivision 1 of section 400.00 of the penal law by section eighteen of this act by local law or ordinance.

§ 27. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

§ 28. This act shall take effect immediately; provided, however, that:

1. Sections one through three, six through nineteen and twenty-three and twenty-four of this act shall take effect on the first day of November next succeeding the date on which it shall have become a law; provided, further, however, that effective immediately the division of state police is authorized and directed to promulgate such rules and regulations as may be necessary to effectuate the provisions of sections three and four of this act; provided, further, that the amendments to subdivision 3 of section 265.00 of the penal law made by section eight of this act shall apply to offenses committed in violation of article 265 or 400 of the penal law on or after the first day of November next succeeding the date on which this act shall have become a law; and

2. The gun trafficking interdiction program and gun tracer program contained in section twenty-one of this act shall take effect November 1, 2000, provided further, however, that the superintendent of the division of state police is authorized and directed to immediately adopt, amend and promulgate such rules and regulations as may be necessary and desirable to effectuate the purposes of sections twenty-one and twenty-two of this act.

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The Legislature of the STATE OF NEW YORK **ss:**

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO

Temporary President of the Senate

SHELDON SILVER

Speaker of the Assembly

SENATE

PROGRAM BILL # 179

S. 8234

GOVERNOR'S PROGRAM BILL

2000

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MEMORANDUM

AN ACT to amend the criminal procedure law, the general business law and the penal law, in relation to assault weapons and large capacity ammunition feeding devices, gun locking devices, creating a ballistic identification databank, sales of firearms, rifles or shotguns at gun shows and establishing a minimum age to possess a firearm; to amend the executive law and the state finance law, in relation to establishing a gun trafficking interdiction program and a gun tracer program; to amend the penal law, in relation to requiring the report of a stolen or lost weapon to a police agency; and to authorize a study relating to the availability and effectiveness of existing technology for use of smart guns

Purpose:

To establish criminal sanctions for the possession and sale of assault weapons and large capacity ammunition feeding devices; to require that a gun locking device be provided when a rifle, shotgun or firearm is sold at retail; to establish a ballistics databank; to provide for a national criminal background check whenever a rifle, shotgun or firearm is transferred at a gun show; to establish criminal sanctions for an attempt to purchase a firearm, rifle or shotgun by a person who knows that he or she is prohibited by law from possessing a firearm, rifle or shotgun; to establish criminal sanctions for a person who, knowing it would be unlawful for another person to possess a firearm, rifle or shotgun, purchases a firearm, rifle or shotgun for the use of such person; to set a minimum age of 21 for issuance of a license to possess a firearm; to establish a gun trafficking interdiction program; to require that loss or theft of a firearm, rifle or shotgun be reported to a police or sheriff's department within twenty-four hours of such loss or theft, and to authorize a study of personalized firearms or "smart guns" by the Division of State Police.

Summary of Provisions:

Sections one and two of the bill amend Criminal Procedure Law (CPL) 220.10(5)(d)(iv) and 220.30(3)(b)(v) in a similar manner by adding references to new subdivisions 7 and 8 of Penal Law §265.02 (see section 11 of the bill) to their respective provisions requiring that any plea of guilty to certain weapon charges must include at least a plea of guilty of a violent felony.

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Section three adds a new section 396-ee to the General Business Law to require any person, firm or corporation engaged in the retail business of selling rifles, shotguns or firearms to provide a gun locking device at the time of sale, delivery or transfer that is effective in preventing the weapon from being discharged. Additionally, a notice regarding the use of a locking device and the safe storage of weapons must be displayed in all businesses selling such weapons and the same notice shall either be affixed to the weapon or placed in the container in which the weapon is sold. Failure to comply with these provisions is a violation for the first offense and a class A misdemeanor for a second or subsequent offense.

Section four adds a new section 396-ff to the General Business Law to require gun manufacturers who ship pistols or revolvers into New York State to provide to dealers a shell casing for each hand gun shipped to the dealers on and after March 1, 2001. The shell casing would be encased in a sealed container and shipped with the gun to the dealer. Within ten days of delivery of a pistol or revolver by a dealer, the dealer must forward the sealed container containing the casing to the New York State Police, which would then enter the ballistics information of the casing into a ballistics databank. If a dealer receives a handgun after March 1, 2001 which does not have a shell casing in a sealed container, the bill provides for establishing a program by the State Police to obtain a shell casing fired from the pistol or revolver.

Section five adds a new Article 39-DD to the General Business Law to require the operator of a gun show to (a) conspicuously post signs stating that a National Instant Criminal Background Check must be completed prior to sale or transfer of a firearm, rifle or shotgun, (b) notify all exhibitors that such a check must be completed prior to a sale or transfer of a firearm, rifle or shotgun, (c) provide access at a gun show to a person authorized to perform a National Instant Criminal Background Check in any instance where the seller or transferor is not authorized to conduct such a check. This section also authorizes the Attorney General to bring an action or special proceeding seeking an injunction and a civil penalty not exceeding ten thousand dollars for a violation by a gun show operator. In addition, no firearm, rifle or shotgun shall be sold or transferred at a gun show without a National Instant Criminal Background Check being conducted nor shall any person offer or agree to sell a firearm, rifle or shotgun at a gun show and transfer or deliver the firearm, rifle or shotgun at a location other than the gun show for the purpose of evading or avoiding the check. A violation of this requirement shall be a class A misdemeanor punishable as provided in the Penal Law.

Sections six and seven of the bill amend Penal Law §70.02(1)(c) and (d) and §70.02(2)(b) and (c) in a similar manner by adding references to new subdivision 7 and 8 of Penal Law §265.02 to their respective provisions enumerating class D and E violent felonies and prescribing sentencing alternatives for such an offense.

Section eight of the bill amends Penal Law §265.00(3) to include the term "assault weapon" within its definition of a "firearm."

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Section nine of the bill amends subdivision 8 of section 265.00 of the Penal Law to add the term large capacity ammunition feeding device to the definition of gunsmith. Section nine also amends subdivision 9 of section 265.00 of the Penal Law to add the terms "assault weapon" and "large capacity feeding device" to the definition of dealer in firearms.

Section ten of the bill adds new subdivisions 21, 22 and 23 to Penal Law §265.00. Subdivision 21 defines "semiautomatic." Subdivision 22 defines an "assault weapon" as meaning a named list of federally barred firearms and semiautomatic rifles, shotguns or pistols that possess at least two specified characteristics, including features such as a folding or telescoping stock, a bayonet mount, a flash suppressor or a silencer. The term expressly excludes rifles and shotguns that cannot accept a detachable magazine holding more than five rounds and weapons as manufactured on October 1, 1993 which are set forth in a listing under federal law. Subdivision 23 defines the term "large capacity ammunition feeding device" to mean a magazine or similar device manufactured after September 13, 1994 which has the capacity to accept more than ten rounds of ammunition, but does not include a tubular device which only accepts .22 caliber ammunition. The definition of "assault weapon" and "large capacity ammunition feeding device" mirrors federal law and is not intended to prohibit possession of any weapon that is not prohibited under federal law.

Section eleven of the bill amends Penal Law §265.02 by effecting gender-neutral and technical corrections and by adding new subdivisions 7 and 8 to include, respectively, the possession of an assault weapon and the possession of a large capacity ammunition feeding device within its definition of the class D violent felony of criminal possession of a weapon in the third degree.

Section twelve of the bill amends Penal Law §265.10(1),(2), (3), (4), (5), (6), and (7) by adding references to an assault weapon and a large capacity ammunition feeding device to these provisions which prohibit, as a class D felony, the manufacture, transportation, disposition or defacement of certain items and the knowing purchase, receipt or disposition of certain defaced weapons.

Section thirteen amends Penal Law §265.11 (1) to include the sale, exchange, gift or disposal to another person of a large capacity ammunition feeding device within the class D felony crime of criminal sale of a firearm in the third degree.

Section fourteen of the bill amends Penal Law §265.15 (3) by adding references to an assault weapon and a large capacity ammunition feeding device to presumptions regarding the possession of certain weapons in an automobile.

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Section fourteen-a of the bill adds a new section 265.17 to the Penal Law entitled Criminal Purchase of a Weapon. Subdivision 1 of section 265.17 makes it a class A misdemeanor for a person who, knowing that he or she is prohibited by law from possessing a firearm, rifle or shotgun, attempts to purchase such a weapon. Subdivision 2 of section 265.17 makes it a class A misdemeanor for a person who, knowing it would be unlawful for another person to possess a firearm, rifle or shotgun, purchases a firearm, rifle or shotgun for use of such person.

Section fifteen of the bill amends Penal Law §265.20(a)(2) to include within the exemption from certain weapon offenses the possession of an assault weapon or a large capacity ammunition feeding device by certain correctional personnel.

Section fifteen-a of the bill adds a new subdivision (7-e) to section 265.20 of the Penal Law to authorize possession and use of a pistol or revolver at an indoor or outdoor pistol range by a person at least 18 years of age but under the age of 21 under certain circumstances.

Section sixteen of the bill amends Penal Law §265.20(a)(8) to include within the exemption from certain weapon offenses the manufacture and shipment of assault weapons or large capacity ammunition feeding devices directly to law enforcement authorities.

Section seventeen of the bill amends Penal Law section 265.20(a) 11 to authorize a police officer or sworn peace officer from another state to possess a firearm or large capacity ammunition feeding device while conducting official business within the State of New York. Section 17 also amends Penal Law section 265.20 (a)(16) to provide that the terms rifle or shotgun as used in certain paragraphs of subdivision (a) shall not include an assault weapon.

Section eighteen of the bill amends Penal Law 400.00(1) to provide that a license to carry, possess, repair or dispose of a firearm shall only be issued to a person 21 years of age or older unless such person has been honorably discharged from the United States Army, Navy, Marine Corps, Air Force or Coast Guard or the National Guard of the State of New York.

Section nineteen of the bill amends Penal Law section 400.00(2) to provide that a license may not be obtained for an assault weapon.

Section twenty of the bill amends Penal Law 400.00(8) to include a reference to the new General Business Law Article 39-DD.

Section twenty-one adds a new section 230 to the Executive Law to establish a gun trafficking interdiction program within the Division of Criminal Justice Services to distribute funds for the purpose of interdicting guns and components of guns illegally entering New York with a focus on those states from which a substantial number of guns enter this state. Section twenty-one also authorizes the establishment of a gun tracing program within the Division of

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State Police which creates a central clearinghouse of information on guns recovered by law enforcement agencies which are believed to have been used in the commission of a crime.

Section twenty-two adds a new section 97-www to the State Finance Law to establish a "Gun Trafficking Interdiction Fund."

Sections twenty-three and twenty-four amend Penal Law section 400.10 to require that theft or loss of a firearm, rifle or shotgun be reported to a police or sheriff's department within 24 hours of discovery of the theft or loss and provides that failure to report such a loss shall be punishable by a fine not to exceed one hundred dollars.

Section twenty-five of the bill directs the Superintendent of State Police to conduct a comprehensive study of the feasibility of using personalized firearms, commonly known as "smart guns", and to submit a report with recommendations to the Governor and the Legislature not later than October 1, 2001.

Section twenty-six provides that municipalities and other units of local government are not preempted from adopting or maintaining stricter standards regulating the subject matters contained in sections 3, 10 and 18 of the bill.

Section twenty-seven of the bill sets forth a savings provision in the event that any of its terms are found to be invalid.

Section twenty-eight of the bill specifies the effective date. Bill sections 5, 20 and 25 are effective immediately. Bill sections 1, 2, 3, 6 through 19 and 21 through 24 are effective November 1. Bill section 4 requires the Division of State Police to promulgate rules and regulations for operation of the Ballistics Identification Databank by October 1, the program must be operational by January 1, 2001 and manufacturers and dealers must begin compliance on March 1, 2001.

Existing Law:

Penal Law Article 265 currently sets forth criminal penalties for the unlawful possession and sale of "firearms" which are defined to include pistols, revolvers and certain short-barrel rifles and shotguns (see Penal Law §265.00[3]). New York law, however, does not specifically address the possession and sale of military-style weapons or those with excessively large ammunition capacities. While federal law bans these items (see 18 U.S.C. §922 et. seq.), they are not specifically subject to regulation under New York statutes and their possession and sale may not be separately prosecuted in our courts.

Current law does not require the sale or use of a gun locking device, nor does current law require background checks for private sales conducted at gun shows. Current law also does not

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track ballistics data on guns. Penal Law section 400-00(1) contains no explicit minimum use for the issuance of a license to possess a pistol or revolver. Also, current law does not contain any provision for a gun trafficking interdiction program or for a comprehensive study of the feasibility of requiring the use of personalized firearms in this state. The current provisions of Penal Law section 400.10 set forth procedures to be followed whenever a person reports the theft or loss of a firearm, rifle or shotgun to a police department or sheriff's department, but there is no specific requirement that the owner of a firearm, rifle or shotgun report the theft or loss of the weapon.

Statement in Support:

Establishing an Assault Weapons Ban in New York

Since 1994, federal law has restricted the possession of assault weapons and large capacity ammunition feeding devices. The provisions contained in this measure are designed to ensure that New York State's already stringent gun laws mirror the federal provisions.

The bill's definition of an "assault weapon" and a "large capacity ammunition feeding device," as well as the exclusions and exemptions applicable to each, mirror the current provisions of federal law defining and prohibiting activities related to a "semiautomatic assault weapon" and a "large capacity ammunition feeding device" (see 18 U.S.C. §§921[a][30], [31] and 922 [v] and [w]) and the bill is not intended to prohibit possession of any weapon that is not prohibited by federal law.

With respect to penalties, this measure makes it a class D violent felony to possess either an assault weapon or a large capacity ammunition feeding device and a class D felony to unlawfully sell an assault weapon or a large capacity ammunition feeding device.

The bill thus treats the illegal possession of an unloaded assault weapon as seriously as the possession of a loaded handgun. Moreover, because this legislation adds an "assault weapon" to the definition of a "firearm," the current penalties attaching to the offense of criminal use of a firearm will also apply to the use of an assault weapon.

Under the bill, New York law enforcement officers and prosecutors will be able to pursue state charges against those who illegally possess and transfer assault weapons, thereby improving the safety of all New Yorkers.

Requiring the Sale of Gun Locks

Regrettably, children are killed or injured in our nation each year because they have gained access to a weapon. According to the Center for Disease Control (CDC), firearm injuries in 1994 nationwide were the second leading cause of death of those between the ages of 10 and 24, and there were 787 unintended firearm deaths among those 10 to 29 years of age, accounting

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for 58% of all unintentional firearm deaths in the nation that year. Also according to the CDC, more than 800 Americans young and old die each year from gun shots by children under the age of 19.

Currently, New York law is silent regarding safe and responsible ownership of guns. Recognizing that the most reliable way to safely store a weapon, and to prevent an unauthorized person or child from gaining access to it, is to unload the weapon and lock it separately from the ammunition, the bill: (1) requires that the sale of a weapon include a gun locking device; (2) mandates that notices regarding gun safety are posted in all retail establishments; and, (3) requires that such notices are either affixed to the weapon itself or are included in the container in which the weapon is sold.

Establishing a New York State Ballistics Databank

When a firearm is discharged it leaves a distinct impression on the shell casing—an impression often as unique as a fingerprint or DNA. As a result, the bill would require that at the time a weapon is sold by a dealer or gunsmith, the shell casing must be forwarded to the New York State Police, which in turn would enter the pertinent casing information into the state databank, thereby enabling law enforcement to compare databank shell casings with crime scene casings. One national survey documented that an estimated 70% of adult inmates reported obtaining their guns from sources other than the black market. In addition, an average of 274,000 guns are reported stolen to the FBI each year and 11% of guns used in crimes had the serial number removed or defaced, making it difficult for law enforcement to identify the last licensed owner. This proposal would provide invaluable assistance to law enforcement authorities in linking crimes and in tracing ownership of guns used in the commission of crimes.

Requiring all Sales at Gun Shows to be Subject to a Background Check

Under the federal Brady Law enacted in 1994, federally licensed firearms dealers are required to conduct a National Instant Criminal Background check on any prospective purchaser prior to selling a firearm. The law, however, does not apply to purchases made at gun shows from private collectors.

Last spring, Governor Pataki directed that background checks must be conducted on all firearm purchases at any gun show on state property, regardless of whether the purchase involved a licensed firearm dealer or private collector. The bill will extend this important safety requirement to all gun shows, whether conducted on or off state property.

Under the proposal the operator of the gun show will be held civilly liable (maximum fine of \$10,000) if he or she fails to do any of the following three things: (1) post signs stating that a National Instant Criminal Background Check must be performed prior to all firearm sales (2) inform all exhibitors at the show that a National Instant Criminal Background Check must be performed prior to all firearm sales and (3) provide access to a National Instant Criminal

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Background Check when the transaction involves individuals who do not have authority to perform such a check. The third requirement may be accomplished by either individual exhibitors who are authorized to perform the check or at a designated location by an authorized individual.

Additionally, the bill would punish as a misdemeanor the sale or transfer of a firearm, rifle or shotgun at a gun show, without the performance of a National Instant Criminal Background Check. It would also punish as a misdemeanor an offer or agreement to sell a firearm, rifle or shotgun at a gun show and transfer or deliver the firearm, rifle or shotgun at a location other than the gun show for the purpose of evading or avoiding the National Instant Criminal Background Check. This penalty would apply to both the buyer and the seller.

Establishing an Age Limitation for the Purchase of Handguns

New York law is currently silent regarding the legal age at which a person may be licensed to possess a hand gun. In practice, however, a licensing officer who must determine an applicant's eligibility generally will not license an individual under the age of 18. Each year since 1988 more than 80% of homicide victims ages 15 to 19 were killed with a gun, and firearms were the number two killer of men and women ages 10 to 24 in 1994 nationwide — second only to motor vehicle crashes.

Section eighteen of the bill amends Penal Law Article 400 to specifically establish that no individual under the age of 21 may be licensed to possess a hand gun.

However, where the applicant has been honorably discharged from the United States Army, Navy, Marine Corps, Air Force or Coast Guard or the National Guard of the State of New York, the age 21 restriction shall not apply. Additionally, an individual over the age of 18 but under the age of 21 may possess a pistol or revolver at a range in a shooting competition if the requirements of Penal Law section 265.20 (7-e), which is added by section 15-a of the bill, are met.

Criminal Purchase of a Weapon

The bill adds criminal provisions for a person who attempts to purchase a firearm, rifle or shotgun when such person knows that he or she is prohibited by law from possessing such a weapon.

The bill also adds criminal provisions for a "straw purchaser", that is, a person who purchases a firearm, rifle or shotgun for use of a person who the purchaser knows is prohibited by law from possessing such a weapon.

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Gun Trafficking Interdiction Program

According to 1996 figures from the Bureau of Alcohol, Tobacco and Firearms (ATF) the vast majority of guns used in crimes in New York State were originally purchased in other states. By establishing a cooperative program between the State Police, District Attorneys and ATF, a joint strategy can be developed and implemented to interdict guns illegally entering New York State in an effort to halt the movement of these guns. The bill also creates the Gun Trafficking Interdiction Fund in the State Finance Law, which could be used as a funding source for grants to District Attorneys for programs designed to interdict illegal guns coming into New York State.

Smart Gun Study

An emerging technology, personalized firearms also known as "smart guns," may only be fired by the authorized user of the weapon. The use of such weapons may be an important method of preventing accidental death and injury to individuals in households where weapons are located. In addition, since many guns that used in the commission of a crime are stolen, the use of personalized firearms could lead to a reduction in the use of stolen guns in the commission of other crimes. By conducting a comprehensive study of the availability and feasibility of personalized firearms in New York State, we hopefully are moving one step closer to preventing gun-related accidental deaths and injuries.

Budget Implications:

Additional resources may be needed at the New York State Police for implementation of the ballistics tracking system.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S8234

SPONSOR: PADAVAN

AN ACT to amend the criminal procedure law, the general business law and the penal law, in relation to assault weapons and large capacity ammunition feeding devices, gun locking devices, creating a ballistic identification databank, sales of firearms, rifles or shotguns at gun shows and establishing a minimum age to possess a firearm; to amend the executive law and the state finance law, in relation to establishing a gun trafficking interdiction program and a gun tracer program; to amend the penal law, in relation to requiring the report of a stolen or lost weapon to a police agency; and to authorize a study relating to the availability and effectiveness of existing technology for use of smart guns

PURPOSE:

To establish criminal sanctions for the possession and sale of assault weapons and large capacity ammunition feeding devices; to require that a gun locking device be provided when a rifle, shotgun or firearm is sold at retail; to establish a ballistics databank; to provide for a national criminal background check whenever a rifle, shotgun or firearm is transferred at a gun show; to establish criminal sanctions for an attempt to purchase a firearm, rifle or shotgun by a person who knows that he or she is prohibited by law from possessing a firearm, rifle or shotgun; to establish criminal sanctions for a person who, knowing it would be unlawful for another person to possess a firearm, rifle or shotgun, purchases a firearm, rifle or shotgun for the use of such person; to set a minimum age of 21 for issuance of a license to possess a firearm; to establish a gun trafficking interdiction program; to require that loss or theft of a firearm, rifle or shotgun be reported to a police or sheriff's department within twenty-four hours of such loss or theft, and to authorize a study of personalized firearms or "smart guns" by the Division of State Police.

SUMMARY OF PROVISIONS:

Sections one and two of the bill amend Criminal Procedure Law (CPL) 220.10(5)(d)(iv) and 220.30(3)(b)(v) in a similar manner by adding references to new subdivisions 7 and 8 of Penal Law § 265.02 (see section 11 of the bill) to their respective provisions requiring that any plea of guilty to certain weapon charges must include at least a plea of guilty of a violent felony.

Section three adds a new section 396-ee to the General Business Law to require any person, firm or corporation engaged in the retail business of selling rifles, shotguns or firearms to provide a gun locking device at the time of sale, delivery or transfer that is effective in preventing the weapon from being discharged. Additionally, a notice regarding the use of a locking device and the safe storage of weapons must be displayed in all businesses selling such weapons and the same notice shall either be affixed to the weapon or placed in the container in

which the weapon is sold. Failure to comply with these provisions is a violation for the first offense and a class A misdemeanor for a second or subsequent offense.

Section four adds a new section 396-ff to the General Business Law to require gun manufacturers who ship pistols or revolvers into New York State to provide to dealers a shell casing for each hand gun shipped to the dealers on and after March 1, 2001. The shell casing would be encased in a sealed container and shipped with the gun to the dealer. Within ten days of delivery of a pistol or revolver by a dealer, the dealer must forward the sealed container containing the casing to the New York State Police, which would then enter the ballistics information of the casing into a ballistics databank. If a dealer receives a handgun after March 1, 2001 which does not have a shell casing in a sealed container, the bill provides for establishing a program by the State Police to obtain a shell casing fired from the pistol or revolver.

Section five adds a new Article 39-DD to the General Business Law to require the operator of a gun show to (a) conspicuously post signs stating that a National Instant Criminal Background Check must be completed prior to sale or transfer of a firearm, rifle or shotgun, (b) notify all exhibitors that such a check must be completed prior to a sale or transfer of a firearm, rifle or shotgun, (c) provide access at a gun show to a person authorized to perform a National Instant Criminal Background Check in any instance where the seller or transferor is not authorized to conduct such a check. This section also authorizes the Attorney General to bring an action or special proceeding seeking an injunction and a civil penalty not exceeding ten thousand dollars for a violation by a gun show operator. In addition, no firearm, rifle or shotgun shall be sold or transferred at a gun show without a National Instant Criminal Background Check being conducted nor shall any person offer or agree to sell a firearm, rifle or shotgun at a gun show and transfer or deliver the firearm, rifle or shotgun at a location other than the gun show for the purpose of evading or avoiding the check. A violation of this requirement shall be a class A misdemeanor punishable as provided in the Penal Law.

Sections six and seven of the bill amend Penal Law § 70.02(1)(c) and (d) and § 70.02(2)(b) and (c) in a similar manner by adding references to new subdivisions 7 and 8 of Penal Law § 265.02 to their respective provisions enumerating class D and E violent felonies and prescribing sentencing alternatives for such an offense.

Section eight of the bill amends Penal Law § 265.00(3) to include the term "assault weapon" within its definition of a "firearm."

Section nine of the bill amends subdivision 8 of section 265.00 of the Penal Law to add the term large capacity ammunition feeding device to the definition of gunsmith. Section nine also amends subdivision 9 of section 265.00 of the Penal Law to add the terms "assault weapon" and "large capacity feeding device" to the definition of dealer in firearms.

Section ten of the bill adds new subdivisions 21, 22 and 23 to Penal Law § 265.00. Subdivision 21 defines "semiautomatic." Subdivision 22 defines an "assault weapon" as meaning a named list of federally barred firearms and semiautomatic rifles, shotguns or pistols that possess at least two specified characteristics, including features such as a folding or telescoping stock, a bayonet mount, a flash suppressor or a silencer. The term expressly excludes rifles and shotguns that cannot accept a detachable magazine holding more than five rounds and weapons

as manufactured on October 1, 1993 which are set forth in a listing under federal law. Subdivision 23 defines the term "large capacity ammunition feeding device" to mean a magazine or similar device manufactured after September 13, 1994 which has the capacity to accept more than ten rounds of ammunition, but does not include a tubular device which only accepts .22 caliber ammunition. The definition of "assault weapon" and "large capacity ammunition feeding device" mirrors federal law and is not intended to prohibit possession of any weapon that is not prohibited under federal law.

Section eleven of the bill amends Penal Law § 265.02 by effecting gender-neutral and technical corrections and by adding new subdivisions 7 and 8 to include, respectively, the possession of an assault weapon and the possession of a large capacity ammunition feeding device within its definition of the class D violent felony of criminal possession of a weapon in the third degree.

Section twelve of the bill amends Penal Law § 265.10(1), (2), (3), (4), (5), (6), and (7) by adding references to an assault weapon and a large capacity ammunition feeding device to these provisions which prohibit, as a class D felony, the manufacture, transportation, disposition or defacement of certain items and the knowing purchase, receipt or disposition of certain defaced weapons.

Section thirteen amends Penal Law § 265.11(1) to include the sale, exchange, gift or disposal to another person of a large capacity ammunition feeding device within the class D felony crime of criminal sale of a firearm in the third degree.

Section fourteen of the bill amends Penal Law § 265.15 (3) by adding references to an assault weapon and a large capacity ammunition feeding device to presumptions regarding the possession of certain weapons in an automobile.

Section fourteen-a of the bill adds a new section 265.17 to the Penal Law entitled Criminal Purchase of a Weapon. Subdivision 1 of section 265.17 makes it a class A misdemeanor for a person who, knowing that he or she is prohibited by law from possessing a firearm, rifle or shotgun, attempts to purchase such a weapon. Subdivision 2 of section 265.17 makes it a class A misdemeanor for a person who, knowing it would be unlawful for another person to possess a firearm, rifle or shotgun, purchases a firearm, rifle or shotgun for use of such a person.

Section fifteen of the bill amends Penal Law § 265.20(a)(2) to include within the exemption from certain weapon offenses the possession of an assault weapon or a large capacity ammunition feeding device by certain correctional personnel.

Section fifteen-a of the bill adds a new subdivision (7-e) to section 265.20 of the Penal Law to authorize possession and use of a pistol or revolver at an indoor or outdoor pistol range by a person at least 18 years of age but under the age of 21 under certain circumstances.

Section sixteen of the bill amends Penal Law § 265.20(a)(8) to include within the exemption from certain weapon offenses the manufacture and shipment of assault weapons or large capacity ammunition feeding devices directly to law enforcement authorities.

Section seventeen of the bill amends Penal Law section 265.20(a) 11 to authorize a police officer or sworn peace officer from another state to

possess a firearm or large capacity ammunition feeding device while conducting official business within the State of New York. Section 17 also amends Penal Law section 265.20 (a)(16) to provide that the term

rifle or shotgun as used in certain paragraphs of subdivision (a) shall not include an assault weapon.

Section eighteen of the bill amends Penal Law Section 400.00(1) to provide that a license to carry, possess, repair or dispose of a firearm shall only be issued to a person 21 years of age or older unless such person has been honorably discharged from the United States Army, Navy, Marine Corps, Air Force or Coast Guard or the National Guard of the State of New York.

Section nineteen of the bill amends Penal Law section 400.00(2) to provide that a license may not be obtained for an assault weapon.

Section twenty of the bill amends Penal Law Section 400.00(8) to include a reference to the new General Business Law Article 39-DD.

Section twenty-one adds a new section 230 to the Executive Law to establish a gun trafficking interdiction program within the Division of Criminal Justice Services to distribute funds for the purpose of interdicting guns and components of guns illegally entering New York with a focus on those states from which a substantial number of guns enter this state. Section twenty-one also authorizes the establishment of a gun tracing program within the Division of State Police which creates a central clearinghouse of information on guns recovered by law enforcement agencies which are believed to have been used in the commission of a crime.

Section twenty-two adds a new section 97-www to the State Finance Law to establish a "Gun Trafficking Interdiction Fund."

Sections twenty-three and twenty-four amend Penal Law section 400.10 to require that theft or loss of a firearm, rifle or shotgun be reported to a police or sheriff's department within 24 hours of discovery of the theft or loss and provides that failure to report such a loss shall be punishable by a fine not to exceed one hundred dollars.

Section twenty-five of the bill directs the Superintendent of State Police to conduct a comprehensive study of the feasibility of using personalized firearms, commonly known as "smart guns", and to submit a report with recommendations to the Governor and the Legislature not later than October 1, 2001.

Section twenty-six provides that municipalities and other units of local government are not preempted from adopting or maintaining stricter standards regulating the subject matters contained in sections 3, 10 and 18 of the bill.

Section twenty-seven of the bill sets forth a savings provision in the event that any of its terms are found to be invalid.

Section twenty-eight of the bill specifies the effective date. Bill sections 5, 20 and 25 are effective immediately. Bill sections 1, 2, 3, 6 through 19 and 21 through 24 are effective November 1. Bill section 4 requires the Division of State Police to promulgate rules and regulations for operation of the Ballistics Identification Databank by October 1, the program must be operational by January 1, 2001 and manufac-

turers and dealers must begin compliance on March 1, 2001.

EXISTING LAW:

Penal Law Article 265 currently sets forth criminal penalties for the unlawful possession and sale of "firearms" which are defined to include pistols, revolvers and certain short-barrel rifles and shotguns (see Penal Law § 265.00

3). New York law, however, does not specifically address the possession and sale of military-style weapons or those with excessively large ammunition capacities. While federal law bans these items (see 18 U.S.C. § 922 et. seq.), they are not specifically subject to regulation under New York statutes and their possession and sale may not be separately prosecuted in our courts.

Current law does not require the sale or use of a gun locking device, nor does current law require background checks for private sales conducted at gun shows. Current law also does not track ballistics data on guns. Penal Law section 400.00(1) contains no explicit minimum use for the issuance of a license to possess a pistol or revolver. Also, current law does not contain any provision for a gun trafficking interdiction program or for a comprehensive study of the feasibility of requiring the use of personalized firearms in this state. The current provisions of Penal Law section 400.10 set forth procedures to be followed whenever a person reports the theft or loss of a firearm, rifle or shotgun to a police department or sheriff's department, but there is no specific requirement that the owner of a firearm, rifle or shotgun report the theft or loss of the weapon.

STATEMENT IN SUPPORT:

ESTABLISHING AN ASSAULT WEAPONS BAN IN NEW YORK

Since 1994, federal law has restricted the possession of assault weapons and large capacity ammunition feeding devices. The provisions contained in this measure are designed to ensure that New York State's already stringent gun laws mirror the federal provisions.

The bill's definition of an "assault weapon" and a "large capacity ammunition feeding device," as well as the exclusions and exemptions applicable to each, mirror the current provisions of federal law defining and prohibiting activities related to a "semiautomatic assault weapon" and a "large capacity ammunition feeding device" (see 18 U.S.C. §§921

a
30,

31 and 922

v and

w) and the bill is not intended to prohibit possession of any weapon that is not prohibited by federal law.

With respect to penalties, this measure makes it a class D violent felony to possess either an assault weapon or a large capacity ammunition feeding device and a class D felony to unlawfully sell an assault weapon or a large capacity ammunition feeding device.

The bill thus treats the illegal possession of an unloaded assault weap-

on as seriously as the possession of a loaded handgun. Moreover, because this legislation adds an "assault weapon" to the definition of a "firearm," the current penalties attaching to the offense of criminal use of a firearm will also apply to the use of an assault weapon.

Under the bill, New York law enforcement officers and prosecutors will be able to pursue state charges against those who illegally possess and transfer assault weapons, thereby improving the safety of all New Yorkers.

REQUIRING THE SALE OF GUN LOCKS

Regrettably, children are killed or injured in our nation each year because they have gained access to a weapon. According to the Center for Disease Control (CDC), firearm injuries in 1994 nationwide were the second leading cause of death of those between the ages of 10 and 24, and there were 787 unintended firearm deaths among those 10 to 29 years of age, accounting for 58% of all unintentional firearm deaths in the nation that year. Also according to the CDC, more than 800 Americans young and old die each year from gun shots by children under the age of 19.

Currently, New York law is silent regarding safe and responsible ownership of guns. Recognizing that the most reliable way to safely store a weapon, and to prevent an unauthorized person or child from gaining access to it, is to unload the weapon and lock it separately from the ammunition, the bill: (1) requires that the sale of a weapon include a gun locking device; (2) mandates that notices regarding gun safety are posted in all retail establishments; and, (3) requires that such notices are either affixed to the weapon itself or are included in the container in which the weapon is sold.

ESTABLISHING A NEW YORK STATE BALLISTICS DATABANK

When a firearm is discharged it leaves a distinct impression on the shell casing--an impression often as unique as a fingerprint or DNA. As a result, the bill would require that at the time a weapon is sold by a dealer or gunsmith, the shell casing must be forwarded to the New York State Police, which in turn would enter the pertinent casing information into the state databank, thereby enabling law enforcement to compare databank shell casings with crime scene casings. One national survey documented that an estimated 70% of adult inmates reported obtaining their guns from sources other than the black market. In addition, an average of 274,000 guns are reported stolen to the FBI each year and 11% of guns used in crimes had the serial number removed or defaced, making it difficult for law enforcement to identify the last licensed owner. This proposal would provide invaluable assistance to law enforcement authorities in linking crimes and in tracing ownership of guns used in the commission of crimes.

REQUIRING ALL SALES AT GUN SHOWS TO BE SUBJECT TO A BACKGROUND CHECK

Under the federal Brady Law enacted in 1994, federally licensed firearms dealers are required to conduct a National Instant Criminal Background Check on any prospective purchaser prior to selling a firearm. The law, however, does not apply to purchases made at gun shows from private collectors.

Last spring, Governor Pataki directed that background checks must be conducted on all firearm purchases at any gun show on state property, regardless of whether the purchase involved a licensed firearm dealer or private collector. The bill will extend this important safety requirement to all gun shows, whether conducted on or off state property.

Under the proposal the operator of the gun show will be held civilly liable (maximum fine of \$10,000) if he or she fails to do any of the following three things: (1) post signs stating that a National Instant Criminal Background Check must be performed prior to all firearm sales (2) inform all exhibitors at the show that a National Instant Criminal Background Check must be performed prior to all firearm sales and (3) provide access to a National Instant Criminal Background Check when the transaction involves individuals who do not have authority to perform such a check. The third requirement may be accomplished by either individual exhibitors who are authorized to perform the check or at a designated location by an authorized individual.

Additionally, the bill would punish as a misdemeanor the sale or transfer of a firearm, rifle or shotgun at a gun show, without the performance of a National Instant Criminal Background Check. It would also punish as a misdemeanor an offer or agreement to sell a firearm, rifle or shotgun at a gun show and transfer or deliver the firearm, rifle or shotgun at a location other than the gun show for the purpose of evading or avoiding the National Instant Criminal Background Check. This penalty would apply to both the buyer and the seller.

ESTABLISHING AN AGE LIMITATION FOR THE PURCHASE OF HANDGUNS

New York law is currently silent regarding the legal age at which a person may be licensed to possess a hand gun. In practice, however, a licensing officer who must determine an applicant's eligibility generally will not license an individual under the age of 18. Each year since 1988 more than 80% of homicide victims ages 15 to 19 were killed with a gun, and firearms were the number two killer of men and women ages 10 to 24 in 1994 nationwide -- second only to motor vehicle crashes.

Section eighteen of the bill amends Penal Law Article 400 to specifically establish that no individual under the age of 21 may be licensed to possess a hand gun.

However, where the applicant has been honorably discharged from the United States Army, Navy, Marine Corps, Air Force or Coast Guard or the National Guard of the State of New York, the age 21 restriction shall not apply. Additionally, an individual over the age of 18 but under the age of 21 may possess a pistol or revolver at a range in a shooting competition if the requirements of Penal Law section 265.20 (7-e), which is added by section 15-a of the bill are met.

CRIMINAL PURCHASE OF A WEAPON

The bill adds criminal provisions for a person who attempts to purchase a firearm, rifle or shotgun when such person knows that he or she is prohibited by law from possessing such a weapon.

The bill also adds criminal provisions for a "straw purchaser", that is, a person who purchases a firearm, rifle or shotgun for use of a person who the purchaser knows is prohibited by law from possessing such a

weapon.

GUN TRAFFICKING INTERDICTION PROGRAM

According to 1996 figures from the Bureau of Alcohol, Tobacco and Fire-anna (ATF) the vast majority of guns used in crimes in New York State were originally purchased in other states. By establishing a cooperative program between the State Police, District Attorneys and ATF, a joint strategy can be developed and implemented to interdict guns illegally entering New York State in an effort to halt the movement of these guns. The bill also creates the Gun Trafficking Interdiction Fund in the State Finance Law, which could be used as a funding source for grants to District Attorneys for programs designed to interdict illegal guns coming into New York State.

SMART GUN STUDY

An emerging technology, personalized firearms also known as "smart guns," may only be fired by the authorized user of the weapon. The use of such weapons may be an important method of preventing accidental death and injury to individuals in households where weapons are located. In addition, since many guns that are used in the commission of a crime are stolen, the use of personalized firearms could lead to a reduction in the use of stolen guns in the commission of other crimes. By conducting a comprehensive study of the availability and feasibility of personalized fireanns in New York State, we hopefully are moving one step closer to preventing gun-related accidental deaths and injuries.

BUDGET IMPLICATIONS:

Additional resources may be needed at the New York State Police for implementation of the ballistics tracking system.

