

ALAN BECK (HI Bar No. 9145)
 Attorney at Law
 4780 Governor Drive
 San Diego, California 92122
 Telephone: (619) 971-0414
 Email: ngord2000@yahoo.com

Attorney for Plaintiff-Appellant George K. Young

**UNITED STATE COURT OF APPEALS
 NINTH CIRCUIT**

GEORGE K. YOUNG JR.,
 Plaintiff,
 vs.
 STATE OF HAWAII ET. AL.;
 Defendants.

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No. 12-17808
 CASE No. 12-00336 HG BMK
 NOTICE OF SUPPLEMENTAL
 AUTHORITY

Notice of Supplemental Authority

COMES NOW THE PLAINTIFF-APPELLANT, George K. Young Jr., submits this Notice of Supplemental Authority in support of his argument the H.R.S. 134-8 complete ban on short barrel rifles fails strict scrutiny. Mr. Young g attaches the following sources on rifles “Project Manager Soldier Weapons Briefing for NDIA” “Small Arms-Individual Weapons”. Based on these sources Mr. Young argues the short barrel rifle simply serves a different function for self-defense and there is no

government interest in banning them. To illustrate this point Mr. Young uses the M4 rifle. It is a variant of the original AR-15 rifle designed by Eugene Stoner and made by ArmaLite. The M4 is a shorter and lighter variant of the M16A2 assault rifle, with 80% parts in common. The M4 has a 14.5 in (370 mm) barrel; its shorter barrel allows its user to better operate in close quarters engagement such as in the home where the right to self-defense is most acute. Many short barrel rifles (carbines) are shortened versions of full size rifles, firing the same ammunition at a lower rotational velocity due to a shorter barrel length. Accordingly they are actually safer for the general public than long barrel rifles for self-defense within the home because there is less risk of a stray bullet penetrating a wall and hitting an innocent bystander. For the very seem reasons they are better for home defense short barrel rifles are in fact less deadly outside the home. Per *Heller*, rifles are a class of arms and short barrel rifles as a type of rifle are protected arms. There complete ban fails any level of heightened scrutiny. Strict scrutiny should be applied and HRS 134-8 unconstitutional ban on them must be struck down.

Respectfully submitted this 31st day of March, 2013

s/ Alan Beck

Alan Beck (HI Bar No. 9145)

CERTIFICATE OF SERVICE

On this, the 31st day of March, 2013, I served the foregoing pleading by electronically filing it with the Court's CM/ECF system, which generated a Notice of Filing and effects service upon counsel for all parties in the case.

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

Executed this the 31st day of March, 2013

s/ Alan Beck

Alan Beck (HI Bar No. 9145)



CENTER OF OUR STRENGTH

Project Manager Soldier Weapons

Project Manager Soldier Weapons Briefing For NDIA

18 MAY 2010

BG Peter N. Fuller
Program Executive Officer Soldier

COL Douglas A. Tamilio
Project Manager Soldier Weapons



Program Executive Office Soldier



As of 1 January 2010

Chief of Staff

PEO



Command Sergeant Major (PEO)

Executive Director for Quality Assurance, Process & Compliance



Executive Officer (PEO)

Executive Assistant (PEO)

DPEO



Executive Assistant (DPEO)

ASA(ALT) Soldier Maneuver Systems (SMS) Directorate (SWAR)/(SPIE, SSL, RFI)/(SW)/(SW)

G1: Human Resources

G6: CIO
DPEO Reserve Affairs



G3: Operations & Plans

G7: Systems Engineering & Integration

G4: Logistics

G8: Business Management

G5: Strategic Communications PAO

Contracts Management

Audits, Engagements and Compliance

Congressional Affairs

Liaison Officers (TRADOC) / (USAIC) / (FORSCOM) / (FFID) / (MARCOSYSCOM)

Project Manager Soldier Weapons



DPM Soldier Weapons

- PM Individual Weapons
- PM Crew Served Weapons

Project Manager Soldier Warrior



DPM Soldier Warrior

- PM Air Soldier
- PM Ground Soldier
- PM Mounted Soldier

Project Manager Soldier Protection and Individual Equipment



DPM Soldier Protection and Individual Equipment

- PM Soldier Clothing & Individual Equipment
- PM Soldier Protective Equipment

Project Manager Soldier Sensors and Lasers



DPM Soldier Sensors and Lasers

- PM Soldier Maneuver Sensors
- PM Soldier Precision Targeting Devices

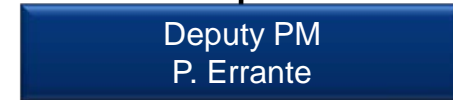
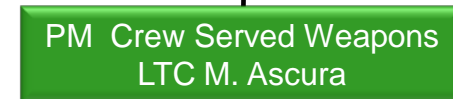
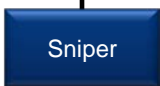
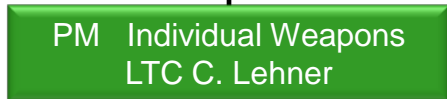
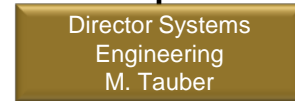
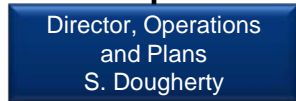


Project Manager Soldier Weapons



	PM SW	Total PM SW
Military	2	10
Core	17	35
Matrix	16	46*
Contractor	13	40
Total	48	131*

*Includes Part Time Contractors





Current



M16A4 Rifle



M9 Pistol



M4 Carbine



M320
40mm Grenade
Launcher



M4/M203



M110
Semi-Automatic
Sniper System
(SASS)



M107
Long Range
Sniper Rifle



M240L
Medium
Machine Gun



M249
Squad Automatic
Weapon (SAW)



M240B
Medium
Machine Gun



M2
Cal .50
Machine Gun



MK19
Grenade
Machine Gun



M25
Stabilized
Binocular



M24
Mini
Binocular



M68
Close Combat
Optic (CCO)



M145
Machine Gun
Optic



Rifle Combat
Optic (RCO)

Development



XM25
Counter Defilade
Target Engagement System



M26
Modular Accessory
Shotgun System
(MASS)



XM806
Lightweight
.50 Caliber
Machine Gun



XM153
Common Remotely
Operated Weapon
Station
(CROWS)

Future



Future
Handgun

Family of Weapons

Compact



Carbine



Light Machine
Gun



Future
Sniper Rifle

“ Provide the best weapons to our Soldiers”






















2009 Successes



- M320 Grenade Launcher
 - Fielded 10,000 to date (AAO 71,600 GLs)
 - Recently contracted Additional 12,000 GLs & \$3.8M spare parts
 - Soldiers praise its accuracy, ease of use, & modularity
- M4
 - AAO increase from 473,769 to 501,286
 - Acq Strat Apprv'd. for Heavy Barrel, Auto, Ambi - FY10 Production Contr (12k M4 converted to M4A1), FY11-12 Prod. Contr will be competed (full & open) for 24k M4A1.
- Individual Carbine CDD - In JROC Staffing!
- M26 - Approval to produce 1,800 LRIP shotguns, 3QFY11 initial Fielding
- M24E1- .300 WinMag, 1200m range, Down Select Ongoing, Initial Fielding 1QFY11
- M14 EBR-RI - 5,000 Weapons Produced & Fielded, New funding provided for 1,200 more
- XM25 - Fully Funded RDT&E, Finishing AROC staffing
- CROWS
 - UMRs Fielded systems on the Buffalo A1/A2/-1, RG31A1/A2/A3, RG-33, M1151, and M1A2
 - Integrating it on the MATV, JERRV, CAIMAN, and MAXPROPLUS
- M240L
- MK48 Urgent Materiel Release
- Lighten the Soldier Load



Lighten Soldier's Load

Rifles/ Carabines *	Shotguns	Machine Gun Tripods	Medium Machine Guns	Heavy Machine Guns	Heavy Machine Gun Tripods	
Before  M16A4, 8.13 lbs	 M500, 7.7 lbs	 M122A1, 18 lbs	 M240B, 27.3 lbs	 M2, 128 lbs	 M3, 44lbs (Including T&E)	
% Lighter  17% (-1.38 lbs)	 29% (-2.2 lbs)	 36% (-6.5 lbs)	  32% (-8.7 lbs)	 49% (-63 lbs)	 30% (-13 lbs)	
After  M4, 6.75 lbs	 M26 MASS, 5.5 lbs <hr/>  M26 MASS Mounted on M4	 M192, 11.5 lbs	 MK48, 18.6 lbs	 M240L, 22.3 lbs	 XM806 Lightweight .50 Caliber MG, 65 lbs	 XM205, 31 lbs (Including T&E)
Systems Currently Fielded				Systems Currently in Testing		

* Weapon Weight With Empty Magazine, No Sling, No Optic



Ongoing Programs

XM153 Common Remotely Operated Weapon Station (CROWS) System Description

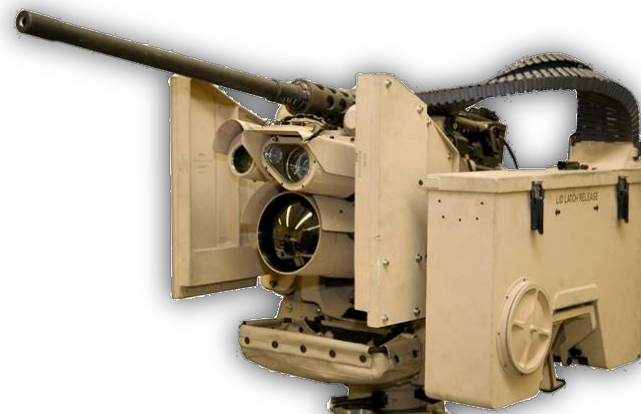


Fire Control Unit (FCU)



Control Grip (CG)

- Weight (w/o Weapon And Ammunition)
 - Above The roof: 325 lbs (w/o Armor Kit)
 - Total weight: 430 lbs
- Supported Weapons:
 - M2 (400 rds) - M240 (1000 rds)
 - MK19 (96 rds) - M249 (1600 rds)
- Reliability: Minimum Of 1600 hrs MTBMA



- Four-Axis Targeting System
- Three-Axis Vector Stabilization
- Day Camera: 27X w/47 Degree FOV
- Thermal: Dual FOV (3° & 11°) w/ 2x E-Zoom
- Auto Focus (Day And Thermal)
- Laser Range Finder
- Auto Tracker / Auto Lead / Auto Scan
- Target Reference Points Scan
- Elevation: -20 to +60 degrees
- Traverse: 360 Degrees Continuous

Potential Future Improvements:

- Sniper Detection Capability
- Far Target Designation With Handoff
- Additional weapons (LW50, MK47, M134, Integrated Javelin Launcher)
- IR And Visible Pointers
- Enhanced Image Capability



CROWS Fieldings



Buffalo



RG31A1



M1151



JERRV



M1A2



RG33

MRAP Vehicles in progress



XM806 Lightweight .50 Caliber Machine Gun

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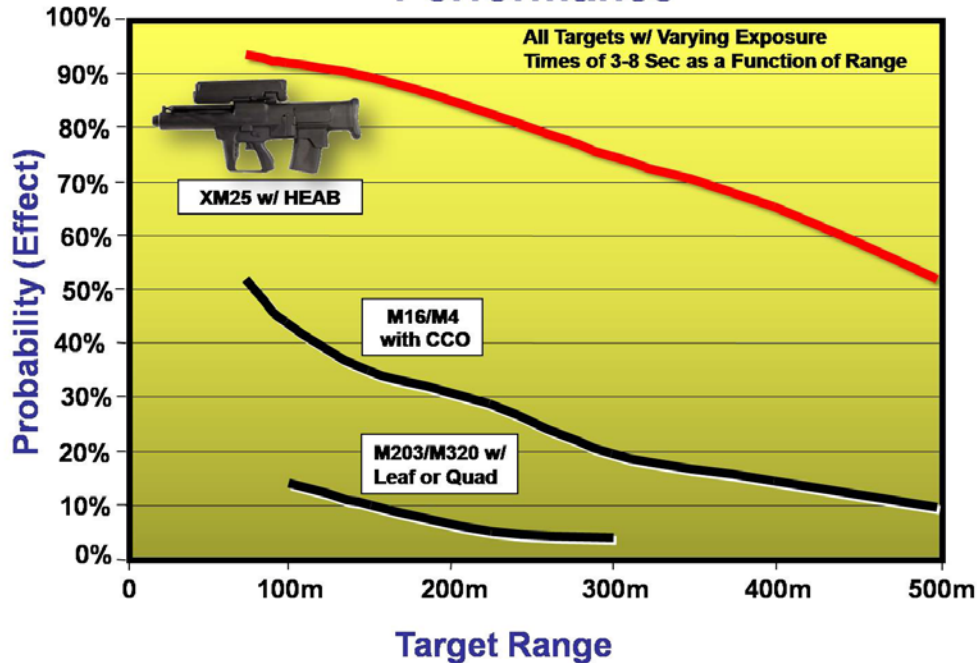
- **Lightweight**
 - Two Man Portable (62.0 Vice 128 lbs M2HB)
 - Can Be Dismounted From Vehicle Platform And Remounted On Ground Mount <30 Seconds
- **System Dispersion-1.1 Mills (Ground Mount No Ballast)**
- **No Headspace Or Timing Adjustment**
- **Minimized Logistic Impact: 133 Parts LW50 vs. 244 Parts M2HB**

Low Recoil = More Hits/Less Dispersion

Counter Defilade Target Engagement Weapon System



Performance



System Description:

- 3 Components that are Highly Integrated & Optimized to produce noted P(effect):
 - Semi-auto, Magazine Fed, 25mm Weapon
 - Programmable, Low Velocity, High Explosive Air Burst (HEAB) Ammo
 - Fully Integrated Day & Thermal Night Sight w/ Full Solution Target Acquisition/Fire Control
- System Weight: 12.0-12.5 lbs

System Capabilities:

- Defeats Defilade Targets And Exposed Targets
- Point Target Range: 500 meters
- Area Target Range: 700 meters

Status:

- Contractor Integration Testing: Aug 08
- Government Testing at APG: Sep 08 – Present
- Limited Safety Release: 4QFY09
- MS B: 3QFY10
- MS C: ~3QFY12

Current Development

Future Development



25mm Ammo





M2E2 Quick Change Barrel Kit

System Description:

- Quick Change Barrel
- Barrel Support
- Barrel Extension
- Solid Breech Lock
- Flash Suppressor*

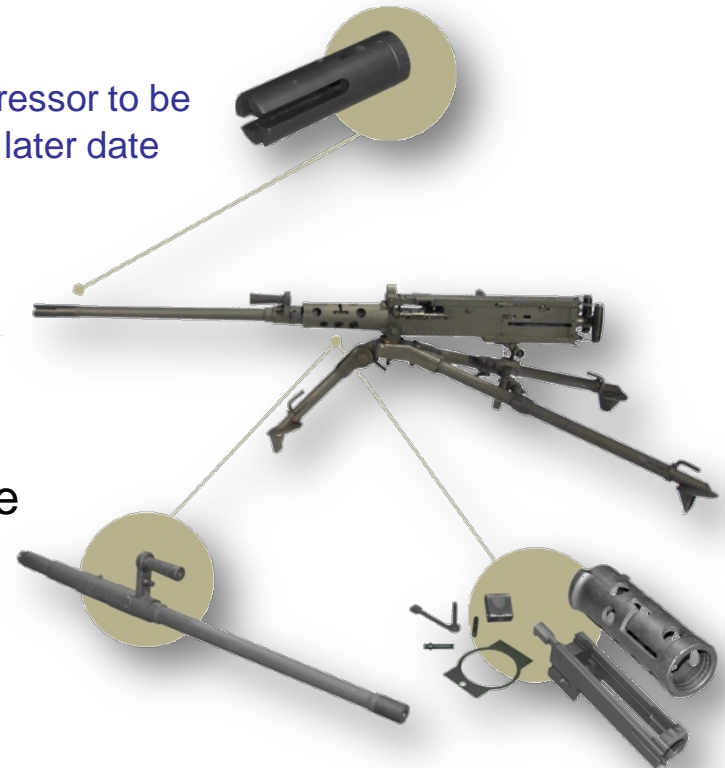
Capabilities:

- Enhancement will increase readiness by providing a faster & simpler barrel change without the need to set headspace and timing
- Reduces Training
- Includes Flash Suppressor

Status:

- Production Verification Test at Aberdeen Test Center – May thru Oct 09
- Limited User Evaluation at Ft. Benning – Jul 09

* Flash suppressor to be fielded at a later date





Future Business Opportunities



Carbine Path Forward

Dual Path Strategy

Army Validation of Requirements

Joint Validation of Requirements

Release of Draft/Final RFP

Full and Open Competition

Selection of New Carbine

?

Address Field Issues

Upgrade Current Carbine Fleet

- PH I – Heavy barrel/ambidextrous selector/full auto mode
- PH II - Enhanced rail adapter system/improved bolt & carrier
- PH III – Operating system

Example – PH I - Increased Sustained Rate Of Fire



Description:

- The Individual Carbine (IC) will provide the US Soldier with the most accurate, reliable, durable, maintainable, and modular individual weapon with improved features such as ambidextrous controls and at a best value to the US Government

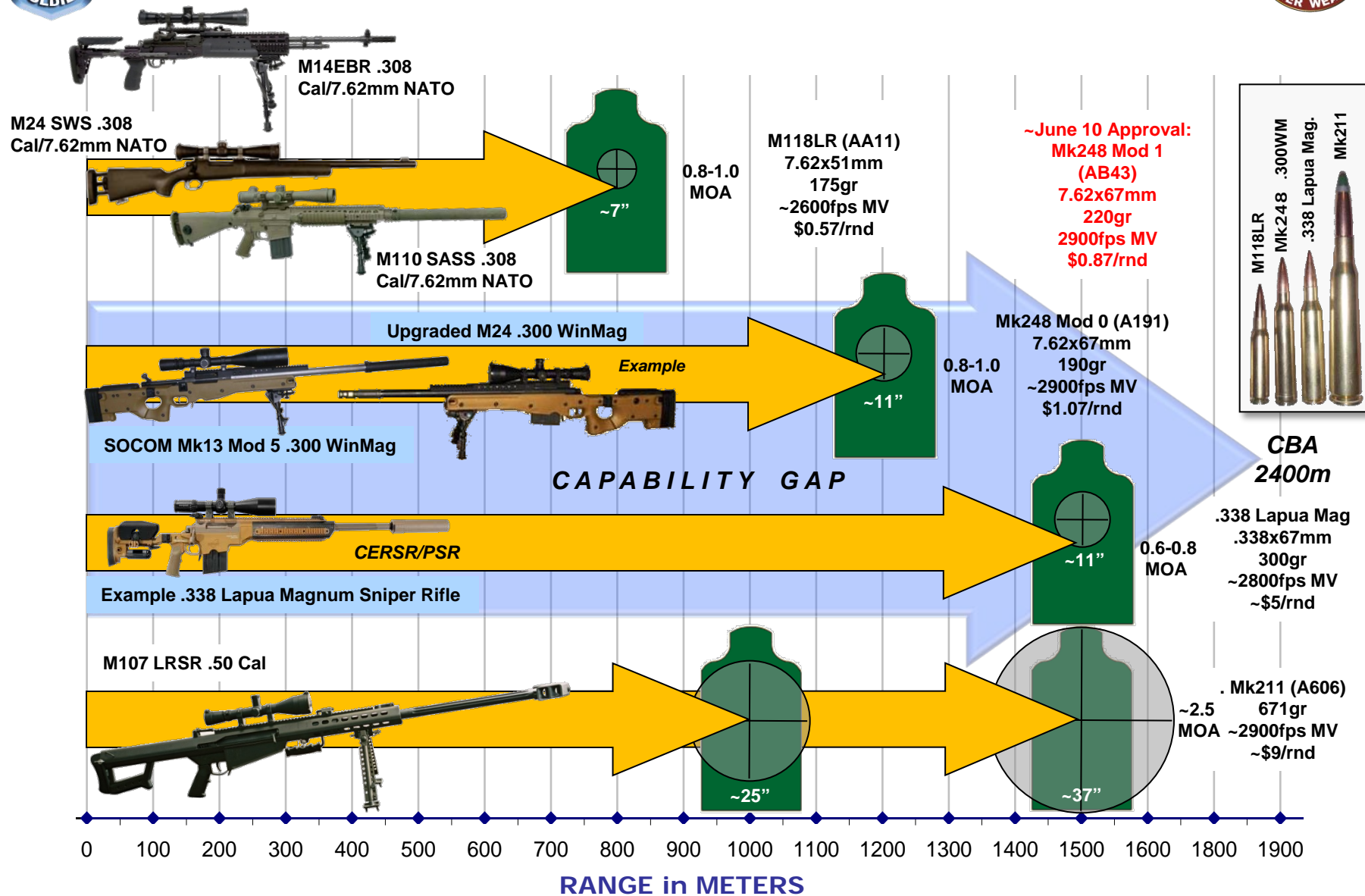
Capabilities:

- Carbine will provide accurate and reliable firepower
- Semi-auto and full auto fire
- Integrated rails will accept Mil-Std-1913 rail mounted accessories
- Fully ambidextrous

Status:

- CDD in Joint Staffing – 10 May 2010
- Congress provided RDT&E for FY10
- Release draft RFP 1QFY11
- Industry Day 1QFY11
- Final RFP 2QFY11

Precision Weapon Portfolio Engagement Ranges & Dispersion





Sniper Weapons Suite



- M107 Long Range Sniper Rifle – Cal .50 Anti-Materiel System (1000-2000m)
 - Production complete
 - Fielding complete
 - Defining Product Improvements



- M110 Semi-Automatic Sniper System - 7.62mm (800m)
 - 2307 delivered (2943 AAO)
 - USMC adopted for REPR program



- M24 Sniper Weapon System – 7.62mm (800m)
 - M24E1, .300 WinMag (1200m) to be produced
 - Downselect for M24E1 Ongoing, Fielding 1QFY11



- Precision Sniper Rifle – Cal ?, 1500m
 - CDD released for World Wide Staffing 18 May 10



M14 Enhanced Battle Rifle

Description:

- M14 Enhanced Battle Rifle is a rack stock M14 rifle mated to an enhanced aluminum billet stock, Tactical Scope and Cantilever Mount. This weapon was built by Rock Island Arsenal in response to numerous Operational Need Statements requesting long range capability.

Capabilities:

- Accurate 7.62mm capability out to 800m

Status:

- 5000 Wpns produced & Fielded; Funding provided to produce additional 1200 Wpns
- Potential for Night Vision





FY 10 Technology Shortfalls

Lethality	Mobility
<ul style="list-style-type: none"> ✓ Accurate Range Determination 	<ul style="list-style-type: none"> ✓ Lightweight, High Strength Materials for Small and Medium Caliber Weapons
<ul style="list-style-type: none"> ✓ Nano Explosives/Nano Propellants 	<ul style="list-style-type: none"> ✓ Multi-Function Laser
<ul style="list-style-type: none"> ✓ Miniature Non-Magnetic Direction Finding System 	<ul style="list-style-type: none"> ✓ Reduced Weight and Power Consumption Electronic Components
<ul style="list-style-type: none"> ✓ Lightweight, Direct View Optics 	<ul style="list-style-type: none"> ✓ Wireless Weapon Interface
<ul style="list-style-type: none"> ✓ Course Correcting Small Arms Projectiles 	Survivability
<ul style="list-style-type: none"> ✓ Inexpensive, High Brightness, High Resolution, Low Power, Color, Wide Temperature Range, Long Life, Ruggedized, Lightweight, Micro Video Display 	<ul style="list-style-type: none"> ✓ Luminescent Materials
<ul style="list-style-type: none"> ✓ Improved Incapacitation for 5.56mm, 7.62mm, 9mm Ammunition 	<ul style="list-style-type: none"> ✓ Reduced Weapons Signature
<ul style="list-style-type: none"> ✓ Adjusted Ballistic Reticle for 5.56mm and 7.62mm Rifles 	Sustainment
<ul style="list-style-type: none"> ✓ Covert Marking Ammunition for Small and Medium Caliber Weapons 	<ul style="list-style-type: none"> ✓ Wear Resistant Coatings for Weapon Mechanisms
C4I / Battle Command	<ul style="list-style-type: none"> ✓ Higher Energy Density Mini-Battery
<ul style="list-style-type: none"> ✓ Reconnaissance Munition 	<ul style="list-style-type: none"> ✓ Central Power Source



Summary

- Thank you for your responsiveness
- Understand the change in fiscal environment
- Incremental vs. Revolutionary



Questions



CENTER OF OUR STRENGTH

Project Manager Soldier Weapons

PM SOLDIER WEAPONS ASSESSMENT TEAM

18 May 2010

MAJ Shawn Murray
MAJ Elliott Caggins



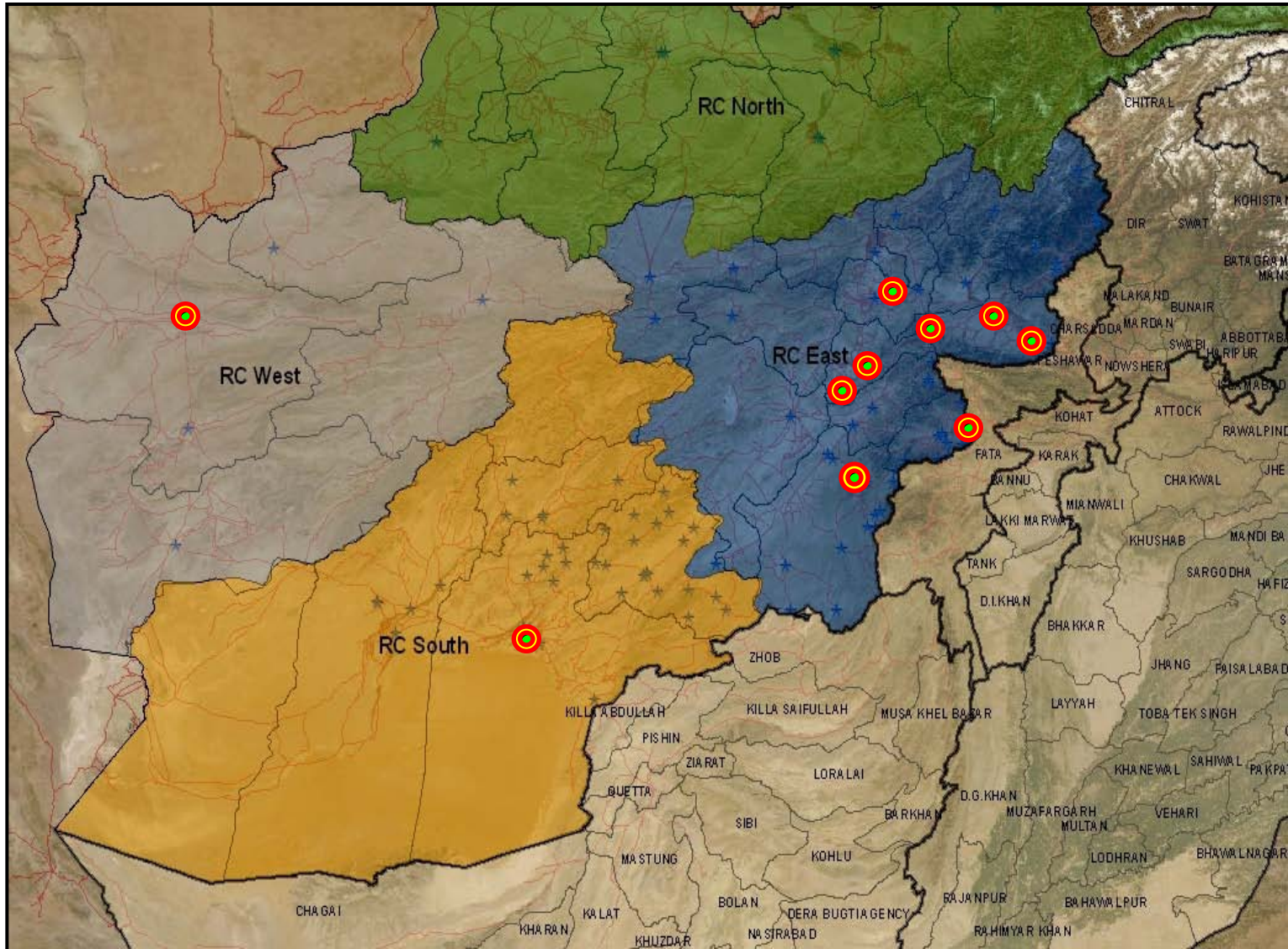
Agenda



- Afghanistan and the Interview Area
- Findings
- Individual Weapons
- Crew Served Weapons
- Acquisition Issues
- Questions



INTERVIEW POPULATION





The Context



- Each ridgeline brings a different set of wants versus needs...everything is relevant!
- Leader and Soldier feedback varies, but most comments support some general themes.
 - **OIF v. OEF are markedly different...extended ranges refer to OEF for the most part.**
- The PM SW Assessment Team walked into this assessment with an open mind, willing to travel throughout the CJOA and focused on giving our deployed units a voice.
- The Assessment Team was to deploy to OEF for no more than 17 days.
- Team Members: MAJ Elliott Caggins, MAJ Shawn Murray, MAJ Tom Aarsen and MSG Paul Wilcock



THE BLUF

1. Menu of approved Carbine accessories.
2. Simple camouflage applications for Carbines and Optics.
3. Suppression (noise/flash) technology.
4. Need for variable powered Optics for Carbines.
5. Increased firepower (caliber) at extended ranges.
6. Organic Designated Marksman Rifle at the Platoon/Squad level.
7. Increased modularity.
8. ASAK per Sniper weapon.



M4/M16 SERIES RIFLE



M4/M16:

- Menu of approved Carbine accessories.**
 - COTS Butt Stocks, Magazines, Slings, Bi pods, Handgrips
 - COTS Scopes / Optics
 - COTS Suppressors
 - In extreme cases, Soldiers have purchased upper receivers and high-costs rifle scopes.**
- Simple camouflage applications for Carbines and Optics.**
- Suppression (noise/flash) technology for Carbines.**
- Need for variable powered Optics for Carbines.**
- Increased firepower (caliber) at extended ranges.**



- NET remains critical to shooter/maintainer proficiency / Many types of units use this weapon.
- STRAC allocation affects availability of M118LR.
- Soldiers are removing/replacing Mk4 Leupold scope with other scopes.
 - MILDOT reticle training delta
 - Simple point and shoot reticle pattern
- Stock is adequate, but there is room for improvement.
 - Reduce bulkiness
 - Remove unnecessary parts
- General theme = DMR is **REQUIRED** organically in Infantry formations.





MK 48 LIGHTWEIGHT MACHINE GUN

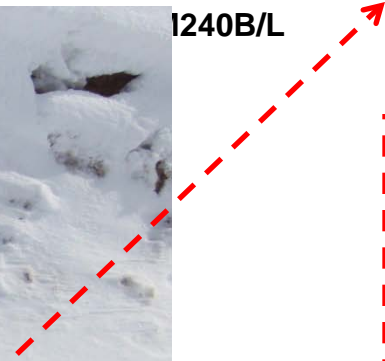


Mk 48 LMG:

- Original intent was to replace the M240B until the M240L was to be fielded.
- Possessing increased firepower and controlling extended ranges has forced:
 - Replacement of the M249 SAW by the Mk48 LMG
 - Lethality trumps Weight Reduction when extended fires are required
- Leaders want to adopt the Mk48 LMG



M240B/L



Mk48 LMG



M240B



M240L





Miscellaneous



Typical Observation Post (OP) field of fire along IED avenue of approach



M16A2 with M68 CCO and bipod mounted...no M1913 Rails.



M320GL mated to M4 Carbine...weapon painted, no sights for M320GL



- Vendors sent items in theater/home station
 - Lubricant:
 - Company was sending free samples to soldiers in theater with the claim that the lubricant was superior to the Army approved lubricant (CLP)
 - Testing done over several months (-46°c to +71°c) proved that the superior lubricant was CLP

- Unit purchased items that modify weapons
 - Suppressors
 - BCT bought suppressors for Team Leader and above.
 - Provides difficulty in determining:
 - Suitability
 - Long Term Reliability



- M4 Bolts
 - There is no need for lubricating the weapon
 - Less cleaning is required for maintenance
 - There is considerably less fouling and debris build up inside the weapon
 - The coating on the bolt will never rub off or flake off
 - The weapon operates cooler than one with a regular bolt.
- Testing was done by 5 soldiers who fired 1,000 each of M200 Blank and M855 ball under range conditions
- Soldier purchased items that modify M4 Carbine
 - Magazines
 - Buttstocks



Personally Equipped and Unit Purchase



By choosing to purchase equipment that has not been provided from the Army, individuals and unit commanders:

- Violate established Army Policy
 - AR 750-10 Army Modification Program
- Increase risk to Soldiers





QUESTIONS?

Small Arms—Individual Weapons

INVESTMENT COMPONENT

Modernization

Recapitalization

Maintenance

MISSION

Enables warfighters and small units to engage targets with lethal fire to defeat or deter adversaries.

DESCRIPTION

The M4 Carbine replaces the M16 series Rifles in all Brigade Combat Teams, Division Headquarters, and other selected units. It is 1.4 pounds lighter and more portable than the M16 series of rifles. The M4 series of carbines can also be mounted with the M203A2 Grenade Launcher, M320 Grenade Launcher, or M26 Modular Accessory Shotgun System (MASS).

The M14 Enhanced Battle Rifle (EBR) has a new adjustable buttstock, cheek rest and M4-style pistol grip, making the rifle effective in both close quarters combat and in the Squad Designated Marksman role. The EBR can be returned to its original configuration with no permanent modifications. Five

thousand M14 EBRs were assembled at TACOM Lifecycle Management Command at Rock Island Arsenal in response to Operational Need Statements requesting a longer range capability. The upgraded weapons are currently in service with select Army units.

The M320 Grenade Launcher is the replacement to all M203 series grenade launchers on M16 Rifles and M4 Carbines. A modular system, it attaches under the barrel of the rifle or carbine and can convert to a stand-alone weapon. The M320 improves on current grenade launchers with an integral day/night sighting system and improved safety features. It also has a side-loading unrestricted breech that allows the system to fire longer 40mm low-velocity projectiles (NATO standard and non-standard).

The lightweight M26 12-Gauge MASS attaches to the M4 Carbine and zeroes to the host weapon. It is also designed to operate as a stand-alone system, and comes with a recoil-absorbing, collapsible buttstock. The Picatinny rail mounted on top allows accessory equipment to

be mounted on the shotgun. The bolt handle is mountable on either side for ambidextrous handling.

The MASS enables Soldiers to transition between lethal and less-than-lethal fires and adds the capability of a separate shotgun without carrying a second weapon. Additional features include a box magazine, flip-up sights, and an extendable stand-off device for door breaching.

SYSTEM INTERDEPENDENCIES

None

PROGRAM STATUS

M4 Carbine:

- **Current:** Delivery and fielding

M14 EBR:

- **3QFY09:** Army Requirements and Resourcing Board approved 5,000 systems
- **1QFY10:** 1,200 additional systems authorized
- **3QFY10:** First 5,000 complete (95 percent fielded)

M320 Grenade Launcher Module:

- **1QFY09:** Type classification-standard decisions

- **1QFY09:** Materiel release and full-rate production decision
 - **3QFY09:** First unit equipped
- M26 Modular Accessory Shotgun System:**
- **4QFY09:** Limited user test and evaluation with MP units
 - **2QFY10:** Low-rate initial production approved
 - **4QFY10:** First article testing complete

PROJECTED ACTIVITIES

M4 Carbine:

- **Continue:** M4 production, deliveries, and fielding

M14 EBR:

- **4QFY11:** Complete remaining 1,200 systems

- **Continue:** In sustainment

M320 Grenade Launcher Module:

- **Continue:** Production and fielding
- **Continue:** Reduce size and weight of day/night sight

M26 Modular Accessory Shotgun System:

- **4QFY10–2QFY11:** Ramp up to full rate production
- **2QFY11:** Materiel release
- **3QFY11:** First unit equipped

ACQUISITION PHASE

Technology Development

Engineering & Manufacturing Development

Production & Deployment

Operations & Support



Small Arms—Individual Weapons

FOREIGN MILITARY SALES

M4 Carbine:

Bosnia-Herzegovina, Colombia,
El Salvador, Jordan, Philippines

M4A1:

Bahrain, Yemen

CONTRACTORS

M4 Carbine:

Colt's Manufacturing Co. (Hartford, CT)

M320 Grenade Launcher Module:

Heckler and Koch Defense Inc.
(Ashburn, VA)

M26 Modular Accessory Shotgun

System:

Vertu Corp. (Warrenton, VA)

