

No. 14-15408 [DC# CV 13-05807-RMW]

IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LEONARD FYOCK, et. al.,

Plaintiffs-Appellants,

v.

CITY OF SUNNYVALE, et. al.,

Defendants-Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**EMERGENCY MOTION UNDER CIRCUIT RULE 27-3
FOR AN INJUNCTION PENDING APPEAL**

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CIRCUIT RULE 27-3 CERTIFICATE

Pursuant to Circuit Rule 27-3, Plaintiffs-Appellants respectfully certify that their motion for an injunction pending appeal is an emergency motion requiring at least temporary “relief . . . in less than 21 days” to “avoid irreparable harm.”

I. CONTACT INFORMATION FOR THE PARTIES’ ATTORNEYS

Pursuant to Circuit Rule 27-3(a)(3)(I), the telephone numbers, e-mail addresses, and office addresses of the attorneys for the parties are as follows:

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II. FACTS SHOWING THE EXISTENCE AND NATURE OF THE EMERGENCY

On March 5, 2014, the District Court for the Northern District of California, San Jose Division, denied Plaintiffs’ Motion for Preliminary Injunction which sought to enjoin the City of Sunnyvale from enforcing Sunnyvale Municipal Code section 9.44.050 (“the Ordinance”). The Ordinance bans the possession of common

ammunition feeding devices or “magazines” with the capacity to accept more than ten rounds that Plaintiffs-Appellants have established are protected by the Second Amendment. Pursuant to the Ordinance, any person who possesses these magazines has until March 6, 2014 (i.e., 90 days from the date the ordinance took effect on December 6, 2013) to remove their constitutionally protected magazines from their homes and cease possessing them within the City of Sunnyvale. Sunnyvale, Cal., Muni. Code § 9.44.050 (b).

On March 6, the ordinance will force the removal of these magazines from the homes of Sunnyvale residents, including Plaintiffs-Appellants, and permanently dispossess law-abiding residents of their magazines with no way to replace them under state law. Cal. Penal Code §§ 32310, 32400-50. Since the enforcement date is just one day away, “relief is needed in less than 21 days” to prevent irreparable injuries arising from the violation of Plaintiffs-Appellants’ fundamental Second Amendment rights to continue possessing these protected magazines. Cir. Rule 27-3(a).

III. NOTIFICATION OF COUNSEL AND SERVICE OF MOTION

Plaintiffs-Appellants’ counsel notified counsel for the City via electronic mail on February 28 and again on March 5, 2014 to advise them of the anticipated filing of this Motion. Plaintiffs-Appellants served counsel for the City with a copy

of this Motion and supporting exhibits via electronic mail on March 5, 2014.

Date: March 5, 2014

MICHEL & ASSOCIATES, P.C.

/s/ C. D. Michel
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Attorneys for *Plaintiffs-Appellants*

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INTRODUCTION

Unless this Court issues an injunction on or before March 6, 2014, Sunnyvale residents will be forced to remove constitutionally protected ammunition magazines from their homes in violation of their Second Amendment rights. The district court improperly declined to temporarily enjoin enforcement of the Ordinance based on an erroneous conclusion that pulling protected arms from the homes of law-abiding citizens is an appropriate means of preventing misuse of those items by criminals. The district court's decision is in conflict with both precedent of this Court and the United States Supreme Court. In denying Plaintiffs' Motion for Preliminary Injunction, the district court committed reversible error by finding Plaintiffs-Appellants were not likely to prevail on the merits of their claims and the remaining factors do not warrant preliminary relief.

Unless a temporary stay of enforcement is issued by this Court, the Ordinance will strip Plaintiffs-Appellants of their magazines on March 6, 2014, causing them irreparable harm through the ongoing deprivation of their constitutional rights to possess protected arms. To preserve the status quo, Plaintiffs-Appellants respectfully request the Court issue an order temporarily staying enforcement of the Ordinance pending resolution of the appeal and this Motion. Pursuant to Circuit Rule 27-3, all of the grounds in this emergency motion

for an injunction have been presented to the district court.

PROCEDURAL HISTORY

In November 2013, the City of Sunnyvale voters passed Measure C, which included the Ordinance. Although the election results were scheduled to be certified by the Sunnyvale City Council in January 2014, the council expedited the certification of the vote on November 26, 2013, causing the Ordinance to take effect on December 6, 2013, nearly two months earlier than originally scheduled.

The Ordinance prohibits any person, corporation, or other entity in the City of Sunnyvale from possessing ammunition magazines with the capacity to accept more than ten rounds. Sunnyvale, Cal., Muni. Code § 9.44.050 (a). Pursuant to the Ordinance, any person who possesses any magazines prohibited by the Ordinance prior to its effective date shall have ninety days to cease possessing those magazines within the City of Sunnyvale. Sunnyvale, Cal., Muni. Code § 9.44.050 (b). Anyone who fails to comply with the Ordinance will be subject to criminal penalties, including incarceration.

On December 16, 2013, ten days after the Ordinance took effect and nineteen days after the early certification vote, Plaintiffs-Appellants filed their lawsuit against the City of Sunnyvale, Mayor Anthony Spitaleri, and Chief Frank Grgurina (“the City”). On December 23, 2013, Plaintiffs filed their motion for

preliminary injunction and supporting evidence. Exhibit A (“EA”) 0001-0282.

On December 30, 2013, the City filed an Administrative Motion to relate this case with *San Francisco Veteran Police Officers Association v. City and County of San Francisco*, Case No. 13-CV-05351. On January 7, 2014, the district court denied the City’s motion.

On January 3, 2014, the City filed an Administrative Motion to Enlarge Time for Hearing and Briefing on Plaintiffs’ Motion for Preliminary Injunction and for Expedited Discovery. On January 7, 2014, Plaintiffs-Appellants filed an Opposition to that motion. The district court granted with modifications the City’s motion to enlarge time and denied the City’s request for expedited discovery on January 9, 2014.

On January 13, 2014, Plaintiffs-Appellants filed an Administrative Motion for Expedited Ruling on Motion for Preliminary Injunction.

On January 29, 2014, the City filed its Opposition to Plaintiffs’ Motion for Preliminary Injunction and supporting evidence. Exhibit B (“EB”) 0001-1365.

On February 10, 2014, Plaintiffs-Appellants filed their reply and supplemental evidence. Exhibit C (“EC”) 0001-0070.

On February 21, 2014, the district court heard argument on Plaintiffs’ Motion for Preliminary Injunction. On March 5, 2014, the district court denied that

motion. Exhibit D (“ED”) 0001-0019. It simultaneously denied Plaintiffs’ Motion for Expedited Ruling as moot. ED0019.

Plaintiffs-Appellants immediately filed a notice of appeal to the Ninth Circuit seeking reversal of the district court’s denial of preliminary injunction.

Now, pursuant to Federal Rules of Appellate Procedure 8(a)(2) and Circuit Rule 27-3, Plaintiffs-Appellants submit this emergency motion for an injunction pending appeal enjoining the named defendants, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, from enforcing or otherwise implementing the Ordinance pending appeal to this Court.

ARGUMENT

Plaintiffs-Appellants satisfy the requirements for an injunction pending appeal under Federal Rule of Appellate Procedure 8 because: (1) they have a substantial likelihood of success on appeal; (2) irreparable harm is likely in the absence of relief; (3) the balance of equities tips in their favor; and (4) an injunction is in the public interest. *Am. Trucking Ass’ns, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009). Under controlling Ninth Circuit precedent, these factors may operate on a “sliding scale,” such that “[a] preliminary injunction is appropriate when a plaintiff demonstrates . . . that serious questions going to the merits were raised and the balance of hardships tips sharply in the

[plaintiff's] favor.” *Alliance for Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). Accordingly, for the reasons set forth more fully below, this Court should grant Plaintiffs-Appellants’ motion for an injunction pending appeal.

I. PLAINTIFFS-APPELLANTS ARE SUBSTANTIALLY LIKELY TO PROCEED ON THE MERITS OF THEIR SECOND AMENDMENT CLAIM

The United States Supreme Court recently confirmed that the Second Amendment protects a fundamental, individual right to keep and bear arms that, by virtue of the Fourteenth Amendment, state and local governments are bound to respect. *Dist. of Columbia v. Heller*, 554 U.S. 570, 635 (2008); *McDonald v. City of Chicago*, 130 S.Ct. 3020, 3026, 3036 (2010). The Second Amendment “elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home.” *Heller*, 554 U.S. at 635 (2008). Because the Ordinance prohibits law-abiding citizens from using commonly possessed arms within the sanctity of their homes, for the core, lawful purpose of self-defense, it is unconstitutional under any test the Court might apply.

A. The District Court Correctly Found the Prohibited Magazines Are Typically Possessed By Law-Abiding Citizens for Lawful Purposes and Thus Protected Under the Second Amendment

A historical analysis of the Second Amendment confirms that it protects arms “typically possessed by law-abiding citizens, or those that are “in common use” at the time. *Heller*, 554 U.S. at 625; *see also* EA0015-20; EC0008-12. In line

with this precedent, the district court properly applied *Heller*'s common use analysis, concluding that "magazines having a capacity to accept more than ten rounds are in common use, and therefore are not dangerous and unusual." ED0007. The court acknowledged that statistics show that magazines with capacities over ten rounds make up approximately 47 percent of all magazines owned and that a large share of the firearms in the United States are sold standard with magazines that hold more than ten rounds. ED006; *see also* EA0015-20, 34-46, 59-88, 160-282 (Plaintiffs-Appellants' argument and evidence establishing that magazines over ten rounds are typically possessed for lawful purposes, including self-defense); EC0008-12, 65-70 (same). Indeed, many of the most popular models of handguns available have capacities ranging from fifteen and seventeen rounds. EA0011, 61, 162-63, 214-23, 224-56.

Although the law carves out a number of exceptions, they are all narrow and do not apply to the average law-abiding citizen. Accordingly, the district court properly found the ordinance prohibits law-abiding residents from possessing constitutionally protected arms. ED0005-09.

B. The Ordinance Destroys the Right of the Average Law-Abiding Citizen to Possess Constitutionally Protected Magazines, and the District Court Erred in Failing to Find It Categorically Invalid

The Ordinance is necessarily invalid because it imposes an outright ban on the possession of arms protected by the Second Amendment. It is a fundamental

principle of both law and logic that, where the constitution protects the possession or use of an item, a total ban on such possession or use will be an unconstitutional infringement of that right, regardless of the level of judicial scrutiny applied. To this end, courts properly forego application of means-end scrutiny when striking flat prohibitions on constitutionally protected conduct and items. EA0020-22; EC0012-14.

This was precisely the approach taken by the Supreme Court in *Heller*. There, the Supreme Court found a ban a protected class of firearms necessarily violates the Second Amendment. *Heller*, 554 U.S. at 635. While the handgun ban would fail “any of the standards of scrutiny that [the courts have] applied to enumerated constitutional rights,” *id.* at 628, the Supreme Court made a point of not applying any of those standards. Instead, *Heller* categorically invalidated the ban because it flatly prohibited a class of arms “overwhelmingly chosen by American society for [the] lawful purpose” of self-defense. *Id.* at 628-29. That it did so without selecting a level of scrutiny is unsurprising. For the Second Amendment would mean little if the application of a particular test would permit the government to ban the very arms the Second Amendment protects.

Categorical invalidation of bans on protected Second Amendment conduct is also consistent with the approach recently taken in *Peruta v. County of San Diego*, No. 10 56971, 2014 WL 555862 (9th Cir. Feb. 13, 2014). Invalidating a regulatory

scheme that denied most individuals the right to carry an operable firearm outside the home, this Court confirmed that laws that destroy a right central to the Second Amendment are necessarily invalid. “A law that ‘under the pretence of regulating, amounts to a destruction of the right’ would not pass constitutional muster ‘[u]nder any of the standards of scrutiny that we have applied to enumerated constitutional rights.’” *Id.* at *20 (quoting *Heller*, 554 U.S. at 628-29). As Plaintiffs-Appellants argued below, laws that are inimical to the Second Amendment’s protections must be struck down regardless of the level of scrutiny applied. EA0020-22. “For if self-defense outside the home is part of the core right to ‘bear arms’ and the California regulatory scheme prohibits the exercise of that right, no amount of interest-balancing under a heightened form of means-end scrutiny can justify” the challenged government action. *Peruta*, 2014 WL 555862, at *19. Likewise, the possession and use of protected arms for self-defense is part of the core right to keep and bear arms, and the City’s absolute ban on that protected conduct cannot be squared with the Second Amendments’ protections.

Because the Ordinance destroys the right to possess and use magazines overwhelmingly chosen by the American public for self-defense, the district court erred in finding that it is not a “destruction” of a Second Amendment right. In support of its conclusion, the district court pointed to the fact that the Ordinance “does not ban all, or even most, magazines.” ED0010. Under that rationale, the

Heller handgun ban would not have “destroyed” the right to possess and use arms for self-defense either. But the handgun ban *was* a destruction of the right to possess and use protected arms in self-defense. The Ordinance, by flatly banning the possession of magazines over ten rounds, similarly destroys the right to possess and use items “typically possessed by law-abiding citizens . . .” for the core, lawful purpose of self-defense. *Heller*, 554 U.S. at 627.

The basis for the district court’s holding that the Ordinance is not invalid *per se* has been flatly rejected by the Supreme Court. “It is no answer to say, as [the District does] that it is permissible to ban the possession of handguns so long as the possession of other firearms (i.e., long guns) is allowed.” *Heller*, 554 U.S. at 629. Indeed, “[it’s] a bit like saying books can be banned because people can always read newspapers. That is not a persuasive or legitimate way to analyze a law that directly infringes an enumerated constitutional right.” *Dist. of Columbia v. Heller (Heller II)* 670 F.3d 1244, 1289 (D.C. Cir. 2011) (Kavanaugh, J., dissenting) (emphasis added).

In sum, the Ordinance is inimical to the Second Amendment’s protections for the now-prohibited magazines. As was the case with the handgun ban at issue in *Heller* and the effective ban on the right to carry a firearm in public in *Peruta*, the Ordinance’s flat ban on the possession of protected magazines “destroys” the core Second Amendment right to use them for self-defense. It is appropriately

stricken without expedition into the “levels of scrutiny” quagmire. *See United States v. Skoien*, 614 F.3d 638, 642 (7th Cir. 2010) (en banc).

C. If the Court Selects a Level of Means-End Review, Strict Scrutiny Must Apply

Again, the district court rightly held that magazines over ten rounds are protected by the Second Amendment. ED0005-09. But it failed to recognize that a flat ban on their possession by all law-abiding citizens for self-defense commands strict scrutiny. Finding instead that the ban’s “burden on the Second Amendment is light” because smaller magazines remain available, *id.* at 11., the court misapplied binding precedent from the Ninth Circuit and the Supreme Court and improperly selected intermediate scrutiny.

In *United States v. Chovan*, 735 F.3d 1127 (9th Cir. 2013), this Court upheld a ban on possession of arms by convicted domestic violence misdemeanants. After concluding the law affected Second Amendment conduct, the Court considered the law’s proximity “to the core of the Second Amendment” and “the severity of the law’s burden” to determine the appropriate level of heightened scrutiny. *Id.* at 1138. In selecting intermediate scrutiny, the Court explained that Chovan’s claims were outside the core because his conviction excluded him from the “law abiding,” and although the ban imposed a “quite substantial” burden, the law’s many exceptions “lightened” it. *Id.*

Here, while the district court concluded the Ordinance does burden core conduct, it held the burden on that conduct insufficient to warrant strict scrutiny. ED0010-12. The district court wrongly viewed *Chovan* as requiring that a law *both* impact core conduct *and* impose a severe burden to trigger strict scrutiny. ED0010-12. But *Chovan* does not compel such a mechanical approach. *Chovan* and the cases it relies on apply intermediate scrutiny after finding the laws at issue to be *outside* the core and to place varying degrees of burden on the right. 735 F.3d 1138; *Heller II*, 670 F.3d 1266; *United States v. Chester*, 628 F.3d 673, 682-83 (4th Cir. 2010); *United States v. Marzzarella*, 614 F.3d 97 (3d Cir. 2010). *Chovan* in no way mandates that intermediate scrutiny apply to those laws that strike at the Second Amendment’s core unless the burden is independently deemed severe. If we are guided by First Amendment principles—and *Chovan* holds that we are, 735 F.3d at 1138—laws regulating core conduct command strict scrutiny *no matter how severe the burden*. See, e.g., *Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 340 (2010). As one post-*Chovan* opinion explains, “[a] regulation that threatens a core Second Amendment right is subject to strict scrutiny, while a less severe regulation that does not encroach on a core Second Amendment right is subject to intermediate scrutiny.” *Morris v. U.S. Army Corps of Enginrs.*, No. 13-00336, 2014 WL 117527, at *2 (D. Idaho Jan. 10, 2014); see also EA0021; EC0014-15.

Regardless, the Ordinance substantially burdens core conduct by taking protected arms from the homes of law-abiding citizens and flatly prohibiting their use for self-defense. There is no harm more severe. The court minimized this harm, reasoning that magazines over ten rounds, a “subset of magazines,” are not “crucial for citizens to exercise their right bear arms” and that citizens may exercise their rights with smaller magazines. ED0011. The court’s reasoning is fundamentally flawed.

First, it improperly identifies the right at issue broadly as the general right to self-defense, but the Second Amendment protects more than that. Here, the right at issue is the right to possess protected arms for self-defense. And a flat ban on exercising that right is a severe harm deserving at least strict scrutiny.

Second, it highlights the inherent constitutional problem with bans on classes of protected arms, which necessarily leave alternative arms available for self-defense and would, in the district court’s view, warrant only intermediate scrutiny. Taking the analysis to its natural conclusion, only total bans on all arms would require strict scrutiny because alternative avenues for self-defense will always remain. Surely this cannot be. Judge Kavanaugh’s dissent in *Heller II*, wherein he quotes the majority opinion in *Heller*, provides the most adept response to such reasoning:

[It’s] a bit like saying books can be banned because people can always

read newspapers. That is not a persuasive or legitimate way to analyze a law that directly infringes an enumerated constitutional right.

Indeed, *Heller* itself specifically rejected this mode of reasoning: “It is no answer to say . . . that it is permissible to ban the possession of handguns so long as the possession of other firearms (i.e., long guns) is allowed.”

Id. at 1289 (quoting 554 U.S. at 629) (Kavanaugh, J., dissenting) (emphasis added). Similarly, because magazines over ten rounds are constitutionally protected, it is no answer to say that it is permissible to ban their possession so long as the possession of other magazines (i.e., under ten rounds) is allowed.

In short, if the Court opts to apply a means-end level of scrutiny, strict scrutiny must apply. For, at all times, the law flatly bans the exercise of the core right of law-abiding citizens to possess and use protected arms for the purpose of self-defense in their homes—the Second Amendment interest that is “surely elevate[d] above all other[s].” *Heller*, 554 U.S. at 635. The district court erred in applying lesser judicial scrutiny to Plaintiffs-Appellants’ claims.

D. The District Court Erred in Applying Means-End Scrutiny by Finding the Government May Take Constitutionally Protected Arms from Law-Abiding Citizens to Reduce Criminal Access and Misuse

The City failed to establish, and the district court erred in finding, that the City’s outright ban on the possession of protected arms is substantially related, and appropriately tailored, to its interest in reducing access and misuse by criminals and unauthorized users. EA0025-30; EC0016-18; *but see* ED0012-15.

Plaintiffs-Appellants share a deep interest with the City in keeping the prohibited magazines, and all dangerous arms, out of the hands of criminals. But the City's approach to addressing this problem—taking protected magazines from the homes of all law-abiding citizens—is not a constitutionally permissible means of accomplishing this objective, under either strict or intermediate scrutiny. EA0025-30; EC0016-18.

Rather than develop policies to prevent access and misuse by criminals, the City has opted to strip protected arms from the homes of law-abiding citizens. The City attempts to accomplish its objective of reducing injuries from the criminal misuse of protected magazines by banning the use of arms by the law abiding based *not* on the harm they themselves may cause, but based on the violence that may come from criminals who might steal those firearms from gun owners.

But to ban certain arms because criminals might misuse them is to tell law-abiding citizens that their liberties depend not on their own conduct, but on the conduct of the lawless. Surely this cannot be. Courts have routinely rejected the notion that the government may ban constitutionally protected activity on the grounds that the activity could lead to abuses.

Ultimately, the City's ban represents a policy choice as to the types of arms it desires its residents to use. But the Supreme Court made clear that such policy choices are off the table when considering commonly used, constitutionally

protected arms. *Heller*, 554 U.S. at 636. There, D.C. sought to ban handguns for the *same reasons* the City wishes to ban its residents from having common, standard-capacity magazines over ten rounds—to decrease criminal misuse and prevent injuries through decreased availability. *Id.* at 682, 694 (Breyer, J., dissenting). Despite these interests, the Supreme Court explicitly stated that D.C.’s handgun ban would “fail constitutional muster” under “any of the standards of scrutiny the Court has applied” to fundamental rights. *Id.* at 628-29.

If the D.C. handgun ban could not pass intermediate scrutiny (i.e., it was not “substantially related” or “narrowly tailored” to public safety), it follows that the City’s ban on standard-capacity arms cannot survive such scrutiny either. For if stopping law-abiding citizens from possessing protected arms were a valid method of reducing criminal access and misuse, *Heller* would have been decided differently. Certainly, the justifications for a ban on handguns are substantially more related to the government’s public safety objectives than a ban on firearms with magazines holding over ten rounds. While criminals might sometimes misuse magazines over ten rounds, misuse of handguns is overwhelming. *Id.* at 697-99 (Breyer, J., dissenting) (from 1993 to 1997, a whopping 81% of firearm-homicide victims were killed by handguns). Indeed, handguns are preferred and used by criminals in nearly all violent gun crimes. But despite the government’s extremely compelling interest in keeping concealable firearms out of the hands of criminals

and unauthorized users, a ban on the possession of protected arms by the law abiding lacks the required fit *under any level of heightened scrutiny*. *Id.* at 628-29.

Critically, both the City and the district court ignored the instruction from the Supreme Court that *banning the possession of protected arms by the law-abiding lacks the required fit even under intermediate scrutiny*. Neither the district court nor the City can offer explanation as to why a ban on handguns, which are overwhelmingly preferred by criminals, is not substantially related to public safety interests—and why removing magazines from the law abiding is any more related to that interest, even though such magazines are used far less often in crime than handguns.

Just as the handgun ban in *Heller* was not tailored to prevent criminal misuse of those arms, the City's outright ban on what amounts to roughly half of the magazines commonly possessed by law-abiding citizens is not sufficiently tailored to its interest in keeping those magazines from criminals.

Accordingly, the district court erred in failing to find that Plaintiffs-Appellants are likely to succeed on the merits because the Ordinance is unconstitutional under any level of heightened scrutiny.

II. IRREPARABLE HARM IS PRESUMED AND THE BALANCE OF EQUITIES AND PUBLIC INTEREST TIP SHARPLY IN FAVOR OF RELIEF

“Irreparable harm is presumed if plaintiffs are likely to succeed on the merits

because a deprivation of constitutional rights always constitutes irreparable harm.” ED0016 (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1997); *Ezell v. Chicago*, 651 F.3d 684, 699-700 (7th Cir. 2011)). Plaintiffs-Appellants have established a likelihood of success on the merits of their Second Amendment claim; they have necessarily established irreparable harm warranting preliminary relief. EA0030.

Similarly, in challenges to government action affecting constitutional rights, both “[t]he balance of equities *and* the public interest . . . tip *sharply* in favor of enjoining the ordinance.” *Klein v. City of San Clemente*, 584 F.3d 1196, 1208 (9th Cir. 2009) (emphasis added). “[A]ll citizens have a stake in upholding the Constitution” and have “concerns [that] are implicated when a constitutional right has been violated.” *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005). If Plaintiffs-Appellants are likely to succeed on the merits of their constitutional claims—and they have shown they are—both the balance of equities and the public interest tip *sharply* in their favor and relief should be granted. EA0030-31.

III. REQUEST FOR INTERIM RELIEF PENDING RESOLUTION OF PLAINTIFFS-APPELLANTS’ MOTION FOR EMERGENCY RELIEF

In addition to the substantive emergency relief sought, Plaintiffs-Appellants respectfully request temporary relief in the form of an injunction staying enforcement of the Ordinance pending disposition of this motion. Such relief is properly sought in cases such as this, particularly given the pending March 6, 2014

enforcement date to maintain the status quo while the motion is under consideration.

CONCLUSION

While there may be some limit to the firepower that ordinary citizens can have—for example, Plaintiffs-Appellants do not contend that citizens should be allowed to carry automatic firearms or excessive magazines —any limit on magazine size cannot be below that “typically possessed by law-abiding citizens for lawful purposes.” *Heller*, 554 U.S. at 624-25.

The Court should grant Plaintiffs-Appellants’ motion to preserve the status quo and prevent the removal of protected arms from the homes of Sunnyvale residents while the Court considers the merits of this appeal.

Date: March 5, 2014

MICHEL & ASSOCIATES, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on March 5, 2014, an electronic PDF of **EMERGENCY MOTION UNDER CIRCUIT RULE 27-3 FOR AN INJUNCTION PENDING APPEAL** was uploaded to the Court's CM/ECF system, which will automatically generate and send by electronic mail a Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

Date: March 5, 2014

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EXHIBIT A

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7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT)
12 HOCHSTETLER, WILLIAM DOUGLAS,)
13 DAVID PEARSON, BRAD SEIFERS, and)
ROD SWANSON,)

14 Plaintiffs)

15 vs.)

16 THE CITY OF SUNNYVALE, THE)
MAYOR OF SUNNYVALE, ANTHONY)
17 SPITALERI, in his official capacity, THE)
CHIEF OF THE SUNNYVALE)
18 DEPARTMENT OF PUBLIC SAFETY,)
FRANK GRGURINA, in his official)
19 capacity, and DOES 1-10,)

20 Defendants.)

CASE NO: CV13-05807 RMW

**NOTICE OF MOTION AND MOTION
FOR PRELIMINARY INJUNCTION;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

Date: February 7, 2014
Time: 9:00 a.m.
Location: San Jose Courthouse
Courtroom 6 - 4th Floor
280 South 1st Street
San Jose, CA 95113

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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD: Notice is hereby given that on February 7, 2014, at 9:00 a.m., or as soon thereafter as counsel may be heard by the above-entitled court, located at 280 South 1st Street, San Jose, California, in the courtroom of the Honorable Judge Ronald Whyte, Plaintiffs will and hereby do move for a preliminary injunction pursuant to Rule 65(a) of the Federal Rules of Civil Procedure.

Plaintiffs will seek an order enjoining Defendants City of Sunnyvale, the Mayor of Sunnyvale, Anthony Spitaleri, and the Chief of the Sunnyvale Department of Public Safety, Frank Grgurina, (“the City”) from enforcing Sunnyvale Municipal Code section 9.44.050, as it violates Plaintiffs’ Second Amendment right to possess protected arms in common use for lawful purposes.

This motion shall be based on this notice of motion and motion, the memorandum of points and authorities in support, the declarations and evidence filed concurrently herewith, and upon any further matters the Court deems appropriate.

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF ISSUE TO BE DECIDED

The Second Amendment guarantees the right of law-abiding adults to use arms that are typically possessed by law-abiding citizens for lawful purposes. Millions of law-abiding Americans possess firearms with magazines holding over ten rounds for defense of “hearth and home” – the Second Amendment interest that is “elevated above all others.” The City enacted an ordinance banning all law-abiding adults from possessing and using these arms in their homes for any purpose. Does the City’s ordinance violate the Second Amendment?

INTRODUCTION

This case presents a challenge to the City’s ban on the possession and use of magazines capable of holding more than ten rounds of ammunition. Despite the City’s “large-capacity” label, magazines that hold over ten rounds are the standard for millions of handguns and rifles. And they are chosen and currently possessed by millions of law-abiding American citizens for self-defense within their homes.

1 In *Heller v. District Columbia*, the Supreme Court held that the Second Amendment
2 “surely elevates above all other interests the right of law-abiding, responsible citizens to use arms
3 in defense of hearth and home,” 554 U.S. 570, 635 (2008), and that it specifically protects the
4 right to engage in this activity with arms that are commonly used by law-abiding Americans, *id.*
5 at 624-25. Unlike the laws at issue in the majority of post-*Heller* decisions dealing with conduct
6 arguably outside the Second Amendment’s “core,” the City’s ordinance prohibits law-abiding
7 adults from possessing common arms within the sanctity of their homes for use in defending
8 themselves and their families. The law thus affects not just core lawful conduct; it strikes at the
9 Second Amendment’s highest purpose as described by the Supreme Court.

10 While the government might lawfully place some upper limit on ammunition capacity, the
11 City’s ten-round limit is well below that which the American people find suitable for
12 self-defense. This Court need not decide what limit might serve a compelling government interest
13 while still comporting with constitutional protections. It is enough that the City’s ban goes too
14 far.

15 As is the case with other fundamental rights, the City cannot deny responsible citizens the
16 right to keep and use protected items because some members of society might use them for
17 nefarious purposes. But that is exactly what the City has done. To prevent criminals from
18 unlawfully using firearms with magazines that hold over ten rounds, the City has decided to pull
19 these magazines from the homes of law-abiding residents. The forced removal from residents’
20 homes will occur just twenty-seven days from the scheduled hearing on this motion.

21 By flatly banning the possession and use of protected arms, the City’s ordinance lies at the
22 extreme end of the gun control continuum. Its approach cannot be reconciled with the protections
23 afforded by the Second Amendment, and it is necessarily unconstitutional under any test the court
24 may apply.

25 The harm resulting from the ongoing deprivation of Plaintiffs’ fundamental rights, as well
26 as the harm invited upon those residents who will be forced to dispose of their lawfully acquired
27
28

1 property with no way to replace it under state law is irreparable.¹ As this case raises serious
 2 questions concerning the core exercise of a fundamental right, the Court should issue preliminary
 3 relief to preserve the status quo, thus preventing the removal of lawfully acquired items from the
 4 homes of law-abiding citizens while the case is decided on the merits.

5 STATEMENT OF FACTS

6 I. SUNNYVALE MUNICIPAL CODE SECTION 9.44.050: MAGAZINE POSSESSION BAN

7 The City of Sunnyvale recently enacted Municipal Code section 9.44.050 (“the
 8 Ordinance”), which bans the possession of ammunition feeding devices or “magazines” with the
 9 capacity to accept more than ten rounds.² All persons in possession of these magazines have just
 10 ninety days to remove them from the City, surrender them to the Sunnyvale Department of Public
 11 Safety for destruction, or sell or transfer them to a properly licensed vendor in accordance with
 12 state law. Sunnyvale, Cal., Muni. Code § 9.44.050(b).³ The ban even requires that active-duty
 13 officers discontinue possession of their non-duty magazines capable of holding more than ten
 14 rounds. Anyone who fails to comply with the City’s mandate is subject to criminal penalties,
 15 including incarceration. Sunnyvale., Cal., Muni. Code § 9.44.050(c)(2).

16 The individual plaintiffs, Leonard Fyock, William Douglas, David Pearsons, Brad Seifers,
 17 and Rod Swanson, are responsible and law-abiding residents of Sunnyvale who are not prohibited
 18 from owning or possessing firearms. Fyock Decl. ¶¶ 2-3; Douglas Decl. ¶¶ 2-3; Pearsons Decl. ¶¶
 19 2-3, Seifers Decl. ¶¶ 2-3; Swanson Decl. ¶¶ 2-3. They each currently own lawfully acquired
 20 magazines capable of holding more than ten rounds of ammunition, but section 9.44.050 prohibits
 21

22 ¹ Effective January 1, 2000, California state law prohibits the manufacture, importation,
 23 sale, gift, or loan of magazines capable of holding more than ten rounds. Cal. Penal Code §§
 24 32310, 32400-50.

25 ² The ordinance exempts from its definition of “large-capacity magazines” any: (1)
 26 feeding device that has been permanently altered so that it cannot accommodate more than ten
 27 rounds; (2) .22 caliber tube ammunition feeding device; or (3) tubular magazine contained in a
 28 lever-action firearm.

³ The Ordinance took effect on December 6, 2013, requiring all persons to dispose of
 their magazines by March 6, 2014.

1 them from continuing to possess those magazines within the City. Fyock Decl. ¶¶ 4-5, 12;
 2 Douglas Decl. ¶¶ 4-5, 10; Pearsons Decl. ¶¶ 4-5, 10; Seifers Decl. ¶¶ 4-5, 12; Swanson Decl. ¶¶
 3 4-5, 11. While each individual plaintiff intends to comply with section 9.44.050 to avoid
 4 prosecution, they would each immediately possess these magazines within the City for self-
 5 defense and other lawful purposes should the Court enjoin enforcement of the law. Fyock Decl.
 6 ¶¶ 13-14; Douglas Decl. ¶¶ 11-12; Pearsons Decl. ¶¶ 11-12; Seifers Decl. ¶¶ 13-14; Swanson
 7 Decl. ¶¶ 12-13.

8 **II. THE BANNED MAGAZINES ARE STANDARD EQUIPMENT FOR COMMON FIREARMS**
 9 **OWNED BY MILLIONS OF LAW-ABIDING CITIZENS**

10 **A. Prevalence of the Prohibited Magazines Among Law-Abiding Citizens**

11 Magazines capable of holding more than ten rounds are standard equipment for many
 12 common pistols and rifles purchased by the American public for both self-defense and sport.
 13 Helsley Decl. ¶ 3; Monfort Decl. ¶ 5; Ex. B at 455-64 (attached to Monfort Decl.); Ex. C
 14 (attached to Monfort Decl.). Conservative estimates set the number of these standard magazines
 15 possessed by law-abiding citizens throughout the country in the tens of millions. Curcuruto Decl.
 16 ¶ 13. Although exact numbers are difficult to calculate, a large percentage – perhaps a majority –
 17 of rifles and pistols manufactured and sold in the United States today have capacities greater than
 18 ten rounds. Curcuruto Decl. ¶ 6; NSSF Magazine Report (attached to Curcuruto Decl. as “Exhibit
 19 A”); Helsley Decl. ¶ 10; Ex. B. Many of the most popular and predominant models of handguns –
 20 the “quintessential” self-defense firearm – typically have capacities ranging from eleven to
 21 twenty rounds, with many holding between fifteen and seventeen. Helsley Decl. ¶ 3; Monfort
 22 Decl. ¶ 5; Ex. B at 455-64, 497-99; Ex. C.

23 Firearms with magazine capacities greater than ten rounds are highly effective for in-
 24 home self-defense. Ayoob Decl. ¶¶ 11,14, 25, 27. Due to their suitability for this purpose, they
 25 are the preferred firearm of choice for millions of law-abiding Americans.⁴

26
 27
 28 ⁴ As Second Amendment protections turn on common usage, the evidence supporting
 these points are discussed in greater detail in Part I.B.1.

1 **I. PLAINTIFFS ARE LIKELY TO PREVAIL ON THEIR CLAIM THAT THE ORDINANCE**
2 **VIOLATES THE SECOND AMENDMENT**

3 The Supreme Court has described “the right of law-abiding, responsible citizens to use
4 arms in defense of hearth and home” as the Second Amendment interest “surely elevate[d] above
5 all other[s].” *Heller*, 554 U.S. at 635. Because the Ordinance prohibits law-abiding citizens from
6 using commonly possessed arms within the sanctity of their homes, for the core, lawful purpose
7 of self-defense, it is unconstitutional under any test the Court might apply.

8 **A. The Second Amendment Protects Arms “Typically Possessed By**
9 **Law-Abiding Citizens for Lawful Purposes”**

10 The Supreme Court recently confirmed that the Second Amendment protects a
11 fundamental, individual right to keep and bear arms that, by virtue of the Fourteenth Amendment,
12 state and local governments are bound to respect. *Id.* at 581; *McDonald v. City of Chicago*, 130 S.
13 Ct. 3020, 3026, 3036 (2010). It follows that there are certain “instruments that constitute bearable
14 arms,” *Heller*, 554 U.S. at 582, that law-abiding citizens have an inviolable right to possess and
15 use. Indeed, as *Heller* made clear, the constitution protects arms “of the kind in common use . . .
16 for lawful purposes like self-defense.” *Id.* at 624. Conversely, it “does not protect those weapons
17 not typically possessed by law-abiding citizens for lawful purposes.” *Id.* at 625. Put another way,
18 the Second Amendment does not protect arms “that are highly unusual in society at large,” *id.*,
19 but it definitively protects those in common use for lawful purposes, *id.* at 624. This distinction is
20 fairly supported by the historical prohibition on carrying “dangerous *and* unusual weapons.” *Id.* at
21 627 (emphasis added).

22 In accord with *Heller*, various circuit courts considering which arms enjoy Second
23 Amendment protection have examined whether types of firearms, ammunition, and firearm
24 accessories are in “common use for lawful purposes.” The Fourth and D.C. Circuits have applied
25 this “common use” test in challenges to laws regulating not just firearms, but also necessary
26 components of functional firearms, including ammunition and ammunition feeding devices.
27 *Heller v. District of Columbia (Heller II)*, 670 F.3d 1244, 1261 (D.C. Cir. 2011) (magazines
28 holding over ten rounds); *Kodak v. Holder*, 342 F. App’x 907, 908-09 (4th Cir. 2009) (armor-

1 piercing ammunition). And the Ninth Circuit has also applied this analysis to non-essential
2 firearm accessories. *United States v. McCartney*, 357 F. App'x 73, 76 (9th Cir. 2009) (finding no
3 Second Amendment right implicated because silencers are not “typically possessed for lawful
4 purposes”).

5 *Heller* and its progeny thus instruct that the Second Amendment protects firearms with
6 capacities of more than ten rounds if they are typically possessed or commonly chosen for lawful
7 purposes in American society. If the Court establishes this class of arms is “in common use for
8 lawful purposes,” as it should, these arms enjoy constitutional protection and the Court’s work is
9 done. Because common usage “for lawful purposes” is the decisive issue under *Heller*, further
10 inquiry into the “necessity” of such arms or the availability of other sufficient arms is improper.
11 *Heller*, 554 U.S. at 624-25, 627.

12 *Heller* categorically invalidated D.C.’s handgun ban without requiring any such showing.
13 The District and its amici specifically argued that handguns may be banned because individuals
14 can defend themselves with rifles and shotguns – items they considered to be superior defensive
15 tools. The *Heller* Court responded unequivocally:

16 It is no answer to say, as [the District does], that it is permissible to ban the
17 possession of handguns so long as the possession of other firearms (i.e., long guns)
18 is allowed. It is enough to note, as we have observed, that the American people
19 have considered the handgun to be the quintessential self-defense weapon.

20 554 U.S. at 630. Simply put, handguns are protected regardless of whether they are “necessary”
21 for self-defense because the American people commonly choose them for that lawful purpose.

22 In direct conflict with this clear instruction from the Supreme Court, a panel of the D.C.
23 Circuit upheld a ban on magazines capable of holding more than ten rounds. *Heller II*, 670 F.3d at
24 1264. To justify application of lesser scrutiny, the court required not only that the banned items
25 be in common use, but *also* that they be “well-suited to or preferred” for self-defense and sporting
26 purposes. *Id.* at 1261. Controlling Supreme Court precedent provides no support for such a test.

27 Here, any argument that magazines capable of holding more than ten rounds are not
28 *necessary* for individuals to vindicate their right to self-defense is simply irrelevant to whether the
law abiding have a right to possess and use them. Even if this argument were rooted in fact, the

1 *American public* dictates what is necessary and suitable for self-defense – not the City. In striking
 2 down D.C.’s handgun ban, the *Heller* Court made clear that the Second Amendment protects arms
 3 chosen *by the American people* for self-defense. 554 US at 628. It was not for the government to
 4 say the banned items are not well-suited to that purpose.

5 Nor may it be suggested that the chances are low that one would ever “need” firearms
 6 loaded with more than ten rounds for self-defense. Plaintiffs may never “need” to discharge a
 7 firearm for protection at all, but that does not extinguish their right to do so. The City’s belief that
 8 firearms holding fewer rounds are sufficient for self-defense in most cases, no matter how sincere,
 9 is *not* decisive. Second Amendment protection depends on the purposes for which types of arms
 10 are possessed by the law abiding, and it does not evaporate simply because other arms sufficient
 11 for those purposes might exist.

12 The City’s ordinance effectively bans firearms with magazine capacities over ten rounds.
 13 These arms are routinely, and on a massive scale, chosen and preferred by Americans for self-
 14 defense. Their Second Amendment protection cannot be credibly disputed.

15 **B. The Ordinance Prohibits Law-Abiding Citizens From Possessing Arms in**
 16 **Common Use for Lawful Purposes – It Is Thus Categorically Invalid**

17 Millions of law-abiding Americans possess firearms with magazine capacities over ten
 18 rounds for lawful purposes, including the core lawful purpose of self-defense. Protection for these
 19 arms under the Second Amendment is thus secure. Rather than regulate these protected arms, the
 20 City has flatly banned all law-abiding citizens from possessing them in their homes. The City’s
 21 ordinance is irreconcilable with Second Amendment protections under any test, and the Court
 22 need not select a level of scrutiny in declaring it invalid.

23 **1. Firearms Equipped With the Prohibited Magazines Are in Common**
 24 **Use for Lawful Purposes**

25 Firearms equipped with magazines prohibited by the Ordinance are “typically possessed
 26 by law-abiding citizens for lawful purposes,” including self-defense and sporting purposes. *See*
 27 *Heller*, 554 U.S. at 625. In fact, such magazines are *standard equipment* for many popular pistols
 28 and the predominant brands of semiautomatic rifles used for both self-defense and recreational

1 purposes. Curcuruto Decl. ¶ 6; Helsley Decl. ¶¶ 3, 10; Monfort Decl. ¶ 5; Ex. B; Ex. C. Standard-
2 issue magazines for very common semiautomatic pistols have capacities ranging from eleven to
3 twenty rounds, with many between fifteen and seventeen. Helsley Decl. ¶¶ 3, 5-9; *see also* Ex. D
4 (attached to Monfort Decl.). Examples of these common handguns include the Browning High
5 Power (13 rounds) c.1954, MAB PA-15 (15 rounds) c.1966, Beretta Models 81/84 (12/13 rounds)
6 c.1977, S&W Model 59 (14 rounds) c.1971, L.E.S P-18 (18 rounds) c.1980 aka Steyr GB, Beretta
7 Model 92 (15 rounds) c.1980s, and Glock 17 (17 rounds) c.1986. Helsley Decl. ¶ 3. And the
8 magazines for tens of millions of rifles are also over ten rounds. Curcuruto Decl. ¶ 8; Ex. A.
9 These are the “standard capacities” for many of the most popular firearms in American society.

10 Approximately one-third of the semiautomatic handgun models listed in *Gun Digest*, a
11 reference work that includes the specifications of currently available firearms, are normally sold
12 with magazines that hold more than ten rounds of ammunition. Helsley Decl. ¶ 1; Ex. B at 407-
13 39. And approximately two-thirds of the distinct models of semiautomatic, centerfire rifles listed
14 are regularly sold with detachable magazines that hold more than ten rounds. Ex. B at 455-64,
15 497-99. In both cases, but especially for handguns, these figures underestimate the market share
16 of magazines capable of holding more than ten rounds of ammunition, because they include many
17 of the rarer lower-capacity firearms offered by low-volume manufacturers.

18 A large percentage of pistols, perhaps a majority, are manufactured with magazines
19 holding more than ten rounds. Helsley ¶¶ 3, 9-11; Ex. A; *see also* Massad Ayoob, *The Complete*
20 *Book of Handguns* 87, 89-90 (2013). And millions of rifles equipped with such magazines are
21 privately owned throughout the United States. Curcuruto Decl. ¶¶ 8, 11-13; Ex. A.

22 At minimum, there are tens of millions of magazines capable of holding more than ten
23 rounds in the hands of the American public. Curcuruto Decl. ¶ 13. A 2004 report funded by the
24 Department of Justice estimated the number of such magazines to be 72 million – a figure that
25 does not include the millions that have been imported or manufactured in the ten years since the
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1 federal ban expired in 2004.⁵

2 Far from being “highly unusual in society at large,” the evidence establishes that
3 magazines holding more than ten rounds are exceedingly common throughout the nation. The
4 overwhelming majority of states place no restrictions on standard-capacity magazines, let alone
5 force law-abiding citizens to surrender them or face criminal prosecution. It is the City’s ban, not
6 these magazines, that is “highly unusual.”

7 In considering a challenge to a similar magazine ban, the D.C. Circuit acknowledged the
8 commonality of the banned items: “We think it clear enough in the record that . . . magazines
9 holding more than ten rounds are indeed in ‘common use,’ as the plaintiffs contend.” *Heller II*,
10 670 F.3d at 1261. Despite this finding, the *Heller II* court improperly proceeded to further require
11 that such magazines be “well-suited to or preferred for the purpose of self-defense or sport,” a test
12 unsupported by *Heller*. See Part I.A., *supra*.

13 In any event, firearms with magazines capable of holding more than ten rounds are both
14 well-suited and preferred for self-defense in the home and for sport. This fact is self evident. The
15 availability of more ammunition in a firearm increases the likelihood of surviving a criminal
16 attack, while limiting the number of rounds available decreases one’s chances of survival. A
17 firearm’s ammunition capacity is thus directly related to its suitability for self-defense.

18 Evidence of this point is overwhelming. Massad Ayoob, renowned use-of-force expert and
19 a preferred defensive-gun-use trainer among law enforcement, describes the suitability of firearms
20 with increased ammunition capacities for self-defense:

21 [L]imits on magazine capacity are likely to impair the ability of citizens to engage
22 in lawful self-defense in those crime incidents necessitating that the victim fire
many rounds in order to stop the aggressive actions of offenders.

23 Ayoob Decl. ¶ 4; see also Ayoob Decl. at ¶¶ 4-16 (recounting, as examples, some of the many
24 instances where crime victims required more than ten rounds to fight off his or her attacker(s));

25
26 ⁵ Christopher S. Koper et al., *An Updated Assessment of the Federal Assault Weapons*
27 *Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, Rep. to the Nat’l Inst. of Justice,
28 U. S. Dept. of Justice at 65 (2004) (hereafter, “2004 Koper Report”) (reporting industry
estimates that 25 million such magazines were available as of 1995, nearly 4.8 million were
imported for sale from 1994-2000, and an additional 42 million may have arrived after 2000).

1 Kleck Decl. ¶ 20.

2 The reasons a potential victim benefits from having more than ten rounds immediately
3 available in a self-defense emergency are many. 554 U.S. at 624-25, 627. For instance, the
4 presence of multiple attackers often requires far more defensive discharges to eliminate the
5 threat.⁶ Ayoob Decl. ¶¶ 4-16; Kleck Decl. ¶ 21. Second, the stress of a criminal attack greatly
6 reduces the likelihood that shots fired will actually hit a violent intruder.⁷ Kleck Decl. ¶¶ 21-23;
7 *see also* Ayoob Decl. ¶ 27. And it is rare that those hits will incapacitate the criminal intruder
8 before he can complete his attack. Ayoob Decl. ¶¶ 5-9, 11-14; Helsley Decl. ¶¶ 12-15 (debunking
9 the myth that a person, once shot, is generally immediately incapacitated).⁸

10 Given that criminal attacks occur at a moment's notice, taking the victim by surprise,
11 usually at night and in confined spaces, victims rarely have multiple magazines or extra
12 ammunition readily available for reloading. Ayoob Decl. ¶¶ 17-18; Kleck Decl. ¶ 20. Regardless,
13 the victim likely cannot hold a spare magazine as he or she scrambles for cover. Often both hands
14 will be on the firearm. If they are not, one hand is likely holding the phone to call the police.
15 Ayoob Decl. ¶ 17. And certainly most people do not sleep with back-up magazines or firearms
16 strapped to their bodies. Ayoob Decl. ¶ 17. Victims will typically have to make do with a single

17
18 ⁶ Far from a rare occurrence, the 2008 National Crime Victimization survey indicates
19 that 17.4% of violent crimes in the U.S. involved two or more offenders. That year, victims of
20 nearly 800,000 violent crimes faced multiple offenders. Kleck Decl. ¶ 22; *see also* U.S. Dept.
21 of Justice, Bureau of Justice Statistics, National Crime Victimization Survey, *Criminal
Victimization in the United States, 2008 Statistical Tables*, Table 37 (Mar. 2009), available at
22 bjs.gov/content/pub/pdf/cvus08.pdf.

23 ⁷ The low hit-rate among trained law enforcement officers underscores this point. Even
24 at close range, officers miss their target far more often than they hit it. Kleck Decl. ¶¶ 22-23.
25 Considering that even law enforcement often struggle to hit a target under stress at close range,
26 it is no surprise that law-abiding citizens overwhelmingly choose standard-capacity magazines
27 holding more than ten rounds for in-home self-defense. This is especially true since civilians
28 rarely have the benefit of a bullet proof vest, a secondary weapon, extra magazines, or a partner
for backup. Ayoob Decl. ¶¶ 25-26.

⁸ Even assuming a generous 37 percent “hit rate,” Kleck Decl. ¶ 23, for a civilian
facing three attackers and the ability to incapacitate each aggressor with just two bullets, the
victim, limited to ten rounds, would be about seven bullets short – and left defenseless to ward
off any remaining attackers while reloading.

1 available gun and its ammunition capacity. Ayooob Decl. ¶¶ 17, 23; Kleck Decl. ¶ 20. Limited to
2 just ten rounds by the City's law, victims will be left defenseless against their attackers should
3 they be unable to neutralize their attackers with just ten bullets.

4 Even if additional magazines are available, it is extremely difficult – and potentially
5 deadly – to stop to change magazines under the stress of a criminal attack. As Mr. Ayooob
6 explains:

7 A highly skilled police officer or competitive shooter may be able to accomplish a
8 reload in two seconds. Most people take considerably longer; especially someone
9 who is under the mental duress typically experienced during an attack. **Changing
10 a magazine is a fine motor skill, the type of skill which degrades severely in
human beings under stress** due to vasoconstriction (loss of blood flow to the
extremities) and also due to tremors induced by internally-generated adrenaline
(epinephrine).

11 Ayooob Decl. ¶ 27 (emphasis added); *see also* Kleck Decl. ¶ 27. In sum, forcing law-abiding
12 citizens to change magazines while attempting to defend against a criminal attack could cost them
13 their lives, particularly if they are facing multiple armed assailants.

14 It is undeniable that magazines capable of accepting more than ten rounds are well-suited
15 to and effective for self-defense in the home and elsewhere.⁹ Firearms with capacities of more
16 than ten rounds were developed for that very reason. Helsley Decl. ¶¶ 4-11. Manufacturers
17 specifically market them for self-defense. Monfort Decl. ¶ 5; Ex. C. And, as evidenced by the fact
18 that U.S. consumers acquire these firearms specifically developed and marketed for personal
19 defense on a massive scale, Curcuruto Decl. ¶¶ 8, 11-13; Ex. A, they are preferred by millions of
20 Americans for that reason. The entire consumer firearm market has transitioned from revolvers to
21 pistols in large part because semiautomatic pistols allow for more rounds to be immediately
22 available in a self-defense emergency. Helsley Decl. ¶¶ 9-11.

24 ⁹ The banned magazines are also essential in the most popular competitive shooting
25 sports in America. Standard ammunition capacities are required when proceeding through
26 multi-target stages of competitions sponsored by the highly popular International Practical
27 Shooting Federation (which has tens of thousands of members). *See* International Practical
28 Shooting Federation, <http://www.ipsc.org>. They are also required for the famed “3-Gun
Competition,” the fastest-growing shooting sport in America, where participants use standard-
capacity magazines while testing their marksmanship skills using rifles, shotguns, and
handguns. *See* Chad Adams, *Complete Guide to 3-Gun Competition* 89 (2012).

1 Civilians overwhelmingly prefer these firearms for the same reason active-duty officers do
2 – to increase their chances of staying alive. Ayooob Decl. ¶ 24; Helsley Decl. ¶ 11; Fyock Decl. ¶¶
3 6-11; Douglas Decl. ¶¶ 6-9; Pearsons Decl. ¶¶ 6-9; Seifers Decl. ¶¶ 6-11; Swanson Decl. ¶¶ 7-10.
4 American citizens have thus historically modeled their choice of firearms on what police carry.
5 Ayooob Decl. ¶ 24; Helsley Decl. ¶¶ 9-10. For example, Glock pistols, the most popular handguns
6 among American law enforcement, are “hugely popular” for home and personal defense. Ayooob,
7 *The Complete Book of Handguns* at 90. They come standard with fifteen- to seventeen-round
8 magazines. *Id.*

9 In short, firearms with magazine capacities over ten rounds are among “the most preferred
10 firearm[s] in the nation to ‘keep’ and use for protection of one’s home and family,” *Heller*, 554
11 U.S. at 628-29; individuals are thus guaranteed the right to possess and use them for those
12 purposes.

13 **2. Bans on Arms in Common Use for Lawful Purposes Are Categorically** 14 **Invalid Without Resort to Means-End Scrutiny**

15 The Ordinance is necessarily invalid because it imposes an outright ban on the possession
16 and use of arms protected by the Second Amendment. It is a fundamental principle of both law
17 and logic that, where the constitution protects the possession or use of an item, a total ban on such
18 possession or use will be an unconstitutional infringement of that right, regardless of the level of
19 judicial scrutiny applied. To this end, the courts may forego adoption of any particular standard of
20 review when striking flat prohibitions on constitutionally protected conduct and items.

21 This was precisely the approach taken by the Supreme Court in *Heller*. There, the
22 Supreme Court found a ban on handguns, arms the Court found to be in common use for self-
23 defense, necessarily violates the Second Amendment. 554 U.S. at 635. While *Heller* stated the
24 ban would fail “any of the standards of scrutiny that [the courts have] applied to enumerated
25 constitutional rights,” *id.* at 628, the Court made a point of *not* applying any of those standards.
26 Instead, *Heller* categorically invalidated the handgun ban because it prohibited a class of arms
27 “overwhelmingly chosen by American society for [the] lawful purpose” of self-defense. 554 U.S.
28 at 628-29. That the Court did so without selecting a level of scrutiny is unsurprising. For the

1 Second Amendment would mean little if the application of a particular test would permit the
2 government to ban the very arms the Second Amendment protects.

3 A categorical approach to bans on protected arms is also consistent with the framework
4 adopted by the Ninth Circuit in *United States v. Chovan*, 735 F.3d 1127 (9th Cir. 2013). In
5 deciding whether arms restrictions for convicted domestic violence misdemeanants violates the
6 Second Amendment, the *Chovan* panel applied a two-step test for Second Amendment
7 challenges. *Id.* at 1136. The approach asks first whether the challenged law burdens protected
8 conduct. *Id.* If it does, the appropriate level of heightened scrutiny is selected based on “how
9 close the law comes to core of the Second Amendment” and “the severity of the law’s burden on
10 the right.” *Id.* at 1138. *Chovan* does not foreclose the application of *Heller*’s categorical approach
11 to striking down as unconstitutional a law that flatly bans the possession of protected arms by
12 law-abiding citizens. As *Heller* made clear, such a law is necessarily unconstitutional regardless
13 of the level of scrutiny applied. 554 U.S. at 628-29. In short, there is no need to struggle with
14 selecting a level of scrutiny under *Chovan* when the Supreme Court has already instructed what
15 the outcome will be under any test.

16 Other circuits have acknowledged this principle. For example, the Seventh Circuit, in
17 striking down the State of Illinois’ flat ban on the protected activity of carrying firearms outside
18 the home, eschewed the levels of scrutiny analysis it had applied in other Second Amendment
19 contexts. *Moore v. Madigan*, 702 F.3d 933, 940, 941 (7th Cir. 2012). The Second Circuit
20 similarly recognized, “where a state regulation is entirely inconsistent with the protections
21 afforded by an enumerated right – it is an exercise in futility to apply means-end scrutiny.”
22 *Kachalsky v. County of Westchester*, 701 F.3d 81, 89 n.9 (2d Cir. 2012).

23 This is also consistent with the Supreme Court’s approach in other rights contexts, where
24 it has repeatedly found bans on protected activity to be unconstitutional without resort to any
25 level of scrutiny. *See, e.g., Stanley v. Georgia*, 394 U.S. 557 (1969) (holding that a ban on the
26 private possession of obscene material violated the First and Fourteenth Amendments); *Griswold*
27 *v. Connecticut*, 381 U.S. 479, 485 (1965) (declaring a ban on contraceptives unconstitutional);
28 *Lamont v. Postmaster Gen. of the U.S.*, 381 U.S. 301 (1965) (holding that a ban on access to

1 materials deemed “communist political propaganda” violated the First Amendment).¹⁰

2 Here, the City’s magazine ban is inimical to the Second Amendment’s protections for
3 standard-capacity firearms and should be stricken without resort to any level of scrutiny. Like the
4 handguns at issue in *Heller*, firearms with magazines holding more than ten rounds are
5 overwhelmingly chosen by law-abiding citizens for the core lawful purpose of self-defense. And
6 like the District of Columbia, Sunnyvale flatly bans these protected arms, going so far as to force
7 law-abiding citizens, including active-duty law enforcement, to remove their standard magazines
8 from the City or face criminal prosecution.

9 Under *Heller*, the Ordinance is necessarily unconstitutional. The Court need not go any
10 further because the City’s ban on protected arms would fail “any of the standards of scrutiny that
11 [the courts have] applied to enumerated constitutional rights.” The City’s outright ban on the use
12 of standard-capacity firearms that are possessed by millions of law-abiding Americans for in-
13 home self-defense is plainly inconsistent with the Second Amendment’s protections for these
14 arms – making the application of means-end scrutiny a futile endeavor.

15 **C. If the Court Selects a Level of Means-End Review, Strict Scrutiny Must**
16 **Apply**

17 When a law interferes with “fundamental constitutional rights,” it generally is subject to
18 “strict judicial scrutiny.” *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 16 (1973); *see*
19 *also, e.g., Clark v. Jeter*, 486 U.S. 456, 461 (1988). And “a law is subject to strict scrutiny . . .
20 when that law *impacts* a fundamental right, not when it *infringes* it.” *Tucson Woman’s Clinic v.*
21 *Eden*, 379 F.3d 531, 544 (9th Cir. 2004). In *McDonald*, the Supreme Court confirmed the right to

22 ¹⁰ *See also Lawrence v. Texas*, 539 U.S. 558 (2003) (ban on consensual, intimate
23 conduct in the home); *Butler v. State of Michigan*, 352 U.S. 380, 382-84 (1957) (ban on
24 material “tending to the corruption of the morals of youth”); *Reliable Consultants, Inc. v.*
25 *Earle*, 517 F.3d 738, 741, 747 (5th Cir. 2008) (ban on sale of sex toys). When courts have
26 applied a standard of review to laws directly contradicting or foreclosing the exercise of a
27 protected activity, such restrictions have been struck down regardless of the test applied. *See,*
28 *e.g., Brown v. Entm’t Merchants Ass’n*, 131 S. Ct. 2729, 2738-39 (2011) (ban on sale or rental
of “violent video games”); *Planned Parenthood v. Casey*, 505 U.S. 833, 898 (1992) (spousal
notice requirements to obtain abortion); *Carey v. Population Servs., Int’l.*, 431 U.S. 678, 689-
91 (1977) (ban on contraceptive sales); *Vincenty v. Bloomberg*, 476 F.3d 74, 85 (2d Cir. 2007)
(ban on spray paint sales).

1 keep and bear arms is fundamental and silenced any argument that it should not be afforded the
2 same status as other fundamental rights. *McDonald*, 130 S. Ct. at 3043. In short, strict scrutiny is
3 the “default” standard for fundamental rights – and the right to arms is no exception.

4 Under the *Chovan* analysis described above, the result is no different. Again, *Chovan*
5 directs courts to select a level of heightened scrutiny according to the law’s proximity “to the core
6 of the Second Amendment right” and “the severity of the law’s burden on the right.” 735 F.3d at
7 1138. *Chovan*’s claims were held to be outside the Second Amendment’s core because his
8 conviction excluded him from the “law abiding.” *Id.* And although the ban imposed a “quite
9 substantial” burden, the law’s many exceptions “lightened” that burden. *Id.*

10 In contrast, the conduct burdened here – the possession of protected arms by the law
11 abiding for in-home self-defense – is at the *very center* of the Second Amendment’s core. *Id.* at
12 1133, 1138 (quoting *Heller*, 554 U.S. at 635) (repeatedly referencing the core of the Second
13 Amendment as “the right of law-abiding, responsible citizens to use arms in defense of hearth and
14 home”). By banning the possession and use of arms widely chosen for in-home self-defense, and
15 by restricting the amount of ammunition residents may load into their firearms well below
16 national norms, the City’s ordinance directly restricts conduct at the Second Amendment’s core.
17 *See id.* at 1133, 1138; *see also Heller*, 554 U.S. at 635.

18 Further, the burden imposed is particularly severe. The law does not simply regulate “the
19 manner in which” Plaintiffs’ rights may be exercised, *Chovan*, 735 F.3d at 1138, but rather
20 directly bans the possession and use of constitutionally protected items. It forces law-abiding
21 residents to remove commonly possessed magazines from their homes. And it does so without
22 qualification.¹¹ The fact that the prohibition extends to the home where the need for self-defense
23 is “most acute” exacerbates the problem. *Heller*, 554 U.S. at 628; *see also Kachalsky*, 701 F.3d at

24
25 ¹¹ It is no answer to say the laws do not impose a severe burden simply because other
26 arms are sufficient for self-defense. Under that logic, a flat ban on virtually any protected arms
27 could avoid strict scrutiny, so long as the government imposed its ban in small enough
28 increments. This would certainly defy the Supreme Court’s instructions as to the protections
the Second Amendment affords. *Heller*, 554 U.S. at 624-25, 630; *McDonald*, 130 S. Ct. at
3037.

1 89 (“Second Amendment guarantees are at their zenith within the home.”).¹²

2 But even if a blanket ban on the use of protected arms in the home is itself not sufficiently
3 severe to warrant strict review, the impact of the law certainly is. While millions of Americans
4 routinely select firearms capable of accepting more than ten rounds for self-defense, the City
5 dictates that its residents must load significantly less ammunition into their firearms. If such a
6 government-imposed reduction on the ammunition capacity of citizens’ commonly used firearms
7 – with potentially deadly consequences in the event of a self-defense emergency – isn’t a severe
8 burden triggering strict scrutiny, it is difficult to imagine what is.

9 Application of strict scrutiny here also comports with a number of decisions from other
10 circuits. Just as “any law regulating the content of speech is subject to strict scrutiny, . . . any law
11 that would burden the ‘fundamental,’ core right of self-defense in the home by a law-abiding
12 citizen would be subject to strict scrutiny.” *United States v. Masciandaro*, 638 F.3d 458, 470 (4th
13 Cir. 2011). While many courts have evaluated Second Amendment claims under intermediate
14 scrutiny, they have routinely done so where the interest asserted does *not* involve core Second
15 Amendment conduct. As described above, such is not the case here. The City’s flat ban on law-
16 abiding citizens’ possession of arms overwhelmingly chosen by American society for self-defense
17 lies at the very heart of the Second Amendment, and strict scrutiny must apply.

18 The lone circuit court opinion to apply intermediate scrutiny to a ban on the possession of
19 common arms by law-abiding citizens itself suggests that strict scrutiny is appropriate here. As
20 noted above, the D.C. Circuit selected intermediate scrutiny to evaluate a ban on standard-
21 capacity magazines after finding there was little evidence they are “well-suited to or preferred for
22 self-defense or sport.” *Heller II*, 670F.3d at 1262. Here, given the abundance of evidence
23 presented that firearms equipped with the prohibited magazines are both highly effective and

24
25 ¹² To comport with fundamental rights jurisprudence requiring the application of strict
26 scrutiny to laws burdening core protected conduct, *see, e.g., Citizens United v. Fed. Election*
27 *Comm’n*, 558 U.S. 310, 340 (2010), consideration of both the “proximity” and “severity”
28 prongs of *Chovan* should be done so that burdens on conduct closer to the core trigger strict
scrutiny even if the burden is less severe. Thus, even if the Court were to somehow find the
burden less “severe,” it should apply strict scrutiny because the law strikes at the very center of
the Second Amendment’s core.

1 hugely popular for self-defense and sport, strict scrutiny is appropriate even under the novel
2 requirement imposed by the *Heller II* panel. Part I.B.1, *supra*.

3 While bans on the possession of protected arms are categorically invalid under *Heller*, if
4 the Court opts to apply a level of scrutiny, it should keep Kipling’s six honest serving-men in
5 mind.¹³ Here, they each point directly to strict scrutiny. For, at all times (“when”), the law flatly
6 bans (“how”) the exercise of the core right of law-abiding citizens (“who”) to possess and use
7 protected arms (“what”) for the purpose of self-defense (“why”) in the sanctity of their homes
8 (“where”) – the Second Amendment interest that is “surely elevate[d] above all other[s].” *Heller*,
9 554 U.S. at 635.

10 **D. The Ordinance Is Unconstitutional Under Any Heightened Level of Review**

11 Under heightened scrutiny, whether intermediate or strict, a challenged law is *presumed*
12 unconstitutional, and the government bears the burden of justifying it. *See R.A.V. v. City of St.*
13 *Paul*, 505 U.S. 377, 382 (1992) (content-based speech regulations are presumptively invalid); *see*
14 *also United States v. Chester*, 628 F.3d 673, 680 (4th Cir. 2010) (“unless the conduct is not
15 protected by the Second Amendment at all, the government bears the burden of justifying the
16 constitutional validity of the law”). Strict scrutiny requires that the City prove that its magazine
17 ban is “narrowly tailored” to serve a “compelling government interest.” *United States v. Playboy*
18 *Entm’t Grp., Inc.*, 529 U.S. 803, 804 (2000). Even under intermediate scrutiny, the City must
19 establish a “reasonable fit” or a “substantial relationship” between the ban and an important
20 government objective. *Chovan*, 735 F.3d at 1139. Such a fit requires that the law is “not more
21 extensive than necessary” to serve its interest. *Valle Del Sol Inc. v. Whiting*, 709 F.3d 808, 825
22 (9th Cir. 2013) (citing *Central Hudson Gas & Elec. Corp. v. Pub. Serve Comm’n of N.Y.*, 447
23 U.S. 557, 566 (1980)). The Ordinance fails under either test.

24 The City seems to have enacted the Ordinance to reduce injuries resulting from the
25 criminal misuse of firearms. Sunnyvale, Ca., Measure C (2013) at 1 (attached to Compl. as
26 _____

27 ¹³ “I keep six honest serving-men (They taught me all I knew); Their names are What
28 and Why and When and How and Where and Who.” Rudyard Kipling, *The Elephant’s Child*, in
Just So Stories 31 (Acra Found. 2013).

1 “Exhibit A”). While the government has a compelling interest in promoting public safety and
 2 preventing crime, *see, e.g., Madsen v. Women’s Health Ctr., Inc.*, 512 U.S. 753, 768 (1994), to
 3 satisfy even intermediate scrutiny the City must demonstrate the law is likely to advance that
 4 interest to some “material degree,” *44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 505
 5 (1996). It cannot.

6 First, the City’s policy has already proven ineffective. The 1994 federal ban on standard-
 7 capacity magazines capable of holding more than ten rounds was so ineffective in reducing
 8 violent crime that it was allowed to expire in 2004. *See* H.R. 3355, 103rd Cong. § 110106. The
 9 Clinton-Reno Department of Justice selected researchers to study the impact of the nationwide
 10 ban.¹⁴ “There was no evidence that lives were saved [and] no evidence that criminals fired fewer
 11 shots during gun fights. . . .” Kopel Testimony, *supra* n. 14, at 11; *see also* Kleck Decl. ¶ 33. It
 12 was thus not surprising that Congress chose not to renew the 1994 ban. Kopel Testimony, *supra*
 13 n. 14, at 11.

14 Since 2004, *millions* of standard-capacity firearms have been purchased throughout the
 15 United States. 2004 Koper Report, n. 5, at 65; *see also* Ex. A. Violent crime has not increased in
 16 that period; in fact, it has steadily and significantly declined.¹⁵ And there is no evidence to suggest
 17 that criminals have fired more shots per incident in the years since the federal ban expired.

18 Empirical evidence demonstrates why restrictions on firearms with magazine capacities
 19 over ten rounds will not further public safety. Such a limit has no bearing on the overwhelming
 20 majority of gun crimes, as criminals rarely fire more than ten shots – and typically they fire fewer
 21 than four. Kleck Decl. ¶¶ 7-8; *see also* 2004 Koper Report, *supra* n. 5, at 90. Moreover, it is
 22

23 ¹⁴ *What Should America Do About Gun Violence?* Full Comm. Hr’g Before U.S. Sen.
 24 Jud. Comm., 113th Cong. at 11 (2013), available at <http://www.judiciary.senate.gov/pdf/1-30-13KopelTestimony.pdf> (hereafter, “Kopel Testimony”); 2004 Koper Report, *supra* n. 5, at 1.
 25

26 ¹⁵ Federal Bureau of Investigation, *Crime in the United States 2012*, Department of
 27 Justice (2012), <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/violent-crime/violent-crime>; *id.* at Table 1, http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/1tabledatadecoverviewpdf/table_1_crime_in_the_united_states_by_volume_and_rate_per_100000_inhabitants_1993-2012.xls.
 28

1 unlikely that a ten-round limit would have any impact even in those rare instances that they do. A
2 study of “mass shootings” from 1984 to 1993 found that for those incidents where both the
3 number of rounds fired and the duration of the shooting were reported, the rate of fire was almost
4 never faster than about one round every two seconds. Kleck Decl. ¶¶ 18-19. And it was usually
5 much slower. Kleck Decl. ¶¶ 18-19, *see also* Kleck Decl. table 1. Thus, none of the mass shooters
6 maintained a sustained rate of fire that could not also have been maintained – even when
7 considering reloading time – with either multiple guns or with an ordinary six-shot revolver and
8 common speedloader. Gary Kleck, *Targeting Guns: Firearms and Their Control* 125 (Aldine De
9 Gruyter 1997).

10 As more recent incidents demonstrate, a mass shooter controlling the circumstances under
11 which he carries out his attack can easily change magazines each time one is spent. Ayooob Decl. ¶
12 28; Kleck Decl. ¶¶ 10-14. For instance, “[a]t Newtown, the murderer changed magazines many
13 times, firing only a portion of the rounds in each magazine.” Kopel Testimony, *supra* n. 14, at 19.
14 And, in the Virginia Tech murders, the perpetrator likewise changed magazines numerous times.
15 Ayooob Decl. ¶ 28. A criminal with multiple guns can avoid the need to reload altogether by
16 simply changing guns when the first runs out of ammunition. Ayooob Decl. ¶¶ 19-22; Kleck Decl.
17 ¶ 10-11. The perpetrators of the majority of mass shootings between 1984 and 1993 carried
18 multiple firearms and did just that. Kleck Decl. ¶11; Kleck, *Targeting Guns* at 125, 144 (table
19 4.2). The same is true of such attacks since that time. Ayooob Decl. ¶ 20; Kleck Decl. ¶¶ 12-14.

20 So, even if we seriously believe that the law would deter a criminal from obtaining the
21 banned magazines, the Ordinance is unlikely to serve the City’s public-safety objectives to any
22 “material degree.”

23 Instead, the City’s ban decreases public safety by restricting the self-defense capabilities
24 of the law abiding – as the time it takes to change magazines is much more likely to negatively
25 affect crime victims than criminal attackers. Ayooob Decl. ¶ 4, 23, 28-29, 31-34; Kleck Decl. ¶ 34.
26 Unlike violent criminals, victims do not choose when or where an attack will take place. Ayooob
27 Decl. ¶ 28. And they will often face multiple armed attackers at a moment’s notice. The burden of
28 changing or reloading a magazine (if extra magazines are even accessible) is far greater for a

1 victim under the emotional and physiological stress of an unannounced attack, especially in the
 2 middle of the night. Ayoob Decl. ¶¶ 27-28, 34; Kleck Decl. ¶¶ 20-21, 27, 29, 34. Compare this
 3 with violent criminals and mass murderers who can plan out their attacks and often carry multiple
 4 firearms and magazines into settings where their victims are unarmed. Ayoob Decl. ¶¶ 28; Kleck
 5 Decl. ¶¶ 10-11, 14, 19-20.

6 In light of these realities, it comes as no surprise that a 2013 poll of 15,000 law
 7 enforcement professionals showed that an overwhelming majority of respondents (95.7%) did not
 8 believe a federal ban on standard-capacity magazines would increase public safety.¹⁶

9 But even if restricting these magazines would promote public safety, the City's chosen
 10 means to accomplish its safety objectives are "substantially broader than necessary." *Fantasyland*
 11 *Video, Inc. v. Cnty. of San Diego*, 505 F.3d 996, 1004 (9th Cir. 2007) (quoting *Ward v. Rock*
 12 *Against Racism*, 491 U.S. 781, 799-800 (1989)). Rather than develop policies to prevent access
 13 by criminals, the City has opted to strip protected arms from the homes of *law-abiding* citizens.
 14 The City attempts to accomplish its objective of reducing injuries from the criminal misuse of
 15 firearms by banning the use of arms by the law abiding – not based on the harm they themselves
 16 may cause, but based on the violence that may come from criminals *who might steal those*
 17 *firearms from gun owners*.

18 But to ban certain arms because criminals might misuse them is to tell law-abiding
 19 citizens that their liberties depend not on their own conduct, but on the conduct of the lawless.
 20 Surely this cannot be. Courts have already rejected the notion that the government may ban
 21 constitutionally protected activity on the grounds that the activity could lead to abuses. *See, e.g.*,

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 25 ¹⁶ *Gun Policy & Law Enforcement: Where Police Stand on America's Hottest Issue*,
 26 PoliceOne.com, http://ddq74coujkl1.cloudfront.net/p1_gunsurveysummary_2013.pdf
 27 (accessed Dec. 19, 2013). With over 1.5 million unique visitors per month and more than
 28 450,000 registered members, PoliceOne is becoming the leading destination for Law
 Enforcement professionals. PoliceOne.com, About Us, <http://www.policeone.com/about/>
 (accessed Dec. 19, 2013).

1 *New Albany DVD, LLC v. City of New Albany*, 581 F.3d 556, 560 (7th Cir. 2009).¹⁷

2 Ultimately, the City’s ban represents a policy choice as to the types of arms it desires its
3 residents to use. But *Heller* is clear that such policy choices are off the table when considering
4 commonly used, constitutionally protected arms. 554 U.S. at 636. There, D.C. sought to ban
5 handguns for the same reasons the City wishes to ban its residents from having standard-capacity
6 firearms and magazines – to decrease criminal misuse and prevent injuries through decreased
7 availability. *Id.* at 682, 694 (Breyer, J., dissenting). Despite these interests, the Supreme Court
8 explicitly stated that D.C.’s handgun ban would “fail constitutional muster” under “any of the
9 standards of scrutiny the Court has applied” to fundamental rights. *Id.* at 628-29.

10 If the D.C. handgun ban could not pass intermediate scrutiny (i.e., it was not “substantially
11 related” to public safety), it follows that the City’s ban on standard-capacity arms cannot survive
12 such scrutiny either.¹⁸ For if stopping law-abiding citizens from possessing protected items were a
13 valid method of reducing criminal access and violent crime, *Heller* would have been decided
14 differently. Certainly, the justifications for a ban on *handguns* are substantially *more* related to
15 the government’s public safety objectives than a ban on firearms with magazines holding over ten
16 rounds. While criminals might sometimes misuse these standard-capacity firearms, misuse of
17 handguns is off the charts. *Id.* at 697-99 (Breyer, J., dissenting) (from 1993 to 1997, a whopping
18 81% of firearm-homicide victims were killed by handguns). Indeed, handguns are
19 overwhelmingly preferred by criminals in nearly all violent gun crimes. But despite the
20 government’s clear interest in keeping concealable firearms out of the hands of criminals and
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22 ¹⁷ Just as the First Amendment “knows no heckler’s veto,” the Second Amendment
23 cannot tolerate restrictions on law-abiding citizens’ right to keep and bear protected arms based
24 on the threat to public safety posed not by those citizens but by criminals who may obtain such
25 firearms illegally. *See Robb v. Hungerbeeler*, 370 F.3d 735, 743 (8th Cir. 2004).

26 ¹⁸ *Heller II*’s holding that D.C.’s magazine ban could survive intermediate scrutiny is in
27 direct conflict with *Heller*’s holding that banning law-abiding citizens from possessing and
28 using protected arms is not a valid means of promoting the government’s interest. *Heller*’s
29 approach and analysis is controlling – *Heller II*’s, whose analysis was poisoned by the court’s
30 mistaken assumption that standard-capacity firearms are not well-suited to or preferred for self-
31 defense or sport, is not.

1 unauthorized users, a ban on the possession of protected arms by the law abiding lacks the
2 required fit under any level of scrutiny. *Id.* at 628-29.

3 Here too, the City’s ban on the possession and use of protected arms is necessarily
4 unconstitutional no matter which test the Court may apply.

5 **II. THE REMAINING PRELIMINARY INJUNCTION FACTORS WARRANT RELIEF**

6 **A. Irreparable Harm Should Be Presumed Because the Ordinance Violates** 7 **Plaintiffs’ Second Amendment Rights**

8 Generally, once a plaintiff shows a likelihood of success on the merits of a constitutional
9 claim, irreparable harm is presumed. 11A Charles Alan Wright et al., *Federal Practice and*
10 *Procedure* § 2948.1 (2d ed. 1995) (“When an alleged deprivation of a constitutional right is
11 involved, most courts hold that no further showing of irreparable injury is necessary.”). The Ninth
12 Circuit has often imported the First Amendment’s “irreparable-if- only-for-a-minute” concept to
13 cases involving other rights and, in doing so, has held a deprivation of these rights constitutes
14 irreparable harm per se. *Monterey Mech. Co. v. Wilson*, 125 F.3d 702, 715 (9th Cir. 1997). The
15 Second Amendment should be treated no differently. *See McDonald*, 130 S. Ct. at 3043, 3044;
16 *Ezell v. Chicago*, 651 F.3d 684, 700 (7th Cir. 2011) (a deprivation of the right to arms is
17 “irreparable and having no adequate remedy at law”).

18 Here, because Plaintiffs are likely to succeed on the merits of their Second Amendment
19 claim, irreparable harm is presumed. The harm is the denial of the exercise of Plaintiffs’
20 constitutional rights – namely, the right to use and possess protected arms for lawful purposes,
21 including self-defense within their homes, and the potentially *deadly* consequences that can arise
22 when one’s ability to use such arms in self-defense is restricted.

23 Plaintiffs have established a likelihood of success on the merits of their constitutional
24 claim; they have necessarily established irreparable harm warranting preliminary relief.

25 **B. Harms to Plaintiffs and to the Public Far Outweigh Any Harm to the City**

26 When plaintiffs challenge government action that affects the exercise of constitutional
27 rights, “[t]he balance of equities and the public interest . . . tip *sharply* in favor of enjoining the
28 ordinance.” *Klein v. City of San Clemente*, 584 F.3d 1196, 1208 (9th Cir. 2009) (emphasis added).

1 And, the City “cannot reasonably assert that [it] is harmed in any legally cognizable sense by
2 being enjoined from constitutional violations.” *Haynes v. Office of the Att’y Gen. Phill Kline*, 298
3 F. Supp. 2d 1154, 1160 (D. Kan. Oct. 26, 2004) (citing *Zepeda v. U.S. Immigration.*, 753 F.2d
4 719, 727 (9th Cir. 1983)).

5 Here, Plaintiffs seek to vindicate their fundamental Second Amendment rights. As the
6 Ninth Circuit has made clear, “all citizens have a stake in upholding the Constitution” and have
7 “concerns [that] are implicated when a constitutional right has been violated.” *Preminger v.*
8 *Principi*, 422 F.3d 815, 826 (9th Cir. 2005). Accordingly, not only Plaintiffs’ rights are at stake,
9 but so are the rights of all residents seeking to engage in Second Amendment conduct that is
10 prohibited by the City’s law. This is especially true for those residents unable to store their
11 magazines outside of the City. These residents will be dispossessed of their magazines with no
12 way to replace them because state law prohibits the purchase and sale of these magazines. Cal.
13 Penal Code §§ 32310, 32400-50. The balance of equities and the public interest thus tip *sharply*
14 in Plaintiffs’ favor. *See Klein*, 584 F.3d at 1208.

15 Even absent the constitutional dimension of this lawsuit, the balance of harms tips in
16 Plaintiffs’ favor. The City can establish no harm to its interests as the law does not actually serve
17 the public interest or increase public safety. *See Part I.D., supra*. To the contrary, the City’s laws
18 make the public *less* secure. The Ordinance prevents residents from possessing and using
19 standard-capacity firearms, putting residents at *greater* risk when faced with a self-defense
20 emergency. The Ordinance limits residents to using roughly half the ammunition that law-abiding
21 Americans typically prefer to have in their self-defense firearms.

22 Granting the injunction will maintain the status quo while the case is decided on the
23 merits. The sale of standard-capacity magazines is already unlawful in California, so the City will
24 not be flooded with additional standard-capacity firearms if an injunction is granted. On the other
25 hand, granting an injunction will end the ongoing violation of Plaintiffs’ rights, allowing them the
26 freedom to exercise them without fear of prosecution and allowing residents to continue
27 possessing their lawfully acquired, common magazines in their homes.

28 CONCLUSION

1 The Second Amendment extends protections to arms commonly used by responsible
2 citizens. Magazines that hold over ten rounds are the standard for many firearms commonly
3 owned in modern American society. Accounting for millions of annual firearm purchases by the
4 law abiding, their Second Amendment protection is hardly debatable.

5 Fearing that certain members of society may misuse these arms, the City has prohibited all
6 law-abiding citizens from possessing or using them for self-defense in their homes. The courts
7 have often described the impropriety of this approach with the phrase *abusus non tollit usum* – as
8 abuse is not a valid argument against proper use.

9 Just as the government may not strip “smart phones” from the law abiding on the basis
10 that drug dealers frequently use them to move their product or that terrorists can use them to
11 detonate explosives in a mass killing, the City cannot deny law-abiding citizens the right to keep
12 and use protected arms simply because they might be misused by some. While the Supreme Court
13 has not yet ruled that the constitution guarantees protections for common tools of communication,
14 like smart phones, it is self evident that the First Amendment would not tolerate such government
15 action. In the Second Amendment context, it is even more clear, as the Court *has expressly*
16 *announced* protection for common arms.

17 The Court should grant Plaintiffs’ motion to preserve the status quo and prevent the
18 removal of these protected arms from the homes of Sunnyvale residents while the Court considers
19 the merits of this case.

20 Dated: December 23, 2013

MICHEL & ASSOCIATES, P.C.

21
22 /s/ C. D. Michel
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24 Attorney for Plaintiffs

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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT)
HOCHSTETLER, WILLIAM)
12 DOUGLAS, DAVID PEARSON,)
BRAD SEIFERS, and ROD)
13 SWANSON,)

14 Plaintiffs)

15 vs.)

16 THE CITY OF SUNNYVALE, THE)
MAYOR OF SUNNYVALE,)
17 ANTHONY SPITALERI in his)
official capacity, THE CHIEF OF)
18 THE SUNNYVALE DEPARTMENT)
OF PUBLIC SAFETY, FRANK)
19 GRGURINA, in his official capacity,)
and DOES 1-10,)

20 Defendants.)
21)
22)
23)
24)
25)
26)
27)
28)

CASE NO: CV13-05807 RMW
DECLARATION OF MASSAD
AYOOB IN SUPPORT OF MOTION
FOR PRELIMINARY INJUNCTION

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DECLARATION OF MASSAD AYOOB

1. I, Massad Ayoob, am not a party in the above-titled action. I am over the age of 18, have personal knowledge of the facts and events referred to in this Declaration, and am competent to testify to the matters stated below.

2. I have been a competitive handgun shooter since the late 1960s, a published writer in the field of defensive firearms since 1971, and a firearms instructor since 1972. My resume is attached. I have served for more than thirty years each as handgun editor for Guns magazine and law enforcement editor for American Handgunner magazine. I served for 19 years as chair of the Firearms and Deadly Force Training Committee for the American Society of Law Enforcement Trainers, and have served for ten years on the advisory board of the International Law Enforcement Educators and Trainers Association. I have served as an expert witness on firearms, firearms training standards, deadly force training standards, dynamics of violent encounters, and related subject matter areas since 1979. I have also been an instructor in disarming and firearm retention (i.e., the countering of a disarming attempt) since 1980 and became a trainer of other instructors in those disciplines in 1990.

3. In my role as a self-defense and weapons expert, including as an expert witness, I have researched incidents of defensive gun uses by law-abiding citizens, including by both private citizens and law enforcement officers. My opinions about defensive guns uses provided herein are based, in part, on the information I have learned during such research.

**Ten Round Magazine Limit: Disparate
Impact on Law-Abiding Citizens**

4. Limiting the law-abiding citizen to a magazine of ten rounds or less will clearly limit their ability to protect themselves from violent criminals in certain situations. Such limits on magazine capacity are likely to impair the ability of citizens to engage in lawful self-defense in those crime incidents necessitating that

1 the victim fire many rounds in order to stop the aggressive actions of offenders.

2 5. An illustrative, real-world example is the case of Susan Gonzalez. She
3 and her husband were attacked by two intruders within their home one night. The
4 attackers shot both of them multiple times, but she was able to escape to their
5 bedroom where she located her husband's semi-automatic pistol, while her husband
6 bravely physically fought the attackers off into the front room. She entered the
7 room where the attackers were struggling with her husband, and, not wanting to
8 shoot her husband, discharged three warning shots in the air, hoping the attackers
9 would flee. They did not.

10 6. One attacker charged toward her, causing her to flee back to the
11 bedroom. From an opening in the bedroom she could see the attacker lying in wait
12 for her in the kitchen. So she used her knowledge of the house to exit the bedroom
13 from and approach the attacker from behind via another door leading to the kitchen.
14 She pointed the pistol at the attacker and discharged seven rounds in his direction,
15 gravely wounding him, but not immediately killing him.

16 7. The wounded attacker was still able to exit the house aided by his
17 accomplice. The other attacker reentered the house and demanded Mr. Gonzalez
18 give him keys to an automobile to escape. During his search for keys in the
19 bedroom he located Mrs. Gonzalez who was out of ammunition. He put the gun to
20 her temple and demanded the keys, which she gave him.

21 8. Fortunately, the attacker decided to spare Mrs. Gonzalez's life, but he
22 could have just as easily pulled the trigger. Had she had more rounds in her
23 magazine, maybe she would not have had to leave her fate to chance. It is
24 impossible to say how many more cases where victims lost (or almost lost, as in
25 Mrs. Gonzalez's case), due to having an insufficient amount of ammunition readily

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1 available in a self-defense firearm.¹

2 9. The published account of this shooting has Mrs. Gonzalez firing three
3 shots into the ceiling, then seven at the homicidal intruder, and then running dry.
4 This would indicate only ten cartridges at her disposal. The gunfight occurred
5 during the ten-year period when the Federal "high capacity magazine ban" was in
6 force. The Ruger 9mm pistol she used, designed to hold fifteen cartridges in the
7 magazine and one more in the firing chamber, was sold during that ten year period
8 of that ban with magazines which could only hold ten rounds. In such a situation,
9 five more shots can make the difference between neutralizing the murderous threat,
10 and being rendered helpless with an empty guns at the hands of a law-breaking,
11 homicidal, heavily armed felon.

12 10. It is difficult to say exactly how many private citizens have actually
13 fired more than ten rounds in a self-defense shooting, because the amount of rounds
14 fired in self-defense shoots, from my experience in researching such incidents, is
15 very often an omitted fact in written accounts of such defensive gun uses.
16 Oftentimes the accounts just say "multiple shots fired." That could mean more or
17 less than ten, it just cannot be known. This does not seem to be the case, however,
18 with shootings involving police officers, for which, generally the number of shots
19 that were fired is documented. In my experience researching such shootings,
20 officers often fire more than ten rounds. And, cases where an individual officer
21 fired less than 10 rounds, but there were multiple officers shooting, can be fairly
22 characterized as involving more than ten rounds if the multiple officers involved
23 fired over ten rounds in aggregate.

24 11. Officer-involved shootings are relevant in evaluating private citizen
25 shootings, for the simple reason that private citizens arm themselves for protection

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27 ¹ Robert A. Waters, Guns Save Lives: True Stories of Americans Defending
28 Their Lives with Firearms 149-59 (2002).

1 against the exact same criminals the police are armed to deal with. Tim Gramins of
2 the Skokie, Illinois police department was in a shootout with an armed robber
3 whose car he had pulled over. The gunman came out shooting. The gunman was
4 armed with two semiautomatic pistols, one on his person and one snatched from his
5 car, both of which he fired during the gun battle. He also had in his possession a
6 semiautomatic rifle in his car, which he did not deploy. Gramins fired 33 rounds
7 before the gunman, now fatally wounded, stopped firing. The suspect had absorbed
8 16 hits by the time he was neutralized, and the officer had been forced to reload
9 twice. The officer was armed with a Glock Model 21 .45 caliber pistol, loaded with
10 a 13 round magazine and a fourteenth in the firing chamber. The officer was down
11 to the last few cartridges in his last magazine at the time he finally won the
12 gunfight. Gramins was wounded in the shooting. As a result of this incident, he
13 now carries a higher-capacity handgun with more spare magazines.²

14 12. While, as mentioned, the number of rounds fired in a self-defense shoot
15 involving a private citizen is usually not documented, there are nevertheless various
16 accounts of private citizens discharging more than ten rounds during a criminal
17 attack. A South Carolina gun store owner who lived in the rear of his shop was
18 awoken by three men, at least one of them armed, crashing a van into his store.
19 When going to investigate, one of the robbers yelled to another to kill him, so the
20 owner opened fire, discharging thirty rounds, hitting all three attackers, mortally
21 wounding one and causing the rest to flee.

22 13. There is also the account of Travis Dean Neel. While sitting in a traffic
23 jam behind an officer with a car pulled over, an occupant emerged from the

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25 ² Charles Remsberg, Why one Cop Carries 145 Rounds of Ammo on the Job,
26 Police One
27 [http://www.policeone.com/patrol-issues/articles/6199620-Why-one-cop-carries-145-r
28 ounds-of-ammo-on-the-job/](http://www.policeone.com/patrol-issues/articles/6199620-Why-one-cop-carries-145-rounds-of-ammo-on-the-job/) last updated April 17, 2013).

1 detained vehicle and opened fire on the officer. Neel responded by retrieving his
2 pistol with three magazines from his backseat and opened fire on the assailant,
3 which resulted in him being fired upon and an ensuing gunfight, during the course
4 of which he prevented the assailants from “finishing off” the officer and (with
5 assistance from an off-duty police officer who joined him in the gunfight with his
6 own handgun) from car-jacking a woman to get away, which may have saved that
7 woman's life. Despite Neel using all three of his fifteen-round magazines, and the
8 several shots fired by the off-duty officer, the assailants were still able to flee, but
9 could just as easily decided to continue their attack and overcome Neel.³

10 14. Ronald Honeycutt was delivering pizzas when approached by a man
11 with a gun from behind. He turned and fired when he saw a gun in the man's hand,
12 discharging all of his magazine's fifteen rounds, which still did not immediately
13 stop the threat, as the attacker remained upright with the gun pointed at him. But the
14 attacker eventually succumbed to his wounds before being able to rack a round into
15 the firing chamber of his pistol, which he had forgotten to do, and is probably why
16 he was pointing the gun at Honeycutt but never discharged a single round.⁴

17 15. Additionally, in California, consider the well-documented multiple
18 gunfights with armed robbers experienced by Los Angeles watch shop owner Lance
19 Thomas.⁵ More than one of his five shooting incidents required him to fire more
20 than the Sunnyvale ordinance would allow to be in any one handgun. In one of
21 those incidents, Thomas had to fire nineteen shots before the last of his multiple

22 ³ Robert A. Waters, The Best Defense: True Stories of Intended Victims Who
23 Defended Themselves with a Firearm, 23-40 (1998).

24 ⁴ Chris Bird, Thank God I Had A Gun: True Accounts of Self-Defense
25 251-274 (2007).

26 ⁵ Gun shop owner shoots, kills man during attempted robbery, WIS TV (Aug.
27 9, 2012, 7:54 AM),
28 <http://www.wistv.com/story/19236842/gun-shop-owner-shoots-kills-man-during-attempted-robbery> (last updated Aug. 19, 2012, 8:22 AM).

1 opponents ceased attempting to murder him.⁶

2 16. Thomas' strategy was to stage multiple loaded handguns every few feet
3 in his workspace. He could do this, as a sole proprietor with a small shop, a
4 workspace closed to the public, and with buzz-in entry. A pair of brothers used the
5 same strategy in defending themselves against two violent career criminals robbing
6 their Richmond, Virginia jewelry store. They went through multiple firearms staged
7 throughout the store placed in anticipation for such an event.⁷ The strategy of
8 staging multiple firearms employed by these shopkeepers is a unique circumstance,
9 however. It would not be practical or safe for most shopkeepers or for homeowners,
10 due to the danger of unexpected children wandering behind the counter or
11 unexpectedly arriving at the given home. Thus, most private citizens could not be
12 expected to have multiple handguns in multiple locations in their home or on their
13 person in order to engage in a defensive gun use.

14 17. The homeowner who keeps a defensive firearm and is awakened in the
15 night by an intruder is most unlikely to have time to gather spare ammunition. The
16 sudden and unpredictable nature of such attacks, and their occurring in relatively
17 confined spaces, generally do not permit gathering multiple firearms or magazines.
18 Ideally, one hand would be occupied with the handgun itself, and the other, with a
19 telephone to call the police. And, assuming they even had time for a magazine
20 change, most people do not sleep wearing clothing that would allow them to stow
21 spare magazines, etc. on their person. They would have only what was in the gun.

22 18. Most plainclothes police officers do not find it practical to carry
23 multiple handguns, let alone private citizens. Any suggestion that private citizens

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25 ⁶ See
26 http://articles.latimes.com/1992-02-21/local/me-2663_1_watch-shop-owner;
27 <http://backwoodshome.com/blogs/MassadAyooob/2012/12/29/why-good-people-need-semiautomatic-firearms-and-high-capacity-magazines-part-i/>

28 ⁷ *Id.*

1 simply get more guns or more ammunition feeding devices would, for the reasons
2 stated above, be impractical.

3 19. Criminals bent on causing harm, on the other hand, even assuming they
4 were impeded from obtaining magazines holding over ten rounds due to the
5 ordinance, could simply arm themselves with multiple weapons, and often do.

6 20. Criminals have time to assess and plan shootings, whereas victims do
7 not. Whitman, the Texas Tower mass murderer, literally brought a large box of
8 rifles, handguns, a shotgun and ammunition to his sniper perch.⁸ Harris and
9 Klebold had four firearms between them at Columbine.⁹ Holmes in Aurora brought
10 rifle, shotgun, and pistol into the theater.¹⁰ Hassan was armed with a pistol and a
11 revolver at the Fort Hood.¹¹ Lanza entered the elementary school in Newtown,
12 Connecticut armed with a rifle and two pistols, leaving a shotgun in his car.¹² The
13 mass murderer Cho entered Virginia Tech armed with two pistols and a backpack
14 full of magazines.¹³

15 21. None of these murderers' victims had planned to repel an attack by a
16 perpetrator with multiple firearms.

17 22. The likelihood of the mass murderer arriving on scene with multiple

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19 ⁸ <http://www.texasmonthly.com/topics/ut-tower-shooting>
20 ⁹ <http://extras.denverpost.com/news/shot0427a.htm>
21 ¹⁰
22 <http://www.latimes.com/news/nation/nationnow/la-na-nn-dark-knight-shooting-2012-0720,0,2147749.story#axzz2nDkU7CWB>
23 ¹¹
24 <http://www.nydailynews.com/news/national/ft-hood-shooter-nidal-hasan-private-legally-bought-pistol-military-weapon-rampage-article-1.414799>
25 ¹² <http://www.cnn.com/2012/12/18/us/connecticut-lanza-guns/>
26 ¹³ [Virginia Tech Review Panel, Report of the Review Panel at pg. 89 available at,http://www.governor.virginia.gov/tempcontent/techPanelReport-docs/FullReport.pdf](http://www.governor.virginia.gov/tempcontent/techPanelReport-docs/FullReport.pdf)
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1 firearms also largely negates the theory that with fewer rounds in the gun, the killer
2 could be more easily disarmed and subdued by unarmed citizens when he first ran
3 empty, before he could reload. Hassan, Holmes, Lanza, or Cho simply could have
4 drawn a second (or third) gun that they had on their persons and shot whoever
5 attempted to grab the empty one.

6 23. The virtuous citizen, by contrast, cannot practically be expected to have
7 accessible that many guns or that much ammunition at a moment's notice. The
8 victimized citizen is the one who is, therefore, most deleteriously impacted by the
9 magazine capacity limitation. If he or she must use the gun to protect self and
10 family, they will most likely have only the ammunition in the gun with which to
11 fend off determined, perhaps multiple, attackers.

12 24. Virtuous citizens buy their guns to protect themselves from the same
13 criminals police carry guns to protect the citizens, the public, and themselves from.
14 Therefore, armed citizens have historically modeled their choice of firearms on
15 what police carry. The vast majority of California law enforcement agencies,
16 including those in the Bay Area, carry pistols with double-stack magazines whose
17 capacities exceed those of the Sunnyvale ordinance. While on-duty police are
18 exempt from the Ordinance, it is unclear to me whether off duty officers are.

19 25. The on-duty, uniformed police officer generally will be armed with a
20 service pistol containing a detachable magazine holding more than ten rounds, and
21 generally two spare magazines holding more than ten rounds on the uniform belt.
22 He or she will normally be wearing body armor, have immediate access to a loaded
23 shotgun and/or loaded patrol rifle with magazines holding more than ten rounds in
24 the patrol car, and will have instant radio access to fellow officers and dispatch if
25 help is needed.

26 26. The off-duty officer and the law-abiding citizen alike are not likely to
27 have that volume of spare ammunition on their person or elsewhere readily
28 accessible. They are not likely to be wearing body armor, nor to be in reach of a

1 rifle or shotgun. Their only communication to potential backup will be by phone,
2 relayed through Police Dispatch to responding officers. Thus, for them, the ability
3 to have a pistol already loaded with a significant amount of ammunition is all the
4 more important.

5 27. It takes even a world champion speed shooter a full second to reload
6 with a fresh magazine. A highly skilled police officer or competitive shooter may
7 be able to accomplish a reload in two seconds. Most people take considerably
8 longer; especially someone who is under the mental duress typically experienced
9 during an attack. Changing a magazine is a fine motor skill, the type of skill which
10 degrades severely in human beings under stress due to vasoconstriction (loss of
11 blood flow to the extremities) and also due to tremors induced by
12 internally-generated adrenaline (epinephrine). This is a well-known physiological
13 reaction that has been in the medical literature and training literature for a century
14 or longer, defined as "fight or flight" response by Dr. Walter Cannon at Harvard
15 Medical School before World War I.

16 28. By contrast, simply pulling the trigger again on a pistol that still has
17 more ammunition in it can be accomplished in a fraction of a second. Based on my
18 experience in self-defense scenarios, fractions of seconds can mean the difference
19 between the victim successfully repelling an attacker and the victim being subdued.
20 Thus, a magazine change for the person being attacked could be the difference
21 between life and death.¹⁴ The same, however, is not generally true for the attacker.
22 The loss of time for a magazine change is generally of little consequence for the
23 attacker. This is because it is the attacker who gets to choose when, where, how,
24 and whom to attack. So the attacker is not burdened by the surprise and shock
25 factor that the victim is, and, as explained above, is generally prepared for the

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27 <http://reason.com/archives/2013/01/16/the-threat-posed-by-gun-magazine-limits>

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1 confrontation with large amounts of arms and ammunition. This is demonstrated by
2 the multiple mass shootings where the attacker made magazine changes without
3 being subdued. The most illustrative example is the Virginia Tech shooting, where
4 the attacker carried with him seventeen magazines for his two semi-automatic
5 pistols, from which he fired 174 rounds.¹⁵ At least five of those magazines had a
6 capacity of only ten rounds and would be legal under the challenged ordinance.¹⁶
7 While it cannot be said exactly how many magazine changes he made during what
8 was the deadliest mass shooting in the country's history, based on the number of
9 rounds fired and the fact that authorities found seventeen empty magazines at the
10 scene, he had to have made several reloads.¹⁷

11 29. Supporters of the magazine capacity limitation will undoubtedly point
12 to some firearm expert who is comfortable with an eight- or nine-shot pistol, or
13 even a five- or six-shot revolver. It should be noted, however, that the operative
14 term there is "expert." The individual who has spent a lifetime training in shooting,
15 and may fire hundreds or even thousands of shots on the range per month, has
16 developed a level of skill and confidence that is not practical to expect from the
17 average police officer, let alone the average law-abiding citizen who keeps a
18 firearm in the home or on his person for protection of self and family.

19 30. I would also be remiss to fail to also consider the needs of retired law
20 enforcement officers and corrections officers, and the families of such personnel,
21 whether retired or still employed in the justice system. It is common for violent
22 criminals to threaten revenge on the families of law enforcement personnel, and it is
23 my experience that these people more often than not keep firearms at home for
24 defensive use by their spouses and other responsible family members, should such

25
26 ¹⁵ Virginia Tech Review Panel, *Report of the Review Panel* at pg. 92.

27 ¹⁶ *Id.*

28 ¹⁷ *Id.*

1 threats of vengeance be acted out. For the reasons described above, the Sunnyvale
2 ordinance puts those innocent people at an unfair tactical disadvantage.

3 **Disparate Impact on the Disabled**

4 31. A particular subset of law-abiding citizens who are disparately,
5 negatively impacted by the Sunnyvale ordinance is the physically disabled. This is
6 true of many categories of the physically challenged.

7 32. Over the last twelve years, we have seen many war veterans joining the
8 amputee community. Those who have lost fingers or a hand will have great
9 difficulty reloading an empty gun if a ten-round magazine does not prove sufficient
10 to defeat an attacker. Work-related injuries such as carpal tunnel syndrome can
11 greatly slow ability to reload. So can many of the infirmities of age: rheumatism,
12 arthritis, bursitis, etc.

13 33. The wheelchair-bound individual, and many more mobility-challenged
14 individuals (back issues, ankle issues, knee issues, etc.), cannot run to cover to
15 reload. They will be caught in the open if they have to reload in a fight with one or
16 more armed criminals, and thus will become totally helpless as soon as their
17 ordinance-mandated ten-shot magazine is depleted.

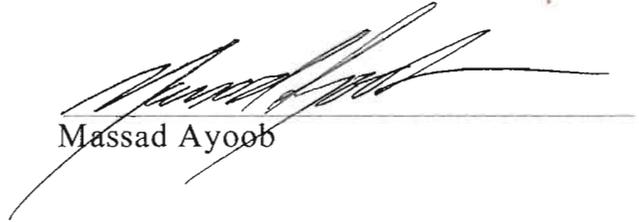
18 34. Thus, in conclusion, study of events in the real world indicates that the
19 Sunnyvale ordinance as related to magazine capacity can be expected to have little,
20 if any, effect in reducing casualties due to intentional mass murder. However,
21 law-abiding citizens, off-duty and retired criminal justice personnel, families of
22 criminal justice personnel, recipients of death threats, stalking victims, and people
23 working in places of business prone to armed robbery, will be severely
24 disadvantaged by this ordinance in terms of their ability to lawfully protect
25 themselves and others. This impact will be particularly severe upon members of
26 such groups who are physically disabled.

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

Executed within the United States on December 22, 2013.



Massad Ayoub

ATTACHMENT

EA000047

Curriculum Vitae, **Massad F. Ayoub**

Areas of Expertise

Dynamics of violent encounters, training standards for safe weapons handling (law enforcement/civilian), training standards of firearms and use of force (police/civilian), homicide/use of force investigation, personal and professional security, weapon retention/disarming, law enforcement internal investigation/discipline.

Teaching Experience

Director, Massad Ayoub Group, 2009-present.

Director, Lethal Force Institute, 1981-2009.

Chair of firearms committee, American Society of Law Enforcement Trainers (ASLET), 1987-2007. Also served on Ethics Committee. Led annual Panel of Experts on firearms/deadly force issues at ASLET's international seminars.

Special Instructor, Chapman Academy of Practical Shooting, 1981-88. Defensive Combat Shooting; Judicious Use of Deadly Force; Advanced Officer Survival Tactics.

International Instructor, PR-24 baton; has lectured several times at annual international seminar. Trains other instructors and trainers of instructors.

Advisory Board member, International Law Enforcement Educators' and Trainers' Association. Have lectured there on investigation and management of police use of force cases at all Annual Meetings since the organization's inception in 2003.

National Instructor, Weapon Retention & Disarming, National Law Enforcement Training Center. Trains other instructors and trainers of instructors. 1990-2009.

Assistant professor teaching weapons and chemical agents, Advanced Police Training Program of New Hampshire, 1974-77.

Co-instructor (w/former world pistol champion Ray Chapman) of Advanced Officer Survival Seminars for the Police Marksman Association.

International Instructor, Persuader Mini-Baton, certified by Joe Truncale.

Instructor, Kubotan self-defense, certified by Soke Takayuki Kubota.

National Instructor, Telescoping baton, certified by CASCO (baton manufacturer).

Instructor, straight baton, certified by COPSTK (baton manufacturer).
Has taught for national, international, and regional seminars of

FBI. Albuquerque Office. Use of force/Survival. 2012.

International Association of Law Enforcement Firearms Instructors. Numerous annual meetings.

Regional seminars for CLE credit on defending deadly force cases (NACDL; Mass. CDL Assn.).

International Homicide Investigators' Seminar. Investigation of officer-involved shootings and characteristics of self-defense shootings.

McGill University School of Medicine. Visiting lecturer on medico-legal aspects of gunshot and knife wounds.

Officer survival tactics taught at: DEA National Academy; Ordnance Expo, Los Angeles; National Tactical Invitational; New England SWAT Seminar; Metro-Dade Police Academy; DEA/Miami.

Personal Training

Smith & Wesson Academy: Advanced Combat Shooting (1st in class), Instructor course; Instructor Update (twice); Officer Survival Course (1st in class); Weapon Retention instructor course; advanced revolver shooting course.

Glock: Glock Instructor Course; Glock Armorer Course.

Firearms Instructor Courses: National Rifle Association.

Ordnance Expo: Firearms and Ballistic Evidence; Officer Involved Shooting Investigation; Advanced Officer Involved Shooting Investigation; Officer Survival; Management of Barricaded Suspects.

International Police Academy: Defensive Tactics (Unarmed Combat and Restraint) Instructor Course, rated Master Instructor by sensei James Morell.

NYPD: "Hostage Negotiation for Supervisors", "Post Shooting Tactics", "House Clearing Techniques", "Off Duty Confrontation Tactics", "Summary of Violent Encounter Patterns", "Police Shotgun Program."

Advanced Homicide Investigation. By Vern Geberth, NYPD Ret., author of "Practical Homicide Investigation."

International Homicide Investigators' Seminar (2 occasions).

Medical/Legal Death Investigation (Dade County Medical Examiner's Office).

Americans for Effective Law Enforcement : "Police Civil Liability Seminar."

American Society of Law Enforcement Trainers. "PPCT: Pressure Point Control Tactics ," taught by Bruce Siddle.

Federal Law Enforcement Training Center: BOSS program including officer survival, intelligence briefings on outlaw bike gangs, booby traps, counter-ambush tactics, arrest techniques.

Escrima (stick- and knife-fighting), Grandmaster Remy Presas.

Knife/Counter-Knife courses: Master Paul Vunak, Hank Renhardt, Sensei Jim Maloney, Michael de Bethencourt.

Has studied personally with world handgun champions Ray Chapman, Rob Leatham, Jerry Miculek, and Frank Garcia in advanced shooting programs.

Has studied special units and their training on-site, including:

NYPD Firearms & Tactics Unit, Emergency Services Unit, Armed Robbery Stakeout Unit.

LAPD SWAT, Firearms Training Unit.

FBI Firearms Training Unit.

Metro-Dade Police Firearms/SWAT Training Unit

Illinois State Police Ordnance Section.

NH State Police SWAT, EVOC, Firearms Training.

Kentucky State Police, Firearms Training and SRT Training.

Arizona Highway Patrol Firearms Training.

London, England Metropolitan Police firearms training and special services unit (D.11, PT-17, SO-19).

Has reviewed or audited numerous other law enforcement firearms training programs.

Publication Credits

Books:

"Fundamentals of Modern Police Impact Weapons," Charles C. Thomas, Publishers, 1978.

"In the Gravest Extreme: the Role of the Firearm in Personal Protection," Police Bookshelf, 1979.

"Hit the White Part," Police Bookshelf, 1982.

"The Truth About Self Protection," Bantam, 1983.

"StressFire," Police Bookshelf, 1984.

"StressFire II," Advanced Combat Shotgun," Police Bookshelf, 1992.

"The Semiautomatic Pistol in Police Service and Self Defense," Police Bookshelf, 1988.

"Ayoob Files: the Book," Police Bookshelf, 1995.

"Complete Book of Handguns," Volume 10 (1993) with completely new volume produced annually through 2009, Harris Publications.

"Gun Digest Book of Combat Handgunnery, Fifth Edition," Krause Publications, 2002.

"Gun Digest Book of SIG-Sauer Pistols," Krause Publications, 2004.

"Gun Digest Book of Beretta Pistols," Krause Publications, 2005.

"Gun Digest Book of Combat Handgunnery, Sixth Edition," Krause Publications, 2007.

"Gun Digest Book of Concealed Carry," Krause Publications, 2008.

"Massad Ayoob's Greatest Handguns of the World," Krause Publications, 2010.

"Gun Digest Book of Concealed Carry," Second Edition, Krause, 2012

"Combat Shooting With Massad Ayoob," Krause, 2011

"Complete Book of Handguns," annual editions now through 2013

Monographs:

“Gunproof Your Children,” Police Bookshelf/Potshot Press

“Handgun Primer,” Police Bookshelf/Potshot Press.

“The Police View of Gun Control,” Second Amendment Foundation.

“Armed and Alive,” Second Amendment Foundation.

Forewords for Authoritative Texts:

“The Newhall Incident,” by Mike Wood

“Armed: The Essential Guide to Concealed Carry,” by Dr. Bruce Eimer

“The Gun Digest Book of the Revolver,” by Grant Cunningham

“Mu Tau: The Modern Greek Karate” by James Arvanitis

“Realistic Defensive Tactics” by John Peters

“Modern Centerfire Handguns” by Stanley Trzoniec

“You Can’t Miss” by John Shaw

“MasterTips” by Jon Winokur

“Effective Defense” by Gila May-Hayes

“In Self Defense” by Michael Izumi

“The Tactical Pistol” by David Lauck

“The Tactical Rifle” by David Lauck

“Personal Defense for Women” by Gila Hayes

“Lessons From Armed America” by Mark Walters and Kathy Jackson

“Armed Response” by Dave Kenik

“Rule the Night/Win the Fight” by Ed Santos

Periodicals:

Handgun Editor, *Guns* magazine

Law Enforcement Editor, *American Handgunner* magazine

Contributing Editor, *Shooting Industry* magazine

Contributing Editor, *On Target* magazine

Firearms Editor, *Backwoods Home* magazine

Associate Editor, *Combat Handguns* magazine

Associate Editor, *Guns & Weapons for Law Enforcement* magazine

Associate Editor, *Gun Week*

Have published thousands of articles in various professional journals and newsstand periodicals, the overwhelming majority related to law enforcement, weaponry, martial arts and personal defense. Firearms articles have appeared in *Guns*, *American Handgunner*, *Handguns*, *GUNsport*, *Handgunner*, *Home Defense*, *Glock Annual*, *Colt Annual*, *Magnum*, *Gun World*, *Combat Handguns*, and others. Martial arts/unarmed combat articles have appeared in *Black Belt*, *Official Karate*, *Inside Kung-fu*, *Inside Karate*, *Warriors*, *Fighting Stars*, and other such publications. Law enforcement articles have been published in *American Police Beat*, *Law & Order*, *Police*, *Police Product News*, *Sentinel*, *Trooper*, *Patrolman*, *Police Marksman*, *Guardian*, *Guns & Weapons for Law Enforcement*, *Guns & Ammo Law Enforcement Annual*, and other police professional journals and law enforcement related periodicals. Has also been published in *Car & Driver*, *Gentlemen's Quarterly*, *Man's Magazine*, *Modern Jeweler*, *New Hampshire Outdoorsman*, *New Hampshire Times*, *Prism*, *Sexology*, *Sports Afield*, and assorted other general interest publications.

Training Films

"Massad Ayoob on Concealed Carry," Panteao Productions, 2013

"Massad Ayoob on Home Defense," Panteao Productions, 2011

"StressFire Handgun," 2002

"StressFire Shotgun," 2002

"StressFire Rifle," 2002

"Deadly Force Cases," ALI-ABA, 2001

"Judicious Use of Deadly Force," 1990

"Post Violent Event Trauma," 1990

"LFI Handgun Safety," 1990

"Off Duty Survival," 1993

"Shoot to Live," 1986

"How Close is Too Close," 1986

"Cute Lawyer Tricks," 1986

"Physio-Psychological Aspects of Violent Encounters," 1981

Has appeared in various other training films.

Quoted as authoritative reference in:

FBI Journal

"Law Enforcement Handgun Digest" (Grennell)

"Gun Digest Book of Combat Handgunnery, 1st edition (Lewis & Mitchell), 2nd and 3rd editions (Karwan)

"Shooting Schools: An Analysis" (Winter)

"Street Survival: Tactics for Armed Encounters," (Adams, McTernan, Remsberg)

"Tactical Edge: Tactics for High Risk Patrol" (Remsberg)

"Handgun Retention System" (Lindell)

"The Street Smart Gun Book" (Farnam)

"Police Handgun Manual" (Clede)

"Police Shotgun Manual" (Clede)

“High Tech SWAT Weapons” (Bane)

“PR-24 Baton Manual” (Starrett)

“Police Officers Guide” (Clede)

Cited as authoritative reference in numerous other publications.

Career Accomplishments

Voted Outstanding American Handgunner of the Year, 1998.

Winner of first annual National Tactical Advocate Award, 1995, awarded by American Tactical Shooting Association.

Winner of the Roy Rogers Award for promotion of firearms safety.

Winner of first George C. Nonte Award for excellence in firearms journalism, 1978.

Firearms Qualifications and Awards

Combat Master, NRA Police Revolver

First 5-gun Master, International Defensive Pistol Association

Master, Revolver, National Marksman Sports Society

Master, Automatic, National Marksman Sports Society

Class A, International Practical Shooting Confederation

Grand Mastershot, UK Practical Shooting Association

Master Blaster, Second Chance

Expert, NRA Action Shooting

Honorary Distinguished Expert, Federal Law Enforcement Training Center

Several times top shooter in statewide NH police combat matches, 1973-2003

Five times New England Regional champion in various handgun disciplines

Co-winner with daughter Justine, National Champion Parent/Child Team, National Junior Handgun Championships, 1998

Has won numerous individual/local combat shooting tournaments, has competed successfully in five countries.

Law Enforcement Experience

Hooksett (NH) Police Dept.: 1972-73, auxiliary policeman. 1973-1980, fully sworn Police Officer. Duties under four chiefs included patrol, firearms training, community relations and crime prevention assignments, dept. firearms instructor for most of this period. Served in part time capacity with full police authority.

Deerfield (NH) Police Dept.: 1982-1990. Fully sworn officer, rank of Sergeant ('82-'84) in charge of all police training, and Lieutenant ('84-'90), in charge of police training and crime prevention activities. Served in part time capacity with full police authority.

Grantham (NH) Police Dept.: 1990-present. Fully sworn Captain and Police Prosecutor. Training, research, and other administrative functions. Served in part time capacity with full police authority.

Massad Ayoob case list

CASE	LOCALE	ALLEGATION	RETAINED BY
Littleton v. Belmont County	OH	Wrongful Death	Defendant
Florida v. Hecksel	FL	Manslaughter	Defendant
Favor v. Walgreen	TX	Wrongful Death	Defendant
Texas v. Hubbard	TX	Murder	Defendant
Wemouth v. Brunswick	ME	Wrongful Death	Defendant
Allen v. Leal	TX	Wrongful Death	Plaintiff
California v. Karlson	CA	Murder	Defendant
Minick v. County of Sacramento	CA	Wrongful Death	Defendant
Jones v. Norwalk	CT	Wrongful Death	Defendant
CA v. Matthews	CA	Assault	Defendant
Maxim v. Livingstone	FL	Wrongful Shooting Injury	Plaintiff
Florida v. Bonenfant	FL	Aggravated Assault	Defendant
Cangealose v. Janet Reno & FBI	Wash DC	Wrongful Termination	Plaintiff
Null v. Murfreesboro	TN	Wrongful Termination	Plaintiff
Missouri v. Beeler	MO	Murder	Defendant
Nordlund v. American Armor	NE	Product Liability	Defendant
House v. Lawco	UT	Product Liability	Defendant
Saldana v. Weitzel	WI	Wrongful Death	Defendant
Messing v. Oak Creek	WI	Wrongful Death	Defendant
Palmquist v. Selvik	IL	Wrongful Death	Defendant
NY v. Gill	NY	Gun Permit Hearing	Defendant
Michigan v. Budzyn	MI	Murder	Defendant
Wallen v. County of El Dorado	CA	Wrongful Death	Defendant
FL v. Jimmy Hecksel	FL	Manslaughter	Defendant
Paderez v. Blocker	CA	Product liability	Defendant
Blanford v. County of Sacramento	CA	Wrongful Death	Defendant
MA v. Robert Tessitore	MA	Manslaughter	Defendant
Kulesza v. Marina Bay	MA	Failure to protect	Plaintiff
MS v. Patrick Champagne	MS	Manslaughter	Defendant
Gorey v. Foley	MI	Wrongful Death	Defendant
Tim Alessi v. State of FL	FL	PCR	Appellant
TN v. Robert Barnes	TN	Murder	Defendant
FL v. Plana	FL	Murder	Defendant
Webster & Castle v. Orange County	FL	Wrongful Shooting	Defendant
Oxendine v. SRMC	NC	Wrongful Death	Defendant
FL v. Ed Michael	FL	Aggravated Assault	Defendant
TX v. Terry Graham	TX	Homicide	State

NM v. Billy Anders	NM	Manslaughter	Defendant
MD v. Der and Kifer	MD	Manslaughter	Defendants
CO v. Larry Lindsey	CO	Aggravated Assault	Defendant
WA v. Jay Olsen	WA	Aggravated Assault	Defendant
Chambers v. Graham	TX	Wrongful Death	Defendant
FL v. Tim Alessi	FL	Murder (appeal)	Defendant
CA v. Thomas Mun & Chad Marshall	CA	Homicide (grand jury level)	State
FL v. William Wilkerson	FL	Murder	Defendant
FL. V. Ronald Robbins	FL	Manslaughter	Defendant
WA v. Jay Olsen	WA	Aggravated Assault	Defendant
Chambers v. Graham	TX	Wrongful Death	Defendant
Arizona v. Larry Hickey	AZ	Aggravated Assault	Defendant
Olevarria v. Couture	VA	Wrongful Death	Defendant
Aguilar v. ICE	NY	Excessive Force	Defendant
Atkinson v. Tulare County	CA	Wrongful Death	Defendant
Gutierrez v. Yolo County	CA	Wrongful Death	Defendant
WV v. Jonathan Ferrell	WV	Murder	Defendant

1 C. D. Michel - S.B.N. 144258
Clinton B. Monfort - S.B.N. 255609
2 Sean A. Brady - S.B.N. 262007
Anna M. Barvir - S.B.N. 268728
3 MICHEL & ASSOCIATES, P.C.
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4 Long Beach, CA 90802
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5 Facsimile: (562) 216-4445
Email: cmichel@michellawyers.com
6

7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT)
HOCHSTETLER, WILLIAM)
12 DOUGLAS, DAVID PEARSON,)
BRAD SEIFERS, and ROD)
13 SWANSON,)

14 Plaintiffs)

15 vs.)

16 THE CITY OF SUNNYVALE, THE)
MAYOR OF SUNNYVALE,)
17 ANTHONY SPITALERI in his)
official capacity, THE CHIEF OF)
18 THE SUNNYVALE DEPARTMENT)
OF PUBLIC SAFETY, FRANK)
19 GRGURINA, in his official capacity,)
and DOES 1-10,)

20 Defendants.)
21)
22)
23)
24)
25)
26)
27)
28)

CASE NO: CV13-05807 RMW

**DECLARATION OF STEPHEN
HELSLEY IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION**

DECLARATION OF STEPHEN HELSLEY

1
2 1. I am a retired peace officer from the California Department of Justice
3 (DOJ). The bulk of that career was in drug enforcement. The last three positions I
4 held were Chief of the Bureau of Narcotic Enforcement, Chief of the Bureau of
5 Forensic Services and finally Assistant Director of the Division of Law
6 Enforcement. As Assistant Director, I was responsible for the department’s
7 criminal, civil and controlled substance investigations as well as law enforcement
8 training, intelligence gathering and our forensic laboratory system. In my executive
9 level positions, I had occasion to review special agent-involved shootings and a
10 wide range of homicides involving firearms. I have qualified as an expert in both
11 criminal and civil matters. I was the department’s principal firearms instructor for
12 many years and am an FBI certified range master. I also participated in the firearm
13 training that was part of the FBI National Academy Program in Quantico, Virginia.
14 Additionally, I am a member of the American Academy of Forensic Sciences and a
15 technical advisor to the Association of Firearm and Tool Mark Examiners. I have
16 co-authored five books on firearms and have authored or co-authored more than
17 fifty firearm-related articles for US and Russian journals. For the past twenty years,
18 I was first a state liaison and, then later, a consultant to the National Rifle
19 Association. Throughout my adult life I have been an active participant in handgun,
20 rifle and shotgun competitions. I have also been a firearm collector and ammunition
21 reloader since the early 1960s. Finally, I am a collector of firearm related books –
22 of which I have approximately three thousand. Included in my book collection are
23 forty nine different issues of *Gun Digest*, the earliest of which is from 1944. It is a
24 standard resource that is widely used by gun dealers and buyers alike. *Gun Digest*
25 has traditionally provided a comprehensive overview of the firearms and related
26 items available to retail buyers.

27 2. The combination of my consulting work, writing and free time activities
28 puts me in constant contact with gun stores, shooting ranges, gun shows and gun

1 owners. I am also in frequent contact with retirees from DOJ and other law
2 enforcement agencies. It is clear to me from my collective experiences that
3 handguns with a potential magazine capacity of more than 10-rounds are a common
4 choice for self-protection.

5 3. The standard magazine for a given firearm is one that was originally
6 designed for use with that firearm, regardless of whether its capacity is six, ten,
7 fifteen, or twenty rounds. Various popular handgun models originally came from
8 the manufacturer standard, free from artificial influences like laws restricting
9 capacity, with magazines exceeding ten rounds. Examples include, but are in no
10 way limited to, the Browning High Power (13 rounds) c.1954, MAB PA-15 (15
11 rounds) c.1966, Beretta Models 81/84 (12/13 rounds) c.1977, S&W Model 59 (14
12 rounds) c.1971, L.E.S P-18 (18 rounds) c.1980 aka Steyr GB, Beretta Model 92 (15
13 rounds) c.1980s, and Glock 17 (17 rounds) c.1986. I know there to be many more
14 examples not listed here.

15 4. Firearms with a capacity exceeding 10-rounds date to the ‘dawn of
16 firearms.’ In the late-15th Century, Leonardo Da Vinci designed a 33-shot weapon.
17 In the late 17th Century, Michele Lorenzoni designed a practical repeating flintlock
18 rifle. A modified 18th Century version of Lorenzoni’s design, with a 12-shot
19 capacity, is displayed at the NRA’s National Firearms Museum. Perhaps the most
20 famous rifle in American history is the one used by Lewis and Clark on their ‘Corps
21 of Discovery” expedition between 1803 and 1806 -- the magazine for which held
22 twenty-two .46 caliber balls.

23 5. Rifles with fixed magazines holding 15-rounds were widely used in the
24 American Civil War. During that same period, revolvers with a capacity of 20-
25 rounds were available but enjoyed limited popularity because they were so
26 ungainly.

27 6. In 1879, Remington introduced the first ‘modern’ detachable rifle
28 magazine. In the 1890s, semiautomatic pistols with detachable magazines followed.

1 During WWI, detachable magazines with capacities of 25 to 32-rounds were
2 introduced. As those magazines protruded well below the bottom of the pistol's
3 frame, they weren't practical for use with a belt holster – and by extension
4 concealed carry for self-defense.

5 7. In 1935, Fabrique Nationale introduced the Model P-35 pistol with its
6 fully internal 13-round magazine. It would become one of the most widely used
7 military pistols of all time. During WWII, magazine capacity for shoulder-fired
8 arms was substantially increased while most pistols (excluding the P-35) remained
9 at 10-rounds or less. In the mid-1950s the P-35 was rebranded the High Power and
10 imported to the US.

11 8. This transition of a firearm from military to civilian use for sport or self-
12 defense is very common. The standards of WWI – the 1903 Springfield rifle and the
13 Colt M1911 pistol are but two of many examples. Civilian sales of both began
14 immediately after the war ended. The Springfield would become the standard for
15 both rifle hunting and target competition. Likewise, the M1911 Colt pistol was a
16 target shooting standard for a half-century or more and popular for self-defense.

17 9. Between the two world wars, double-action semiautomatic pistols like
18 the Walther PPK and P-38 were introduced. The double-action feature allowed the
19 first shot to be fired in a manner similar to a revolver. Law enforcement agencies in
20 the United States had traditionally used revolvers. However, in the early 1970s, a
21 confluence of events changed that: training funds became widely available and so
22 did the first double action semiautomatic pistol (the S&W M59) with a 14-round
23 magazine. Soon major agencies were transitioning to the M59 and the legion of
24 other makes that followed – CZ, Colt, HK, Sig-Sauer, Glock, Beretta, Ruger, Smith
25 & Wesson, etc. Pistols with magazine capacities as large as 19-rounds quickly
26 replaced the six-shot revolver.

27
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1 10. Law enforcement demand for the new generation of semiautomatic
2 pistols helped create an increased demand in the civilian market. Comparing 1986
3 and 2010 handgun sales, one can see evidence of that change. According to the
4 Bureau of Alcohol Tobacco Firearms and Explosives, in 1986, 663,000 pistols were
5 sold in the United States versus 761,000 revolvers. In 2010, revolver sales had
6 dropped to 559,000 while pistol sales had grown to 2,258,000. *See* United States
7 Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives,
8 Firearms Commerce in the United States, Annual Statistical Update (2012).¹ The
9 result of almost four decades of sales to law enforcement and civilian clients is
10 millions of semiautomatic pistols with a magazine capacity of more than ten rounds
11 and likely multiple millions of magazines for them. My associates who have such
12 pistols also have a significant number of spare magazines for them. In my case, I
13 have one 19-round and eight 17-round magazines for my Glock.

14 11. The retired peace officer, concealed weapon permit holder and the
15 home-owner wants a pistol that can hold significantly more cartridges than a
16 revolver for the same reason a law enforcement officer or soldier wants one – to
17 increase his or her chances of staying alive. Gunfights frequently involve a lot of
18 ‘missing.’ This can be the result of improper aim or impact with barriers such as
19 vehicles or walls. One would be hard pressed to find someone who had been in a
20 gunfight that complained about having too much ammunition.

21 12. Some believe that anyone defending themselves can just “shoot to
22 wound.” Those who grew up in the 1950s likely watched Roy Rogers shoot the gun
23 out of an evildoers hand - or if things got really serious – let loose a grazing wound
24 to the arm to settle matters. Such ideas are a fantasy. Equally as silly is the well-

25
26
27 ¹ Report available at
28 <http://www.atf.gov/files/publications/firearms/050412-firearms-commerce-in-the-us-annual-statistical-update-2012.pdf>

1 known 'fact' that a bullet from a .45ACP cartridge will knock someone to the
2 ground no matter where it strikes them.

3 13. The notion that a bullet can 'knock-down' a person is a largely
4 Hollywood-inspired myth. Most of us learned in school about Sir Isaac Newton's
5 *Third Law of Motion* that states - "For every action, there is an opposite and equal
6 reaction." Put another way -If the recoil of the firearm doesn't knock you down,
7 neither will the bullet. Bullets can penetrate skin, cut arteries, break bones or
8 interrupt nerve function to accomplish what is generally described as 'stopping
9 power.' A bullet that severs the spine or strikes a certain area of the brain will
10 almost certainly stop an attacker instantly. Bullet design and/or increased velocity
11 may improve performance but placement is still the most critical factor. A hit, or
12 even multiple hits, to less vital areas of the body may allow an attacker to continue
13 the assault. This phenomenon is extensively documented in the citations for
14 American heroes who were awarded the Congressional Medal of Honor. Many of
15 these men continued to fight after suffering multiple gunshot wounds, being struck
16 by shrapnel or having an arm or leg severed. *See, e.g., The Congressional Medal of*
17 *Honor, The Names, The Deeds* 28-29, 52-53, 284-85 (Sharp & Dunnigan, 1984). A
18 fighter who has overcome fear and is motivated to continue an attack can be
19 difficult to stop. In the infamous 1986 FBI shoot-out with two Florida bank robbers,
20 one of the suspects, Michael Platt, sustained 12 gunshot wounds before dying.
21 Jamie Frater, Top 10 Most Audacious Shootouts in US History, Listserve (October
22 14, 2009)
23 <http://listverse.com/2009/10/14/top-10-most-audacious-shootouts-in-us-history/>.

24 14. "Knockdown" and "Stopping Power" are things I know from personal
25 experience. During my early years as a narcotic agent with the California
26 Department of Justice, I was conducting an undercover investigation of a
27 significant heroin dealer. After purchasing an ounce and a half of heroin from him
28 and the arrest was initiated, he shot me with a .45 first breaking my left arm and

1 severing an artery (Note: I wasn't 'knocked down.') and then bouncing another
2 round off my spine that exited my right leg. From a prone position I returned fire at
3 the suspect who was mostly concealed by the trunk of his car. My shots that struck
4 the vehicle failed to penetrate sufficiently to reach him. In the exchange that
5 followed I had another round pass through my right leg, while another entered my
6 left side and lodged in the disc between L3 and L4 - where it remains today. Having
7 emptied the 8 rounds in my pistol, I tried to reload. However, with a broken arm
8 and temporary paralysis from the waist down, I was unable to reach my spare
9 magazine in my left rear pants pocket. Fortunately, at that time the suspect quickly
10 surrendered to my converging surveillance team. Very little pain was initially
11 associated with my wounds and I could have 'fought on' if more ammunition had
12 been available. A total of 18-rounds were fired.

13 15. Four years later, I was making an undercover cocaine purchase with a
14 new member of my team. I had involved myself to evaluate his performance. The
15 three suspects, two of whom were armed (initially unbeknownst to us) had decided
16 that robbery was a better option than delivering the cocaine. The junior agent was
17 taken hostage and was being held in the state undercover car with a sawed-off rifle
18 to the back of his head and a revolver held against his right side. I was across the
19 street in another undercover car with the money the suspects wanted. I informed the
20 surveillance team that I was going to approach the other vehicle to see what I could
21 do. When I got to the car it was difficult to determine what was happening, as it was
22 a dark, rainy night. I told the agent to exit the vehicle and as he opened the car door
23 and dived out, two shots were fired at him – both missed. I returned fire at the area
24 of the muzzle flash inside the car. Of the eight rounds I fired, the automobile glass
25 defeated most. However, one .45 bullet hit the suspect holding the rifle, causing
26 him serious internal injuries. The suspect with the revolver came out of the
27 passenger door and was struck through the shin with a .45 bullet from a member of
28 the surveillance team who had quietly closed-in on the vehicle. After a short pause

1 the suspects were ordered out of the vehicle. Both of those with gunshot wounds
2 came out fighting. A flashlight to the chin produced the 'stopping power' for the
3 suspect with the internal wound. The suspect with the leg wound was unaware of
4 his injury until he saw the massive blood loss – whereupon he exclaimed "I'm
5 bleeding" and passed out. Twenty-eight rounds were fired into the vehicle with only
6 two hits. For my actions in this incident I was awarded the department's Medal of
7 Valor. The 'take away' from these incidents is that serious bullet wounds aren't
8 necessarily incapacitating and that gunfights can require lots of ammunition.

9 16. By the time I retired from DOJ, I had switched to a Glock 17 with a 19-
10 round magazine as my duty and then personal defense weapon. I purchased it from
11 the department with a compliment of magazines and have carried it, so equipped,
12 ever since. I am authorized to carry a loaded and concealed firearm pursuant to
13 Penal Code Sections 25455 and 25460. Should my travels take me into Sunnyvale, I
14 would be prohibited from using my magazines for such travel because I transited
15 that city.

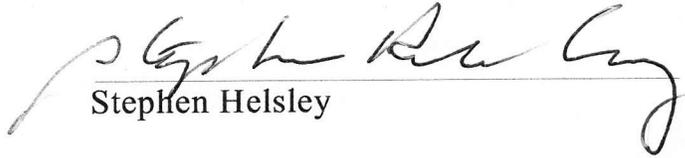
16

17 I declare under penalty of perjury that the foregoing is true and correct.
18 Executed within the United States on December 23, 2013.

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Stephen Helsley

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1 C. D. Michel - S.B.N. 144258
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7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT
12 HOCHSTETLER WILLIAM
DOUGLAS, DAVID PEARSON,
13 BRAD SEIFERS, and ROD
14 SWANSON,

15 Plaintiffs

16 vs.

17 THE CITY OF SUNNYVALE, THE
MAYOR OF SUNNYVALE,
18 ANTHONY SPITALERI in his
official capacity, THE CHIEF OF
19 THE SUNNYVALE DEPARTMENT
OF PUBLIC SAFETY, FRANK
20 GRGURINA, in his official capacity,
21 and DOES 1-10,

22 Defendants.

CASE NO: CV13-05807 RMW

**DECLARATION OF JAMES
CURCURUTO IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION**

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DECLARATION OF JAMES CURCURUTO

1
2 1. I, James Curcuruto, am not a party in the above-titled action. I am over
3 the age of 18, have personal knowledge of the facts and events referred to in this
4 Declaration, and am competent to testify to the matters stated below.

5 2. I am the Director, Industry Research and Analysis, at the National
6 Shooting Sports Foundation (“NSSF”). The NSSF is the trade association for the
7 firearms industry. Its mission is to promote, protect and preserve hunting and the
8 shooting sports. Formed in 1961, NSSF has a membership of 10,000 manufacturers,
9 distributors, firearms retailers, shooting ranges, sportsmen’s organizations and
10 publishers.

11 3. In my position as Director, Industry Research and Analysis, I am
12 responsible for most of the research activities at NSSF, and I direct the activities of
13 an internal research coordinator and outside companies retained to conduct research
14 and gather market and consumer information useful to NSSF members.

15 4. Many NSSF members manufacture, distribute and/or sell firearms and
16 shooting and hunting-related goods and services, and as is usual and customary for
17 trade associations, the NSSF collects and disseminates industry-specific,
18 non-sensitive data reflecting consumer preferences, market trends and other
19 information for use in their business decisions. Among the shooting and
20 hunting-related goods and services manufactured, distributed and sold by NSSF
21 members are ammunition magazines.¹ Research conducted by the NSSF and under
22 my direction demonstrates that detachable ammunition magazines are very popular

23
24 _____
25 ¹ A “magazine” is a receptacle for a firearm that holds a plurality of
26 cartridges or shells under spring pressure preparatory for feeding into the chamber.
27 <http://saami.org/glossary/display.cfm?letter=M>, Glossary of Terms, Sporting Arms
28 and Ammunition Manufacturers’ Institute (SAAMI). While magazines take many
forms – box, drum, rotary, tubular, etc. and may be fixed or removable – from the
materials I considered and firearms industry professionals I consulted, the figures
discussed in this declaration generally (if not exclusively) concern detachable, box
magazines.

1 and are commonly owned by millions of persons in the United States for a variety
2 of lawful purposes, including, but not limited to, recreational and competitive target
3 shooting, home defense, collecting and hunting.

4 5. In addition to ammunition magazines accompanying firearms that
5 utilize them at the time of sale, such magazines are also widely available for sale as
6 a stand-alone item to individuals who need a replacement, different-capacity, and/or
7 additional magazine.

8 6. I am not aware of any singular public source providing reliable figures
9 identifying exactly how many ammunition magazines are manufactured or imported
10 for sale within the United States each year. There are, however, data available to me
11 from which estimations of the amount of magazines that have been sold to the
12 general population, as well as how many of those have a capacity for ammunition
13 exceeding ten rounds, can be calculated within a reasonable degree of certainty.

14 7. Using such data, I have, in the normal scope of my duties on behalf of
15 the NSSF, calculated estimations of the total number of magazines possessed by
16 consumers in the United States, as well as how many of those have a standard
17 capacity for ammunition exceeding ten rounds. These estimations are published in
18 the NSSF Magazine Report attached as Exhibit "A."

19 8. The NSSF Magazine Report estimates that 158 million pistol and rifle
20 magazines were in the possession of United States consumers between 1990 and
21 2012. The data supporting the Report further shows magazines capable of holding
22 more than 10 rounds of ammunition accounted for approximately 75 million or
23 approximately 47 percent of all magazines owned.

24 9. Sources used to compile the NSSF Magazine Report include the
25 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Annual Firearms
26 Manufacturers and Exports Reports (AFMER), U.S. International Trade
27 Commission (ITC), as well as, opinions of firearms industry professionals. To
28 prepare the NSSF Magazine Report, only the number of pistols and rifles was used

1 while revolver and shotgun data was excluded as revolvers and the vast majority of
2 shotguns do not utilize magazines.

3 10. The ATF AFMER data provide historical figures for pistols by caliber
4 (i.e., the specific ammunition cartridge for which a firearm is chambered) and rifles
5 produced in the United States for consumer purchase. The ITC data provides
6 historical figures for pistol and rifles imported to and exported from the United
7 States for consumer purchase. The total number of firearms available for consumer
8 purchase 1990 through 2012 was calculated by adding the total U.S-production of
9 firearms with the total firearms imported and then subtracting total firearms
10 exported.

11 11. The ATF AFMER and ITC data provided estimates of approximately
12 50 million pistols and 33 million rifles available to United States consumers
13 between 1990 and 2012. Firearms industry professionals with knowledge of the
14 pistol and rifle magazine market then allocated magazines to the totals to complete
15 the data provided in the NSSF Magazine Report .

16 12. It can be assumed that many more such magazines were manufactured
17 in the United States or imported to the United States for sale in the commercial
18 marketplace both prior to 1990 as well as after 2012.

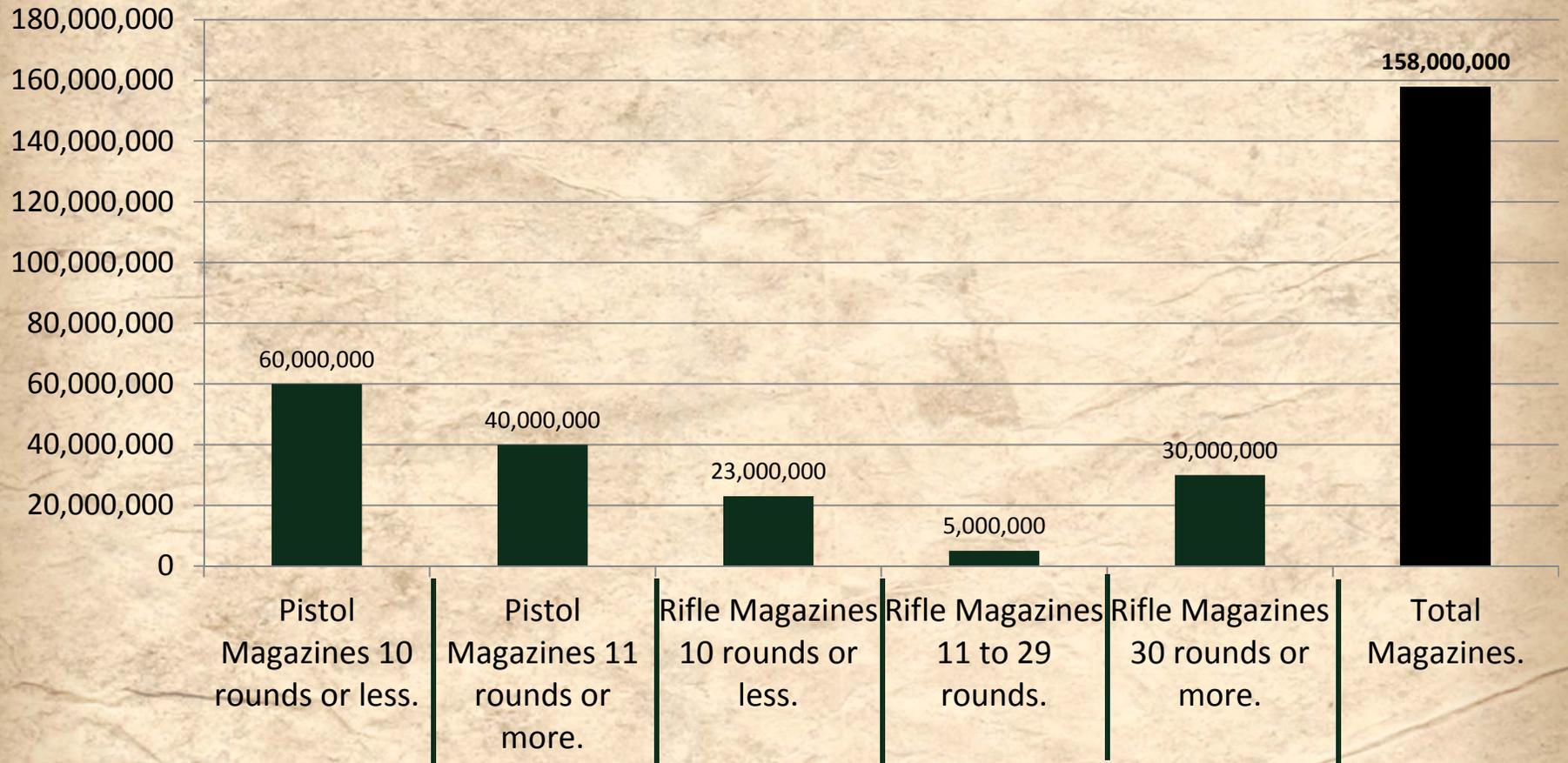
19 13. While the figure of 75 million standard capacity magazines holding
20 over 10 rounds in circulation is an estimation based on extrapolation from indirect
21 sources and cannot be confirmed as unequivocally accurate, it is safe to say that
22 whatever the actual number of such magazines in United States consumers' hands
23 is, it is in the tens-of-millions, even under the most conservative estimates.

24 I declare under penalty of perjury that the foregoing is true and correct.
25 Executed within the United States on December 19, 2013.

26
27 
28 James Curcuruto

EXHIBIT A

Estimated 158 Million Pistol and Rifle Magazines in U.S. Consumer Possession 1990 – 2012.



Sources: ATF AFMER, US International Trade Commission figures combined with NSSF and Firearms Industry estimates.

PROMOTE PROTECT PRESERVE



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7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT)
HOCHSTETLER, WILLIAM)
12 DOUGLAS, DAVID PEARSON,)
BRAD SEIFERS, and ROD)
13 SWANSON,)

CASE NO: CV13-05807 RMW
DECLARATION OF LEONARD
FYOCK IN SUPPORT OF MOTION
FOR PRELIMINARY INJUNCTION

14 Plaintiffs

15 vs.

16 THE CITY OF SUNNYVALE, THE)
17 MAYOR OF SUNNYVALE,)
ANTHONY SPITALERI in his)
18 official capacity, THE CHIEF OF)
THE SUNNYVALE DEPARTMENT)
19 OF PUBLIC SAFETY, FRANK)
20 GRGURINA, in his official capacity,)
and DOES 1-10,)

21 Defendants.
22

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DECLARATION OF LEONARD FYOCK

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1. I, Leonard Fyock, am a plaintiff in the above-entitled action. I make this declaration of my own personal knowledge and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein.

2. I am a current resident of the City of Sunnyvale.

3. I am a law-abiding adult who is not prohibited from owning firearms under the laws of the United States or the state of California. I have never been found by any law enforcement agency, any court, or any other government agency to be irresponsible, unsafe, or negligent with firearms in any manner.

4. Prior to December 6, 2013, I acquired a magazine capable of holding more than ten rounds in accordance with state and federal law. This magazine has not been permanently altered so as to be incapable of accommodating more than 10 rounds, its is not a .22 caliber tube ammunition feeding device, and it is not a tubular magazine contained in a lever-action firearm. I currently own and possess this magazine for in-home self-defense.

5. Prior to December 6, 2013, I lawfully acquired a handgun that came equipped with the magazine capable of holding 16 rounds.

6. I acquired the handgun with the magazine capable of holding 16 rounds for use in competition and in home self-defense.

7. I selected this particular firearm in part because I believe that a handgun with a magazine capable of holding more than ten rounds may best suit my needs for in-home self-defense.

8. I am concerned that if multiple intruders attack me while at home, I will require the use of more than ten rounds to effectively protect myself and others in my home.

1 9. I fear that a home intruder will be carrying a firearm with a magazine
2 capable of holding more than ten rounds, or will be carrying multiple firearms, and
3 that I may require a firearm with a magazine capable of holding more than ten
4 rounds to effectively protect myself and others from such a threat in my home.

5 10. I believe that being forced to change my magazine after expending ten
6 rounds during any critical time that requires me to act in self-defense will impact
7 my ability to effectively defend myself and others in my home. Should I require
8 more than ten rounds to neutralize the threat of a home intruder or group of
9 intruders, I fear that I will be unable to re-load my handgun in time to effectively
10 defend myself and others in my home.

11 11. I fear that my firearm will function less effectively when I need it most
12 for self-defense if I use a magazine that was not originally designed for use with my
13 handgun.

14 12. Due to the Defendants' enactment of Sunnyvale Municipal Code
15 (SMC) section 9.44.050, I am prohibited from continuing to possess, within the
16 City of Sunnyvale, any magazine capable of holding more than ten rounds that has
17 not been permanently altered so that it cannot accommodate more than 10 rounds, is
18 not a .22 caliber tube ammunition feeding device, and is not a tubular magazine that
19 is contained in a lever-action firearm.

20 13. In accordance with SMC section 9.44.050, I intend to cease possessing
21 any magazine prohibited by SMC section 9.44.050 within the City of Sunnyvale on
22 or before March 6, 2013.

23 14. But for SMC section 9.44.050, I would immediately and continuously
24 possess a magazine capable of holding more than ten rounds within the City of
25 Sunnyvale for lawful purposes, including in-home self-defense. If this court
26 declares SMC section 9.44.050 invalid or otherwise enjoins its enforcement, I will
27 continue to possess any magazine prohibited by SMC section 9.44.050 within the
28 City of Sunnyvale.

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15. Because SMC section 9.44.050 requires that I cease possessing within the City of Sunnyvale any magazine prohibited by SMC section 9.44.050, I will be continuously and irreparably harmed by the ongoing deprivation of my individual, fundamental right to possess and use commonly possessed firearm magazines for lawful purposes, including in-home self-defense, without risking criminal prosecution.

I declare under penalty of perjury that the foregoing is true and correct.
Executed within the United States on December 19, 2013.


Leonard Fyock, Declarant

1 C. D. Michel - S.B.N. 144258
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2 Sean A. Brady - S.B.N. 262007
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7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT
HOCHSTETLER, WILLIAM
12 DOUGLAS, DAVID PEARSON,
BRAD SEIFERS, and ROD
13 SWANSON,

14 Plaintiffs

15 vs.

16 THE CITY OF SUNNYVALE, THE
17 MAYOR OF SUNNYVALE,
ANTHONY SPITALERI in his
18 official capacity, THE CHIEF OF
THE SUNNYVALE DEPARTMENT
19 OF PUBLIC SAFETY, FRANK
20 GRGURINA, in his official capacity,
and DOES 1-10,

21 Defendants.
22

) **CASE NO: CV13-05807 RMW**
)
) **DECLARATION OF ROD**
) **SWANSON IN SUPPORT OF**
) **MOTION FOR PRELIMINARY**
) **INJUNCTION**

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DECLARATION OF ROD SWANSON

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2 1. I, Rod Swanson, am a plaintiff in the above-entitled action. I make this
3 declaration of my own personal knowledge and, if called as a witness, I could and
4 would testify competently to the truth of the matters set forth herein.

5 2. I am a current resident of the City of Sunnyvale.

6 3. I am a law-abiding adult who is not prohibited from owning firearms
7 under the laws of the United States or the state of California. I have never been
8 found by any law enforcement agency, any court, or any other government agency to
9 be irresponsible, unsafe, or negligent with firearms in any manner.

10 4. Prior to December 6, 2013, I acquired a magazine capable of holding
11 more than ten rounds in accordance with state and federal law. This magazine has
12 not been permanently altered so as to be incapable of accommodating more than 10
13 rounds, its is not a .22 caliber tube ammunition feeding device, and it is not a tubular
14 magazine contained in a lever-action firearm. I currently own and possess this
15 magazine for in-home self-defense.

16 5. Prior to December 6, 2013, I lawfully acquired a handgun that came
17 equipped with a magazine capable of holding 19 rounds.

18 6. I acquired the handgun with the magazine capable of 19 rounds for use in
19 my home for self-defense.

20 7. I selected this particular firearm in part because I believe that a handgun
21 with a magazine capable of holding more than ten rounds best suits my needs for in-
22 home self-defense.

23 8. I am concerned that if multiple intruders attack me while at home, I may
24 require the use of more than ten rounds to effectively protect myself and others in my
25 home.

26 9. I fear that a home intruder will be carrying a firearm with a magazine
27 capable of holding more than ten rounds, or will be carrying multiple firearms, and
28 that I may require a firearm with a magazine capable of holding more than ten rounds

1 to effectively protect myself and others from such a threat in my home.

2 10. I believe that being forced to change my magazine after expending ten
3 rounds during any critical time that requires me to act in self-defense may impact my
4 ability to effectively defend myself and others in my home. Should I require more
5 than ten rounds to neutralize the threat of a home intruder or group of intruders, I
6 fear that I may be unable to re-load my handgun in time to effectively defend myself
7 and others in my home.

8 11. Due to the Defendants' enactment of Sunnyvale Municipal Code (SMC)
9 section 9.44.050, I am prohibited from continuing to possess, within the City of
10 Sunnyvale, any magazine capable of holding more than ten rounds that has not been
11 permanently altered so that it cannot accommodate more than 10 rounds, is not a .22
12 caliber tube ammunition feeding device, and is not a tubular magazine that is
13 contained in a lever-action firearm.

14 12. In accordance with SMC section 9.44.050, I intend to cease possessing
15 any magazine prohibited by SMC section 9.44.050 within the City of Sunnyvale on
16 or before March 6, 2013.

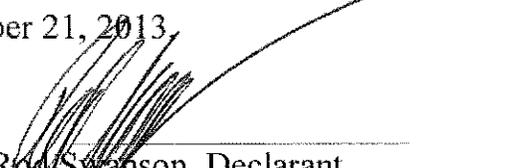
17 13. But for SMC section 9.44.050, I would immediately and continuously
18 possess a magazine capable of holding more than ten rounds within the City of
19 Sunnyvale for lawful purposes, including in-home self-defense. If this court declares
20 SMC section 9.44.050 invalid or otherwise enjoins its enforcement, I will continue to
21 possess any magazine prohibited by SMC section 9.44.050 within the City of
22 Sunnyvale.

23 14. Because SMC section 9.44.050 requires that I cease possessing within
24 the City of Sunnyvale any magazine prohibited by SMC section 9.44.050, I will be
25 continuously and irreparably harmed by the ongoing deprivation of my individual,
26 fundamental right to possess and use commonly possessed firearm magazines for
27 lawful purposes, including in-home self-defense, without risking criminal
28 prosecution.

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

Executed within the United States on December 21, 2013.


Rod Swanson, Declarant

1 C. D. Michel - S.B.N. 144258
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2 Sean A. Brady - S.B.N. 262007
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7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT
HOCHSTETLER, WILLIAM
12 DOUGLAS, DAVID PEARSON,
BRAD SEIFERS, and ROD
13 SWANSON,

14 Plaintiffs

15 vs.

16 THE CITY OF SUNNYVALE, THE
17 MAYOR OF SUNNYVALE,
ANTHONY SPITALERI in his
18 official capacity, THE CHIEF OF
THE SUNNYVALE DEPARTMENT
19 OF PUBLIC SAFETY, FRANK
20 GRGURINA, in his official capacity,
and DOES 1-10,

21 Defendants.
22

CASE NO: CV13-05807 RMW

**DECLARATION OF WILLIAM
DOUGLAS IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION**

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DECLARATION OF WILLIAM DOUGLAS

1
2 1. I, William Douglas, am a plaintiff in the above-entitled action. I make
3 this declaration of my own personal knowledge and, if called as a witness, I could
4 and would testify competently to the truth of the matters set forth herein.

5 2. I am a current resident of the City of Sunnyvale.

6 3. I am a law-abiding adult who is not prohibited from owning firearms
7 under the laws of the United States or the state of California. I have never been
8 found by any law enforcement agency, any court, or any other government agency
9 to be irresponsible, unsafe, or negligent with firearms in any manner.

10 4. Prior to December 6, 2013, I acquired a magazine capable of holding
11 more than ten rounds in accordance with state and federal law. This magazine has
12 not been permanently altered so as to be incapable of accommodating more than 10
13 rounds, its is not a .22 caliber tube ammunition feeding device, and it is not a
14 tubular magazine contained in a lever-action firearm. I currently own and possess
15 this magazine for in-home self-defense.

16 5. Prior to December 6, 2013, I lawfully acquired a magazine capable of
17 holding twenty rounds for my rifle, with the purpose of using such for target
18 practice and for in-home self-defense.

19 6. I selected this particular firearm in part because I believe that a rifle with
20 a magazine capable of holding more than ten rounds is useful for in-home self-
21 defense.

22 7. I am concerned that if multiple intruders attack me while at home, I will
23 require the use of more than ten rounds to effectively protect myself and others in
24 my home.

25 8. I fear that a home intruder will be carrying a firearm with a magazine
26 capable of holding more than ten rounds, or will be carrying multiple firearms, and
27 that I will require a firearm with a magazine capable of holding more than ten
28 rounds to effectively protect myself and others from such a threat in my home.

1 9. I believe that being forced to change my magazine after expending ten
2 rounds during any critical time that requires me to act in self-defense will impact
3 my ability to effectively defend myself and others in my home. Should I require
4 more than ten rounds to neutralize the threat of a home intruder or group of
5 intruders, I fear that I will be unable to re-load my rifle in time to effectively defend
6 myself and others in my home.

7 10. Due to the Defendants' enactment of Sunnyvale Municipal Code
8 (SMC) section 9.44.050, I am prohibited from continuing to possess, within the
9 City of Sunnyvale, any magazine capable of holding more than ten rounds that has
10 not been permanently altered so that it cannot accommodate more than 10 rounds, is
11 not a .22 caliber tube ammunition feeding device, and is not a tubular magazine that
12 is contained in a lever-action firearm.

13 11. In accordance with SMC section 9.44.050, I intend to cease possessing
14 any magazine prohibited by SMC section 9.44.050 within the City of Sunnyvale on
15 or before March 6, 2013.

16 12. But for SMC section 9.44.050, I would immediately and continuously
17 possess a magazine capable of holding more than ten rounds within the City of
18 Sunnyvale for lawful purposes, including in-home self-defense. If this court
19 declares SMC section 9.44.050 invalid or otherwise enjoins its enforcement, I will
20 continue to possess any magazine prohibited by SMC section 9.44.050 within the
21 City of Sunnyvale.

22 13. Because SMC section 9.44.050 requires that I cease possessing within
23 the City of Sunnyvale any magazine prohibited by SMC section 9.44.050, I will be
24 continuously and irreparably harmed by the ongoing deprivation of my individual,
25 fundamental right to possess and use commonly possessed firearm magazines for
26 lawful purposes, including in-home self-defense, without risking criminal
27 prosecution.

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

Executed within the United States on December 19, 2013.


William Douglas, Declarant

1 C. D. Michel - S.B.N. 144258
Clinton B. Monfort - S.B.N. 255609
2 Sean A. Brady - S.B.N. 262007
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7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT
HOCHSTETLER, WILLIAM
12 DOUGLAS, DAVID PEARSON,
BRAD SEIFERS, and ROD
13 SWANSON,

14 Plaintiffs

15 vs.

16 THE CITY OF SUNNYVALE, THE
17 MAYOR OF SUNNYVALE,
ANTHONY SPITALERI in his
18 official capacity, THE CHIEF OF
THE SUNNYVALE DEPARTMENT
19 OF PUBLIC SAFETY, FRANK
20 GRGURINA, in his official capacity,
and DOES 1-10,

21 Defendants.
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CASE NO: CV13-05807 RMW

**DECLARATION OF BRAD
SEIFERS IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION**

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DECLARATION OF BRAD SEIFERS

1. I, Brad Seifers, am a plaintiff in the above-entitled action. I make this declaration of my own personal knowledge and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein.

2. I am a current resident of the City of Sunnyvale.

3. I am a law-abiding adult who is not prohibited from owning firearms under the laws of the United States or the state of California. I have never been found by any law enforcement agency, any court, or any other government agency to be irresponsible, unsafe, or negligent with firearms in any manner.

4. Prior to December 6, 2013, I acquired a magazine capable of holding more than ten rounds in accordance with state and federal law. This magazine has not been permanently altered so as to be incapable of accommodating more than 10 rounds, its is not a .22 caliber tube ammunition feeding device, and it is not a tubular magazine contained in a lever-action firearm. I currently own and possess this magazine for in-home self-defense.

5. Prior to December 6, 2013, I lawfully acquired a handgun that came equipped with a magazine capable of holding 15 rounds.

6. I acquired the handgun with the magazine capable of holding 15 rounds for use in my home for self-defense.

7. I selected this particular firearm in part because I believe that a handgun with a magazine capable of holding more than ten rounds best suits my needs for in-home self-defense.

8. I am concerned that if multiple intruders attack me while at home, I will require the use of more than ten rounds to effectively protect myself and others in my home.

1 9. I fear that a home intruder will be carrying a firearm with a magazine
2 capable of holding more than ten rounds, or will be carrying multiple firearms, and
3 that I will require a firearm with a magazine capable of holding more than ten
4 rounds to effectively protect myself and others from such a threat in my home.

5 10. I believe that being forced to change my magazine after expending ten
6 rounds during any critical time that requires me to act in self-defense may impact
7 my ability to effectively defend myself and others in my home. Should I require
8 more than ten rounds to neutralize the threat of a home intruder or group of
9 intruders, I fear that I will be unable to re-load my handgun in time to effectively
10 defend myself and others in my home.

11 11. I fear that my firearm will malfunction when I need it most for
12 self-defense if I use a magazine that was not originally designed for use with my
13 handgun.

14 12. Due to the Defendants' enactment of Sunnyvale Municipal Code
15 (SMC) section 9.44.050, I am prohibited from continuing to possess, within the
16 City of Sunnyvale, any magazine capable of holding more than ten rounds that has
17 not been permanently altered so that it cannot accommodate more than 10 rounds,
18 is not a .22 caliber tube ammunition feeding device, and is not a tubular magazine
19 that is contained in a lever-action firearm.

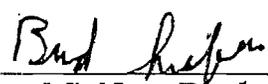
20 13. In accordance with SMC section 9.44.050, I intend to cease possessing
21 any magazine prohibited by SMC section 9.44.050 within the City of Sunnyvale on
22 or before March 6, 2013.

23 14. But for SMC section 9.44.050, I would immediately and continuously
24 possess a magazine capable of holding more than ten rounds within the City of
25 Sunnyvale for lawful purposes, including in-home self-defense. If this court
26 declares SMC section 9.44.050 invalid or otherwise enjoins its enforcement, I will
27 continue to possess any magazine prohibited by SMC section 9.44.050 within the
28 City of Sunnyvale.

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15. Because SMC section 9.44.050 requires that I cease possessing within the City of Sunnyvale any magazine prohibited by SMC section 9.44.050, I will be continuously and irreparably harmed by the ongoing deprivation of my individual, fundamental right to possess and use commonly possessed firearm magazines for lawful purposes, including in-home self-defense, without risking criminal prosecution.

I declare under penalty of perjury that the foregoing is true and correct.
Executed within the United States on December 19, 2013.



Brad Seifers, Declarant

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8 Attorneys for Plaintiffs

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**

14 LEONARD FYOCK, SCOTT) **CASE NO: CV13-05807 RMW**
HOCHSTETLER, WILLIAM DOUGLAS,)
15 DAVID PEARSON, BRAD SEIFERS, and) **DECLARATION OF GARY KLECK**
16 ROD SWANSON,) **IN SUPPORT OF MOTION FOR**
17) **PRELIMINARY INJUNCTION**
Plaintiffs)
18)
19 vs.)
20 THE CITY OF SUNNYVALE, THE)
MAYOR OF SUNNYVALE, ANTHONY)
21 SPITALERI in his official capacity, THE)
22 CHIEF OF THE SUNNYVALE)
DEPARTMENT OF PUBLIC SAFETY,)
23 FRANK GRGURINA, in his official)
24 capacity, and DOES 1-10,)
25 Defendants.)
26)

DECLARATION OF GARY KLECK

My Qualifications

1
2
3 1. I am a Professor of Criminology and Criminal Justice at Florida State
4 University. I received my doctorate in Sociology from the University of Illinois in 1979,
5 where I received the University of Illinois Foundation Fellowship in Sociology. I am
6 currently the David J. Bordua Professor of Criminology at Florida State University, where I
7 have been on the faculty since 1978. My research has focused on the impact of firearms and
8 gun control on violence, and I have been called "the dominant social scientist in the field of
9 guns and crime" (Vizzard, 2000, p. 183).
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11

12 2. I have published the most comprehensive reviews of evidence concerning guns
13 and violence in the scholarly literature, which informs and serves as part of the basis of my
14 opinions. I am the author of Point Blank: Guns and Violence in America, which won the
15 1993 Michael J. Hindelang Award of the American Society of Criminology, awarded to the
16 book of the previous several years which "made the most outstanding contribution to
17 criminology." More recently, I authored Targeting Guns (1997) and, with Don B. Kates, Jr.,
18 The Great American Gun Debate (1997) and Armed (2001).
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22 3. I have also published scholarly research in all of the leading professional
23 journals in my field. Specifically, my articles have been published in the American
24 Sociological Review, American Journal of Sociology, Social Forces, Social Problems,
25 Criminology, Journal of Criminal Law and Criminology, Law & Society Review, Journal of
26 Research in Crime and Delinquency, Journal of Quantitative Criminology, Law &
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1 Contemporary Problems, Law and Human Behavior, Law & Policy Quarterly, Violence and
2 Victims, Journal of the American Medical Association, and other scholarly journals.

3
4 4. I have testified before Congress and state legislatures on gun control issues,
5 and worked as a consultant to the National Research Council, National Academy of
6 Sciences Panel on the Understanding and Prevention of Violence, as a member of the U.S.
7 Sentencing Commission's Drugs-Violence Task Force, and, most recently, as a member of
8 the Institute of Medicine and National Research Council Committee on Priorities for a
9 Public Health Research Agenda to Reduce the Threat of Firearm-Related Violence. I am a
10 referee for over a dozen professional journals, and serve as a grants consultant to the
11 National Science Foundation.

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15 5. Finally, I teach doctoral students how to do research and evaluate the quality of
16 research evidence, and have taught graduate courses on research design and causal
17 inference, statistical techniques, and survey research methodology. My current curriculum
18 vitae is attached.

19
20 6. I am being compensated for my work at the rate of \$350 per hour.

21
22 **Opinions and Supporting Evidence**

23
24 7. Criminals rarely fire large numbers of rounds in a given crime incident, so
25 possession of magazines capable of holding more than ten rounds of ammunition (termed
26 “large-capacity magazines” by the Sunnyvale ordinance and thus referred to as “LCMs”
27 hereafter) merely provides surplus rounds that are not fired and thus rarely can injure
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1 additional victims.

2 8. Supporting Evidence: A study of Jersey City, NJ, found that offenders did not
3 even fire a single shot in over two-thirds of crimes in which the offender was armed with a
4 handgun (Reedy and Koper 2003, p. 153). Of all violent crimes in which handguns *were*
5 fired, only 2.5-3.0% involved more than 10 rounds being fired by the offender (p. 154).
6 Even if limited just to incidents in which semi-automatic pistols *were* fired, only 3.6-4.2%
7 of the incidents involved over 10 rounds being fired, which is just 1.7-2.0% of *all* handgun
8 violent crimes (whether the gun was fired or not). The average number of rounds fired was
9 3.23-3.68 in semi-automatic pistol incidents in which the gun was fired, and 2.30-2.58 in
10 revolver incidents in which the gun was fired. Likewise, a study of gun homicides in
11 Philadelphia found even fewer shots fired per incident than in the Jersey City study – only
12 2.7 shots per semi-automatic pistol killing in 1990 (McGonigal et al. 1993).

13 9. The only kind of shootings in which large numbers of rounds are commonly
14 fired are mass shootings, incidents that involve many victims. Mass shootings fortunately
15 are quite rare in absolute terms. For the most recent ten-year period for which we have
16 complete data, 2003-2012 inclusive, there were 31 incidents with more than 6 persons shot
17 (see Appendix) – about three per year in the United States (none occurring in Sunnyvale).
18 Further, mass shootings account for only a very tiny share of all the homicides in the U.S.
19 For the 2003-2012 period, mass shootings resulted in the murder of 233 persons (see
20 Appendix), while FBI data indicate that there were a total of 159,927 murders and non-
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1 negligent manslaughter committed in the U.S. over that same period (U.S. FBI 2013).

2 Thus, mass shootings were responsible for just 1/7th of 1% of the nation's criminal
3 homicides, whether committed with a gun or not. Even as a share of gun homicides, mass
4 shootings account for well under 1% of the killings.
5

6 10. Even in the extremely rare mass shootings in which large numbers of victims
7 were shot, the shooters virtually never needed LCMs to injure or kill as many victims as
8 they did, because they either (a) possessed multiple guns, (b) possessed multiple magazines,
9 or (c) had ample time and opportunity to reload, using smaller-capacity magazines.
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11 Therefore, even the hypothetical potential for reducing harm or improving the public's
12 safety by limiting magazine capacity to no more than 10 rounds can be fairly described as
13 being limited to no more than a very small subset of already very rare events.
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16 11. A study of every mass shooting (more than six victims wounded or killed) that
17 occurred in the United States over a ten year period (1984-1993 inclusive) found that
18 offenders possessed multiple guns in thirteen of the fifteen incidents (about 87%), and in
19 one of the two remaining cases (the Colin Ferguson case in New York in 1993) the offender
20 reloaded at least once. Thus, the killers in mass shootings did not need LCMs to quickly fire
21 large numbers of rounds or wound large numbers of victims – they either just switched
22 loaded guns or reloaded their guns without interference from bystanders (Kleck 1997, pp.
23 124-126, 144).
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27 12. I have updated the analysis of mass shootings beyond this published analysis
28

1 covering 1984-1993. All shooting incidents involving more than six victims shot (fatally or
2 non-fatally, not including the offenders) for the period 1994 through July 2013 inclusive
3 were examined based on news media accounts, and occasionally official reports. The
4 incidents were confined to those involving more than six victims because the proposition
5 that the use of LCMs affects the number of people killed or wounded is most likely to be
6 supported in incidents with many victims. The cut-off of six victims was chosen because it
7 would be virtually impossible to shoot more than six victims using a typical 6-shot revolver
8 without reloading.
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12 13. I supplemented my list of mass shootings with a list of mass shootings that
13 involved use of LCMs compiled by the Violence Policy Center, an advocacy organization
14 that favors strong gun control laws and specifically supports bans on LCMs. They gathered
15 an arguably comprehensive set of shootings in which magazines of capacity 15 or more
16 were used by the shooters (Violence Policy Center 2013). I used this list to supplement my
17 list because VPC was well-motivated to locate every mass shooting involving the use of an
18 LCM, as they clearly favored the notion that use of LCMs leads to a larger death toll in
19 mass shootings (Violence Policy Center 2011). Thus, I sought to compile as comprehensive
20 a list of such incidents as possible.
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24 14. The updated results (see Appendix) confirmed the conclusions of the 1984-
25 1993 analysis – LCMs were not needed for mass shooters to kill or injure as many victims
26 as they did. The killer in every single mass shooting was either armed with multiple guns,
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1 had multiple magazines, or actually reloaded during the incident. There were a total of 57
2 mass shootings (i.e., incidents with more than 6 victims killed or wounded in a single
3 incident) in the U.S. in 1994-2013 – none of which occurred in Sunnyvale. The shooters
4 used one or more magazines with a capacity of 15 or more rounds in 22 of these incidents;
5 no LCM was used in the other 35 incidents (or about 61%). Of the 22 mass shootings in
6 which LCMs were used, the shooter possessed only one gun in just four, or perhaps five,
7 incidents (see, in Appendix, those dated 11-2-96, 12-5-07, 1-8-11, 9-6-11, and possibly 3-
8 12-05). In the other 17 or 18 incidents, the shooter possessed multiple guns and therefore
9 could continue firing large numbers of rounds simply by switching guns, even if they had
10 not possessed an LCM. Of the 22 mass shootings in which LCMs were used, the shooter
11 possessed only one magazine in just *one* incident (dated 2-7-08). In the other 21 LCM
12 incidents, the shooter possessed multiple magazines, and could therefore continue firing
13 large numbers of rounds simply by switching magazines. *There was not a single mass*
14 *shooting in which the offender used an LCM, and was known to have possessed just one gun*
15 *and just one magazine in his immediate possession.* Thus, even if LCMs had not been
16 available, all of the shooters could have fired large numbers of rounds simply by firing
17 multiple guns or using a single gun but changing smaller capacity magazines.
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24 15. One circumstance in which use of an LCM could affect the number of
25 casualties even if the shooter possessed multiple guns or multiple magazines is if there were
26 bystanders willing to tackle the shooter during his attempt to change magazines or firearms.
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1 The use of an LCM prior to that time could affect the number of victims shot, since the
2 killer could have fired more rounds before needing to reload or switch guns. The only mass
3 shooting in this 20-year period in which this definitely occurred was the Springfield,
4 Oregon murders on May 21, 1998, in which the shooter (Kip Kinkel) used an LCM, but was
5 tackled while attempting to reload. In this single case, the shooter's possession of an LCM
6 may have affected the number of casualties because he was able to fire more rounds before
7 needing to reload, and there were bystanders willing and able to intervene when he did try
8 to reload. Thus, merely having multiple smaller capacity magazines would not have been,
9 in this incident, a complete substitute for an LCM, since the casualty count was a function
10 of the capacity of the magazine used before bystanders stopped the shooter.
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14 16. There was also one other mass shooting in this period in which bystanders
15 intervened, but key details are in dispute, making it unclear whether bystanders intervened
16 while the shooter was reloading. In the Tucson, Arizona shooting in January 2011 in which
17 Rep. Gabrielle Gifford was wounded, the shooter was tackled by bystanders. Some
18 eyewitnesses stated, however, that the shooter was already trying to leave the scene when he
19 was tackled by bystanders, in which case the bystanders did not interrupt the shooting while
20 the shooter was trying to reload (*New York Times* January 10, 2011, p. A1). There were no
21 other mass shootings known to me in this 20-year period in which the shooter was disrupted
22 by bystanders while attempting to reload or switch guns.
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26 17. In sum, use of large-capacity magazines arguably affected the number of
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1 persons killed or wounded in just one, or possibly two, of the 57 mass shootings occurring
2 in the U.S. in 1994-2013. Synopses of the mass shootings for 1994-2013, and sources relied
3 upon, can be found in the Appendix.
4

5 18. It might be speculated that the total number of rounds fired, and thus the
6 number of victims shot, might be increased by an offender's use of an LCM rather than a
7 smaller capacity magazine because use of the LCM would not require a magazine change so
8 soon or so often. Thus, the absence of LCMs would slow the shooter's rate of fire and
9 extend the time the killer was not shooting, allowing some prospective victims to take
10 additional evasive or defensive actions they otherwise would not have been able to take.
11 While this has some hypothetical plausibility, it is inconsistent with the rates of fire
12 sustained in actual mass shootings. A change of the box-type magazines used in semi-
13 automatic pistols and rifles takes no more than 2-4 seconds, depending on the shooter's
14 skill. Mass killers, however, virtually never fire at a rate of even one round every 2
15 seconds, and usually fire at even slower rates.
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20 19. Table 1 summarizes data on all 21 of the 57 total mass shootings summarized
21 in the Appendix for which news media accounts provided information on both the number
22 of shots fired and the time span in which shots were fired, thereby allowing reasonable
23 computation of rates of fire. Only 2 shooters of the 21 total took less than 2 seconds per
24 shot fired, and only 5 took under 4 seconds. Even with this handful of incidents with
25 unusually rapid fire, however, the difference between the 1.4 seconds per shot and 1.6
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1 seconds per shot observed in two incidents with the highest rates of fire, and the 2-4 seconds
2 that it takes to change a box-type magazine is not likely to even be perceptible to
3 prospective victims. That is, they would be unlikely to even be aware of the very slight
4 slowing of the killer's rate of fire necessitated by his changing of magazines. In sum, even
5 if LCM bans forced some mass shooters to use smaller capacity magazines and therefore
6 change magazines earlier and/or more often, it is unlikely that it would perceptibly reduce
7 those offenders' rate of fire and thereby allow victims to take any additional evasive or
8 defensive actions that they otherwise would not have been able to take. Only in the rare
9 cases in which shooters took an unusually long time to reload might there be an opportunity
10 for victims to take additional defensive or evasive actions that they would not have taken,
11 but for the magazine change.
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16 20. On the other hand, limits on magazine capacity are likely to sometimes impair
17 the ability of citizens to engage in lawful self-defense, in those crime incidents necessitating
18 that the victim fire many rounds in order to stop the aggressive actions of offenders. In
19 contrast to mass shooters, victims of crimes generally cannot plan for or anticipate crimes to
20 occur at a specific time and place – these things are beyond their control. Therefore, they
21 ordinarily cannot plan, like an intentional mass shooter, to routinely have many loaded guns
22 and/or numerous magazines with them at the times and places in which particular crimes
23 against them might occur. Victims usually have to make do with a single available gun and
24 its ammunition capacity. Consequently, if their one gun or magazine's capacity was limited
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1 to 10 or fewer rounds, this means they cannot do what mass-shooters do and simply plan to
2 have multiple guns and magazines ready for their use. Further, persons who are law-
3 abiding would be unlikely to simply violate the law and acquire banned LCMs, as criminals,
4 by definition, freely do.
5

6 21. Some defensive gun uses (DGUs) are likely to require large numbers of rounds
7 being fired either because (a) the crime victim faces multiple offender adversaries who will
8 not stop their aggression unless shot or fired upon, and/or because (b) the victim will, under
9 the stressful conditions of a crime victimization, miss with most of his or her shots.
10

11 22. Regarding the first point, the 2008 U.S. Department of Justice's National
12 Crime Victimization survey, indicated that 17.4% of violent crimes in the United States
13 involved two or more offenders, and that nearly 800,000 violent crimes occurred in 2008 in
14 which the victim faced multiple offenders. Thus, crime victims would need to fire larger
15 numbers of rounds to protect themselves because they would face multiple criminal
16 adversaries. Regarding the second point, a reasonable estimate of the marksmanship of
17 crime victims using guns for self-defense can be inferred from a review of the many
18 detailed studies that have been done of shootings by police officers in which the officers
19 were trying to shoot criminal adversaries. In many of these shootings, the officers fired
20 large numbers of rounds. Yet, in 63% of the incidents, the officers failed to hit even a single
21 offender with even a single round (Geller and Scott 1993).
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27 23. Police officers have the experience, training, and temperament to handle
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1 stressful, dangerous situations, so it might be argued that marksmanship among civilians
2 using guns for self-protection is lower than the 37% “hit rate” of police. (“Hit rate” here
3 means the percent of incidents in which the police officer achieved at least one hit, not the
4 percent of shots fired that hit the criminal.) Certainly there is no reliable empirical evidence
5 that civilian marksmanship in such situations is better than that of police officers. Thus,
6 these data indicate that the typical crime victim would have to fire at least three rounds in
7 order to successfully wound each offender they tried to shoot. Crime victims facing four or
8 more offenders would therefore statistically need at least 12 rounds or more to even wound
9 all of them. A ban on magazines with more than 10 rounds would make it impossible to fire
10 this many rounds with a single magazine.

14 24. Although we do not know the number of DGUs by crime victims that involved
15 use of LCMs or the firing of more than 10 rounds, the number is likely to be larger than the
16 number of crimes in which LCM- use caused a larger number of victims to be injured or
17 killed, for two reasons. First, the number of criminal uses fitting this latter description is, as
18 previously noted, close to zero, so even a tiny number of DGUs requiring an LCM would
19 outnumber criminal uses requiring an LCM. Second, the *total* number of defensive uses of
20 guns by crime victims, without regard to number of rounds fired or use of LCMs, is far
21 larger (perhaps five times larger) than the total number of crimes committed by offenders
22 using guns.

26 25. Regarding the second point, the most detailed survey of DGUs, based on the
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1 largest sample of U.S. adults (n=4,977), was conducted in 1993. The researchers found that
2 1.32% of U.S. adults (age 18+) had used a gun defensively, either firing the gun at, or
3 threatening, a criminal offender in the preceding 12 months. Multiplying this times the size
4 of the adult population yielded an estimate of 2.55 million DGUs in the preceding year
5 (Kleck and Gertz 1995). This estimate was consistent with estimates derived from many
6 other, smaller scale, surveys (Kleck 2001). (Criticism of this estimate has been
7 uninformative due to an exclusive one-sided focus on errors tending to make the estimate
8 too large, while ignoring well-known factors discouraging the reporting of crimes in
9 general, and possession or use of guns in particular - see Kleck 2001).

13 26. In that same year, there were no more than 554,000 crimes committed in which
14 offenders fired a gun or used it to threaten a victim (Kleck and Gertz 1995, pp. 169-170),
15 indicating there were about five times as many DGUs as there were crimes in which
16 offenders used guns. At least 18 other national surveys have likewise yielded estimates of
17 the national total of DGUs that exceeded the NCVS estimates of criminal uses of guns
18 (Kleck 2001).

21 27. Some law-abiding citizens, like many criminals, might acquire multiple smaller
22 capacity magazines as a substitute for banned larger capacity magazines. This development
23 would to some extent defeat the purpose of the magazine capacity limit. Some crime
24 victims, however, will not be able to make effective use of multiple magazines. Under the
25 intense emotional stress of a crime victimization, when the victim's hands are likely to be
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1 shaking violently, it will often be impossible for victims to eject the expended magazine and
2 insert a new one quickly enough to make effective use of the second magazine. Further,
3 elderly or physically handicapped persons may find it physically impossible for them to
4 quickly change magazines.
5

6 28. By definition, criminals obey laws at a lower rate than non-criminals, so
7 violation of legal limits on magazine capacity are likely to occur at a higher rate among
8 criminals than among non-criminals. That is, such a law will reduce possession of LCMs
9 more among law-abiding citizens than among criminals, and thus more among non-criminal
10 victims and prospective victims than among criminal offenders.
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13 29. Points (24)-(28) in combination logically lead to the conclusion that a law
14 limiting the maximum capacity of magazines to no more than 10 rounds will reduce (a)
15 DGUs by victims who needed to fire large numbers of rounds to effectively defend
16 themselves and were able to successfully do so more than it will reduce (b) criminal attacks
17 in which offender use of LCMs caused larger numbers of victims to be killed or injured.
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20 30. Victim DGU is generally effective: it makes it less likely the victim will be
21 injured or lose property. Consequently, a law that obstructs DGU by crime victims impairs
22 their capacity for effective self-protection and increases the likelihood of the victims
23 suffering injury or property loss.
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26 31. Analyses of data generated by the U.S. Census Bureau's National Crime
27 Victimization Survey (NCVS) have consistently indicated that crime victims who use guns
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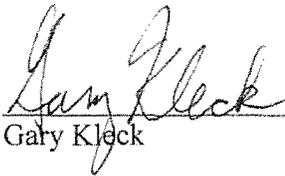
1 for self-protection are less likely to be injured or lose property than victims who do not
2 (Kleck 1988; Kleck and DeLone 1993; Southwick 2000; Kleck 2001, Chapter 7; Tark and
3 Kleck 2004). More specifically, DGU is more effective in preventing serious injury than
4 any other victim self-protection strategy, among the 16 strategies covered in the NCVS
5 (Tark and Kleck 2004, pp. 891-894).
6

7
8 32. Opinions 29 through 31 in combination logically lead to the conclusion that a
9 law limiting magazine capacity to no more than ten rounds will do more harm than good,
10 because it will reduce (a) the *harm-preventing* effects of victim DGU more than it will
11 reduce (b) the extremely rare *harm-causing* effects of offender use of LCMs.
12

13 33. This conclusion not only follows logically from opinions 29 through 31, but is
14 also supported by actual experience with the federal ban on LCMs (also defined as holding
15 over 10 rounds) that was in effect nationwide from 1994 to 2004. A U.S. Department of
16 Justice-funded evaluation found that there was “no discernible reduction in the lethality or
17 injuriousness of gun violence during the post-ban years” (Koper 2013, p. 165; see also
18 Koper 2004, p. 96). The author of the evaluation argued that the federal ban would
19 eventually have benefits if it were allowed to persist long enough. This claim, however,
20 was basically speculative, not based on any actual observed changes in violence.
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24 34. In sum, the best available evidence indicates that Sunnyvale’s ban on LCMs is
25 more likely, on net, to harm the safety of its citizens than to improve it.
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1 I declare under penalty of perjury that the foregoing is true and correct. Executed within the United
2 States on December 23, 2013.

3
4 
5 Gary Kleck

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8
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22 Table 1. Rates of Fire in Mass Shootings (over 6 casualties), 1994-2013

Date of Incident	Shots Fired ^a	Time of Firing (minutes)	Shots per minute	Seconds per Shot
6-20-94	>50	c. 5	>10	<6.0
2-28-97	1,101	44	25	2.4
4-20-99	188	49	3.8	15.6
9-15-99	>100	10	>10.0	>6.0
11-2-99	10	<30	<0.3	>180.0
5-24-00	c.5	<90	>0.06	<1080.0

1	9-22-00	9+	<10	>0.9	<66.7
	12-26-00	37	5-8 (6.5)	5.7	10.5
2	2-5-01	25-30 (27.5)	8-15 (11.5)	2.4	25.1
3	3-5-01	c. 24	6	c. 4.0	c. 15.0
	3-12-05	22	<1	>22/0	<2.7
4	3-21-05	45	9	5.0	12.0
5	3-25-06	8+	c. 5	>1.6	<37.5
	10-2-06	17-18 (17.5)	c. 2	c. 8.75	c. 6.9
6	4-16-07	c. 174	156	c. 1.11	c. 53.8
7	10-7-07	30	c. 1	c. 30.0	c. 2.0
	12-5-07	>30	c. 6	> 5.0	<12.0
8	2-14-08	56	5	11.1	5.4
9	8-3-10	19	3	6.3	9.5
	9-6-11	60+	1.42	42.3+	1.4
10	12-14-12	154+	4	38.5+	1.6

Note:

a. Where a range was provided in news media accounts, the midpoint of the range (shown in parentheses) was used in rate-of-fire computations.

Source: Appendix synopses of mass shootings.

Appendix - Synopses of Mass Shootings, 1994-July 2013, in Chronological Order

(Mass shooting = more than six victims killed or wounded in a single incident)

Mass Shootings in 1994

- The Washington Post: “5 Arrested in Shooting at Market; NE Men Charged with First Degree Murder,” April 11, 1994
- Date: March 31, 1994
- Shooters: Unknown (Up to 4)
- Number of Guns in Shooter’s Immediate Possession: Unknown
- Types of Guns Used: Tec-9 semi-automatic (found but no confirmation it was used during the shooting)
- Number of Magazines: Unknown
- Maximum Capacity of Largest Magazine: Unknown
- Number of Shots Fired: 30+
- Did Offender Reload: Unknown
- Time from Start to End: Unknown
- How Gun was Acquired: Unknown

- Number Killed: 1
- Number Wounded: 9
- Notes: This was a gang related incident. Some reports indicate that other guns were found and there was more than one shooter but nothing was confirmed. The shooters had 5 specific targets, 4 of which they hit.
- The New York Times: “Gunman Kills 2 and Hurts 19 on Air Force Base,” June 21, 1994
- New York Times “An Airman's Revenge: 5 Minutes of Terror,” June 22, 1994; Seattle Times “Man Bent on Revenge Kills 4, Hurts 23,” June 21, 1994.
- Date: June 20, 1994 Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 2
- Type of Gun Used: MAK-90 rifle, another “unspecified 'single shot' weapon (unused)
- Number of Magazines: Unknown
- Maximum Capacity of Largest Magazine(s): 70
- Number of Shots Fired: Over 50
- Did Offender Reload: Unknown
- Time From Start to End: Unknown – 5 minutes?
- How Gun Was Acquired: Legally purchased from licensed dealer
- Number Killed: 4 (5 including gunman)
- Number Wounded: 23
- The Washington Post: “Gunman Kills 2, Wounds 5 in Attack on Abortion Clinics,” December 31, 1994
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 1-2 (A second was found at the scene but unused)
- Type of Gun Used: .22 caliber rifle, miscellaneous handgun
- Number of Magazines: Unknown
- Maximum Capacity of Largest Magazine: Unknown
- Number of Shots Fired: Unknown
- Time from Start to End: Unknown
- How Guns were Acquired: Unknown
- Number Killed: 2
- Number Wounded: 5
- Notes: This was targeted at two abortion clinics with no specific individual target.

Mass Shootings in 1995 - none

Mass Shootings in 1996 – none

Mass Shootings in 1997

- CNN: “Gunman Shoots 7, Kills Self at Empire State Building,” February 24, 1997.
- Date: February 23, 1997
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 1
- Type of Gun Used: .380 caliber Beretta
- Number of Magazines: Unknown
- Maximum Capacity of Largest Magazine: Unknown
- Number of Shots Fired: Unknown
- Did Offender Reload: Unknown
- Time from Start to End: Unknown
- How Gun was Acquired: Purchased in Florida (Legality unknown)
- Number Killed: 1 (2 including gunman)
- Number Wounded: 6

Police Magazine: “5 Gunfights That Changed Law Enforcement,” May 4, 2011.

Date: February 28, 1997

Shooters: 2

Number of Guns in Shooter’s Immediate Possession: At least 4

Types of Guns Used: Fully automatic AIM AK-47, Norinco Type 56 S-1, semi-automatic HK-91, and a Bushmaster XM15 E2S (modified)

Number of Magazines: Unknown Maximum Capacity of Largest Magazine: Unknown (at least 3,300 rounds in box and drum magazines)

Number of Shots Fired: 1,101

Did Offenders Reload: Yes

Time from Start to End: 44 minutes

How Guns were Acquired: Unknown

Number Killed: 0 (2 including gunmen)

Number Wounded: 18

Notes: The shooters had an arsenal that the police could not compete with. Many of their weapons were fully automatic and the magazines were likely high capacity. Accounts differ on the number of shots fired.

• The Associated Press: “Man to be Executed Friday for Plant Shootings,” October 30, 2005

• Date: September 15, 1997

• Shooters: 1

• Number of Guns in Shooter’s Immediate Possession: 1

• Type of Gun Used: semi-automatic pistol

- 1 • Number of Magazines: 4 empty
- 2 • Maximum Capacity of Largest Magazine: 8 rounds
- 3 • Number of Shots Fired: Unknown
- 4 • Did Offender Reload: Yes
- 5 • Time from Start to End: 2.5 hours
- 6 • How Gun was Acquired: Unknown
- 7 • Number Killed: 4
- 8 • Number Wounded: 3
- 9 • Notes: The shooter was fired and sought revenge. By some accounts he had four other
- 10 magazines for a total of 8 magazines with 8 rounds.
- 11 • Reuters News: “Six Charged in Mississippi High School Shooting,” October 7, 1997
- 12 • Date: October 1, 1997
- 13 • Shooters: 1
- 14 • Number of Guns in Shooter’s Immediate Possession: 1
- 15 • Type of Gun Used: Rifle
- 16 • Number of Magazines: Unknown
- 17 • Maximum Capacity of Largest Magazine: Unknown
- 18 • Number of Shots Fired: Unknown
- 19 • Did Offender Reload: Unknown
- 20 • Time from Start to End: Unknown
- 21 • How Gun was Acquired: Unknown (possibly from parents)
- 22 • Number Killed: 2 (3 if mother included in separate killing, no gun used)
- 23 • Number Wounded: 7
- 24 • Notes: Six were charged, but with conspiracy. There was only one shooter and his
- 25 target
- 26 was an ex-girlfriend.
- 27 • The New York Times: “Gunfire Inside a School Kills 3 and Wounds 5,” December 2,
- 28 1997
- Date: December 1, 1997
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 5
- Type of Guns Used: .22 caliber handgun (shooter also had two rifles and two shotguns)
- Number of Magazines: More than 1
- Maximum Capacity of Largest Magazine: Unknown
- Number of Shots Fired: Unknown
- Did Offender Reload: No
- Time from Start to End: Unknown
- How Guns were Acquired: Unknown
- Number Killed: 3
- Number Wounded: 5

1 • Notes: According to a CNN article entitled “Kentucky School Shooter 'Guilty but
2 Mentally Ill,” October 5, 1998, the shooter stole the guns from different homes. According
3 to The St. Petersburg Times: “Programmed to Kill,” December 1, 1997, the shooter shot 8
4 to 10 rounds. According to The New York Times: “Forgiveness, After 3 Die in Shootings in
5 Kentucky,” printed on December 3, 1997, the shooter shot up to 12 rounds.

6 • The New York Times “Dismissed Worker Kills 4 and Then Is Slain,” December 20,
7 1997;

8 Los Angeles Times “Aftermath of Killer's Fury,” December 20, 1997

9 • Date: December 18, 1997

10 • Shooters: 1

11 • Number of Guns in Shooter’s Immediate Possession: 3

12 • Type of Gun Used: AK-47, shotgun, and handgun

13 • Number of Magazines: Unknown

14 • Maximum Capacity of Largest Magazine(s): Unknown

15 • Number of Shots Fired: 70

16 • Did Offender Reload: Unknown

17 • Time from Start to End: Unknown

18 • How Gun was Acquired: Unknown

19 • Number Killed: 4 (5 including gunman)

20 • Number Wounded: 3

21 • Notes: Employer was dismissed from Caltran's and a subsequent job. He then returned
22 to the work site and randomly shot employees. He battled with police as well, for at least a
23 minute, before his was killed.

24 **Mass Shootings in 1998**

25 • The New York Times: “From Wild Talk and Friendship to Five Deaths in a schoolyard
26 March 29, 1998

27 • Date: March 24, 1998

28 • Shooters: 2

• Number of Guns in Shooter’s Immediate Possession: At least 4 (shooters had access to
10 guns and a crossbow)

• Type of Guns Used: Remington .30-60 hunting rifle, Ruger .44 Magnum rifle

• Number of Magazines: 3 .30 caliber magazines (19 .44 caliber shells, 41 .357 shells,
49 .380 shells, 16 .30 special shells, 26 .357 magnum shells, 6 .30 caliber shells)

• Maximum Capacity of Largest Magazine(s): 30 round

• Number of Shots Fired: At least 26

• Did Offenders Reload: Unknown

• Time from Start to End: Unknown

• How Guns were Acquired: Stolen From Parents

- Number Killed: 5
- Number Wounded: 11 (15 hit)
- Notes: The History Channel has an article entitled “A School Shooting in Jonesboro, Arkansas, Kills Five. This article states that the two youths had “thirteen fully loaded guns including three semi automatic rifles, and 200 rounds of ammunition.” The weapons were taken from the Golden family's home.

- The New York Times: “Sorrowful Town Honors Teen-Ager Killed in School Shooting,” May 26, 1998.

- Date: May 21, 1998 Location: Springfield, Oregon
- Shooters: 1 (Kip Kinkel)
- Number of Guns in Shooter’s Immediate Possession: 3
- Type of Guns Used: .22 caliber semi-automatic rifle, 9 mm Glock semi-automatic pistol, .22 caliber Ruger semi-automatic pistol
- Number of Magazines: At least 3
- Maximum Capacity of Largest Magazine: 50
- Number of Shots Fired: 51
- Did Offender Reload: Attempted to do so, **tackled by bystanders**
- Time from Start to End: Unknown
- How Guns were Acquired: From Parents
- Number Killed: 2 (4 including the parents who were killed the night before)
- Number Wounded: 22
- Notes: According to PBS' Frontline (<http://www.pbs.org/wgbh/pages/frontline/shows/kinkel/kip/cron.html>) the shooter “carried 3 guns: a .22 caliber semi-automatic Ruger rifle, his father's 9mm Glock pistol and a .22 caliber Ruger semi-automatic pistol.” The article states that he used a 50 round magazine and injured 25 students.

Mass Shootings in 1999

- The New York Times: “3 are Killed and 5 Hurt in Shootout in Utah City,” April 16, 1999
- Date: April 15, 1999
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 1
- Type of Gun Used: .22 caliber semi-automatic handgun
- Number of Magazines: Unknown
- Maximum Capacity of Largest Magazine: Unknown
- Number of Shots Fired: Unknown
- Did Offender Reload: Unknown
- Time from Start to End: 1-2 hours

- How Gun Was Acquired: Unknown
- Number Killed: 2
- Number Wounded: 5
- Notes: Numerous other sources list the wounded as 4 and not 5. According to The South Florida Sun-Sentinel: “Gun Sale Issues Raised After Salt Lake City Shooting,” the shooter likely purchased the gun, a .22 caliber Ruger and had previously had a gun confiscated due to a misdemeanor gun offense.
- CNN Special: Using a copy of the Jefferson County Website with Details about the Columbine Massacre.
(http://www.cnn.com/SPECIALS/2000/columbine.cd/Pages/EQUIPMENT_TEXT.htm)
- Date: April 20, 1999
- Shooters: 2 (Dylan Klebold and Eric Harris)
- Number of Guns in Shooter’s Immediate Possession: 4
- Types of Guns Used: Intratec TEC-DC-9 9-mm semi-automatic handgun, Hi-Point 995 9mm carbine rifle, Savage-Springfield 67H 12 gauge pump action shot gun, Stevens 311D double barreled shot gun.
- Number of Magazines: Unknown
- Maximum Capacity of Largest Magazine: Unknown
- Number of Shots Fired: 188
- Did Offenders Reload: Yes
- Time from Start to End: 49 minutes
- How Guns were Acquired: From Friends
- Number Killed: 13 (15 including shooters)
- Number Wounded: 21
- Notes: This is one of the most reported and well known mass shootings. Details are solidified through official reports by the Jefferson County Sheriffs' Department and the FBI. Some of the above information was taken from additional published sources.
- CNN: “‘Mental Breakdown’ Defense Hinted in Georgia School Shooting,” May 24, 1999
- Date: May 20, 1999
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 2
- Types of Guns Used: .22 caliber rifle, .357 magnum handgun
- Number of Magazines: Unknown
- Maximum Capacity of Largest Magazine: Unknown
- Number of Shots Fired: 14
- Did Offender Reload: No
- Time from Start to End: Unknown
- How Guns were Acquired: Stolen from parents
- Number Killed: 0
- Number Wounded: 6

- 1 • Notes: None
- 2 • The New York Times: “Shootings in Atlanta: The Overview; Gunman in Atlanta Slays
- 3 9, then Himself,” July 30, 1999
- 4 • Date: July 29, 1999
- 5 • Shooters: 1
- 6 • Number of Guns in Shooter’s Immediate Possession: 2
- 7 • Types of Guns Used: 9mm semi-automatic pistol, .45 caliber handgun
- 8 • Number of Magazines: Unknown
- 9 • Maximum Capacity of Largest Magazine: Unknown
- 10 • Number of Shots Fired: Unknown
- 11 • Did Offender Reload: Unknown
- 12 • Time from Start to End: 5.5 hours
- 13 • How Guns were Acquired: Unknown
- 14 • Number Killed: 9 (13 including family, but they were not shot, 14 including gunman
- 15 who shot himself)
- 16 • Number Wounded: Unknown
- 17 • Notes: CNN: “Shooter Lost \$105,000 in Month, but Motive Still a Mystery,” July 30,
- 18 1999 states that 13 were wounded. This same article claims there were a total of four guns
- 19 in the car with over 200 rounds of ammunition. There was a Glock 9mm handgun, a Colt
- 20 .45 handgun, a H&R .22 caliber revolver, and a Raven .24 caliber pistol. The H&R was
- 21 legally purchased by the shooter in a pawn shop in 1976 and someone else purchased the
- 22 Raven from another pawn shop in 1992. The Glock and Colt were used during the shootings
- 23 but there is no information regarding how they were obtained.
- 24 • Time Magazine: “Terror In The Sanctuary,” September 20, 1999
- 25 • Date: September 15, 1999
- 26 • Shooters: 1
- 27 • Number of Guns in Shooter’s Immediate Possession: 2
- 28 • Types of Guns Used: 9-mm semi-automatic handgun and a .380 caliber handgun
- Number of Magazines: 3
- Maximum Capacity of Largest Magazine: 15
- Number of Shots Fired: Unknown
- Did Offender Reload: Yes
- Time from Start to End: Unknown
- How Guns were Acquired: Purchased (Unknown source)
- Number Killed: 7 (8 including the gunman)
- Number Wounded: 7
- Notes: According to a Houston Press article entitled “Faith's Fusillade” from
- November 4, 1999, the gunman had purchased the guns seven years before the shooting in
- Grand Prairie. He took 10 magazines with him. They state that the 9mm gun was a Ruger
- and that the event lasted 10 minutes. According to the official Wedgwood Baptist Church
- website, the gunman fired over 100 rounds.

- 1 • The New York Times: “Man Opens Fire in Xerox Office, Killing 7,” November 3, 1999.
- 2 • Date: November 2, 1999
- 3 • Shooters: 1
- 4 • Number of Guns in Shooter’s Immediate Possession: 1
- 5 • Types of Gun Used: 9mm pistol
- 6 • Number of Magazines: 3
- 7 • Maximum Capacity of Largest Magazine: 15
- 8 • Number of Shots Fired: Unknown
- 9 • Did Offender Reload: Unknown
- 10 • Time from Start to End: Less than 30 minutes
- 11 • How Guns were Acquired: Legally Purchased and Registered 17 of the 18
- 12 • Number Killed: 7
- 13 • Number Wounded: 0
- 14 • Notes: The shooter was a registered owner of 17 guns, but 18 were recovered from his home including 11 handguns, 5 rifles and 2 shotguns. According to The Honolulu Advertiser's article “No Closure Yet for Families Suing Uyesugi” published on November 1, 2004, the gun was a Glock. According to TruTV's Crime Library in an article entitled “Examining Workplace Homicide: The Xerox Murders,” the shooter fired 10 rounds.
- 15 • The New York Times: “Gunman Kills 5 in Rampage Starting at Florida Hotel,” December 31, 1999
- 16 • Date: December 30, 1999
- 17 • Shooters: 1
- 18 • Number of Guns in Shooter’s Immediate Possession: 2
- 19 • Types of Guns Used: 9mm semi-automatic handgun, .38 caliber handgun
- 20 • Number of Magazines: Unknown but more than one
- 21 • Maximum Capacity of Largest Magazine: Unknown
- 22 • Number of Shots Fired: Unknown
- 23 • Did Offender Reload: Yes
- 24 • Time from Start to End: Unknown
- 25 • How Guns Were Acquired: Legally purchased at a flea market and a local store
- 26 • Number Killed: 5
- 27 • Number Wounded: 3
- 28 Notes: None

24 **Mass Shootings in 2000**

- 25 • *The Baltimore Sun* “Police Arrest Teen Suspect in National Zoo Shooting,” April 26, 2000
- 26 • Date: April 24, 2000
- 27 • Shooters: 1
- 28 • Number of Guns in Shooter’s Immediate Possession: 1

- 1 • Types of Guns Used: 9mm (Gun was never recovered, but 9mm shells were found on the scene along with a holster)
- 2 • Number of Magazines: Unknown
- 3 • Maximum Capacity of Largest Magazine: Unknown
- 4 • Number of Shots Fired: According to a witness 6-8 (See video here: <http://www.c-spanvideo.org/program/156805-1>)
- 5 • Did Offender Reload: Unknown but unlikely
- 6 • Time from Start to End: Unknown
- 7 • How Gun was Acquired: Unknown (Since the shooter was a minor it was likely illegally obtained)
- 8 • Number Killed: 0
- 9 • Number Wounded: 7
- 10 • Notes: Two groups of teens had a fight early in the day and this event was believed to be related and some form of retaliation.
- 11 • *CNN* "Two Suspects in Wendy's Shootings Arrested," May 26, 2000
- 12 • Date: May 24, 2000
- 13 • Shooters: 2
- 14 • Number of Guns in Shooter's Immediate Possession: 1
- 15 • Types of Guns Used: Bryco-Jennings .380 caliber semi-automatic pistol
- 16 • Number of Magazines: Unknown
- 17 • Maximum Capacity of Largest Magazine: Unknown
- 18 • Number of Shots Fired: Unknown (Each victim was shot once in the head so likely 5)
- 19 • Did Offender Reload: Unknown but unlikely
- 20 • Time from Start to End: Less than 1.5 hours
- 21 • How Gun was Acquired: Unknown
- 22 • Number Killed: 5
- 23 • Number Wounded: 2
- 24 • Notes: This was connected to a robbery, but the shooters knew ahead of time that they would execute each of the employees.
- 25 • *The Washington Post* "Gay Shooting Said Linked to Jokes," September 27, 2000
- 26 • Date: September 22, 2000
- 27 • Shooters: 1
- 28 • Number of Guns in Shooter's Immediate Possession: 1
 - Types of Guns Used: 9mm Ruger semi-automatic handgun
 - Number of Magazines: 1
 - Maximum Capacity of Largest Magazine: Unknown but more than 9
 - Number of Shots Fired: Unknown (Victims suffered wounds from at least 9 shots see *Roanoke Times* "Grand Jury Indicts Suspect in Bar Shootings if Convicted on All Charges, He Could Face 180-Year Sentence," 2000

- Did Offender Reload: No
- Time from Start to End: Less than 10 minutes
- How Gun was Acquired: Unknown
- Number Killed: 1
- Number Wounded: 6
 - Notes: A Vietnam vet who suffered from post traumatic stress disorder who was unable to get medication hated that his last name was “Gay” and that people teased him for that.
- *The New York Times* “A Deadly Turn to a Normal Work Day,” December 28, 2000, *Boston Herald* “Wakefield Massacre; Accused Shooter Amassed Arsenal at His Home, Work”, December 28, 2000
- Date: December 26, 2000
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 3
- Types of Guns Used: AK-47 style rifle, a Winchester 12 gauge pump-action shotgun and a .32 caliber semi-automatic pistol
- Number of Magazines: 4+
- Maximum Capacity of Largest Magazine: 30
- Number of Shots Fired: 37
- Did Offender Reload: Yes
- Time from Start to End: 5-8 minutes
- How Guns were Acquired: Unknown
- Number Killed: 7
- Number Wounded: 0
 - Notes: The shooter claimed that he heard voices and that his victims were Nazis from the past. The jury didn't believe he was mentally ill and the prosecution showed he was intelligent and executed this plan targeting specific people and it was due to owing upwards of \$5,000 in back taxes that were to be garnished from his wages.

Mass Shootings in 2001

- *ABC News* “Ex-Employee Kills 4, Self in Rampage,” February 6, 2001, *Chicago Tribune* “Navistar Gunman Got Past Cracks in Gun Law,” February 7, 2001, *Chicago Tribune* “Weapon Used at Navistar Traced to Shorewood Man,” March 1, 2001
- Date: February 5, 2001
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 4
- Types of Guns Used: SKS semi-automatic rifle, Remington shotgun, .30 caliber

- 1 hunting rifle, .38 caliber revolver
- 2 • Number of Magazines: Unknown
- 3 • Maximum Capacity of Largest Magazine: Unknown
- 4 • Number of Shots Fired: 25-30
- 5 • Did Offender Reload: Unknown
- 6 • Time from Start to End: 8-15 minutes
- 7 • How Guns were Acquired: The Remington shotgun and .30 caliber hunting rifle were
- 8 purchased legally in 1993 from a dealer. The SKS rifle was transferred illegally.
- 9 • Number Killed: 4 (5 including shooter)
- 10 • Number Wounded: 4

Notes: The shooter claimed that he heard voices and that his victims were Nazis from the past. The jury didn't believe he was mentally ill and the prosecution showed he was intelligent and executed this plan targeting specific people and it was due to owing upwards of \$5,000 in back taxes that were to be garnished from his wages.

- 11 • *ABC News* "Exclusive: Santana School Shooter," October 10, 2001
- 12 • Date: March 5, 2001
- 13 • Shooters: 1
- 14 • Number of Guns in Shooter's Immediate Possession: 1
- 15 • Types of Guns Used: .22 caliber revolver
- 16 • Number of Magazines: N/A
- 17 • Maximum Capacity of Largest Magazine: N/A
- 18 • Number of Shots Fired: ~24
- 19 • Did Offender Reload: Yes
- 20 • Time from Start to End: 6 minutes
- 21 • How Guns were Acquired: Stolen from shooter's father
- 22 • Number Killed: 2
- 23 • Number Wounded: 13

Notes: The shooter was a 15 year old freshman who claimed he was bullied and wanted to prove that he was strong enough to fend for himself. He reloaded the revolver three times and had a total of 40 bullets with him at the time.

Mass Shootings in 2002 – none

Mass Shootings in 2003

- 24 • *The New York Times* "Man Kills 5 Co-Workers at Plant and Himself," July 9, 2003,
- 25 *The Clarion-Ledger* "Meridian Rampage: Investigation Winds Down," November 17,
- 26 2003
- 27 • Date: July 8, 2003

- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 2 (Shooter had a total of 5, 3 in his car)
- Types of Guns Used: Winchester 12 gauge pump-action shotgun (did not fire but had a Mini-14 .223 semi-automatic; in the car he had a .22 Magnum derringer, a .45 caliber Ruger, and a .22 rifle)
- Number of Magazines: Unknown (He wore a bandolier to store ammunition)
- Maximum Capacity of Largest Magazine: Unknown
- Number of Shots Fired: Unknown
- Did Offender Reload: Yes
- Time from Start to End: ~10 minutes
- How Guns were Acquired: Unknown
- Number Killed: 6 (7 including the shooter)
- Number Wounded: 8

Notes: This was a racially motivated work place shooting. The shooter was heavily armed but used only the pump-action shotgun during the shooting.

Mass Shootings in 2004

- *The Associated Press* “Suspect Says Hunters Shot at Him First,” November 23, 2004, *Duluth News Tribune* “Timeline of Sunday's Shootings,” November 23, 2004, *The Associated Press* “Murder Trial of Hmong Immigrant Accused of Killing Six Hunters Opens in U.S.,” September 10, 2005
- Date: November 21, 2004
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 1
- Types of Guns Used: SKS 7.62mm semi-automatic rifle
- Number of Magazines: 1-2
- Maximum Capacity of Largest Magazine: 10 rounds
- Number of Shots Fired: 20+
- Did Offender Reload: Yes
- Time from Start to End: Unknown (Captured four hours after the shooting)
- How Guns were Acquired: Unknown
- Number Killed: 6
- Number Wounded: 2

Notes: Some accounts claim that the shooter had a 20 round magazine. However, the AP report states that prosecutors displayed a 10 round magazine in court and claimed that he shot at least 20 rounds.

1 **Mass Shootings in 2005**

- 2 • *The New York Times* “Police Search for Answers in Wisconsin Shooting,” March 13, 2005, *The New York Times* “After Shootings in Wisconsin, a Community Asks
- 3 ‘Why,’” March 14, 2005
- 4 • Date: March 12, 2005
- 5 • Shooters: 1
- 6 • Number of Guns in Shooter’s Immediate Possession: 1
- 7 • Types of Guns Used: 9mm semi-automatic handgun
- 8 • Number of Magazines: 2
- 9 • Maximum Capacity of Largest Magazine: Unknown (Based on shots fired, they must
- 10 have been 11+)
- 11 • Number of Shots Fired: 22
- 12 • Did Offender Reload: Yes
- 13 • Time from Start to End: Less than a minute
- 14 • How Guns were Acquired: Unknown
- 15 • Number Killed: 7 (8 including shooter)
- 16 • Number Wounded: 4

17 Notes: None.

- 18 • *CBS News* “Red Lake Massacre Took 3 Minutes,” February 11, 2009
- 19 • Date: March 12, 2005, *CNN Anderson Cooper 360 Degrees*, Aired March 22, 2005
- 20 • Shooters: 1
- 21 • Number of Guns in Shooter’s Immediate Possession: 3
- 22 • Types of Guns Used: Ruger .22 caliber semi-automatic handgun, Glock .40 caliber
- 23 semi-automatic handgun, Remington 12 gauge shotgun (The brands were listed on
- 24 Wikipedia but the articles only list the caliber and types)
- 25 • Number of Magazines: Unknown
- 26 • Maximum Capacity of Largest Magazine: Unknown
- 27 • Number of Shots Fired: 45 (13 more were used to kill his grandfather and his friend)
- 28 • Did Offender Reload: Unknown
- Time from Start to End: 9 minutes (This is for the school shooting. He killed his
- grandfather and his grandfather's friend that morning as well)
- How Guns were Acquired: Stolen from grandfather
- Number Killed: 7 (9 including grandfather and grandfather's friend, 10 including
- shooter)
- Number Wounded: 5

Notes: Another school shooting by a troubled teen. He killed his grandfather by shooting him twice in the head and ten times in the chest with the .22. He then shot and killed his grandfather's friend before going to the school.

- Time from Start to End: c. 2 minutes
- How Guns were Acquired: 9mm purchased legally, others unknown
- Number Killed: 5 (shooter killed himself, bringing the total to 6)
- Number Wounded: 5

Notes: The shooter broke into the school, forced the boys and older women to leave and then made the remaining ten girls line up facing the chalkboard. He planned on molesting the girls, but attempted to execute them all instead.

Mass Shootings in 2007

- *The New York Times* “After a Rampage, Trying to Grasp What Led a Son to Kill,” February 20, 2007, *The Associated Press* “Agents Say Pistol had Changed Hands Many Times,” March 29, 2007, *Desert Morning News* “Gun Dealer to Plead in Trolley Square Gun Case,” November 20, 2007, *The Associated Press* “Man Pleads Guilty to Selling Handgun to Mall Shooter,” October 25, 2007
- Date: February 12, 2007
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 2
- Types of Guns Used: Maverick Arms Model 88 12 gauge shotgun, Smith and Wesson .38 caliber pistol
- Number of Magazines: N/A (Shooter had “backpack full of ammunition” and “bandolier of shotgun shells”)
- Maximum Capacity of Largest Magazine: N/A
- Number of Shots Fired: Unknown
- Did Offender Reload: Unknown but unlikely
- Time from Start to End: 6 minutes
- How Guns were Acquired: Shotgun purchased legally, handgun stolen from a man's father to trade for drugs and eventually sold to shooter(Sources differ on the shotgun's legality. The shotgun had a pistol grip and the shooter was 18 thus making it illegal. If that is the case, both guns were illegally possessed by the shooter)
- Number Killed: 5 (6 including shooter)
- Number Wounded: 4
 - Notes: The shooter went to Trolley Square and opened fire with no known motive. An off-duty police officer fired at him and stopped him from killing others until the SWAT team showed up and killed the shooter.
- *Virginia Tech Review Panel* (See <http://www.governor.virginia.gov/TempContent/techPanelReport.cfm>)
- Date: April 16, 2007
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 2

- 1 • Types of Guns Used: Glock 19 9mm semi-automatic pistol, Walther P22 .22 caliber pistol
- 2 • Number of Magazines: 19
- 3 • Maximum Capacity of Largest Magazine: 15 rounds
- 4 • Number of Shots Fired: ~174
- 5 • Did Offender Reload: Yes
- 6 • Time from Start to End: 2 hours 36 minutes
- 7 • How Guns were Acquired: The Walther P22 was purchased online and picked up at a pawn shop, the Glock 19 was purchased at a gun shop.
- 8 • Number Killed: 32 (33 including shooter)
- 9 • Number Wounded: 23 (17 by gunfire)
 - 10 ◦ Notes: The VA Tech shooting was as highly or more highly publicized than the Columbine shooting. All the information here is taken from the official panel review. The panel review also states that if Cho had only used 10 round magazines, it was unlikely that the outcome would have been different.
- 11 • *CNN* “Computers May Yield Clues About Mall Shooter,” December 7, 2007, *The New York Times* “Details of Omaha Shooting Emerge,” December 6, 2007
- 12 • Date: December 5, 2007
- 13 • Shooters: 1
- 14 • Number of Guns in Shooter’s Immediate Possession: 1
- 15 • Types of Guns Used: AK-47 style semi-automatic rifle
- 16 • Number of Magazines: 2 (Some reports indicate that the magazines were taped together “jungle style”)
- 17 • Maximum Capacity of Largest Magazine: 30 rounds
- 18 • Number of Shots Fired: ~30
- 19 • Did Offender Reload: Unknown but likely (Police report that the shooter likely shot more than 30 rounds)
- 20 • Time from Start to End: ~6 minutes
- 21 • How Guns were Acquired: Stolen from father
- 22 • Number Killed: 8 (9 including shooter)
- 23 • Number Wounded: 5
- 24 Notes: A depressed and suicidal teen randomly picked this mall and opened fire.

25 There is no clear motive.

- 26 • (A shooting on December 10, 2007 was a spree killing not a mass shooting. 12 hours Shootings took place over a 12-hour period, were in two different locations about 75 miles apart. Shooter posted threats online between shootings)

27 **Mass Shootings in 2008**

- 28 • *St. Louis Dispatch* “Thornton Used Stolen Gun in Kirkwood Killings,” February 28,

1 2008, *The Los Angeles Times* “Killer of Five Left Note: 'Truth will win' The Gunman
2 ha a Long-Running Feud with City Officials,” February 9, 2008

- 3 • Date: February 7, 2008
- 4 • Shooters: 1
- 5 • Number of Guns in Shooter’s Immediate Possession: 2
- 6 • Types of Guns Used: .44 caliber revolver (article claims gun's make and model
7 cannot be identified), Smith and Wesson .40 caliber semi-automatic pistol
- 8 • Number of Magazines: 1 (Based on the fact that shooter stole the gun from police
9 officer)
- 10 • Maximum Capacity of Largest Magazine: Unknown (15 would be likely)
- 11 • Number of Shots Fired: 15+
- 12 • Did Offender Reload: Unknown but unlikely
- 13 • Time from Start to End:
- 14 • How Guns were Acquired: .44 caliber revolver was stolen over ten years before the
15 shooting (shooter may not have known it was stolen), the .40 caliber handgun was
16 stolen from a police officer the shooter shot
- 17 • Number Killed: 6 (7 including shooter)
- 18 • Number Wounded: 1
 - 19 ◦ Notes: The shooter used all six rounds in his gun, shooting a police officer and
20 taking his gun. It is unknown exactly how many shots he fired from it, but he shot
21 at least 15 total.
- 22 • *U.S Fire Administration/Technical Report Series* (See here
23 http://www.usfa.fema.gov/downloads/pdf/publications/tr_167.pdf) *Report of the*
24 *February 14, 2008 Shootings at Northern Illinois University* (See
25 <http://www.niu.edu/feb14report/feb14report.pdf>)
- 26 • Date: February 14, 2008
- 27 • Shooters: 1
- 28 • Number of Guns in Shooter’s Immediate Possession: 4 (Reports indicate that he had
4 but may have only used two; the Remington and the Glock)
- Types of Guns Used: Sig Sauer P232 9mm semi-automatic pistol, HiPoint CF380
.380 caliber semi-automatic pistol, Glock 19 9mm pistol, Remington Sportsman 48
12 gauge shotgun
- Number of Magazines: At least 6
- Maximum Capacity of Largest Magazine: 33 (Shooter had 2 15 round magazines and
2 33 round magazines for the Glock)
- Number of Shots Fired: 56 (6 rounds from the shotgun, 50 rounds from the Glock)
- Did Offender Reload: Yes
- Time from Start to End: 5 minutes
- How Guns were Acquired: Legally purchased from gun store

- 1 • Number Killed: 5 (6 including shooter)
- 2 • Number Wounded: 21
- 3 • Notes
- 4 ◦ Both reports indicate that he fired with the Glock and Remington. Two fully loaded
- 5 .380 magazines were found on the floor. The shooter was diagnosed with
- 6 schizophrenia, depression, anxiety and had delusions. It is somewhat unclear what the
- 7 motive for the killings was. (An incident occurring on September 2, 2008 was a spree
- 8 killing, not a mass shooting.)
- 9 • *The Associated Press* “Santa Gunman Had Lost Job, Wife Before Gory Attack,”
- 10 December 27, 2008
- 11 • Date: December 24, 2008
- 12 • Shooters: 1
- 13 • Number of Guns in Shooter’s Immediate Possession: 4
- 14 • Types of Guns Used: semi-automatic handguns
- 15 • Number of magazines: Unknown
- 16 • Maximum Capacity of Largest Magazine: Unknown
- 17 • Number of Shots Fired: Unknown (One news account stated that all four guns were
- 18 emptied)
- 19 • Did Offender Reload: Unknown but unlikely
- 20 • Time from Start to End: Unknown
- 21 • How Guns were Acquired: Purchased (Unknown if legal or not)
- 22 • Number Killed: 9 (10 including shooter)
- 23 • Number Wounded: 2
- 24 ◦ Notes: There aren't any news reports indicating the brand or model of the guns or
- 25 the size of the magazines.

19 **Mass Shootings in 2009**

20 *New York Times*, March 10, 2009

21 Location: Geneva County, AL

22 Date: March 10, 2009

23 Number of Guns in Shooter’s Immediate Possession: 4

24 Types of Guns Used: Bushmaster AR-15, SKS rifle, shotgun, and .38 caliber pistol

25 Number of Magazines: Unknown

26 Maximum Capacity of Largest Magazine: Unknown

27 Number of Shots Fired: Unknown

28 Did Offender Reload: Unknown

Time from Start to End: Unknown

How Guns Were Acquired: Unknown

Number Killed: 10

Number Wounded: 0

Fayetteville Observer, "Carthage Killings: A Key Eyewitness Speaks," March 31, 2009

Location: Carthage, NC

Date: March 29, 2009

Shooters: 1

Number of Guns in Shooter's Immediate Possession: 2+

Types of Guns Used: Shotgun, at least one other gun

- Number Magazines: Unknown
- Maximum Capacity of Largest Magazine: Unknown
- Number of Shots Fired: Unknown
- Did Offender Reload: Unknown
- Time from Start to End: 15 minutes?
- How Guns were Acquired: Unknown
- Number Killed: 8
- Number Wounded: 3
- *The New York Times* "Shooting in Binghamton, N.Y.," April 3, 2009; *Bloomberg* "Binghamton Killer Fired 99 Shots from Two Handguns, Police Say," April 8, 2009
- Date: April 3, 2009
- Shooters: 1
- Number of Guns in Shooter's Immediate Possession: 2
- Types of Guns Used: Beretta .45 caliber semi-automatic pistol, Beretta 9mm semi-automatic pistol
- Number of Magazines: 3+
- Maximum Capacity of Largest Magazine: 30
- Number of Shots Fired: 99
- Did Offender Reload: Yes
- Time from Start to End: Minutes (It took police hours to secure the building)
- How Guns were Acquired: Legally purchased (Shooter had a license for the two guns)
- Number Killed: 13 (14 including shooter)
- Number Wounded: 4

- Notes: A somewhat deranged individual who believed police were secretly harassing him entered the immigration office and started shooting. The motive is unclear due to his mental condition and rambling letter. The number of magazines isn't exact, but at least two 30 round magazines were discovered for the 9mm and only 11 shots were fired from the .45.

Pittsburgh Tribune-Review, "Gunman Kills 3, Wounds 9 Before Killing Himself at Collier Fitness Center," August 5, 2009

1 Location: Collier, PA

2 Date: August 4, 2009

3 Shooters: 1

4 Number of Guns in Shooter’s Immediate Possession: 4

5 Types of Guns Used: 2 x 9 mm pistols, .45 caliber pistol, .32 caliber pistol

6 Number of magazines: 2+

7 Maximum Capacity of Largest Magazine: 30

8 Did Offender Reload: Unknown

9 Number of shots fired: 50

10 Time from start to end: Unknown

11 How Guns Were Acquired: Unknown

12 Number Killed: 3

13 Number Wounded: 9

- 14 • *ABC News* “Alleged Fort Hood Shooter Nidal Malik Hasan was 'Calm,' Methodical During Massacre,” November 6, 2009, *The Dallas Morning News* “Investigators Detail Ammo Found at Fort Hood Shooting Scene,” October 21, 2010 (Updated November 26, 2010)

- 15 • Date: November 5, 2009

- 16 • Shooters: 1

- 17 • Number of Guns in Shooter’s Immediate Possession: 1-2

- 18 • Type of Gun Used: FN Herstal 5.7 tactical pistol (Smith and Wesson .357 magnum was found but not used in the shooting)

- 19 • Number of Magazines: 15 (6 loaded with 177 rounds, 6 empty with 146 spent casings, 3 empty with 68 casings)

- 20 • Maximum Capacity of Largest Magazine: 20-30

- 21 • Number of Shots Fired: 214

- 22 • Did Offender Reload: Yes

- 23 • Time from Start to End: Minutes (It took police hours to secure the building)

- 24 • How Guns were Acquired: Legally purchased

- 25 • Number Killed: 13

- 26 • Number Wounded: 38

- 27 ◦ Notes: The widely covered Fort Hood shooting.

28 **Mass Shootings in 2010**

St. Louis Post-Dispatch, “Why the Rampage? Police Plan to Interview Family of Gunman, Co-workers at ABB Plant,” January 9, 2010

Date: January 7, 2010

Location: St. Louis, MO

Shooters: 1

1 Number of Guns in Shooter’s Immediate Possession: 3 or 4
 2 Type of Guns Used: Romarm AK-47-style rifle, Tristar 12 gauge shotgun, Hi-Point
 3 .40 caliber pistol, possibly one other pistol
 4 Number of magazines: 2
 5 Maximum Capacity of Largest Magazine: “Banana-style” magazines – probably
 6 LCMs
 7 Did offender reload? Unknown
 8 Number of shots fired: “Over 100”
 9 Time from Start to End: Unknown
 10 How Guns Were Acquired: Unknown
 11 Number Killed: 3
 12 Number Wounded: 5
 13 Notes: Workplace shooting by disgruntled employee

14 *The Lynchburg News & Advance*, “Law Officers Maintained Dark Vigil to Wait Out
 15 Appomattox Shooting Suspect.”

16 Date: January 19, 2010

17 Shooters: 1

18 Number of Guns in Shooter’s Immediate Possession: Unknown

19 Types of Guns Used: “High-powered rifle”

20 Number of Magazines: Unknown

21 Maximum Capacity of Largest Magazine: Unknown

22 Number of Shots Fired: Unknown

23 Time from Start to End: Unknown

24 How Guns Were Acquired: Unknown

25 Number Killed: 8

26 Number Wounded: 0

27 *Washington Times*: “Three are Arrested in Drive-by Shooting,” April 1, 2010

28 Date: March 30, 2010

Shooters: 3

Number of Guns in Shooter’s Immediate Possession: 3

Types of Guns Used: AK-47 “assault rifle,” 9 mm semiautomatic pistol, .45 caliber
 semiautomatic pistol

Number of Magazines: Unknown

Maximum Capacity of Largest Magazine: Unknown

Did Offender Reload: Unknown

Number of Shots Fired: Unknown

Time from Start to End: Unknown

How Guns Were Acquired: Unknown

Number Killed: 4

Number Wounded: 5

Miami Herald “Massacre in Hialeah Captured by Cameras,” June 9, 2010.

- Date: June 6, 2010
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 1
- Types of Guns Used: .45 caliber semi-automatic handgun
- Number of Magazines: Unknown
- Maximum Capacity of Largest Magazine: Unknown
- Number of Shots Fired: Unknown
- Did Offender Reload: Unknown
- Time from Start to End: Unknown
- How Guns were Acquired: Unknown
- Number Killed: 4
- Number Wounded: 3
- *The Associated Press* “Police Report: No Racism Before Conn. Shootings,” May 12, 2011, *The Hartford Courant* “Shooter had a Plan, Police: Mass Murderer hinted at His Intentions to Kill Co-Workers,” May 13, 2011, *The Associated Press* “Cops: Conn. Gunman May Have Targeted Some Victims,” August 4, 2010
- Date: August 3, 2010
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 2 (Shooter also had an unused shotgun in his car)
- Type of Gun Used: 2 x Ruger 9mm semi-automatic handguns
- Number of Magazines: 3-4 (Uncle stated that he saw 4 17 round magazines the night before the shooting but some reports say there was only 1 extra magazine)
- Maximum Capacity of Largest Magazine: 17 rounds
- Number of Shots Fired: 19
- Did Offender Reload: Unknown (Reports seem to indicate that he only used one of the guns. If so, he reloaded)
- Time from Start to End: 3 minutes
- How Guns were Acquired: Legally registered
- Number Killed: 8 (9 including shooter)
- Number Wounded: 2
- Notes: Eyewitness accounts state that he used one gun while carrying his lunchbox which held the other gun, magazines and extra ammo.

The Buffalo News “Two more sought in shootings,” August 20, 2010
Buffalo, NY

1 Date: August 14, 2010

2 Shooters: 1

3 Number of Guns in Shooter's Immediate Possession: Unknown

4 Type of Guns Used: Unknown

5 Number of magazines: Unknown

6 Maximum Capacity of Largest Magazine: Unknown

7 Number of Shots Fired: Unknown

8 Did Offender Reload? Unknown

9 Time from Start to End: Unknown

10 How Guns Were Acquired: Unknown

11 Number Killed: 4

12 Number Wounded: 4

13 **Mass Shootings in 2011**

- 14 • *NBC News* "Tucson Shooting with High-Capacity Magazines Reignites Gun Debate,"
15 January 9, 2011, *Reuters* "TIMELINE: Tucson Shooting Rampage as it Unfolded,"
16 January 14, 2011; *New York Times* January 10, 2011, p. A1

- 17 • Date: January 8, 2011

- 18 • Shooters: 1

- 19 • Number of Guns in Shooter's Immediate Possession: 1

- 20 • Types of Guns Used: Glock 19 9mm semi-automatic handgun

- 21 • Number of Magazines: 4

- 22 • Maximum Capacity of Largest Magazine: 2 x 33, 2 x 15

- 23 • Number of Shots Fired: Unknown

- 24 • Did Offender Reload: Not successfully. Witness reports conflict as to exactly what
25 happened.

- 26 • Time from Start to End: 5 minutes

- 27 • How Guns were Acquired: Legally purchased

- 28 • Number Killed: 6

- Number Wounded: 13

- *Mlive* "Felon Linked to Stolen Gun in Rodrick Dantzler's Killing Spree Pleads to
Firearms Charge," June 11, 2013, *The Grand Rapids Press* "Wife's Intent to Leave
May have Set Off Killer, Police Say Gun was Stolen from a Kent County Home, but
Motivation Remains Elusive," July 10, 2011, *Wood TV Channel 8* "Man to Plead to
Selling Dantzler a Gun," June 27, 2013

- Date: July 7, 2011

- Shooters: 1

- Number of Guns in Shooter's Immediate Possession: 1

- Types of Guns Used: Glock 9mm semi-automatic handgun

- Number of Magazines: 2+

- 1 • Maximum Capacity of Largest Magazine: 1x 12 round (One report indicates that
- 2 police had reason to believe he had an “extended” magazine)
- 3 • Number of Shots Fired: Unknown
- 4 • Did Offender Reload: Yes
- 5 • Time from Start to End: 8 hours (4 hour standoff with police and hostages before
- 6 committing suicide)
- 7 • How Guns were Acquired: Stolen
- 8 • Number Killed: 7 (8 including shooter)
- 9 • Number Wounded: 2
- 10 ◦ Notes: No clear motive and not much evidence regarding the magazines or their
- 11 capacity.
- 12 • *CNN* “Gunman Kills 3, Wounds Other at Nevada IHOP,” September 7, 2011
- 13 • September 6, 2011, *RGJ* “IHOP Shooting One Year Later: 85 Seconds that Changed
- 14 Carson City,” September 12, 2012
- 15 • Date: September 6, 2011
- 16 • Shooters: 1
- 17 • Number of Guns in Shooter’s Immediate Possession: 1
- 18 • Types of Guns Used: Norinco MAK 90 (Illegally modified to be fully automatic)
- 19 • Number of Magazines: 3
- 20 • Maximum Capacity of Largest Magazine: 2x 30, 1x Unknown (likely 30)
- 21 • Number of Shots Fired: 60+
- 22 • Did Offender Reload: Yes
- 23 • Time from Start to End: 1 minute 25 seconds
- 24 • How Guns were Acquired: Unknown
- 25 • Number Killed: 4 (5 including shooter)
- 26 • Number Wounded: 14
- 27 ◦ Notes: Shooter had been diagnosed with paranoid schizophrenia at age 18 and had
- 28 used medication. The toxicology reports show no medication in his system.
- *The Los Angeles Times* “Prosecutors Seek Death Penalty in Salon Shooting Case,”
- October 15, 2011, *The Press Telegram* “DA to Seek Death Penalty for Alleged Seal
- Beach Shooter,” October 14, 2011
- Date: October 14, 2011
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 3
- Types of Guns Used: Springfield 9mm semi-automatic handgun, Heckler and Koch
- .45 caliber handgun, Smith and Wesson .44 Magnum
- Number of Magazines: 5+ (Reports say he had “extra magazines”)
- Maximum Capacity of Largest Magazine: Unknown
- Number of Shots Fired: Unknown

- Did Offender Reload: Yes
- Time from Start to End: 2 minutes
- How Guns were Acquired: Legally purchased and registered
- Number Killed: 8
- Number Wounded: 1
 - Notes: Upset over a custody battle, the father executed his ex-wife and several employees at a salon. It is unclear how many magazines he had at the time or their capacities. It is also unclear how many shots were fired.

Mass Shootings in 2012

- *Reuters* “Accused Gunman in Oakland Shooting Unfit for Trial: Judge,” January 7, 2013, *The San Jose Mercury News* “California's Tough Gun Laws Could Not Prevent East Oakland Tragedy,” April 5, 2012
- Date: April 2, 2012
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 1
- Types of Guns Used: Unknown .45 caliber handgun
- Number of Magazines: 4
- Maximum Capacity of Largest Magazine: Unknown (News sources described them as “fully loaded”)
- Number of Shots Fired: Unknown
- Did Offender Reload: Yes
- Time from Start to End: Minutes (Shooter was apprehended 2 hours later)
- How Guns were Acquired: Legally purchased (Police are still confirming the gun they found that has a matching serial number to the one purchased by the shooter was used in the murders)
- Numbers Killed: 7
- Number Wounded: 3
 - Notes: The *San Jose Mercury News* states that the magazines were 8 round magazines. California law prohibits magazines larger than 10 rounds. The shooter has been diagnosed as paranoid schizophrenic and is currently unfit to stand trial.
- *The Denver Post* “12 Shot Dead, 58 Wounded in Aurora Movie Theater During Batman Premier,” July 21, 2012, *ABC Channel 7 News* “Aurora, Colo Theater Shooting Timeline, Facts,” July 26, 2012
- Date: July 20, 2012
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 3
- Types of Guns Used: Remington tactical shotgun, Smith and Wesson M&P semi-

automatic rifle, Glock .40 caliber semi-automatic handgun

- Number of Magazines: Unknown
- Maximum Capacity of Largest Magazine: 1 x 100 round magazine, which jammed; others unclear
- Number of Shots Fired: Unknown
- Did Offender Reload: Yes
- Time from Start to End: ~6 minutes
- How Guns were Acquired: Purchased legally
- Numbers Killed: 12
- Number Wounded: 58
 - Notes: Some information has not been released or determined yet. While the shooter had purchased 6,295 rounds (2,600 for the Glocks, 375 for the Remington, and 3,370 for the Smith and Wesson) it is unknown how many were with the shooter at the time, how many magazines were with him, and how many shots were fired.
- *The Los Angeles Times* “Sikh Temple Shooting: Gun Shop Owner Says Wade Page Seemed Normal,” August 8, 2012; “7 Shot Dead at Sikh Temple,” August 6, 2012.
- Date: August 5, 2012
- Shooters: 1
- Number of Guns in Shooter’s Immediate Possession: 1
- Type of Gun Used: Springfield Armory XDM 9mm semi-automatic handgun
- Number of Magazines: 3
- Maximum Capacity of Largest Magazine: 19
- Number of Shots Fired: 19+ (50-60 according to one witness)
- Did Offender Reload: Yes
- Time from Start to End: Unknown
- How Guns were Acquired: Purchased legally
- Numbers Killed: 6 (7 including shooter)
- Number Wounded: 3
 - Notes: The final FBI report has not been released yet. Several news outlets describe “several empty clips” but there is no evidence suggesting how many, how large or how many rounds were fired.

Associated Press, Minnesota state wire 9-29-12

Date: 9-27-12

Shooters: 1

Number of Guns in Shooter’s Immediate Possession: 1

Types of Guns Used: Glock 9 mm semiautomatic pistol

Number of Magazines: Unknown

Maximum Capacity of Largest Magazine: Unknown

1 Number of shots fired: At least 46

2 Did Offender Reload: Yes

3 Time from Start to End:

4 How gun was acquired: Legally purchased at gun store a year earlier

5 Number killed: 6

6 Number wounded: 2

7 • *The New York Times* “Children were All Shot Multiple Times with a Semiautomatic, Officials Say,” December 15, 2012; *CNN* “Newton Shooting Details Revealed in Newly Released Documents,” March 29, 2013; Office of the State’s Attorney, Judicial District of Danbury, *Report of the State’s Attorney for the Judicial District of Danbury on the Shootings at Sandy Hook Elementary School and 36 Yogananda Street, Newtown, Connecticut on December 14, 2012*, available online at <http://www.thecrimereport.org/news/inside-criminal-justice/2013-11-report-newtown-massacre-was-over-in-minutes>

8 • Date: December 14, 2012

9 • Location: Newtown, CT

10 • Shooters: 1

11 • Number of Guns in Shooter’s Immediate Possession: 3

12 • Types of Guns Used: Bushmaster XM15-E2S.223 caliber semi-automatic rifle, Glock 20 10 mm semi-automatic pistol, Sig Sauer P226 9 mm semi-automatic pistol (not used in shootings)

13 • Number of Magazines: 12+

14 • Maximum Capacity of Largest Magazine: 10 x 30 round, 2+ others of unknown

15 • Number of Shots Fired: 154+

16 • Did Offender Reload: Yes

17 • Time from Start to End: c. 4 Minutes

18 • How Guns were Acquired: Stolen from mother

19 • Numbers Killed: 26 (27 including shooter's mother, 28 including shooter)

20 • Number Wounded: 2

21 ◦ Notes: The shooter seemed to have used mostly the Bushmaster, and 154 casings for it were found. That is the minimum number of shots fired. (Considering he shot himself with the Glock, 155 would be the minimum) Of the 30 round magazines, 3 were found completely full, three were completely empty, and the others had 10, 11 or 13 rounds left in them.

22 **Mass Shootings in 2013 (January 1 through July 31) - None**

23 (A Santa Monica shooting on 6-7-13 was a spree shooting, not a mass shooting – killer shot 9 people in 3 different locations.)

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CURRICULUM VITAE
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(Updated April 15, 2013)

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9 1993 Winner of the Michael J. Hindelang Award of the American Society of Criminology,
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21 Criminology, Applied Statistics, Regression, Introduction to Research Methods, Law
22 Enforcement, Research Methods in Criminology, Guns and Violence, Violence Theory
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25 DISSERTATION

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24 RESEARCH FUNDING

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27

1 1996 "Testing a Fundamental Assumption of Deterrence-Based Crime Control Policy."
2 \$80,590 awarded by the Charles E. Culpeper Foundation to study the link between
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4 PRESENTED PAPERS

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6 Presented at the annual meetings of the Illinois Sociological Association, Chicago.

7 1979 "The assumptions of gun control." Presented at the Annual Meetings of the American
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23 1988 "Suicide, guns and gun control." Presented at the Annual Meetings of the Popular
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- 17 1995 (with Tom Jordan) "The impact of drug enforcement and penalty levels on urban drug
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- 20 1996 (with Michael Hogan) "A national case-control study of homicide offending and gun
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- 23 1997 "Evaluating the Brady Act and increasing the utility of BATF tracing data." Presented
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- 26 1997 "Crime, collective security, and gun ownership: a multi-level application of the
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16 2003 (with Tomislav V. Kovandzic) "The effect of gun levels on violence rates depends on
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19 2003 (with KyuBeom Choi) "Filling in the gap in the causal link of deterrence." Presented
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21 2004 (with Tomislav Kovandzic) "Do violent crime rates and police strength levels in the
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Nashville.

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- 17 2008 (with J.C. Barnes) “Deterrence and macro-level perceptions of punishment risks: Is
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- 20 2009 “The myth of big-time gun trafficking.” Presented at UCLA Law Review
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- 23 2009 (with Shun-Yung Wang) “Employment and crime and delinquency of working youth:
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25 American Society of Criminology, November 6, 2009, Philadelphia, PA.
- 26 2009 (with J. C. Barnes) “Do more police generate more deterrence?” Presented at the
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28 Philadelphia, PA.
- 2010 (with J. C. Barnes) “Article productivity among the faculty of criminology and
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5 2010 "Errors in survey estimates of defensive gun use frequency: results from national
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11 2011 (with Shun-young Wang) "The impact of job quality and career commitment on
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25 November 18, 2011.

26 2012 (with Dylan Jackson) "Adult unemployment and serious property crime: a national
27 case-control study." Presented at the annual Meetings of the American Society of
28 Criminology, November 15, 2012.

CHAIR

1983 Chair, session on Race and Crime. Annual meetings of the American Society of

1 Criminology, Denver.

2 1989 Co-chair (with Merry Morash), roundtable session on problems in analyzing the
3 National Crime Surveys. Annual meetings of the American Society of Criminology,
4 Reno.

5 1993 Chair, session on Interrupted Time Series Designs. Annual meetings of the American
6 Society of Criminology, New Orleans.

7 1993 Chair, session on Guns, Gun Control, and Violence. Annual meetings of the Ameri-
8 can Society of Criminology, Phoenix.

9 1994 Chair, session on International Drug Enforcement. Annual meetings of the American
10 Society of Criminology, Boston.

11 1999 Chair, Author-Meets-Critics session, More Guns, Less Crime. Annual meetings of the
12 American Society of Criminology, Toronto.

13 2000 Chair, session on Defensive Weapon and Gun Use. Annual Meetings of the American
14 Society of Criminology, San Francisco.

15 2002 Chair, session on the Causes of Gun Crime. Annual meetings of the American
16 Society of Criminology, Chicago.

17 2004 Chair, session on Protecting the Victim. Annual meetings of the American Society of
18 Criminology, Nashville.

19 DISCUSSANT

20
21 1981 Session on Gun Control Legislation, Annual Meetings of the American Society of
22 Criminology, Washington, D.C.

23 1984 Session on Criminal Sentencing, Annual Meetings of the American Society of
24 Criminology, Cincinnati.

25 1986 Session on Sentencing, Annual Meetings of the American Society of Criminology,
26 Atlanta.

27 1988 Session on Gun Ownership and Self-protection, Annual Meetings of the Popular
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- 1 1991 Session on Gun Control, Annual Meetings of the American Statistical Association,
2 Atlanta, Ga.
- 3 1995 Session on International Drug Enforcement, Annual Meetings of the American
4 Society of Criminology, Boston.
- 5 2000 Session on Defensive Weapon and Gun Use, Annual Meetings of the American
6 Society of Criminology, San Francisco.
- 7 2004 Author-Meets-Critic session on Guns, Violence, and Identity Among African-
8 American and Latino Youth, by Deanna Wilkinson. Annual meetings of the Ameri-
9 can Society of Criminology, Nashville.
- 10 2007 Session on Deterrence and Perceptions, University of Maryland 2007 Crime &
11 Population Dynamics Summer Workshop, Aspen Wye River Center, Queenstown.
12 MD, June 4, 2007.
- 13 2009 Session on Guns and Crime, at the DeVoe Moore Center Symposium On The
14 Economics of Crime, March 26-28, 2009.
- 15 2012 Panel discussion of news media coverage of high profile crimes. Held at the Florida
16 Supreme Court On September 24-25, 2012, sponsored by the Florida Bar Association
17 as part of their 2012 Reporters' Workshop.

18 PROFESSIONAL SERVICE

19 Editorial consultant -

20 American Sociological Review

21 American Journal of Sociology

22 Social Forces

23 Social Problems

24 Law and Society Review

25 Journal of Research in Crime and Delinquency

26 Social Science Research

27 Criminology

28

1 Journal of Quantitative Criminology
2 Justice Quarterly
3 Journal of Criminal Justice
4 Violence and Victims
5 Violence Against Women
6 Journal of the American Medical Association
7 New England Journal of Medicine
8 American Journal of Public Health
9 Journal of Homicide Studies

10 Grants consultant, National Science Foundation, Sociology Program.

11 Member, Gene LeCarte Student Paper Committee, American Society of Criminology, 1990.
12 Area Chair, Methods Area, American Society of Criminology, annual meetings in Miami,
13 November, 1994.

14 Division Chair, Guns Division, American Society of Criminology, annual meetings in
15 Washington, D.C., November, 1998.

16 Dissertation evaluator, University of Capetown, Union of South Africa, 1998.

17 Division Chair, Guns Division, American Society of Criminology, annual meetings in
18 Washington, D.C., November, 1999.

19 Member of Academy of Criminal Justice Sciences selection committee for Editor of Justice
20 Quarterly, 2007.

21 UNIVERSITY SERVICE

22 Member, Master's Comprehensive Examination Committee, School of Criminology, 1979-
23 1982.

24 Faculty Advisor, Lambda Alpha Epsilon (FSU chapter of American Criminal Justice
25 Association), 1980-1988.

26 Faculty Senate Member, 1984-1992.

27 Carried out campus crime survey for President's Committee on Student Safety and Welfare,
28

1 1986.

2 Member, Strategic Planning and Budgeting Review Committee for Institute for Science and
3 Public Affairs, and Departments of Physics and Economics, 1986.

4 Chair, Committee on Ph.D. Comprehensive Examination in Research Methods, School of
5 Criminology, Summer, 1986.

6 Member, Committee on Ph.D. Comprehensive Examination in Research Methods, School
7 of Criminology, Summer, 1986 to present.

8 Chair, Committee on Graduate Assistantships, School of Criminology, Spring, 1987.

9 Chair, Ad Hoc Committee on Computers, School of Criminology, Fall, 1987.

10
11 Member, Recruitment Committee, School of Criminology, Spring, 1988; Spring, 1989; and
12 1989-90 academic year.

13 Member, Faculty Senate Committee on Computer-Related Curriculum, Spring, 1988 to Fall,
14 1989.

15 Chair, Ad Hoc Committee on Merit Salary Distribution, School of Criminology, Spring,
16 1988.

17 Chair, Ad Hoc Committee on Enrollment Strains, Spring, 1989.

18 Member, Graduate Handbook Committee, School of Criminology, Spring, 1990.

19 Member, Internal Advisement Committee, School of Criminology Spring, 1990.

20 University Commencement Marshall, 1990 to 1993.

21 Member, School of Criminology and Criminal Justice Teaching Incentive Program award
22 committee.

23 Chair, Faculty Recruitment Committee, School of Criminology and Criminal Justice, 1994-
24 1995.

25 Chair, Committee on Ph.D. Comprehensive Examination in Research Methods, School of
26 Criminology and Criminal Justice, 1994-1995.

27
28 Member, University Computer and Information Resources Committee, 1995-1998.

1 Member, University Fellowship Committee, 1995 to present.

2
3 Member, University Library Committee, 1996 to 1999.

4 Chair, Electronic Access Subcommittee, University Library Committee, 1998 to 1999.

5 Member, Ad Hoc Committee on Merit Salary Increase Allocation, School of Criminology
6 and Criminal Justice, 1998-1999.

7 Member, Academic Committee, School of Criminology and Criminal Justice, 2000-present.

8
9 Member, Recruiting Committee, School of Criminology and Criminal Justice, 2000-2001.

10 Member, Promotion and Tenure Committee, School of Criminology and Criminal Justice,
11 2000-present.

12 Chair, Committee on Ph.D. Comprehensive Examination in Research Methods, School of
13 Criminology and Criminal Justice, 2000-2002.

14 Chair, Promotion and Tenure Committee, School of Criminology and Criminal Justice,
15 2001-2002.

16 Faculty Adviser, School of Criminology and Criminal Justice Graduate Student
17 Association, 2001-present.

18 Member, ad hoc committee on survey research, School of Criminology and Criminal
19 Justice, 2002.

20 Coordinator of Parts 2 and 4 of the School of Criminology and Criminal Justice Unit
21 Review, 2002.

22 Chair, Academic Committee, School of Criminology and Criminal Justice, 2002-2003.

23
24 Director, Honors Programs, School of Criminology and Criminal Justice, 2002-present.

25 Member, University Promotion and Tenure Committee, Fall, 2003 to present.

26 Member of University Graduate Policy Committee, Fall 2003 to present.

27
28 Chair, Promotion and Tenure Committee, College of Criminology and Criminal Justice,

1 2005-2006.

2 Director of Graduate Studies, School (later College) of Criminology and Criminal Justice,
3 April 2004 to May 2011.

4 PUBLIC SERVICE

5 Television, radio, newspaper, magazine, and Internet interviews concerning gun
6 control, racial bias in sentencing, crime statistics, and the death penalty. Interviews and
7 other kinds of news media contacts include Newsweek, Time, U.S. News and World
8 Report, New York Times, Washington Post, Chicago Tribune, Los Angeles Times, USA
9 Today, Boston Globe, Wall Street Journal, Kansas City Star, Philadelphia Inquirer,
10 Philadelphia News, Atlanta Constitution, Atlanta Journal, Arizona Republican, San Antonio
11 Express-News, Dallas Morning News, Miami Herald, Tampa Tribune, Jacksonville Times-
12 Union, Womens' Day, Harper's Bazaar, Playboy, CBS-TV (60 Minutes; Street Stories)
ABC-TV (World News Tonight; Nightline), NBC-TV (Nightly News), Cable News
Network, Canadian Broadcasting Company, National Public Radio, Huffington Post,
PolitiFact.com, and many others.

13 Resource person, Subcommittee on Crime and Justice, (Florida House) Speaker's Advisory
14 Committee on the Future, February 6-7, 1986, Florida State Capitol.

15 Testimony before the U.S. Congress, House Select Committee on Children, Youth and
16 Families, June 15, 1989.

17 Discussant, National Research Council/National Academy of Sciences Symposium on the
18 Understanding and Control of Violent Behavior, April 1-4, 1990, Destin, Florida.

19 Colloquium on manipulation of statistics relevant to public policy, Statistics Department,
20 Florida State University, October, 1992.

21 Speech to faculty, students, and alumni at Silver Anniversary of Northeastern University
22 College of Criminal Justice, May 15, 1993.

23 Speech to faculty and students at Department of Sociology, University of New Mexico,
24 October, 1993.

25 Speech on the impact of gun control laws, annual meetings of the Justice Research and
26 Statistics Association, October, 1993, Albuquerque, New Mexico.

27 Testimony before the Hawaii House Judiciary Committee, Honolulu, Hawaii, March 12,
28

1 1994.

2 Briefing of the National Executive Institute, FBI Academy, Quantico, Virginia, March 18,
3 1994.

4 Delivered the annual Nettler Lecture at the University of Alberta, Edmonton, Canada,
5 March 21, 1994.

6 Member, Drugs-Violence Task Force, U.S. Sentencing Commission, 1994-1996.

7 Testimony before the Pennsylvania Senate Select Committee to Investigate the Use of
8 Automatic and Semiautomatic Firearms, Pittsburgh, Pennsylvania, August 16, 1994.

9 Delivered lectures in the annual Provost's Lecture Series, Bloomsburg University,
10 Bloomsburg, Pa., September 19, 1994.

11 Briefing of the National Executive Institute, FBI Academy, Quantico, Virginia, June 29,
12 1995.

13 Speech to personnel in research branches of crime-related State of Florida agencies,
14 Research and Statistics Conference, sponsored by the Office of the State Courts
15 Administrator, October 19, 1995.

16 Speech to the Third Annual Legislative Workshop, sponsored by the James Madison
17 Institute and the Foundation for Florida's Future, February 5, 1998.

18 Speech at the Florida Department of Law Enforcement on the state's criminal justice
19 research agenda, December, 1998.

20 Briefing on news media coverage of guns and violence issues, to the Criminal Justice
21 Journalists organization, at the American Society of Criminology annual meetings in
22 Washington, D.C., November 12, 1998.

23 Briefing on gun control strategies to the Rand Corporation conference on "Effective
24 Strategies for Reducing Gun Violence," Santa Monica, Calif., January 21, 2000.

25 Speech on deterrence to the faculty of the Florida State University School of Law, February
26 10, 2000.

27 Invited address on links between guns and violence to the National Research Council
28 Committee on Improving Research Information and Data on Firearms, November 15-16,

1 2001, Irvine, California.

2 Invited address on research on guns and self-defense to the National Research Council
3 Committee on Improving Research Information and Data on Firearms, January 15-16, 2001,
4 Washington, D.C.

5 Invited address on gun control, Northern Illinois University, April 19, 2002.

6 Invited address to the faculty of the School of Public Health, University of Alabama,
7 Birmingham, 2004.

8 Invited address to the faculty of the School of Public Health, University of Pennsylvania,
9 March 5, 2004.

10 Member of Justice Quarterly Editor Selection Committee, Academy of Criminal Justice
11 Sciences, Spring 2007

12 Testified before the Gubernatorial Task Force for University Campus Safety, Tallahassee,
13 Florida, May 3, 2007.

14 Gave public address, "Guns & Violence: Good Guys vs. Bad Guys," Western Carolina
15 University, Cullowhee, North Carolina, March 5, 2012.

16 Invited panelist, Fordham Law School Symposium, "Gun Control and the Second
17 Amendment," New York City, March 9, 2012.

18 Invited panelist, community forum on "Students, Safety & the Second Amendment,"
19 sponsored by the Tallahassee Democrat.

20 Invited address at University of West Florida, Department of Justice Studies, titled "Guns,
21 Self-Defense, and the Public Interest," April 12, 2013.

22
23 OTHER ITEMS

24 Listed in:

25 Marquis Who's Who, 2009

26 Marquis Who's Who in the South and Southwest, 25th edition

27 Who's Who of Emerging Leaders in America, 1st edition
28

1 Contemporary Authors

2 Directory of American Scholars, 10th edition, 2002

3 Writer's Directory, 20th edition, 2004.

4 Participant in First National Workshop on the National Crime Survey, College Park,
5 Maryland, July, 1987, co-sponsored by the Bureau of Justice Statistics and the
6 American Statistical Association.

7 Participant in Second National Workshop on the National Crime Survey,
8 Washington, D.C., July, 1988.

9 Participant, Seton Hall Law School Conference on Gun Control, March 3, 1989.

10 Debater in Intelligence Squared program, on the proposition "Guns Reduce Crime."
11 Rockefeller University, New York City, October 28, 2008. Podcast distributed
12 through National Public Radio. Further details are available at
<http://www.intelligencesquaredus.org/Event.aspx?Event=36>.

13 Subject of cover story, "America Armed," in Florida State University Research in
14 Review, Winter/Spring 2009.

15 Grants reviewer, Social Sciences and Humanities Research Council of Canada, 2010.

16
17 **Expert Testimony**

18 Illinois Association of Firearms Retailers, et al, v. City of Chicago, et al. Deposed 10-28-11.

19 Heller et al. v. District of Columbia (remand of *Heller II*). Deposed 7-2-13.

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1 C. D. Michel - S.B.N. 144258
Clinton B. Monfort - S.B.N. 255609
2 Sean A. Brady - S.B.N. 262007
Anna M. Barvir - S.B.N. 268728
3 MICHEL & ASSOCIATES, P.C.
180 E. Ocean Boulevard, Suite 200
4 Long Beach, CA 90802
Telephone: (562) 216-4444
5 Facsimile: (562) 216-4445
Email: cmichel@michellawyers.com
6

7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT
HOCHSTETLER, WILLIAM DOUGLAS,
12 DAVID PEARSON, BRAD SEIFERS, and
ROD SWANSON,
13

14 Plaintiffs

15 vs.

16 THE CITY OF SUNNYVALE, THE
MAYOR OF SUNNYVALE, ANTHONY
SPITALERI in his official capacity, THE
17 CHIEF OF THE SUNNYVALE
DEPARTMENT OF PUBLIC SAFETY,
18 FRANK GRGURINA, in his official
capacity, and DOES 1-10,
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20 Defendants.
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CASE NO: CV13-05807 RMW

**DECLARATION OF CLINTON B.
MONFORT IN SUPPORT OF MOTION
FOR PRELIMINARY INJUNCTION**

DECLARATION OF CLINTON B. MONFORT

I, Clinton B. Monfort, declare as follows:

1. I am an attorney licensed to practice law before the Northern District of California. I am an associate attorney at the law firm Michel & Associates, P.C., attorneys of record for Plaintiffs in this action.

2. On or about December 19, 2013, our office contacted counsel for Defendants, Anthony P. Schoenberg, via telephone to meet and confer regarding Plaintiffs’ intention to file a motion for preliminary injunction, requesting the court enjoin enforcement of Sunnyvale Municipal Code section 9.44.050, pending resolution of this case on the merits. Counsel for the parties then engaged in multiple discussions via telephone and e-mail concerning a briefing schedule for this motion. The parties have stipulated to a briefing schedule that Plaintiffs believe and are informed Defendants’ counsel will be filing with the Court.

3. True and correct copies of pages 407-499 from *Gun Digest* 2013 (Jerry Lee ed., 67th ed. 2012) are attached as Exhibit “B.” *Gun Digest* is a standard resource for gun dealers and buyers alike in obtaining a comprehensive overview of the firearms and related items available to retail buyers. Helsley Decl. ¶ 1.

4. True and correct copies of pages from various publications as well as pages from the current websites of various firearm manufacturers advertising firearms for self-defense purposes, and the specifications demonstrating these firearms have a magazine capacity exceeding ten rounds, are attached as Exhibit “C.” See, Witness Protection, American Rifleman, Vol. 162, No. 1, 7, (January 2014) (firearm specifications available at: <http://eaacorp.com/portfolio-item/witness-polymer-p-full-size/>); 2013 Product Catalog, Taurus, 3, 29, 37 (2013); Smith & Wesson M&P Print Campaign for IQ Agency: M&P Advanced by Design, Jason Maris Film & Photography Blog, <http://jasonmaris.com/blog/?p=1066>, (Feb. 12, 2013) (firearm specifications available at: http://www.smith-wesson.com/webapp/wcs/stores/servlet/Product4_750001_750051_770005_-1_757781_757781_757781_ProductDisplayErrorView_Y) ; Glock Personal Defense (December 23, 2013), <http://us.glock.com/products/sector/personal-defense>; The Pro Glock Forum, Glock Pro,

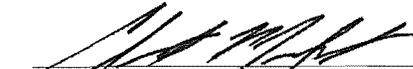
1 (Dec. 23, 2013), <http://glock.pro/glocks-tv-movies/3966-not-tv-movies.html>; Beretta PX4 Storm
 2 Ad Concepts, Adventure <http://www.adventureadvertising.com/work/detail/beretta> (Last visited
 3 Dec. 23, 2013) (firearm specifications available at <http://www.berettausa.com/px4storm/>); Sig
 4 Sauer P224, Sig Sauer Guns and Accessories,
 5 <http://www.sigsauerguns.com/product-highlights/sig-sauer-p224/> (Jan. 4, 2012)(firearm
 6 specifications available at <http://www.sigsauer.com/CatalogProductDetails/p224-extreme.aspx>);
 7 Ruger The New First Line of Defense, <http://ruger.com/pdf/ads/HARD-R-Family.pdf>, (firearm
 8 specifications available at, <http://www.ruger.com/products/sr9/models.html>). I last visited the
 9 above referenced websites on December 23, 2013.

10 5. On December 23, 2013, I visited the website www.youtube.com as well as websites
 11 for various firearm manufacturers and viewed videos embedded on those websites. I am informed
 12 and believe that the videos found at the following links are advertisements produced and
 13 distributed by firearm manufacturers that are directed to consumers. These videos advertise
 14 firearms that have standard magazine capacities exceeding ten rounds as suitable for self-defense,
 15 including within the home. Glock Ges. m.b.H, Gunny & Glock Wrong Diner, Youtube (Nov. 10,
 16 2011),
 17 [http://www.youtube.com/watch?v=vsVCHE7ayPE&feature=c4-overview&list=UUeeqOv85TJigJ](http://www.youtube.com/watch?v=vsVCHE7ayPE&feature=c4-overview&list=UUeeqOv85TJigJv6YrLHZhfQ)
 18 [v6YrLHZhfQ](http://www.youtube.com/watch?v=6RNcFs-JwOQ); Glock Ges. m.b.H, Gunny & Glock Wrong House, Youtube (Nov. 13, 2011),
 19 <http://www.youtube.com/watch?v=6RNcFs-JwOQ>; Glock Ges. m.b.H, Gunny & Glock Wrong
 20 Girl, Youtube (Jan. 7, 2013), <http://www.youtube.com/watch?v=a2gCFOtaZPo>; Glock Ges.
 21 m.b.H, Gunny & Glock Wrong Convenience Store, Youtube (March 12, 2013),
 22 http://www.youtube.com/watch?v=V8WCM_AAAyY; Glock Ges. m.b.H, Gunny & Glock
 23 Wrong Guy, Youtube (Nov. 13, 2011),
 24 <http://www.youtube.com/watch?v=gzb7SLsFwtE&list=UUeeqOv85TJigJv6YrLHZhfQ>; Smith &
 25 Wesson, Smith & Wesson M& P Advertisement, Youtube (De. 22, 2011),
 26 http://www.youtube.com/watch?v=TLuN-JrR4_M; Sig Sauer, Do You Need Another Reason to
 27 Train at the Sig Sauer Academy?, Youtube (Feb. 1, 2013),
 28 <http://www.youtube.com/watch?v=oNt7Jev4CIA>. I last accessed and viewed these videos at the

1 above links on December 23, 2013.

2 6. True and correct copies of pages 73-99 from *The Complete Book of Autopistols: 2013*
3 *Buyer's Guide* (2013) showing various models of handguns for sale to the public that come
4 standard with over ten round magazines are attached as Exhibit "D."

5 I declare under penalty of perjury that the foregoing is true and correct. Executed within
6 the United States on December 23, 2013.

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9 Clinton B. Monfort

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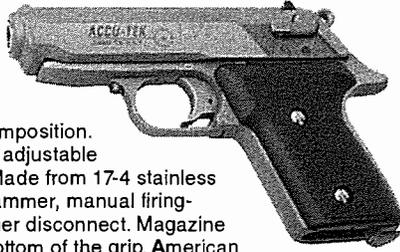
EXHIBIT B PART 1 OF 2

HANDGUNS—Autoloaders, Service & Sport

ACCU-TEK AT-380 II 380 ACP PISTOL

Caliber: 380 ACP, 6-shot magazine. **Barrel:** 2.8". **Weight:** 23.5 oz. **Length:** 6.125" overall. **Grips:** Textured black composition. **Sights:** Blade front, rear adjustable for windage. **Features:** Made from 17-4 stainless steel, has an exposed hammer, manual firing-pin safety block and trigger disconnect. Magazine release located on the bottom of the grip. American made, lifetime warranty. Comes with two 6-round stainless steel magazines and a California-approved cable lock. Introduced 2006. Made in U.S.A. by Excel Industries.

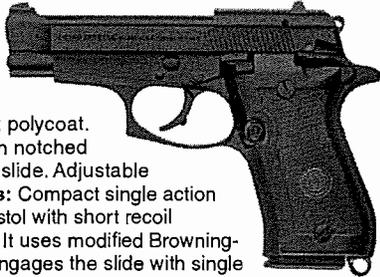
Price: Satin stainless\$262.00



AKDAL GHOST TR-01

Caliber: 9x19mm 15-round double stacked magazine. **Barrel:** 4.45". **Weight:** 29.10 oz. **Length:** 7.5" overall. **Grips:** Polymer black polycoat. **Sights:** Fixed, open type with notched rear sight dovetailed into the slide. Adjustable sight also available. **Features:** Compact single action pre-cocked, semiautomatic pistol with short recoil operation and locking breech. It uses modified Browning-type locking, in which barrel engages the slide with single lug, entering the ejection window. Pistol also has no manual safeties; instead, it has automatic trigger and firing pin safeties. The polymer frame features removable backstraps (of different sizes), and an integral accessory Picatinny rail below the barrel.

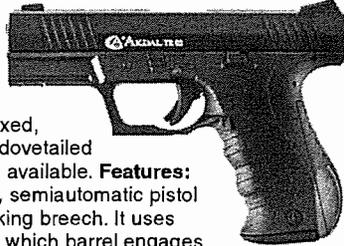
Price:\$499.00



AKDAL GHOST TR-02

Caliber: 9x19mm 15-round double stacked magazine. **Barrel:** 4.45". **Weight:** 29.10 oz. **Length:** 7.5" overall. **Grips:** Polymer black polycoat. **Sights:** Fixed, open type with notched rear sight dovetailed into the slide. Adjustable sight also available. **Features:** Compact single action pre-cocked, semiautomatic pistol with short recoil operation and locking breech. It uses modified Browning-type locking, in which barrel engages the slide with single lug, entering the ejection window. Pistol also has no manual safeties; instead, it has automatic trigger and firing pin safeties. The polymer frame features removable backstraps (of different sizes), and an integral accessory Picatinny rail below the barrel.

Price:\$499.00



AMERICAN CLASSIC 1911-A1

1911-style semiauto pistol chambered in .45 ACP. Features include 7+1 capacity, walnut grips, 5-inch barrel, blued or hard-chromed steel frame, checkered wood grips, drift adjustable sights. A .22 LR version is also available.

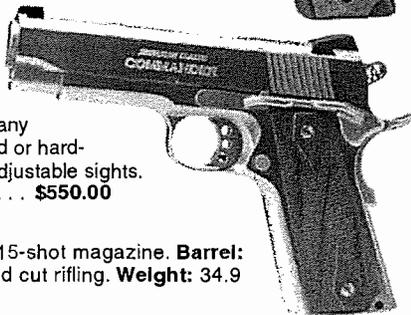
Price:\$500.00



AMERICAN CLASSIC COMMANDER

1911-style semiauto pistol chambered in .45 ACP. Features include 7+1 capacity, checkered mahogany grips, 4.25-inch barrel, blued or hard-chromed steel frame, drift adjustable sights.

Price:\$550.00



ARMALITE AR-24 PISTOL

Caliber: 9mm Para., 10- or 15-shot magazine. **Barrel:** 4.671", 6 groove, right-hand cut rifling. **Weight:** 34.9

oz. **Length:** 8.27" overall. **Grips:** Black polymer. **Sights:** Dovetail front, fixed rear, 3-dot luminous design. **Features:** Machined slide, frame and barrel. Serrations on forearm and backstrap, external thumb safety and internal firing pin box, half cock. Two 15-round magazines, pistol case, pistol lock, manual and cleaning brushes. Manganese phosphate finish. Compact comes with two 13-round magazines, 3.89" barrel, weighs 33.4 oz. Made in U.S.A. by ArmaLite.

Price: AR-24 Full Size\$550.00
AR-24K Compact\$550.00

ARMSCOR/ROCK ISLAND ARMORY 1911A1-45 FS GI

1911-style semiauto pistol chambered in .45 ACP (8 rounds), 9mm Parabellum, .38 Super (9 rounds). Features include checkered plastic or hardwood grips, 5-inch barrel, parkerized steel frame and slide, drift adjustable sights.

Price:\$500.00

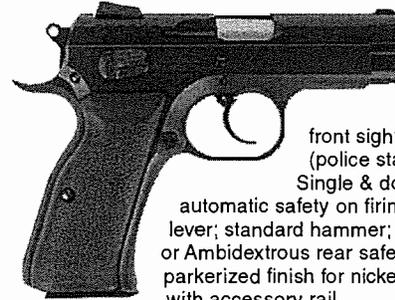
ARMSCOR/ROCK ISLAND ARMORY 1911A1-45 CS GI

1911-style Officer's-size semiauto pistol chambered in .45 ACP. Features plain hardwood grips, 3.5-inch barrel, parkerized steel frame and slide, drift adjustable sights.

Price:\$500.00

ARMSCOR/ROCK ISLAND ARMORY MAP1 & MAPP1 PISTOLS

Caliber: 9mm, 16-round magazine. Browning short recoil action style pistols with: integrated



front sight; Snag-free rear sight (police standard); Tanfoglio barrel; Single & double-action trigger;

automatic safety on firing pin & manual on rear lever; standard hammer; side extractor; standard or Ambidextrous rear safety; combat slide stop; parkerized finish for nickel steel parts; polymer frame with accessory rail.

Price:\$400.00

ARMSCOR/ROCK ISLAND ARMORY XT22 PISTOL

Caliber: .22 LR, 15-round magazine std. **Barrel:** 5" **Weight:** 38 oz. The XT-22 is a combat 1911 .22 pistol. Unlike most .22 1911 conversions, this pistol is built as a complete gun. Designed for durability, it is the only .22 1911 with a forged 4140 steel slide and the only .22 1911 with a one piece 4140 chrome moly barrel. Available soon.

Price: (pre-order) \$473.99

AUTO-ORDNANCE TA5 SEMI-AUTO PISTOL

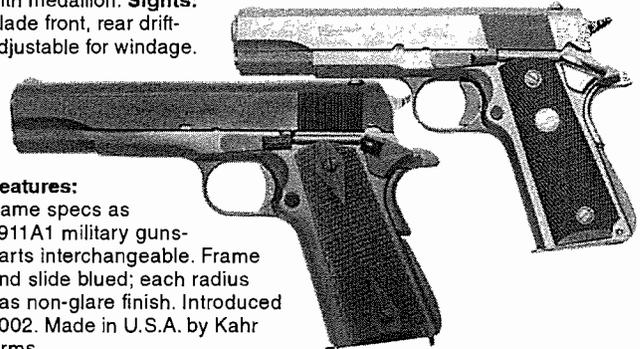
Caliber: 45 ACP, 30-round stick magazine (standard), 50- or 100-round drum magazine optional. **Barrel:** 10.5", finned. **Weight:** 6.5 lbs. **Length:** 25" overall. **Features:** Semi-auto pistol patterned after Thompson Model 1927 semi-auto carbine. Horizontal vertical foregrip, aluminum receiver, top cocking knob, grooved walnut pistolgrip.

Price:\$1,143.00

AUTO-ORDNANCE 1911A1 AUTOMATIC PISTOL

Caliber: 45 ACP, 7-shot magazine. **Barrel:** 5". **Weight:** 39 oz. **Length:** 8.5" overall. **Grips:** Brown checkered plastic with medallion. **Sights:** Blade front, rear drift-adjustable for windage.

Features: Same specs as 1911A1 military guns-parts interchangeable. Frame and slide blued; each radius has non-glare finish. Introduced 2002. Made in U.S.A. by Kahr Arms.



HANDGUNS—Autoloaders, Service & Sport

Price: 1911PKZSE Parkerized, plastic grips \$627.00
 Price: 1911PKZSEW Parkerized \$662.00
 Price: 1911PKZMA Parkerized, Mass. Compliant (2008) \$627.00

BAER H.C. 40 AUTO PISTOL

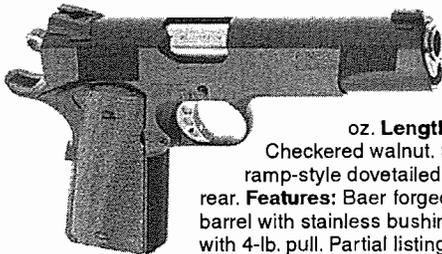
Caliber: 40 S&W, 18-shot magazine. **Barrel:** 5". **Weight:** 37 oz.
Length: 8.5" overall. **Grips:** Wood. **Sights:** Low-mount adjustable rear sight with hidden rear leaf, dovetail front sight. **Features:** Double-stack Caspian frame, beavertail grip safety, ambidextrous thumb safety, 40 S&W match barrel with supported chamber, match stainless steel barrel bushing, lowered and flared ejection port, extended ejector, match trigger fitted, integral mag well, bead blast blue finish on lower, polished sides on slide. Introduced 2008. Made in U.S.A. by Les Baer Custom, Inc.
 Price: \$2,960.00



BAER 1911 BOSS .45
Caliber: .45 ACP, 8+1 capacity.
Barrel: 5". **Weight:** 37 oz. **Length:** 8.5" overall. **Grips:**

Premium Checkered Cocobolo Grips. **Sights:** Low-Mount LBC Adj Sight, Red Fiber Optic Front. **Features:** Speed Trgr, Beveled Mag Well, Rounded for Tactical. Rear cocking serrations on the slide, Baer fiber optic front sight (red), flat mainspring housing, checkered at 20 lpi, extended combat safety, Special tactical package, chromed complete lower, blued slide, (2) 8-round premium magazines.

Price: \$2,109.00



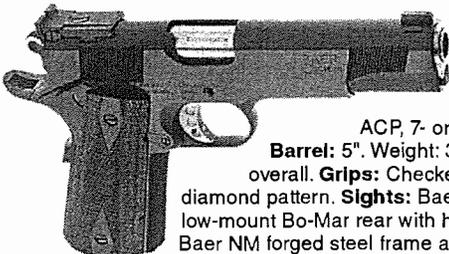
BAER 1911 CUSTOM CARRY AUTO PISTOL
Caliber: 45 ACP, 7- or 10-shot magazine.
Barrel: 5". **Weight:** 37 oz. **Length:** 8.5" overall. **Grips:**

Checkered walnut. **Sights:** Baer improved ramp-style dovetailed front, Novak low-mount rear. **Features:** Baer forged NM frame, slide and barrel with stainless bushing. Baer speed trigger with 4-lb. pull. Partial listing shown. Made in U.S.A. by Les Baer Custom, Inc.

Price: Custom Carry 5", blued \$1,995.00
 Price: Custom Carry 5", stainless \$2,120.00
 Price: Custom Carry 4" Commanche length, blued \$1,995.00
 Price: Custom Carry 4" Commanche length, stainless \$2,120.00

BAER 1911 ULTIMATE RECON PISTOL

Caliber: 45 ACP, 7- or 10-shot magazine. **Barrel:** 5". **Weight:** 37 oz. **Length:** 8.5" overall. **Grips:** Checkered cocobolo. **Sights:** Baer improved ramp-style dovetailed front, Novak low-mount rear. **Features:** NM Caspian frame, slide and barrel with stainless bushing. Baer speed trigger with 4-lb. pull. Includes integral Picatinny rail and Sure-Fire X-200 light. Made in U.S.A. by Les Baer Custom, Inc. Introduced 2006.
 Price: Bead blast blued \$3,070.00
 Price: Bead blast chrome \$3,390.00



BAER 1911 PREMIER II AUTO PISTOL
Caliber: 38 Super, 400 Cor-Bon, 45 ACP, 7- or 10-shot magazine.
Barrel: 5". **Weight:** 37 oz. **Length:** 8.5" overall. **Grips:** Checkered rosewood, double diamond pattern. **Sights:** Baer dovetailed front, low-mount Bo-Mar rear with hidden leaf. **Features:** Baer NM forged steel frame and barrel with stainless bushing, deluxe Commander hammer and sear, beavertail grip safety with pad, extended ambidextrous safety; flat mainspring housing; 30 lpi checkered front strap. Made in U.S.A. by Les Baer Custom, Inc.

Price: 5" 45 ACP \$1,790.00

Price: 5" 400 Cor-Bon \$1,890.00
 Price: 5" 38 Super \$2,070.00
 Price: 6" 45 ACP, 400 Cor-Bon, 38 Super, from \$1,990.00
 Price: Super-Tac, 45 ACP, 400 Cor-Bon, 38 Super, from \$2,280.00

BAER 1911 S.R.P. PISTOL

Caliber: 45 ACP. **Barrel:** 5". **Weight:** 37 oz. **Length:** 8.5" overall. **Grips:** Checkered walnut. **Sights:** Trijicon night sights. **Features:** Similar to the F.B.I. contract gun except uses Baer forged steel frame. Has Baer match barrel with supported chamber, complete tactical action. Has Baer Ultra Coat finish. Introduced 1996. Made in U.S.A. by Les Baer Custom, Inc.
 Price: Government or Commanche length \$2,590.00

BAER 1911 STINGER PISTOL

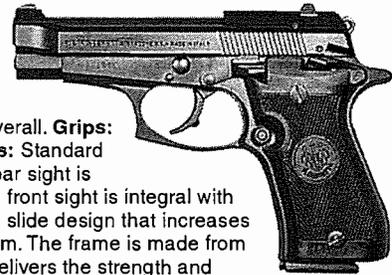
Caliber: 45 ACP, 7-round magazine. **Barrel:** 5". **Weight:** 34 oz. **Length:** 8.5" overall. **Grips:** Checkered cocobolo. **Sights:** Baer dovetailed front, low-mount Bo-Mar rear with hidden leaf. **Features:** Baer NM frame. Baer Commanche slide, Officer's style grip frame, beveled mag well. Made in U.S.A. by Les Baer Custom, Inc.
 Price: Blued \$1,890.00
 Price: Stainless \$1,970.00

BAER 1911 PROWLER III PISTOL

Caliber: 45 ACP, 8-round magazine. **Barrel:** 5". **Weight:** 34 oz. **Length:** 8.5" overall. **Grips:** Checkered cocobolo. **Sights:** Baer dovetailed front, low-mount Bo-Mar rear with hidden leaf. **Features:** Similar to Premier II with tapered cone stub weight, rounded corners. Made in U.S.A. by Les Baer Custom, Inc.
 Price: Blued \$2,580.00

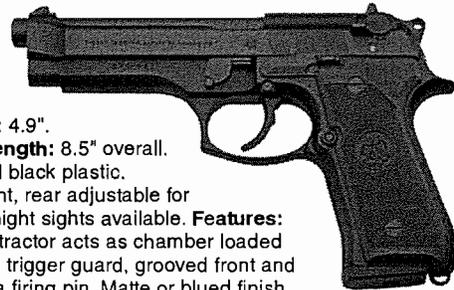
BERETTA 85FS CHEETAH

Caliber: 9x19 15-round double stack magazine. **Barrel:** 4.45". **Weight:** 29.10 oz. **Length:** 7.5" overall. **Grips:** Plastic and Wood. **Sights:** Standard 3-dot system. Notched rear sight is dovetailed to slide. Blade front sight is integral with slide. **Features:** An open slide design that increases the reliability of the firearm. The frame is made from an aluminum alloy that delivers the strength and durability of steel – but with 65% less weight. The automatic firing pin block (FS models) prevents the gun from firing in case of inadvertent drops or strikes against hard surfaces. Available in nickel finish.
 Price: Standard (black) finish \$770.00
 Price: Nickel finish \$830.00



BERETTA MODEL 92FS PISTOL

Caliber: 9mm Para., 10-shot magazine. **Barrel:** 4.9". **Weight:** 34 oz. **Length:** 8.5" overall. **Grips:** Checkered black plastic. **Sights:** Blade front, rear adjustable for windage. Tritium night sights available. **Features:** Double action. Extractor acts as chamber loaded indicator, squared trigger guard, grooved front and backstraps, inertia firing pin. Matte or blued finish. Introduced 1977. Made in U.S.A.
 Price: With plastic grips \$650.00



BERETTA MODEL 80 CHEETAH SERIES DA PISTOLS

Caliber: 380 ACP, 10-shot magazine (M84); 8-shot (M85); 22 LR, 7-shot (M87). **Barrel:** 3.82". **Weight:** About 23 oz. (M84/85); 20.8 oz. (M87). **Length:** 6.8" overall. **Grips:** Glossy black plastic (wood optional at extra cost). **Sights:** Fixed front, drift-adjustable rear. **Features:** Double action, quick takedown, convenient magazine release. Introduced 1977. Made in U.S.A.
 Price: Model 84 Cheetah, plastic grips \$650.00

BERETTA MODEL 21 BOBCAT PISTOL

Caliber: 22 LR or 25 ACP. Both double action. **Barrel:** 2.4". **Weight:** 11.5 oz.; 11.8 oz. **Length:** 4.9" overall. **Grips:** Plastic. **Features:** Available in nickel, matte, engraved or blue finish. Introduced in 1985.

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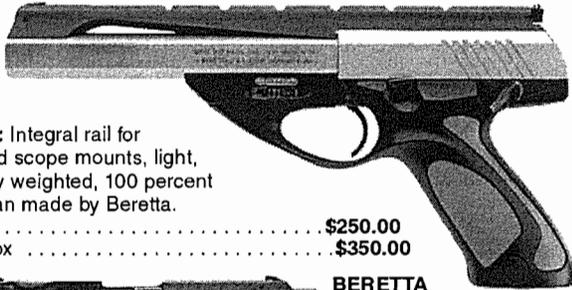
Price: Bobcat, 22 or 25, blue\$335.00
Price: Bobcat, 22, Inox\$420.00
Price: Bobcat, 22 or 25, matte\$335.00

BERETTA MODEL 3032 TOMCAT PISTOL

Caliber: 32 ACP, 7-shot magazine. **Barrel:** 2.45".
Weight: 14.5 oz. **Length:** 5" overall. **Grips:** Checkered black plastic. **Sights:** Blade front, drift-adjustable rear. **Features:** Double action with exposed hammer; tip-up barrel for direct loading/unloading; thumb safety; polished or matte blue finish. Made in U.S.A. Introduced 1996.
Price: Matte\$435.00
Price: Inox\$555.00

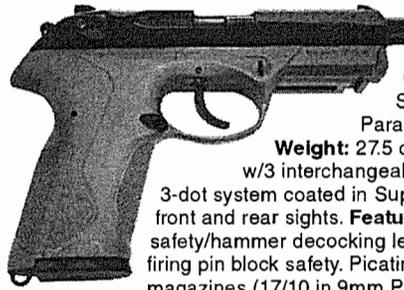
BERETTA MODEL U22 NEOS

Caliber: 22 LR, 10-shot magazine. **Barrel:** 4.5"; 6". **Weight:** 32 oz.; 36 oz. **Length:** 8.8"; 10.3". **Sights:** Target.



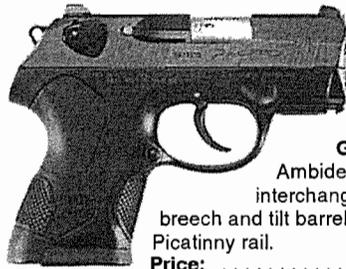
Features: Integral rail for standard scope mounts, light, perfectly weighted, 100 percent American made by Beretta.

Price:\$250.00
Price: Inox\$350.00



BERETTA MODEL PX4 STORM
Caliber: 9mm Para., 40 S&W. Capacity: 17 (9mm Para.); 14 (40 S&W). **Barrel:** 4".
Weight: 27.5 oz. **Grips:** Black checkered w/3 interchangeable backstraps. **Sights:** 3-dot system coated in Superluminova; removable front and rear sights. **Features:** DA/SA, manual safety/hammer decocking lever (ambi) and automatic firing pin block safety. Picatinny rail. Comes with two magazines (17/10 in 9mm Para. and 14/10 in 40 S&W). Removable hammer unit. American made by Beretta. Introduced 2005.

Price:\$600.00
Price: 45 ACP\$650.00



BERETTA MODEL PX4 STORM SUB-COMPACT
Caliber: 9mm, 40 S&W. Capacity: 13 (9mm); 10 (40 S&W). **Barrel:** 3". **Weight:** 26.1 oz. **Length:** 6.2" overall. **Grips:** NA. **Sights:** NA. **Features:** Ambidextrous manual safety lever, interchangeable backstraps included, lock breech and tilt barrel system, stainless steel barrel, Picatinny rail.
Price:\$600.00



BERETTA MODEL M9
Caliber: 9mm Para. Capacity: 15. **Barrel:** 4.9".
Weight: 32.2-35.3 oz. **Grips:** Plastic. **Sights:** Dot and post, low profile, windage adjustable rear. **Features:** DA/SA, forged aluminum alloy frame, delayed locking-bolt system, manual safety doubles as decocking lever, combat-style trigger guard, loaded chamber indicator. Comes with two magazines (15/10). American made by Beretta. Introduced 2005.
Price:\$650.00

BERETTA MODEL M9A1

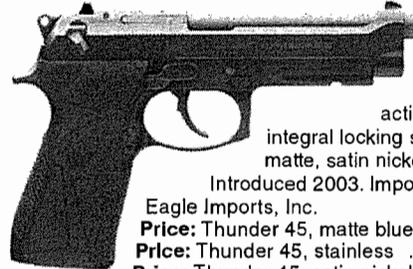
Caliber: 9mm Para. Capacity: 15. **Barrel:** 4.9". **Weight:** 32.2-35.3 oz. **Grips:** Plastic. **Sights:** Dot and post, low profile, windage adjustable

rear. **Features:** Same as M9, but also includes integral Mil-Std-1913 Picatinny rail, has checkered frontstrap and backstrap. Comes with two magazines (15/10). American made by Beretta. Introduced 2005.
Price:\$750.00



BERETTA NANO
Caliber: 9mm Para. Six-shot magazine. **Barrel:** 3.07". **Weight:** 17.7 oz. **Length:** 5.7" overall. **Grips:** Polymer. **Sights:** 3-dot low profile. **Features:** Double-action only, striker fired. Replaceable grip frames.
Price:\$475.00

BERSA THUNDER 45 ULTRA COMPACT PISTOL
Caliber: 45 ACP. **Barrel:** 3.6". **Weight:** 27 oz.

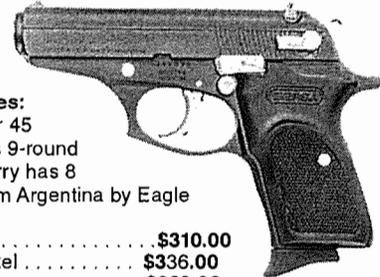


Length: 6.7" overall. **Grips:** Anatomically designed polymer. **Sights:** White outline rear. **Features:** Double action; firing pin safeties, integral locking system. Available in matte, satin nickel, gold, or duo-tone. Introduced 2003. Imported from Argentina by Eagle Imports, Inc.

Price: Thunder 45, matte blue\$402.00
Price: Thunder 45, stainless\$480.00
Price: Thunder 45, satin nickel\$445.00

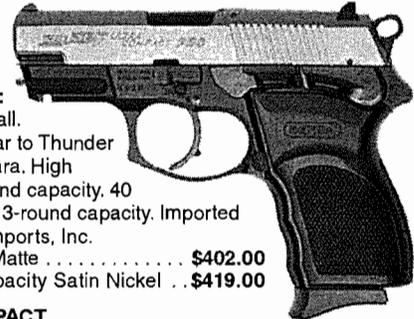
BERSA THUNDER 380 SERIES PISTOLS

Caliber: 380 ACP, 7 rounds **Barrel:** 3.5". **Weight:** 23 oz. **Length:** 6.6" overall. **Features:** Otherwise similar to Thunder 45 Ultra Compact. 380 DLX has 9-round capacity. 380 Concealed Carry has 8 round capacity. Imported from Argentina by Eagle Imports, Inc.
Price: Thunder 380 Matte\$310.00
Price: Thunder 380 Satin Nickel\$336.00
Price: Thunder 380 Blue DLX\$332.00
Price: Thunder 380 Matte CC (2006)\$315.00



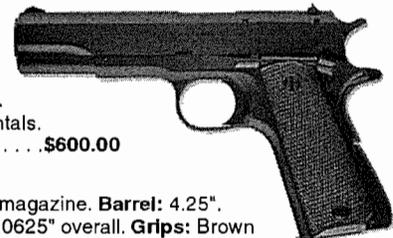
BERSA THUNDER 9 ULTRA COMPACT/40 SERIES PISTOLS

Caliber: 9mm Para., 40 S&W. **Barrel:** 3.5". **Weight:** 24.5 oz. **Length:** 6.6" overall. **Features:** Otherwise similar to Thunder 45 Ultra Compact. 9mm Para. High Capacity model has 17-round capacity. 40 High Capacity model has 13-round capacity. Imported from Argentina by Eagle Imports, Inc.
Price: Thunder 9mm Para. Matte\$402.00
Price: Thunder 40 High Capacity Satin Nickel\$419.00



BROWNING 1911-22 COMPACT

Caliber: .22 L.R., 10-round magazine. **Barrel:** 3.625". **Weight:** 15 oz. **Length:** 6.5" overall. **Grips:** Brown composite. **Sights:** Fixed. **Features:** Slide is machined aluminum with alloy frame and matte blue finish. Blowback action and single action trigger with manual thumb and grip safetys. Works, feels and functions just like a full size 1911. It is simply scaled down and chambered in the best of all practice rounds: 22 LR. for focus on the fundamentals.
Price:\$600.00



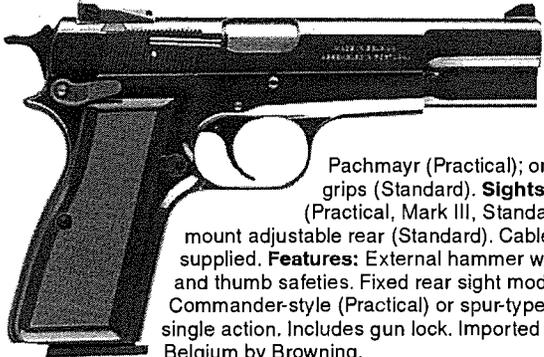
BROWNING 1911-22 A1

Caliber: .22 L.R., 10-round magazine. **Barrel:** 4.25". **Weight:** 16 oz. **Length:** 7.0625" overall. **Grips:** Brown

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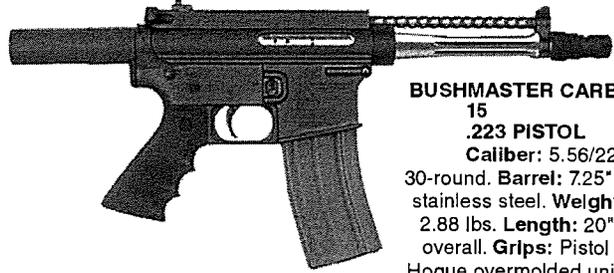
composite. **Sights:** Fixed. **Features:** Slide is machined aluminum with alloy frame and matte blue finish. Blowback action and single action trigger with manual thumb and grip safetys. Works, feels and functions just like a full size 1911. It is simply scaled down and chambered in the best of all practice rounds: 22 LR. for focus on the fundamentals
Price:\$600.00

BROWNING HI POWER 9MM AUTOMATIC PISTOL
Caliber: 9mm Para., 13-round magazine; 40 S&W, 10-round magazine.
Barrel: 4-5/8". **Weight:** 32 to 39 oz. **Length:** 7.75" overall. **Metal Finishes:** Blued (Standard); black-epoxy/silver-chrome (Practical); black-epoxy (Mark III). **Grips:** Molded (Mark III); wraparound



Pachmayr (Practical); or walnut grips (Standard). **Sights:** Fixed (Practical, Mark III, Standard); low-mount adjustable rear (Standard). Cable lock supplied. **Features:** External hammer with half-cock and thumb safeties. Fixed rear sight model available. Commander-style (Practical) or spur-type hammer, single action. Includes gun lock. Imported from Belgium by Browning.
Price: Mark III\$979.00

Price: Fixed Sights\$999.00
Price: Standard, Adjustable sights\$1150.00

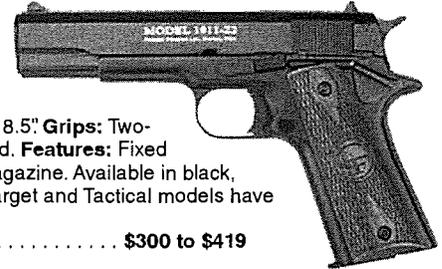


BUSHMASTER CARBON 15 .223 PISTOL
Caliber: 5.56/223, 30-round. **Barrel:** 7.25" stainless steel. **Weight:** 2.88 lbs. **Length:** 20" overall. **Grips:** Pistol grip, Hogue overmolded unit for

ergonomic comfort. **Sights:** A2-type front with dual-aperture slip-up rear. **Features:** AR-style semi-auto pistol with carbon composite receiver, shortened handguard, full-length optics rail.

Price: N/A
Price: Type 97 pistol, without handguard \$1,055.00

CHIAPPA 1911-22
 A faithful replica of the famous John Browning 1911A1 pistol.

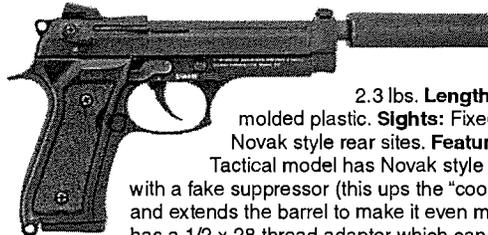


Caliber: .22 LR. **Barrel:** 5". **Weight:** 33.5 oz. **Length:** 8.5" **Grips:** Two-piece wood. **Sights:** Fixed. **Features:** Fixed barrel design, 10-shot magazine. Available in black, OD green or tan finish. Target and Tactical models have adjustable sights.
Price: \$300 to \$419

CHIAPPA M9-22 STANDARD

Caliber: .22 LR. **Barrel:** 5" **Weight:** 2.3 lbs. **Length:** 8.5". **Grips:** Black molded plastic or walnut. **Sights:** Fixed front sight and windage adjustable rear sight. **Features:** The M9-22 has been a U.S. standard-issue service pistol since 1990. Chiappa's M9-22 is a replica of this pistol in 22 LR. The M9-22 has the same weight and feel as its 9mm counterpart but has an affordable 10 shot magazine for the 22 long rifle cartridge which makes it a true rimfire reproduction. Comes standard with steel trigger, hammer assembly and a 1/2-28 threaded barrel.

Price: (available soon) \$369.00



CHIAPPA M9-22 TACTICAL
Caliber: .22 LR. **Barrel:** 5" **Weight:** 2.3 lbs. **Length:** 8.5". **Grips:** Black

molded plastic. **Sights:** Fixed front sight and Novak style rear sites. **Features:** The M9-22 Tactical model has Novak style rear sites and comes with a fake suppressor (this ups the "cool factor" on the range and extends the barrel to make it even more accurate). It also has a 1/2 x 28 thread adaptor which can be used by those with a legal suppressor.

Price: (available soon) \$419.00

CHRISTENSEN ARMS 1911 SERIES

Caliber: .45 ACP, .40 S&W, 9mm. **Barrel:** 3.7", 4.3", 5.5" **Features:** All models are built on a titanium frame with hand-fitted slide, match-grade barrel, tritium night sights, G10 Operator grip panels.

Price: \$3,195

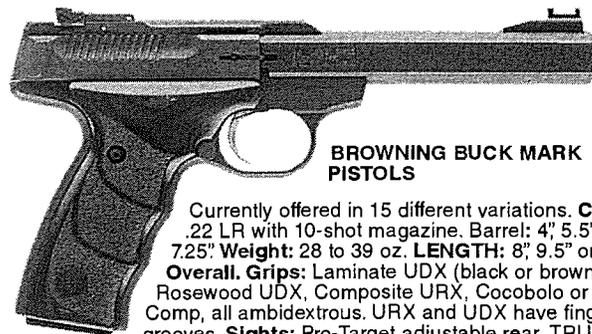
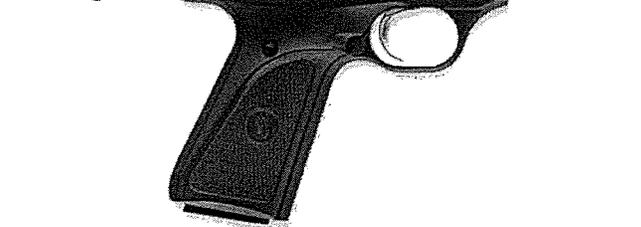
COBRA ENTERPRISES FS32, FS380 AUTO PISTOL

Caliber: 32 ACP, 380 ACP, 7-shot magazine. **Barrel:** 3.5". **Weight:** 2.1 lbs. **Length:** 6-3/8" overall. **Grips:** Black composition. **Sights:** Fixed. **Features:** Choice of bright chrome, satin nickel or black finish. Introduced 2002. Made in U.S.A. by Cobra Enterprises of Utah, Inc.

Price: \$165.00

COBRA ENTERPRISES PATRIOT 45 PISTOL

Caliber: 45 ACP, 6, 7, or 10-shot magazine. **Barrel:** 3.3". **Weight:** 20 oz. **Length:** 6" overall. **Grips:** Black polymer. **Sights:** Rear adjustable. **Features:** Stainless steel or black melonite slide with load indicator; Semi-auto locked



BROWNING BUCK MARK PISTOLS

Currently offered in 15 different variations. **Caliber:** 22 LR with 10-shot magazine. **Barrel:** 4", 5.5" or 7.25". **Weight:** 28 to 39 oz. **LENGTH:** 8", 9.5" or 11.3" **Overall. Grips:** Laminate UDX (black or brown), Rosewood UDX, Composite URX, Cocobolo or Molded Comp, all ambidextrous. URX and UDX have finger grooves. **Sights:** Pro-Target adjustable rear, TRUGLO fiber-optic or ramp front. **Finish:** Matte blued, matte green or matte gray; matte stainless.

Price:\$380 to \$560

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breech, DAO. Made in U.S.A. by Cobra Enterprises of Utah, Inc.
Price: \$380.00

COBRA ENTERPRISES CA32, CA380 PISTOL

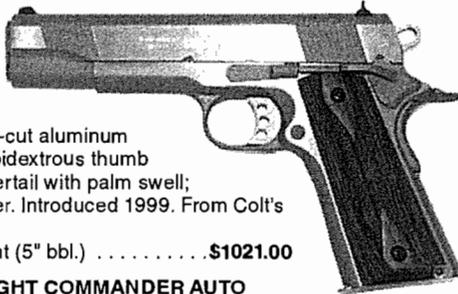
Caliber: 32 ACP, 380 ACP. **Barrel:** 2.8". **Weight:** 22 oz. **Length:** 5.4".
Grips: Black molded synthetic. **Sights:** Fixed. **Features:** Choice of black, satin nickel, or chrome finish. Made in U.S.A. by Cobra Enterprises of Utah, Inc.
Price: \$157.00

COLT MODEL 1991 MODEL O AUTO PISTOL

Caliber: 45 ACP, 7-shot magazine. **Barrel:** 5". **Weight:** 38 oz. **Length:** 8.5" overall. **Grips:** Checkered black composition. **Sights:** Ramped blade front, fixed square notch rear, high profile. **Features:** Matte finish. Continuation of serial number range used on original G.I. 1911A1 guns. Comes with one magazine and molded carrying case. Introduced 1991.
Price: Blue \$900.00
Price: Stainless \$960.00

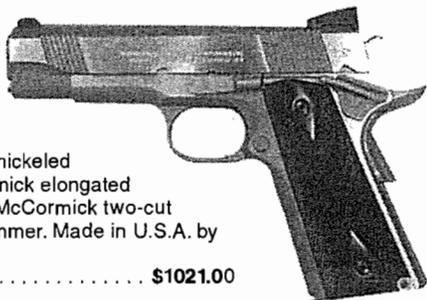
COLT XSE SERIES MODEL O AUTO PISTOLS

Caliber: 45 ACP, 8-shot magazine. **Barrel:** 5". **Grips:** Checkered, double diamond rosewood.
Sights: Drift-adjustable 3-dot combat. **Features:** Brushed stainless finish; adjustable, two-cut aluminum trigger; extended ambidextrous thumb safety; upswept beavertail with palm swell; elongated slot hammer. Introduced 1999. From Colt's Mfg. Co., Inc.
Price: XSE Government (5" bbl.) \$1021.00



COLT XSE LIGHTWEIGHT COMMANDER AUTO PISTOL

Caliber: 45 ACP, 8-shot. **Barrel:** 4.25". **Weight:** 26 oz. **Length:** 7.75" overall. **Grips:** Double diamond checkered rosewood. **Sights:** Fixed, glare-proofed blade front, square notch rear; 3-dot system. **Features:** Brushed stainless slide, nickered aluminum frame; McCormick elongated slot enhanced hammer, McCormick two-cut adjustable aluminum hammer. Made in U.S.A. by Colt's Mfg. Co., Inc.
Price: \$1021.00



COLT DEFENDER

Caliber: 45 ACP (7-round magazine), 9mm (8-round). **Barrel:** 3". **Weight:** 22-1/2 oz. **Length:** 6.75" overall. **Grips:** Pebble-finish rubber wraparound with finger grooves. **Sights:** White dot front, snag-free Colt competition rear. **Features:** Stainless finish; aluminum frame; combat-style hammer; Hi Ride grip safety, extended manual safety, disconnect safety. Introduced 1998. Made in U.S.A. by Colt's Mfg. Co., Inc.
Price: 07000D, stainless \$995.00



COLT SERIES 70

Caliber: 45 ACP. **Barrel:** 5". **Weight:** 37.5 oz. **Length:** 8.5" **Grips:** Rosewood with double diamond checkering pattern. **Sights:** Fixed. **Features:** Custom replica of the Original Series 70 pistol with a Series 70 firing system, original rollmarks. Introduced 2002. Made in U.S.A. by Colt's Mfg. Co., Inc.
Price: Blue \$993.00
Price: Stainless \$1027.00

COLT 38 SUPER

Caliber: 38 Super. **Barrel:** 5". **Weight:** 36.5 oz. **Length:** 8.5" **Grips:**

Checkered rubber (stainless and blue models); wood with double diamond checkering pattern (bright stainless model). **Sights:** 3-dot. **Features:** Beveled magazine well, standard thumb safety and service-style grip safety. Introduced 2003. Made in U.S.A. by Colt's Mfg. Co., Inc.
Price: Blue \$906.00
Price: Stainless \$950.00
Price: Bright Stainless \$1,248.00



COLT MUSTANG POCKETLITE

Caliber: .380 ACP. Six-shot magazine. **Barrel:** 2.75". **Weight:** 12.5 oz. **Length:** 5.5". **Grips:** Black composite. **Finish:** Brushed stainless. **Features:** Thumb safety, firing-pin safety block.
Price: \$599

COLT NEW AGENT

Caliber: 45 ACP (7+1), "9mm (8+1)". **Barrel:** 3". **Weight:** 25 oz. **Length:** 6.75" overall. **Grips:** Double diamond slim fit. **Sights:** Snag free trench style. **Features:** Semi-auto pistol with blued finish and enhanced black anodized aluminum receiver. Skeletonized aluminum trigger, series 80 firing system, front strap serrations, beveled magazine well. Also available in a double-action-only version (shown), in .45 ACP only.
Price: \$995.00



COLT RAIL GUN

Caliber: 45 ACP (8+1). **Barrel:** NA. **Weight:** NA. **Length:** NA. **Grips:** Rosewood double diamond. **Sights:** White dot front and Novak rear. **Features:** 1911-style semi-auto. Stainless steel frame and slide, front and rear slide serrations, skeletonized trigger, integral; accessory rail, Smith & Alexander upswept beavertail grip palm swell safety, tactical thumb safety, National Match barrel.
Price: \$1087.00

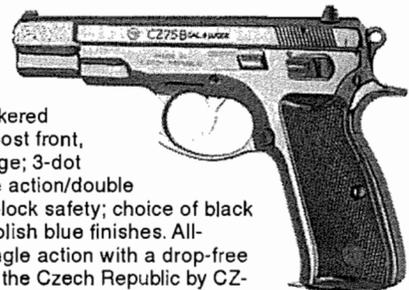
COLT SPECIAL COMBAT GOVERNMENT CARRY MODEL

Caliber: 45 ACP (8+1), 38 Super (9+1). **Barrel:** 5". **Weight:** NA. **Length:** NA. **Grips:** Black/silver synthetic. **Sights:** Novak front and rear night. **Features:** 1911-style semi-auto. Skeletonized three-hole trigger, slotted hammer, Smith & Alexander upswept beavertail grip palm swell safety and extended magazine well, Wilson tactical ambidextrous safety. Available in blued, hard chrome, or blue/satin nickel finish, depending on chambering.
Price: \$1,995.00



CZ 75 B AUTO PISTOL

Caliber: 9mm Para., 40 S&W, 10-shot magazine. **Barrel:** 4.7". **Weight:** 34.3 oz. **Length:** 8.1" overall. **Grips:** High impact checkered plastic. **Sights:** Square post front, rear adjustable for windage; 3-dot system. **Features:** Single action/double action design; firing pin block safety; choice of black polymer, matte or high-polish blue finishes. All-steel frame. B-SA is a single action with a drop-free magazine. Imported from the Czech Republic by CZ-USA.



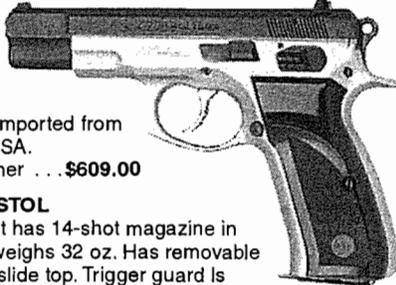
HANDGUNS—Autoloaders, Service & Sport

- Price: 75 B, black polymer, 16-shot magazine \$597.00
- Price: 75 B, dual-tone or satin nickel \$617.00
- Price: 40 S&W, black polymer, 12-shot magazine \$615.00
- Price: 40 S&W, glossy blue, dual-tone, satin nickel \$669.00
- Price: 75 B-SA, 9mm Para./40 S&W, single action \$609.00

CZ 75 BD DECOCKER

Similar to the CZ 75 B except has a decocking lever in place of the safety lever. All other specifications are the same. Introduced 1999. Imported from the Czech Republic by CZ-USA.

- Price: 9mm Para., black polymer . . . \$609.00



CZ 75 B COMPACT AUTO PISTOL

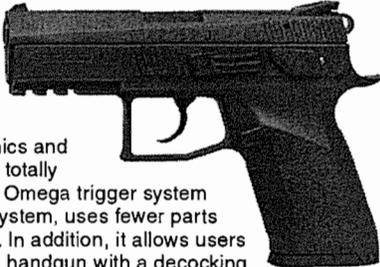
Similar to the CZ 75 B except has 14-shot magazine in 9mm Para., 3.9" barrel and weighs 32 oz. Has removable front sight, non-glare ribbed slide top. Trigger guard is squared and serrated; combat hammer. Introduced 1993. Imported from the Czech Republic by CZ-USA.

- Price: 9mm Para., black polymer \$631.00
- Price: 9mm Para., dual tone or satin nickel \$651.00
- Price: 9mm Para. D PCR Compact, alloy frame \$651.00

CZ 75 P-07 DUTY

Caliber: 40 S&W, 9mm Luger (16+1). **Barrel:** 3.8". **Weight:** 27.2 oz. **Length:** 7.3" overall. **Grips:** Polymer black polycoat. **Sights:** Blade front, fixed groove rear. **Features:** The ergonomics and accuracy of the CZ 75 with a totally new trigger system. The new Omega trigger system simplifies the CZ 75 trigger system, uses fewer parts and improves the trigger pull. In addition, it allows users to choose between using the handgun with a decocking lever (installed) or a manual safety (included) by a simple parts change. The polymer frame design of the Duty and a new sleek slide profile (fully machined from bar stock) reduce weight, making the P-07 Duty a great choice for concealed carry.

- Price: \$487.00



CZ 75 TACTICAL SPORT

Similar to the CZ 75 B except the CZ 75 TS is a competition ready pistol designed for IPSC standard division (USPSA limited division). Fixed target sights, tuned single-action operation, lightweight polymer match trigger with adjustments for take-up and overtravel, competition hammer, extended magazine catch, ambidextrous manual safety, checkered walnut grips, polymer magazine well, two tone finish. Introduced 2005. Imported from the Czech Republic by CZ-USA.

- Price: 9mm Para., 20-shot mag. \$1,338.00
- Price: 40 S&W, 16-shot mag. \$1,338.00

CZ 75 SP-01 PISTOL

Similar to NATO-approved CZ 75 Compact P-01 model. Features an integral 1913 accessory rail on the dust cover, rubber grip panels, black polycoat finish, extended beavertail, new grip geometry with checkering on front and back straps, and double or single action operation. Introduced 2005. The Shadow variant designed as an IPSC "production" division competition firearm. Includes competition hammer, competition rear sight and fiber-optic front sight, modified slide release, lighter recoil and main spring for use with "minor power factor" competition ammunition. Includes polycoat finish and slim walnut grips. Finished by CZ Custom Shop. Imported from the Czech Republic by CZ-USA.

- Price: SP-01 9mm Para., black polymer, 19+1 \$850.00

CZ 75 SP-01 PHANTOM

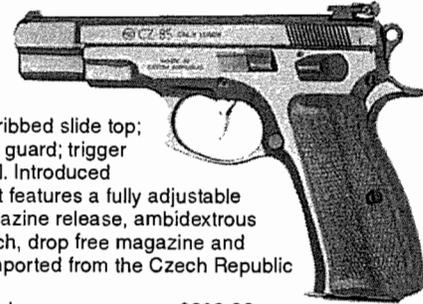
Similar to the CZ 75 B. 9mm Luger, 19-round magazine, weighs 26 oz. and features a polymer frame with accessory rail, and a forged steel slide with a weight-saving scalloped profile. Two interchangeable grip inserts are included to accommodate users with different-sized hands.

- Price: \$695.00

CZ 85 B/85 COMBAT AUTO PISTOL

Same gun as the CZ 75 except has ambidextrous slide release and safety levers; non-glare, ribbed slide top; squared, serrated trigger guard; trigger stop to prevent overtravel. Introduced 1986. The CZ 85 Combat features a fully adjustable rear sight, extended magazine release, ambidextrous slide stop and safety catch, drop free magazine and overtravel adjustment. Imported from the Czech Republic by CZ-USA.

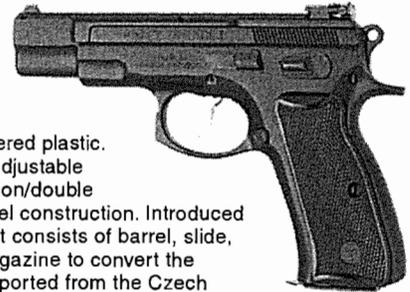
- Price: 9mm Para., black polymer \$628.00
- Price: Combat, black polymer \$702.00
- Price: Combat, dual-tone, satin nickel \$732.00



CZ 75 KADET AUTO PISTOL

Caliber: 22 LR, 10-shot magazine. **Barrel:** 4.88". **Weight:** 36 oz. **Grips:** High impact checkered plastic. **Sights:** Blade front, fully adjustable rear. **Features:** Single action/double action mechanism; all-steel construction. Introduced 1999. Kadet conversion kit consists of barrel, slide, adjustable sights, and magazine to convert the centerfire 75 to rimfire. Imported from the Czech Republic by CZ-USA.

- Price: Black polymer \$689.00
- Price: Kadet conversion kit \$412.00



CZ 83 DOUBLE-ACTION PISTOL

Caliber: 32 ACP, 380 ACP, 12-shot magazine. **Barrel:** 3.8". **Weight:** 26.2 oz. **Length:** 6.8" overall. **Grips:** High impact checkered plastic. **Sights:** Removable square post front, rear adjustable for windage; 3-dot system. **Features:** Single action/double action; ambidextrous magazine release and safety. Blue finish; non-glare ribbed slide top. Imported from the Czech Republic by CZ-USA.

- Price: Glossy blue, 32 ACP or 380 ACP \$495.00
- Price: Satin Nickel \$522.00

CZ 97 B AUTO PISTOL

Caliber: 45 ACP, 10-shot magazine. **Barrel:** 4.85". **Weight:** 40 oz. **Length:** 8.34" overall. **Grips:** Checkered walnut. **Sights:** Fixed. **Features:** Single action/double action; full-length slide rails; screw-in barrel bushing; linkless barrel; all-steel construction; chamber loaded indicator; dual transfer bars. Introduced 1999. Imported from the Czech Republic by CZ-USA.

- Price: Black polymer \$779.00
- Price: Glossy blue \$799.00



CZ 97 BD Decocker

Similar to the CZ 97 B except has a decocking lever in place of the safety lever. Tritium night sights. Rubber grips. All other specifications are the same. Introduced 1999. Imported from the Czech Republic by CZ-USA.

- Price: 9mm Para., black polymer \$874.00

CZ 2075 RAMI/RAMI P AUTO PISTOL

Caliber: 9mm Para., 40 S&W. **Barrel:** 3". **Weight:** 25 oz. **Length:** 6.5" overall. **Grips:** Rubber. **Sights:** Blade front with dot, white outline rear drift adjustable for windage. **Features:** Single-action/double-action; alloy or polymer frame, steel slide; has laser sight mount. Imported from the Czech Republic by CZ-USA.

- Price: 9mm Para., alloy frame, 10 and 14-shot magazines . . . \$671.00
- Price: 40 S&W, alloy frame, 8-shot magazine \$671.00
- Price: RAMI P, polymer frame, 9mm Para., 40 S&W. \$612.00

CZ P-01 AUTO PISTOL

Caliber: 9mm Para., 14-shot magazine. **Barrel:** 3.85". **Weight:** 27 oz. **Length:** 7.2" overall. **Grips:** Checkered rubber. **Sights:** Blade front

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with dot, white outline rear drift adjustable for windage. **Features:** Based on the CZ 75, except with forged aircraft-grade aluminum alloy frame. Hammer forged barrel, decocker, firing-pin block, M3 rail, dual slide serrations, squared trigger guard, re-contoured trigger, lanyard loop on butt. Serrated front and back strap. Introduced 2006. Imported from the Czech Republic by CZ-USA.

Price: CZ P-01
... \$672.00

DAN WESSON DW RZ-10 AUTO PISTOL

Caliber: 10mm, 9-shot.
Barrel: 5".
Grips: Diamond checkered cocobolo.
Sights: Bo-Mar style adjustable target sight.
Weight: 38.3 oz. **Length:** 8.8" overall. **Features:** Stainless-steel frame and serrated slide. Series 70-style 1911, stainless-steel frame, forged stainless-steel slide. Commander-style match hammer. Reintroduced 2005. Made in U.S.A. by Dan Wesson Firearms, distributed by CZ-USA.

Price: 10mm, 8+1 \$1,350.00

DAN WESSON DW RZ-45 HERITAGE

Similar to the RZ-10 Auto except in 45 ACP with 7-shot magazine. Weighs 36 oz., length is 8.8" overall.

Price: 10mm, 8+1 \$1,298.00

DAN WESSON VALOR 1911 PISTOL

Caliber: .45 ACP, 8-shot.
Barrel: 5". **Grips:** Slim Line G10. **Sights:** Heinie ledge straight eight adjustable night sights. **Weight:** 2.4 lbs. **Length:** 8.8" overall. **Features:** The defensive style Valor, is a base stainless 1911 with our matte black "Duty" finish. This finish is a ceramic base coating that has set the standard for all coating tests. Other features include forged stainless frame and match barrel with 25 LPI checkering and undercut trigger guard, adjustable defensive night sites, and Slim line VZ grips. Made in U.S.A. by Dan Wesson Firearms, distributed by CZ-USA.

Price: \$2,012.00

DAN WESSON V-BOB

Caliber: 45 ACP
8-shot magazine.
Barrel: 4.25"
Weight: 34 oz.
Length: 8" **Grips:** Slim Line G10.
Sights: Heinie Ledge Straight-Eight Night Sights. **Features:** Black matte or stainless finish. Bobtail forged grip frame with 25 lpi checkering front and rear.

Price: \$2077

DESERT EAGLE MARK XIX PISTOL

Caliber: 357 Mag., 9-shot; 44 Mag., 8-shot; 50 AE, 7-shot. **Barrel:** 6", 10", interchangeable. **Weight:** 357 Mag.-62 oz.; 44 Mag.-69 oz.; 50 AE-72 oz. **Length:** 10.25" overall (6" bbl.). **Grips:** Polymer; rubber available. **Sights:** Blade on ramp front, combat-style rear. Adjustable available. **Features:** Interchangeable barrels; rotating three-lug bolt; ambidextrous safety; adjustable trigger. Military epoxy finish. Satin, bright nickel, chrome, brushed, matte or black-oxide finishes available. 10" barrel extra. Imported from Israel by Magnum Research, Inc.

Price: Black-6, 6" barrel \$1,594.00

Price: Black-10, 10" barrel \$1,683.00

Price: Component System Package, 3 barrels, carrying case, from \$2,910.00

DESERT BABY MICRO DESERT EAGLE PISTOL

Caliber: 380 ACP, 6-rounds. **Barrel:** 2.22". **Weight:** 14 oz. **Length:** 4.52" overall. **Grips:** NA. **Sights:** Fixed low-profile. **Features:** Small-frame DAO pocket pistol. Steel slide, aluminum alloy frame, nickel-tylon finish.

Price: \$535.00



DESERT BABY EAGLE PISTOLS

Caliber: 9mm Para., 40 S&W, 45 ACP, 10- or 15-round magazines.

Barrel: 3.64", 3.93", 4.52". **Weight:** 26.8 to 39.8 oz. **Length:** 7.25" to 8.25" overall.

Grips: Polymer. **Sights:** Drift-adjustable rear, blade front. **Features:** Steel frame and slide; slide safety; decocker. Reintroduced in 1999. Imported from Israel by Magnum Research, Inc.

Price: \$619.00

DIAMONDBACK DB380 PISTOL

Caliber: .380, 6+1-shot capacity. **Barrel:** 2.8". **Weight:** 8.8 oz. **Features:** A micro-compact .380 automatic pistol made entirely in the USA. Designed with safety in mind, the DB380 features a "ZERO-Energy" striker firing system (patent pending) with a mechanical firing pin block, a steel magazine catch to secure a sheet metal magazine and real windage-adjustable sights, all in a lightweight pistol. A steel trigger with dual connecting bars allows for a crisp smooth, five-pound DAO trigger pull. The DB380 features a FEA (Finite Element Analysis) designed slide and barrel that is stronger than any comparable firearm, resulting in durability with less felt recoil, and the absence of removable pins or tools makes field stripping easier than ever. The slide, barrel, and internal parts are coated to resist corrosion.

Price: \$290.00



DIAMONDBACK DB9 PISTOL

Caliber: 9mm, 6+1-shot capacity. **Barrel:** 3". **Weight:** 11 oz. **Length:** 5.60". **Features:** A micro-compact 9mm automatic pistol made entirely in the USA. Designed with safety in mind, the DB9 features a "ZERO-Energy" striker firing system (patent pending) with a mechanical firing pin block, a steel magazine catch to secure a sheet metal magazine and real windage-adjustable sights, all in a lightweight pistol. A steel trigger with dual connecting bars allows for a crisp smooth, five-pound DAO trigger pull. The DB9 features a FEA (Finite Element Analysis) designed slide and barrel that is stronger than any comparable firearm, resulting in durability with less felt recoil, and the absence of removable pins or tools makes field stripping easier than ever. The slide, barrel, and internal parts are coated to resist corrosion.

Price: \$365.00



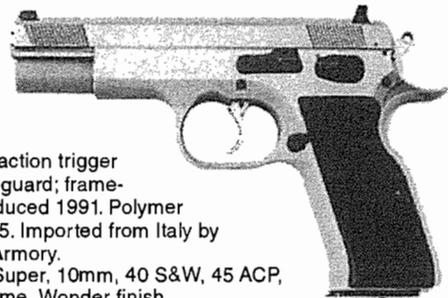
EAA WITNESS FULL SIZE AUTO PISTOL

Caliber: 9mm Para., 38 Super, 18-shot magazine; 40 S&W, 10mm, 15-shot magazine; 45 ACP, 10-shot magazine. **Barrel:** 4.50". **Weight:** 35.33 oz. **Length:** 8.10" overall. **Grips:** Checkered rubber. **Sights:** Undercut blade front, open rear adjustable for windage. **Features:** Double-action/single-action trigger system; round trigger guard; frame-mounted safety. Introduced 1991. Polymer frame introduced 2005. Imported from Italy by European American Armory.

Price: 9mm Para., 38 Super, 10mm, 40 S&W, 45 ACP, full-size steel frame, Wonder finish \$514.00

Price: 45/22 22 LR, full-size steel frame, blued \$472.00

Price: 9mm Para., 40 S&W, 45 ACP, full-size polymer frame \$472.00



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EAA WITNESS COMPACT AUTO PISTOL

Caliber: 9mm Para., 40 S&W, 10mm, 12-shot magazine; 45 ACP, 8-shot magazine.

Barrel: 3.6". **Weight:** 30 oz. **Length:** 7.3" overall. Otherwise similar to Full Size Witness. Polymer frame introduced 2005.

Imported from Italy by European American Armory.
Price: 9mm Para., 10mm, 40 S&W, 45 ACP, steel frame, Wonder finish \$514.00
 9mm Para., 40 S&W, 45 ACP, polymer frame \$472.00



EAA WITNESS-P CARRY AUTO PISTOL

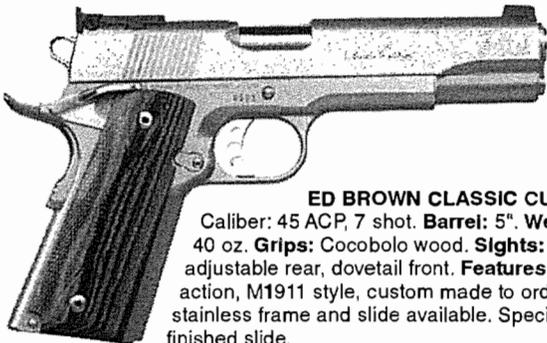
Caliber: 10mm, 15-shot magazine; 45 ACP, 10-shot magazine. **Barrel:** 3.6". **Weight:** 27 oz. **Length:** 7.5" overall. Otherwise similar to Full Size Witness. Polymer frame introduced 2005. Imported from Italy by European American Armory.

Price: 10mm, 45 ACP, polymer frame, from \$598.00

EAA ZASTAVA EZ PISTOL

Caliber: 9mm Para., 15-shot magazine; 40 S&W, 11-shot magazine; 45 ACP, 10-shot magazine. **Barrel:** 3.5" or 4." **Weight:** 30-33 oz. **Length:** 7.25" to 7.5" overall. **Features:** Ambidextrous decocker, slide release and magazine release; three dot sight system, aluminum frame, steel slide, accessory rail, full-length claw extractor, loaded chamber indicator. M88 compact has 3.6" barrel, weighs 28 oz.

Introduced 2008. Imported by European American Armory.
Price: 9mm Para. or 40 S&W, blued \$547.00
 9mm Para. or 40 S&W, chromed \$587.00
 45 ACP, chromed \$587.00
 M88, from \$292.00



ED BROWN CLASSIC CUSTOM

Caliber: 45 ACP, 7 shot. **Barrel:** 5". **Weight:** 40 oz. **Grips:** Cocobolo wood. **Sights:** Bo-Mar adjustable rear, dovetail front. **Features:** Single-action, M1911 style, custom made to order, stainless frame and slide available. Special mirror-finished slide.

Price: \$3,495.00



ED BROWN KOBRA AND KOBRA CARRY

Caliber: 45 ACP, 7-shot magazine. **Barrel:** 5" (Kobra); 4.25" (Kobra Carry). **Weight:** 39 oz. (Kobra); 34 oz. (Kobra Carry). **Grips:** Hogue exotic wood. **Sights:**

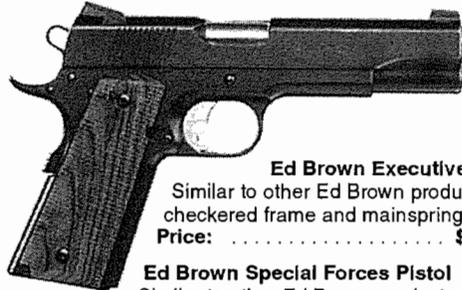
Ramp, front; fixed Novak low-mount night sights, rear. **Features:** Has snakeskin pattern serrations on forestrap and mainspring housing, dehorned edges, beavertail grip safety.

Price: Kobra K-SS \$2,495.00
 Kobra Carry \$2,745.00

ED BROWN KOBRA CARRY LIGHTWEIGHT

Caliber: 45 ACP, 7-shot magazine. **Barrel:** 4.25" (Commander model slide). **Weight:** 27 oz. **Grips:** Hogue exotic wood. **Sights:** 10-8 Performance U-notch plain black rear sight with .156 notch, for fast acquisition of close targets. Fixed dovetail front night sight with high visibility white outlines. **Features:** Aluminium frame and Bobtail™ housing. Matte finished Gen III coated slide for low glare, with snakeskin on rear of slide only. Snakeskin pattern serrations on forestrap and mainspring housing, dehorned edges, beavertail grip safety. "LW" insignia on slide, which stands for "Lightweight".

Price: Kobra Carry Lightweight \$3,120.00



Ed Brown Executive Pistols

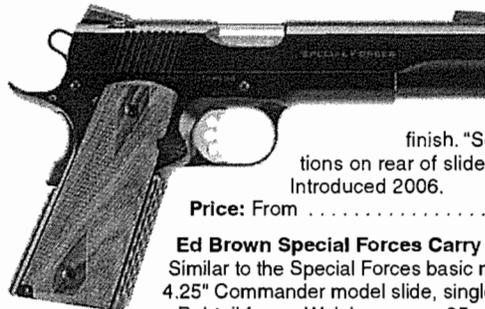
Similar to other Ed Brown products, but with 25-lpi checkered frame and mainspring housing.

Price: \$2,695.00 - \$2,945.00

Ed Brown Special Forces Pistol

Similar to other Ed Brown products, but with ChainLink treatment on forestrap and mainspring housing. Entire gun coated with Gen III finish. "Square cut" serrations on rear of slide only. Dehorned. Introduced 2006.

Price: From \$2,495.00



Ed Brown Special Forces Carry Pistol

Similar to the Special Forces basic models. Features a 4.25" Commander model slide, single stack commander Bobtail frame. Weighs approx. 35 oz. Fixed dovetail 3-dot night sights with high visibility white outlines.

Price: From \$2,745.00



EXCEL ARMS ACCELERATOR MP-17/MP-22 PISTOLS

Caliber: 17 HMR, 22 WMR, 9-shot magazine. **Barrel:** 8.5" bull barrel.

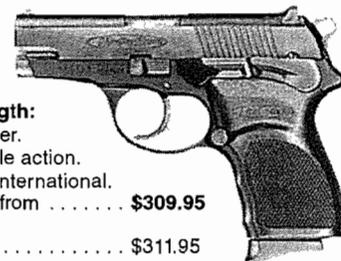
Weight: 54 oz. **Length:** 12.875" overall. **Grips:** Textured black composition. **Sights:** Fully adjustable target sights. **Features:** Made from 17-4 stainless steel, comes with aluminum rib, integral Weaver base, internal hammer, firing-pin block. American made, lifetime warranty. Comes with two 9-round stainless steel magazines and a California-approved cable lock. 22 WMR Introduced 2006. Made in U.S.A. by Excel Arms.

Price: \$433.00
 Price: Camo finishes (2008) \$520.00

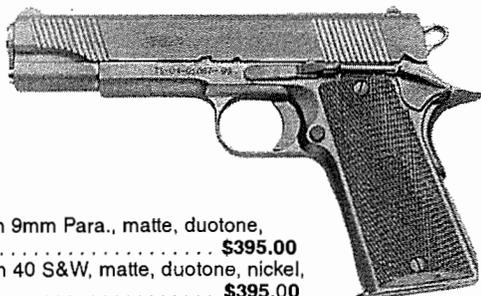
FIRESTORM AUTO PISTOLS

Caliber: 22 LR, 32 ACP, 10-shot magazine; 380 ACP, 7-shot magazine; 9mm Para., 40 S&W, 10-shot magazine; 45 ACP, 7-shot magazine. **Barrel:** 3.5". **Weight:** From 23 oz. **Length:** From 6.6" overall. **Grips:** Rubber. **Sights:** 3-dot. **Features:** Double action.

Distributed by SGS Importers International.
Price: 22 LR, matte or duotone, from \$309.95
 380, matte or duotone, from \$311.95



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Price: Mini Firestorm 9mm Para., matte, duotone, nickel, from **\$395.00**
Price: Mini Firestorm 40 S&W, matte, duotone, nickel, from **\$395.00**
Price: Mini Firestorm 45 ACP, matte, duotone, chrome, from **\$402.00**

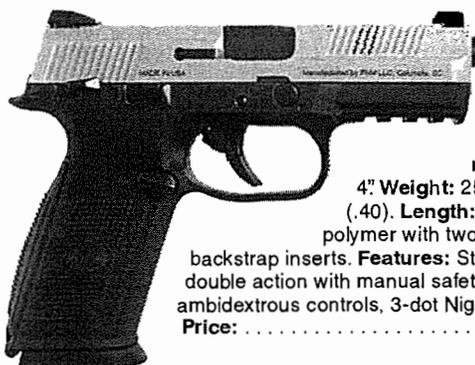
action trigger with "Safe Action" system; mechanical firing pin safety, drop safety; simple takedown without tools; locked breech, recoil operated action. ILS designation refers to Internal Locking System. Adopted by Austrian armed forces 1983. NATO approved 1984. Imported from Austria by Glock, Inc.
Price: Fixed sight **\$690.00**



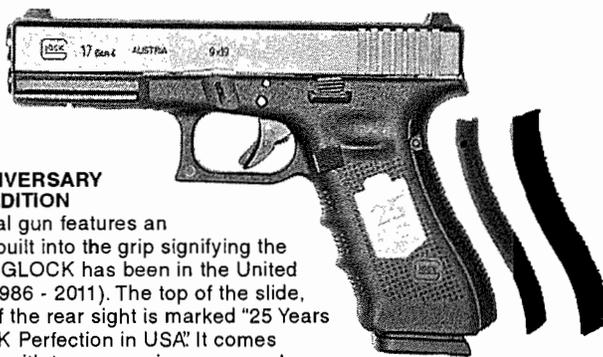
GLOCK GEN4 SERIES

In 2010 a new series of Generation Four pistols was introduced with several improved features. These included a multiple backstrap system offering three different size options, short, medium or large frame; reversible and enlarged magazine release; dual recoil springs; and RTF (Rough Textured Finish) surface. As of 2012, the following models were available in the Gen4 series: Models 17, 19, 21, 22, 23, 26, 27, 31, 32, 34, 35, 37. Price: Same as standard models

Price: **N/A**



FN FNS SERIES
 Caliber: 9mm, 17-shot magazine, .40 S&W (14-shot magazine). **Barrel:** 4". **Weight:** 25 oz. (9mm), 27.5 oz. (.40). **Length:** 7.25". **Grips:** Integral polymer with two interchangeable backstrap inserts. **Features:** Striker-fired, double action with manual safety, accessory rail, ambidextrous controls, 3-dot Night Sights.
Price: **\$600**



GLOCK 17 GEN4 25TH ANNIVERSARY LIMITED EDITION

This special gun features an emblem built into the grip signifying the 25 years GLOCK has been in the United States (1986 - 2011). The top of the slide, in front of the rear sight is marked "25 Years of GLOCK Perfection in USA". It comes complete with two magazines, a speed loader, cable lock, cleaning rod and brush, two interchangeable backstraps, a limited edition silver GLOCK case, and a letter of authenticity! Each gun is identified by the special prefix of 25YUSA. Similar to Model G17 but with multiple backstrap system allowing three options: a short frame version, medium frame or large frame; reversible, enlarged magazine release catch; dual recoil spring assembly; new Rough Textured Frame (RTF) surface designed to enhance grip traction.
Price: **\$850.00**



FN FNX SERIES
 Caliber: 9mm, 17-shot magazine, .40 S&W (14-shot), .45 ACP (10 or 14-shot). **Barrel:** 4" (9mm and .40), 4.5" .45. **Weight:** 22 to 32 oz (.45). **Length:** 7.4, 7.9" (.45). **Features:** Double-action/single-action operation with decocking/manual safety lever. Has external extractor with loaded-chamber indicator, front and rear cocking serrations, fixed 3-dot combat sights.
Price: **\$650**

FN FNX .45 TACTICAL

Similar to standard FNX .45 except with 5.3" barrel with threaded muzzle, polished chamber and feed ramp, enhanced high-profile night sights, slide cut and threaded for red-dot sight (not included), MIL-STD 1913 accessory rail, ring-style hammer.
Price: **\$1100**

GIRSAN MC27E PISTOL

Caliber: 9x19mm Parabellum. 15-shot magazine. **Barrel:** 98.5mm. **Weight:** 650 gr. (without magazine). **Length:** 184.5 mm overall. **Grips:** Black polymer. **Sights:** Fixed. **Features:** Cold forged barrel, polymer frame, short recoil operating system and locked breech. Semi-automatic, double action with a right and left safety system latch.
Price: **NA**



GLOCK 17/17C AUTO PISTOL

Caliber: 9mm Para., 17/19/33-shot magazines. **Barrel:** 4.49". **Weight:** 22.04 oz. (without magazine). **Length:** 7.32" overall. **Grips:** Black polymer. **Sights:** Dot on front blade, white outline rear adjustable for windage. **Features:** Polymer frame, steel slide; double-

GLOCK 19/19C AUTO PISTOL

Caliber: 9mm Para., 15/17/19/33-shot magazines. **Barrel:** 4.02". **Weight:** 20.99 oz. (without magazine). **Length:** 6.85" overall. Compact version of Glock 17. Pricing the same as Model 17. Imported from Austria by Glock, Inc.
Price: Fixed sight **\$699.00**
Price: 19C Compensated (fixed sight) **\$675.00**

GLOCK 20/20C 10MM AUTO PISTOL

Caliber: 10mm, 15-shot magazines. **Barrel:** 4.6". **Weight:** 27.68 oz. (without magazine). **Length:** 7.59" overall. **Features:** Otherwise similar to Model 17. Imported from Austria by Glock, Inc. Introduced 1990.
Price: Fixed sight, from **\$700.00**

GLOCK MODEL 20 SF SHORT FRAME PISTOL

Caliber: 10mm. **Barrel:** 4.61" with hexagonal rifling. **Weight:** 27.51 oz. **Length:** 8.07" overall. **Sights:** Fixed. **Features:** Otherwise similar to Model 20 but with short-frame design, extended sight radius.
Price: **\$664.00**

GLOCK 21/21C AUTO PISTOL

Caliber: 45 ACP, 13-shot magazines. **Barrel:** 4.6". **Weight:** 26.28 oz. (without magazine). **Length:** 7.59" overall. **Features:** Otherwise similar to Model 17. Imported from Austria by Glock, Inc. Introduced 1991. SF version has tactical rail, smaller diameter grip, 10-round magazine capacity. Introduced 2007.
Price: Fixed sight, from **\$700.00**

GLOCK 22/22C AUTO PISTOL

Caliber: 40 S&W, 15/17-shot magazines. **Barrel:** 4.49". **Weight:** 22.92

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oz. (without magazine).

Length: 7.32" overall.

Features: Otherwise similar to Model 17, including pricing.

Imported from Austria by Glock, Inc. Introduced 1990.

Price: Fixed sight, from\$641.00



GLOCK 23/23C AUTO PISTOL

Caliber: 40 S&W, 13/15/17-shot magazines. **Barrel:** 4.02". **Weight:** 21.16 oz. (without magazine). **Length:** 6.85" overall. **Features:** Otherwise similar to Model 22, including pricing. Compact version of Glock 22. Imported from Austria by Glock, Inc. Introduced 1990.

Price: Fixed sight\$641.00

Price: 23C Compensated (fixed sight)\$694.00



GLOCK 26 AUTO PISTOL

Caliber: 9mm Para. 10/12/15/17/19/33-shot magazines. **Barrel:** 3.46".

Weight: 19.75 oz. **Length:** 6.29" overall. Subcompact version of Glock 17. Pricing the same as Model 17. Imported from Austria by Glock, Inc.

Price: Fixed sight\$690.00

GLOCK 27 AUTO PISTOL

Caliber: 40 S&W, 9/11/13/15/17-shot magazines. **Barrel:** 3.46". **Weight:**

19.75 oz. (without magazine). **Length:** 6.29" overall. **Features:** Otherwise similar to Model 22, including pricing. Subcompact version of Glock 22.

Imported from Austria by Glock, Inc. Introduced 1996.

Price: Fixed sight\$750.00



GLOCK 29 AUTO PISTOL

Caliber: 10mm, 10/15-shot magazines. **Barrel:** 3.78". **Weight:** 24.69 oz. (without magazine). **Length:** 6.77" overall. **Features:** Otherwise similar to Model 20, including pricing. Subcompact version of Glock 20. Imported from Austria by Glock, Inc. Introduced 1997.

Price: Fixed sight\$672.00

GLOCK MODEL 29 SF SHORT FRAME PISTOL

Caliber: 10mm. **Barrel:** 3.78" with hexagonal rifling. **Weight:** 24.52 oz. **Length:** 6.97" overall. **Sights:** Fixed. **Features:** Otherwise similar to Model 29 but with short-frame design, extended sight radius.

Price:\$660.00

GLOCK 30 AUTO PISTOL

Caliber: 45 ACP, 9/10/13-shot magazines. **Barrel:** 3.78". **Weight:** 23.99 oz. (without magazine). **Length:** 6.77" overall. **Features:** Otherwise similar to Model 21, including pricing. Subcompact version of Glock 21. Imported from Austria by Glock, Inc. Introduced 1997. SF version has tactical rail, octagonal rifled barrel with a 1:15.75 rate of twist, smaller diameter grip, 10-round magazine capacity. Introduced 2008

Price: Fixed sight\$700.00

GLOCK 31/31C AUTO PISTOL

Caliber: 357 Auto, 15/17-shot magazines. **Barrel:** 4.49". **Weight:** 23.28 oz. (without magazine). **Length:** 7.32" overall. **Features:** Otherwise similar to Model 17. Imported from Austria by Glock, Inc.

Price: Fixed sight, from\$641.00

GLOCK 32/32C AUTO PISTOL

Caliber: 357 Auto, 13/15/17-shot magazines. **Barrel:** 4.02". **Weight:** 21.52 oz. (without magazine). **Length:** 6.85" overall. **Features:** Otherwise similar to Model 31. Compact. Imported from Austria by Glock, Inc.

Price: Fixed sight\$669.00

GLOCK 33 AUTO PISTOL

Caliber: 357 Auto, 9/11/13/15/17-shot magazines. **Barrel:** 3.46". **Weight:** 19.75 oz. (without magazine). **Length:** 6.29" overall. **Features:** Otherwise similar to Model 31. Subcompact. Imported from Austria by Glock, Inc.

Price: Fixed sight, from\$641.00

GLOCK 34 AUTO PISTOL

Caliber: 9mm Para. 17/19/33-shot magazines. **Barrel:** 5.32". **Weight:** 22.9 oz. **Length:** 8.15" overall. Competition version of Glock 17 with extended barrel, slide, and sight radius dimensions. Imported from Austria by Glock, Inc.

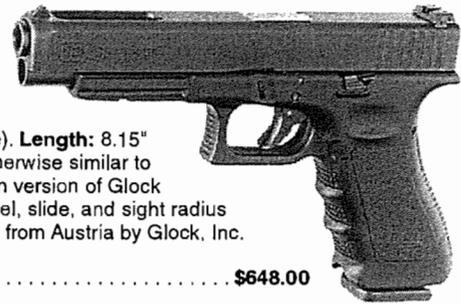
Price: Adjustable sight, from\$648.00

GLOCK 35 AUTO PISTOL

Caliber: 40 S&W, 15/17-shot magazines. **Barrel:** 5.32". **Weight:** 24.52

oz. (without magazine). **Length:** 8.15" overall. **Features:** Otherwise similar to Model 22. Competition version of Glock 22 with extended barrel, slide, and sight radius dimensions. Imported from Austria by Glock, Inc. Introduced 1996.

Price: Adjustable sight\$648.00



GLOCK 36 AUTO PISTOL

Caliber: 45 ACP, 6-shot magazines. **Barrel:** 3.78". **Weight:** 20.11 oz. (without magazine). **Length:** 6.77" overall. **Features:** Single-stack magazine, slimmer grip than Glock 21/30. Subcompact. Imported from Austria by Glock, Inc. Introduced 1997.

Price: Adjustable sight\$616.00

GLOCK 37 AUTO PISTOL

Caliber: 45 GAP, 10-shot magazines. **Barrel:** 4.49". **Weight:** 25.95 oz. (without magazine). **Length:** 7.32" overall. **Features:** Otherwise similar to Model 17. Imported from Austria by Glock, Inc. Introduced 2005.

Price: Fixed sight, from\$562.00

GLOCK 38 AUTO PISTOL

Caliber: 45 GAP, 8/10-shot magazines. **Barrel:** 4.02". **Weight:** 24.16 oz. (without magazine). **Length:** 6.85" overall. **Features:** Otherwise similar to Model 37. Compact. Imported from Austria by Glock, Inc.

Price: Fixed sight\$614.00

GLOCK 39 AUTO PISTOL

Caliber: 45 GAP, 6/8/10-shot magazines. **Barrel:** 3.46".

Weight: 19.33 oz. (without magazine). **Length:** 6.3" overall. **Features:** Otherwise similar to Model 37. Subcompact. Imported from Austria by Glock, Inc.

Price: Fixed sight\$614.00



GLOCK MODEL G17/G22/G19/G23 RTF

Similar to Models G17, G22, G19 and G23 but with rough textured frame.

Price: N/A

HECKLER & KOCH USP AUTO PISTOL

Caliber: 9mm Para., 15-shot magazine; 40 S&W, 13-shot magazine; 45 ACP, 12-shot magazine. **Barrel:** 4.25-4.41".

Weight: 1.65 lbs. **Length:** 7.64-7.87" overall. **Grips:** Non-slip stippled black polymer. **Sights:** Blade front, rear adjustable for windage. **Features:** New HK design with polymer frame, modified Browning action with recoil reduction system, single control lever.



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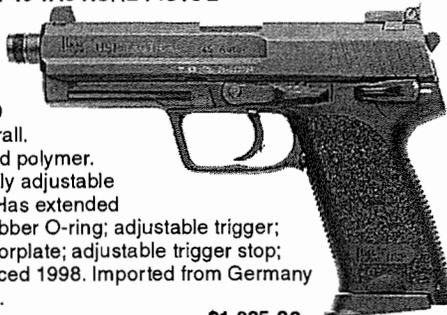
Special "hostile environment" finish on all metal parts. Available in SA/DA, DAO, left- and right-hand versions. Introduced 1993. 45 ACP Introduced 1995. Imported from Germany by Heckler & Koch, Inc.
Price: USP 45 **\$1,033.00**
Price: USP 40 and USP 9mm **\$902.00**



HECKLER & KOCH USP COMPACT AUTO PISTOL
 Caliber: 9mm Para., 13-shot magazine; 40 S&W and .357 SIG, 12-shot magazine; 45 ACP, 8-shot magazine. Similar to the USP except the 9mm Para., 357 SIG, and 40 S&W have 3.58" barrels, measure 6.81" overall, and weigh 1.47 lbs. (9mm Para.). Introduced 1996. 45 ACP measures 7.09" overall. Introduced 1998. Imported from Germany by Heckler & Koch, Inc.
Price: USP Compact 45 **\$1,086.00**
Price: USP Compact 9mm Para., 40 S&W **\$941.00**

HECKLER & KOCH USP45 TACTICAL PISTOL

Caliber: 40 S&W, 13-shot magazine; 45 ACP, 12-shot magazine. **Barrel:** 4.90-5.09". **Weight:** 1.9 lbs. **Length:** 8.64" overall. **Grips:** Non-slip stippled polymer. **Sights:** Blade front, fully adjustable target rear. **Features:** Has extended threaded barrel with rubber O-ring; adjustable trigger; extended magazine floorplate; adjustable trigger stop; polymer frame. Introduced 1998. Imported from Germany by Heckler & Koch, Inc.
Price: USP Tactical 45 **\$1,325.00**
Price: USP Tactical 40 **\$1,168.00**



HECKLER & KOCH USP COMPACT TACTICAL PISTOL

Caliber: 45 ACP, 8-shot magazine. Similar to the USP Tactical except measures 7.72" overall, weighs 1.72 lbs. Introduced 2006. Imported from Germany by Heckler & Koch, Inc.
Price: USP Compact Tactical **\$1,288.00**

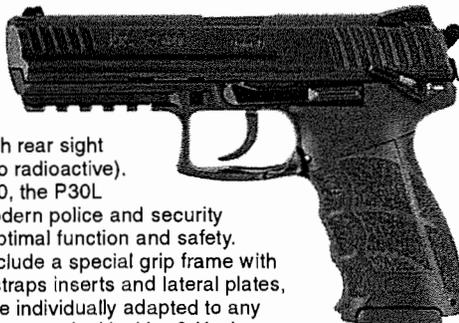
HECKLER & KOCH MARK 23 SPECIAL OPERATIONS PISTOL

Caliber: 45 ACP, 12-shot magazine. **Barrel:** 5.87". **Weight:** 2.42 lbs. **Length:** 9.65" overall. **Grips:** Integral with frame; black polymer. **Sights:** Blade front, rear drift adjustable for windage; 3-dot. **Features:** Civilian version of the SOCOM pistol. Polymer frame; double action; exposed hammer; short recoil, modified Browning action. Introduced 1996. Imported from Germany by Heckler & Koch, Inc.
Price: **\$2,139.00**



HECKLER & KOCH P30L AND P30LS AUTO PISTOLS

Caliber: 9mm x 19 and .40 S&W with 15-shot magazines. **Barrel:** 4.45". **Weight:** 27.52 oz. **Length:** 7.56" overall. **Grips:** Interchangeable panels. **Sights:** Open rectangular notch rear sight with contrast points (no radioactive). **Features:** Like the P30, the P30L was designed as a modern police and security pistol and combines optimal function and safety. Ergonomic features include a special grip frame with interchangeable backstraps inserts and lateral plates, allowing the pistol to be individually adapted to any user. Imported from Germany by Heckler & Koch,



Inc. Browning type action with modified short recoil operation. Ambidextrous controls include dual slide releases, magazine release levers, and a serrated decocking button located on the rear of the frame (for applicable variants). A Picatinny rail molded into the front of the frame makes mounting lights, laser aimers, or other accessories easy and convenient. The extractor serves as a loaded chamber indicator providing a reminder of a loaded chamber that can be subtly seen and felt. The standard P30L is a 9 mm "Variant 3 (V3)" with a conventional double-action/single action trigger mode with a serrated decocking button on the rear of the slide.

Price: P30L **\$1,054.00**
Price: P30L Variant 2 Law Enforcement Modification (LEM) enhanced DAO **\$1,108.00**
Price: P30L Variant 3 Double Action/Single Action (DA/SA) with Decocker **\$1,108.00**
Price: P30LS **\$1,054.00**

HECKLER & KOCH P2000 AUTO PISTOL

Caliber: 9mm Para., 13-shot magazine; 40 S&W and .357 SIG, 12-shot magazine. **Barrel:** 3.62". **Weight:** 1.5 lbs. **Length:** 7" overall. **Grips:** Interchangeable panels. **Sights:** Fixed Patridge style, drift adjustable for windage, standard 3-dot. **Features:** Incorporates features of HK USP Compact pistol, including Law Enforcement Modification (LEM) trigger, double-action hammer system, ambidextrous magazine release, dual slide-release levers, accessory mounting rails, recurved, hook trigger guard, fiber-reinforced polymer frame, modular grip with exchangeable back straps, nitro-carburized finish, lock-out safety device. Introduced 2003. Imported from Germany by Heckler & Koch, Inc.

Price: **\$941.00**
Price: P2000 LEM DAO, 357 SIG, intr. 2006 **\$941.00**
Price: P2000 SA/DA, 357 SIG, intr. 2006 **\$941.00**

HECKLER & KOCH P2000 SK AUTO PISTOL

Caliber: 9mm Para., 10-shot magazine; 40 S&W and .357 SIG, 9-shot magazine. **Barrel:** 3.27". **Weight:** 1.3 lbs. **Length:** 6.42" overall. **Sights:** Fixed Patridge style, drift adjustable. **Features:** Standard accessory rails, ambidextrous slide release, polymer frame, polygonal bore profile. Smaller version of P2000. Introduced 2005. Imported from Germany by Heckler & Koch, Inc.

Price: **\$983.00**

HI-POINT FIREARMS MODEL 9MM COMPACT PISTOL

Caliber: 9mm Para., 8-shot magazine. **Barrel:** 3.5". **Weight:** 25 oz. **Length:** 6.75" overall. **Grips:** Textured plastic. **Sights:** Combat-style adjustable 3-dot system; low profile. **Features:** Single-action design; frame-mounted magazine release; polymer frame. Scratch-resistant matte finish. Introduced 1993. Comps are similar except they have a 4" barrel with muzzle brake/compensator. Compensator is slotted for laser or flashlight mounting. Introduced 1998. Made in U.S.A. by MKS Supply, Inc.

Price: C-9 9mm **\$155.00**

HI-POINT FIREARMS MODEL 380 POLYMER PISTOL

Similar to the 9mm Compact model except chambered for 380 ACP, 8-shot magazine, adjustable 3-dot sights. Weighs 25 oz. Polymer frame. Action locks open after last shot. Includes 10-shot and 8-shot magazine; trigger lock. Introduced 1998. Comps are similar except they have a 4" barrel with muzzle compensator. Introduced 2001. Made in U.S.A. by MKS Supply, Inc.

Price: CF-380 **\$135.00**

HI-POINT FIREARMS 40SW/POLY AND 45 AUTO PISTOLS

Caliber: 40 S&W, 8-shot magazine; 45 ACP (9-shot). **Barrel:** 4.5". **Weight:** 32 oz. **Length:** 7.72" overall. **Sights:** Adjustable 3-dot. **Features:** Polymer frames, last round lock-open, grip mounted magazine release, magazine disconnect safety, integrated accessory rail, trigger lock. Introduced 2002. Made in U.S.A. by MKS Supply, Inc.
Price: 40SW-B **\$186.00**
Price: 45 ACP **\$186.00**

Prices given are believed to be accurate at time of publication however, many factors affect retail pricing so exact prices are not possible.

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HIGH STANDARD VICTOR 22 PISTOL
 Caliber: 22 Long Rifle (10 rounds) or .22 Short (5 rounds). **Barrel:** 4.5"-5.5". **Weight:** 45 oz.-46 oz. **Length:** 8.5"-9.5" overall. **Grips:** Freestyle wood. **Sights:** Frame mounted, adjustable. **Features:** Semi-auto with drilled and tapped barrel, tu-tone or blued finish.
Price: **\$845.00**

High Standard 10X Custom 22 Pistol

Similar to the Victor model but with precision fitting, black wood grips, 5.5" barrel only. High Standard Universal Mount, 10-shot magazine, barrel drilled and tapped, certificate of authenticity. Overall length is 9.5". Weighs 44 oz. to 46 oz. From High Standard Custom Shop.

Price: **\$1,095.00**

HIGH STANDARD SUPERMATIC TROPHY 22 PISTOL

Caliber: 22 Long Rifle (10 rounds) or .22 Short (5 rounds/Citation version), not interchangeable. **Barrel:** 5.5", 7.25". **Weight:** 44 oz., 46 oz. **Length:** 9.5", 11.25" overall. **Grips:** Wood. **Sights:** Adjustable. **Features:** Semi-auto with drilled and tapped barrel, tu-tone or blued finish with gold accents.

Price: 5.5" **\$845.00**

High Standard Olympic Military 22 Pistol

Similar to the Supermatic Trophy model but in 22 Short only with 5.5" bull barrel, five-round magazine, aluminum alloy frame, adjustable sights. Overall length is 9.5", weighs 42 oz.

Price: **\$875.00**

High Standard Supermatic Citation Series 22 Pistol

Similar to the Supermatic Trophy model but with heavier trigger pull, 10" barrel, and nickel accents. 22 Short conversion unit available. Overall length 14.5", weighs 52 oz.

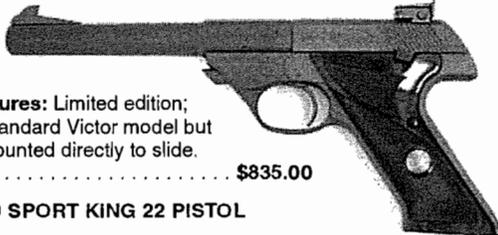
Price: **\$895.00**

HIGH STANDARD SUPERMATIC TOURNAMENT 22 PISTOL

Caliber: 22 LR.

Barrel: 5.5" bull barrel. **Weight:** 44 oz. **Length:** 9.5" overall. **Features:** Limited edition; similar to High Standard Victor model but with rear sight mounted directly to slide.

Price: **\$835.00**



HIGH STANDARD SPORT KING 22 PISTOL

Caliber: 22 LR. **Barrel:** 4.5" or

6.75" tapered barrel. **Weight:** 40 oz. to 42 oz. **Length:** 8.5" to 10.75". **Features:** Sport version of High Standard Supermatic. Two-tone finish, fixed sights.

Price: **\$725.00**



HI-STANDARD SPACE GUN

Semiauto pistol chambered in .22 LR.

Recreation of famed competition "Space Gun" from 1960s. Features include 6.75- 8- or 10-inch barrel; 10-round magazine; adjustable sights; barrel weight; adjustable muzzle brake; blue-black finish with gold highlights.

Price: **\$1095.00**



KAHR CM SERIES

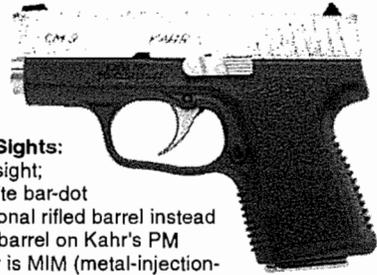
Caliber: 9mm (6+1), .40 S&W (6+1).

Barrel: 3". **Weight:** 15.9 oz. **Length:** 5.42" overall. **Grips:** Textured polymer with integral steel rails molded into frame. **Sights:** CM9093 - Pinned in polymer sight; PM9093 - Drift adjustable, white bar-dot combat.

Features: A conventional rifled barrel instead of the match grade polygonal barrel on Kahr's PM series; the CM slide stop lever is MIM (metal-injection-molded) instead of machined; the CM series slide has fewer machining operations and uses simple engraved markings instead of roll marking and finally the CM series are shipped with one magazine instead of two magazines.

The CM9 slide is only .90 inch wide and machined from solid 416 stainless slide with a matte finish, each gun is shipped with one 6 rd stainless steel magazine with a flush baseplate. Magazines are USA made, plasma welded, tumbled to remove burrs and feature Wolff Gunsprings. The magazine catch in the polymer frame is all metal and will not wear out on the stainless steel magazine after extended use.

Price: CM9093 **\$565.00**
Price: PM9093 Match Grade **\$786.00**



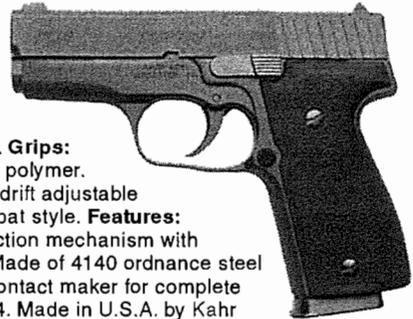
KAHR K SERIES AUTO PISTOLS

Caliber: K9: 9mm Para., 7-shot; K40: 40 S&W, 6-shot magazine.

Barrel: 3.5". **Weight:** 25 oz. **Length:** 6" overall. **Grips:** Wraparound textured soft polymer.

Sights: Blade front, rear drift adjustable for windage; bar-dot combat style. **Features:** Trigger-cocking double-action mechanism with passive firing pin block. Made of 4140 ordnance steel with matte black finish. Contact maker for complete price list. Introduced 1994. Made in U.S.A. by Kahr Arms.

Price: K9093C K9, matte stainless steel **\$855.00**
Price: K9093NC K9, matte stainless steel w/tritium night sights **\$985.00**
Price: K9094C K9 matte blackened stainless steel **\$891.00**
Price: K9098 K9 Elite 2003, stainless steel **\$932.00**
Price: K4043 K40, matte stainless steel **\$855.00**
Price: K4043N K40, matte stainless steel w/tritium night sights **\$985.00**
Price: K4044 K40, matte blackened stainless steel **\$891.00**
Price: K4048 K40 Elite 2003, stainless steel **\$932.00**

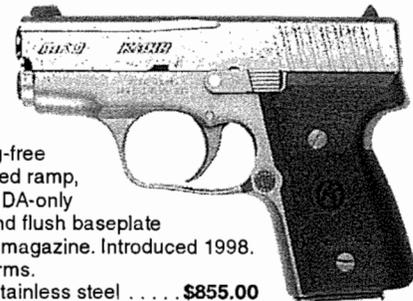


Kahr MK Series Micro Pistols

Similar to the K9/K40 except is 5.35" overall, 4" high, with a 3.08" barrel.

Weighs 23.1 oz. Has snag-free bar-dot sights, polished feed ramp, dual recoil spring system, DA-only trigger. Comes with 5-round flush baseplate and 6-shot grip extension magazine. Introduced 1998. Made in U.S.A. by Kahr Arms.

Price: M9093 MK9, matte stainless steel **\$855.00**
Price: M9093N MK9, matte stainless steel, tritium night sights **\$958.00**
Price: M9098 MK9 Elite 2003, stainless steel **\$932.00**
Price: M4043 MK40, matte stainless steel **\$855.00**
Price: M4043N MK40, matte stainless steel, tritium night sights **\$958.00**
Price: M4048 MK40 Elite 2003, stainless steel **\$932.00**



KAHR P SERIES PISTOLS

Caliber: 380 ACP, 9x19, 40 S&W, 45 ACP. Similar to K9/K40 steel frame pistol except has polymer frame, matte stainless steel slide. Barrel length 3.5"; overall length 5.8"; weighs 17 oz. Includes two

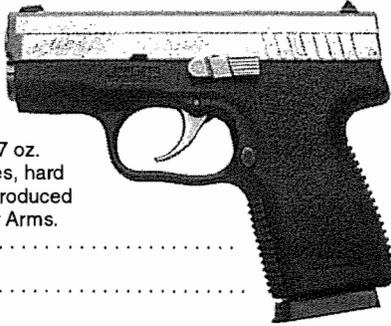
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7-shot magazines, hard polymer case, trigger lock. Introduced 2000. Made in U.S.A. by Kahr Arms.
Price: KP9093 9mm Para. **\$739.00**
Price: KP4043 40 S&W **\$739.00**
Price: KP4543 45 ACP **\$805.00**
Price: KP3833 380 ACP (2008) **\$649.00**

KAHR PM SERIES PISTOLS

Caliber: 9x19, 40 S&W, 45 ACP. Similar to P-Series pistols except has smaller polymer frame (Polymer Micro). Barrel length 3.08"; overall length 5.35"; weighs 17 oz. Includes two 7-shot magazines, hard polymer case, trigger lock. Introduced 2000. Made in U.S.A. by Kahr Arms.

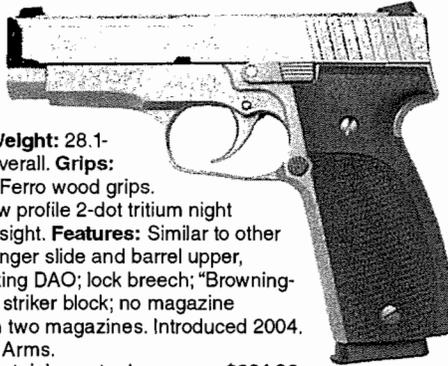
Price: PM9093 PM9 **\$786.00**
Price: PM4043 PM40 **\$786.00**
Price: PM4543 (2007) **\$855.00**



KAHR T SERIES PISTOLS

Caliber: T9: 9mm Para., 8-shot magazine; T40: 40 S&W, 7-shot magazine. **Barrel:** 4". **Weight:** 28.1-29.1 oz. **Length:** 6.5" overall. **Grips:** Checkered Hogue Pau Ferro wood grips. **Sights:** Rear: Novak low profile 2-dot tritium night sight, front tritium night sight. **Features:** Similar to other Kahr makes, but with longer slide and barrel upper, longer butt. Trigger cocking DAO; lock breech; "Browning-type" recoil lug; passive striker block; no magazine disconnect. Comes with two magazines. Introduced 2004. Made in U.S.A. by Kahr Arms.

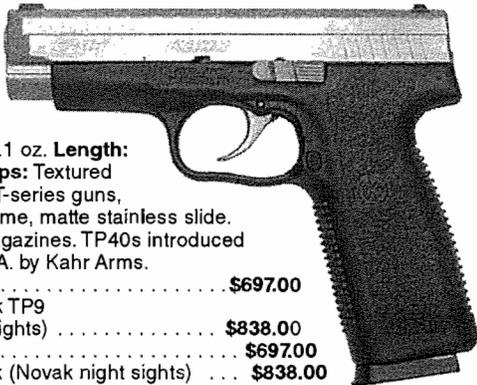
Price: KT9093 T9 matte stainless steel **\$831.00**
Price: KT9093-NOVAK T9, "Tactical 9," Novak night sight **\$968.00**
Price: KT4043 40 S&W **\$831.00**



KAHR TP SERIES PISTOLS

Caliber: TP9: 9mm Para., 7-shot magazine; TP40: 40 S&W, 6-shot magazine. **Barrel:** 4". **Weight:** 19.1-20.1 oz. **Length:** 6.5-6.7" overall. **Grips:** Textured polymer. Similar to T-series guns, but with polymer frame, matte stainless slide. Comes with two magazines. TP40s introduced 2006. Made in U.S.A. by Kahr Arms.

Price: TP9093 TP9 **\$697.00**
Price: TP9093-Novak TP9 (Novak night sights) **\$838.00**
Price: TP4043 TP40 **\$697.00**
Price: TP4043-Novak (Novak night sights) **\$838.00**
Price: TP4543 (2007) **\$697.00**
Price: TP4543-Novak (4.04 barrel, Novak night sights) **\$838.00**



KAHR CW SERIES PISTOL

Caliber: 9mm Para., 7-shot magazine; 40 S&W and 45 ACP, 6-shot magazine. **Barrel:** 3.5-3.64". **Weight:** 17.7-18.7 oz. **Length:** 5.9-6.36" overall. **Grips:** Textured polymer. Similar to P-Series, but CW Series have conventional rifling, metal-injection-molded slide stop lever, no front dovetail cut, one magazine. CW40 introduced 2006. Made in U.S.A. by Kahr Arms.

Price: CW9093 CW9 **\$549.00**
Price: CW4043 CW40 **\$549.00**

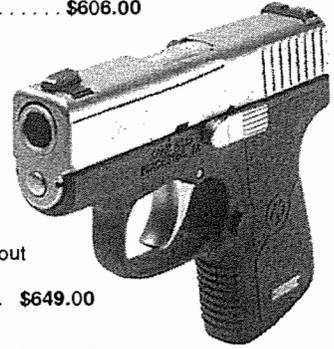


Price: CW4543 45 ACP (2008) **\$606.00**

KAHR P380

Very small double action only semiauto pistol chambered in .380 ACP. Features include 2.5-inch Lothar Walther barrel; black polymer frame with stainless steel slide; drift adjustable white bar/dot combat/sights; optional tritium sights; two 6+1 magazines. Overall length 4.9 inches, weight 10 oz. without magazine.

Price: Standard sights **\$649.00**



KEL-TEC P-11 AUTO PISTOL

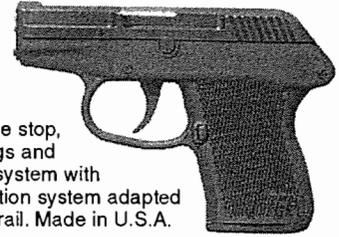
Caliber: 9mm Para., 10-shot magazine. **Barrel:** 3.1". **Weight:** 14 oz. **Length:** 5.6" overall. **Grips:** Checkered black polymer. **Sights:** Blade front, rear adjustable for windage. **Features:** Ordnance steel slide, aluminum frame. Double-action-only trigger mechanism. Introduced 1995. Made in U.S.A. by Kel-Tec CNC Industries, Inc.

Price: From **\$333.00**

KEL-TEC PF-9 PISTOL

Caliber: 9mm Para.; 7 rounds. **Weight:** 12.7 oz. **Sights:** Rear sight adjustable for windage and elevation. **Barrel Length:** 3.1". **Length:** 5.85". **Features:** Barrel, locking system, slide stop, assembly pin, front sight, recoil springs and guide rod adapted from P-11. Trigger system with integral hammer block and the extraction system adapted from P-3AT. MIL-STD-1913 Picatinny rail. Made in U.S.A. by Kel-Tec CNC Industries, Inc.

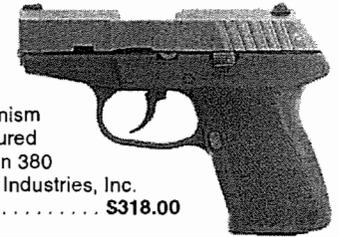
Price: From **\$333.00**



KEL-TEC P-32 AUTO PISTOL

Caliber: 32 ACP, 7-shot magazine. **Barrel:** 2.68". **Weight:** 6.6 oz. **Length:** 5.07" overall. **Grips:** Checkered composite. **Sights:** Fixed. **Features:** Double-action-only mechanism with 6-lb. pull; internal slide stop. Textured composite grip/frame. Now available in 380 ACP. Made in U.S.A. by Kel-Tec CNC Industries, Inc.

Price: From **\$318.00**



KEL-TEC P-3AT PISTOL

Caliber: 380 ACP; 7-rounds. **Weight:** 7.2 oz. **Length:** 5.2". **Features:** Lightest 380 ACP made; aluminum frame, steel barrel.

Price: From **\$324.00**

KEL-TEC PLR-16 PISTOL

Caliber: 5.56mm NATO; 10-round magazine. **Weight:** 51 oz. **Sights:** Rear sight adjustable for windage, front sight is M-16 blade. **Barrel Length:** 9.2". **Length:** 18.5". **Features:** Muzzle is threaded 1/2"-28 to accept standard attachments such as a muzzle brake. Except for the barrel, bolt, sights, and mechanism, the PLR-16 pistol is made of high-impact glass fiber reinforced polymer. Gas-operated semi-auto. Conventional gas-piston operation with M-16 breech locking system. MIL-STD-1913 Picatinny rail. Made in U.S.A. by Kel-Tec CNC Industries, Inc.

Price: Blued **\$665.00**



Kel-Tec PLR-22 Pistol
 Semi-auto pistol chambered in 22 LR; based on centerfire PLR-16 by same maker. Blowback action, 26-round magazine. Open sights

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and picatinny rail for mounting accessories; threaded muzzle. Overall length is 18.5", weighs 40 oz.

Price: \$390.00



KEL-TEC PMR-30 Caliber: .22 Magnum (.22WMR) 30-rounds. **Barrel:** 4.3". **Weight:** 13.6 oz. **Length:** 7.9" overall. **Grips:** Glass reinforced Nylon (Zytel). **Sights:** Dovetailed aluminum with front & rear fiber optics. **Features:** Operates on a unique hybrid blowback/locked-breech system. It

uses a double stack magazine of a new design that holds 30 rounds and fits completely in the grip of the pistol. Dual opposing extractors for reliability, heel magazine release to aid in magazine retention, Picatinny accessory rail under the barrel, Urethane

recoil buffer, captive coaxial recoil springs. The barrel is fluted for light weight and effective heat dissipation. PMR30 disassembles for cleaning by removal of a single pin.

Price: \$415.00

KIMBER MICRO CDP II .380

Caliber: .380 ACP (6-shot magazine). **Barrel:** 3". **Weight:** 17 oz. **Grips:** Double diamond rosewood. Mini 1911-style single action with no grip safety.

Price: \$1100

KIMBER AEGIS II

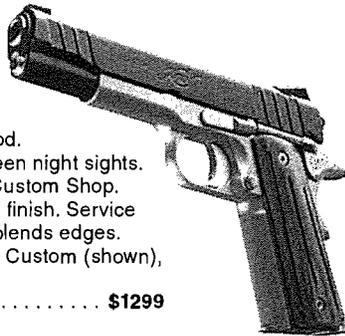
Caliber: 9mm (9-shot magazine, 8-shot (Ultra model)). **Barrel:** 3" 4" or 5". **Weight:** 25 to 38 oz. **Grips:** Scale-textured zebra wood.

Sights: Tactical wedge 3-dot green night sights.

Features: Made in the Kimber Custom Shop. Two-tone satin silver/matte black finish. Service Melt treatment that rounds and blends edges.

Available in three frame sizes: Custom (shown), Pro and Ultra.

Price: \$1299



KIMBER COVERT II

Caliber: .45 ACP (7-shot magazine). **Barrel:** 3", 4" or 5". **Weight:** 25 to 31 oz. **Grips:** Crimson Trace laser with camo finish.

Sights: Tactical wedge 3-dot night sights.

Features: Made in the Kimber Custom Shop. Desert tan frame and matte black slide finishes. Available in three frame sizes: Custom, Pro (shown) and Ultra.

Price: \$1617

KIMBER CUSTOM II AUTO PISTOL

Caliber: 45 ACP. **Barrel:** 5". **Weight:** 38 oz. **Length:** 8.7" overall. **Grips:** Checkered black rubber, walnut, rosewood. **Sights:** Dovetailed front and rear, Kimber low profile adj. or fixed sights. **Features:** Slide, frame and barrel machined from steel or stainless steel. Match grade barrel, chamber and trigger group. Extended thumb safety, beveled magazine well, beveled

front and rear slide serrations, high ride beavertail grip safety, checkered flat mainspring housing, kidney cut under trigger guard, high cut grip, match grade stainless steel barrel bushing, polished breech face, Commander-style hammer, lowered and flared ejection port, Wolff springs, bead blasted black oxide or matte stainless finish. Introduced in 1996. Made in U.S.A. by Kimber Mfg., Inc.

Price: Custom II \$828.00

Price: Custom II Walnut (double-diamond walnut grips) \$872.00

Kimber Stainless II Auto Pistols

Similar to Custom II except has stainless steel frame. 9mm Para. chambering and 45 ACP with night sights introduced 2008. Also chambered in 38 Super. Target version also chambered in 10mm.

Price: Stainless II 45 ACP \$964.00

Price: Stainless II 9mm Para. (2008) \$983.00

Price: Stainless II 45 ACP w/night sights (2008) \$1,092.00

Price: Stainless II Target 45 ACP (stainless, adj. sight) \$942.00



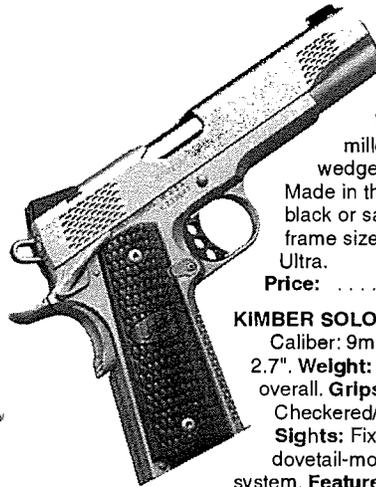
Kimber Pro Carry II Auto Pistol

Similar to Custom II, has aluminum frame, 4" bull barrel fitted directly to the slide without bushing. Introduced 1998. Made in U.S.A. by Kimber Mfg., Inc.

Price: Pro Carry II, 45 ACP \$888.00

Price: Pro Carry II, 9mm \$929.00

Price: Pro Carry II w/night sights \$997.00



KIMBER RAPTOR II

Caliber: .45 ACP (8-shot magazine, 7-shot (Ultra and Pro models)). **Barrel:** 3", 4" or 5".

Weight: 25 to 31 oz. **Grips:** Thin milled rosewood. **Sights:** Tactical wedge 3-dot night sights. **Features:**

Made in the Kimber Custom Shop. Matte black or satin silver finish. Available in three frame sizes: Custom (shown), Pro and Ultra.

Price: \$1263 to \$1530

KIMBER SOLO CARRY

Caliber: 9mm, 6-shot magazine. **Barrel:** 2.7". **Weight:** 17 oz. **Length:** 5.5" overall. **Grips:** Black synthetic, Checkered/smooth.

Sights: Fixed low-profile dovetail-mounted 3-dot

system. **Features:**

Single action striker-fired trigger that sets a new standard for small pistols. A premium finish that is self-lubricating and resistant to salt and moisture. Ergonomics that ensure comfortable shooting. Ambidextrous thumb safety, slide release lever and magazine release button are pure 1911 – positive, intuitive and fast. The thumb safety provides additional security not found on most small pistols. Also available in stainless.

Price: \$747.00

Kimber Compact Stainless II Auto Pistol

Similar to Pro Carry II except has stainless steel frame, 4-inch bbl., grip is .400" shorter than standard, no front serrations. Weighs 34 oz. 45 ACP only. Introduced in 1998. Made in U.S.A. by Kimber Mfg., Inc.

Price: \$1,009.00

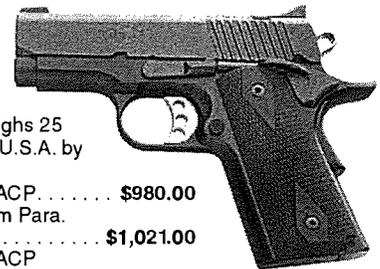
Kimber Ultra Carry II Auto Pistol

Lightweight aluminum frame, 3" match grade bull barrel fitted to slide without bushing. Grips .4" shorter. Low effort recoil. Weighs 25 oz. Introduced in 1999. Made in U.S.A. by Kimber Mfg., Inc.

Price: Stainless Ultra Carry II 45 ACP. \$980.00

Price: Stainless Ultra Carry II 9mm Para. (2008) \$1,021.00

Price: Stainless Ultra Carry II 45 ACP with night sights (2008) \$1,089.00



Kimber Gold Match II Auto Pistol

Similar to Custom II models. Includes stainless steel barrel with match grade chamber and barrel bushing, ambidextrous thumb safety, adjustable sight, premium aluminum trigger, hand-checkered double diamond rosewood grips. Barrel hand-fitted for target accuracy. Made in U.S.A. by Kimber Mfg., Inc.

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Price: Gold Match II \$1,345.00
 Price: Gold Match Stainless II 45 ACP \$1,519.00
 Price: Gold Match Stainless II
 9mm Para. (2008) \$1,563.00



Kimber Team Match II Auto Pistol
 Similar to Gold Match II. Identical to pistol used by U.S.A. Shooting Rapid Fire Pistol Team, available in 45 ACP and 38 Super. Standard features include 30 lines-per-inch front strap extended and beveled magazine well, red, white and blue Team logo grips. Introduced 2008.

Price: 45 ACP \$1,539.00
 Price: 9mm \$1,546.00



Kimber CDP II Series Auto Pistol
 Similar to Custom II, but designed for concealed carry. Aluminum frame. Standard features include stainless steel slide, fixed Meprolight tritium 3-dot (green) dovetail-mounted night sights, match grade barrel and chamber, 30 LPI front strap checkering, two-tone finish, ambidextrous thumb safety, hand-checked double diamond rosewood grips. Introduced in 2000. Made in U.S.A. by Kimber Mfg., Inc.

Price: Ultra CDP II 9mm Para. (2008) \$1,359.00
 Price: Ultra CDP II 45 ACP \$1,318.00
 Price: Compact CDP II 45 ACP \$1,318.00
 Price: Pro CDP II 45 ACP \$1,318.00
 Price: Custom CDP II
 (5" barrel, full length grip) \$1,318.00

Kimber Eclipse II Series Auto Pistol

Similar to Custom II and other stainless Kimber pistols. Stainless slide and frame, black oxide, two-tone finish. Gray/black laminated grips. 30 lpi front strap checkering. All models have night sights; Target versions have Meprolight adjustable Bar/Dot version. Made in U.S.A. by Kimber Mfg., Inc.

Price: Eclipse Ultra II (3" barrel, short grip) \$1,236.00
 Price: Eclipse Pro II (4" barrel, full length grip) \$1,236.00
 Price: Eclipse Pro Target II (4" barrel, full length grip, adjustable sight) \$1,236.00
 Price: Eclipse Custom II 10mm \$1,291.00
 Price: Eclipse Target II (5" barrel, full length grip, adjustable sight) \$1,345.00

KIMBER TACTICAL ENTRY II PISTOL

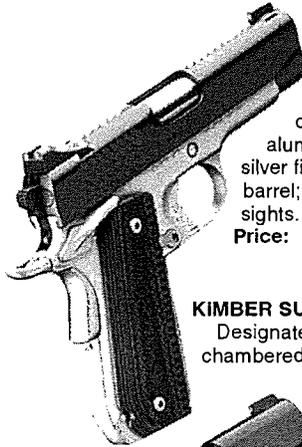
Caliber: 45 ACP, 7-round magazine. **Barrel:** 5". **Weight:** 40 oz. **Length:** 8.7" overall. **Features:** 1911-style semi auto with checkered frontstrap, extended magazine well, night sights, heavy steel frame, tactical rail.

Price: \$1,428.00

KIMBER TACTICAL CUSTOM HD II PISTOL

Caliber: 45 ACP, 7-round magazine. **Barrel:** 5" match-grade. **Weight:** 39 oz. **Length:** 8.7" overall. **Features:** 1911-style semi auto with night sights, heavy steel frame.

Price: \$1,333.00

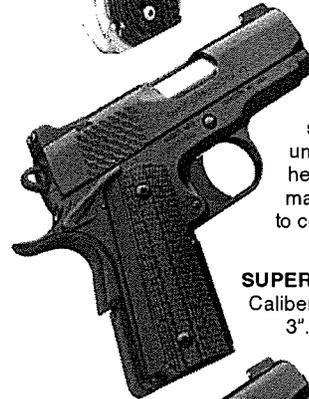


KIMBER SUPER CARRY PRO
 1911-style semiauto pistol chambered in .45 ACP. Features include 8-round magazine; ambidextrous thumb safety; carry melt profiling; full length guide rod; aluminum frame with stainless slide; satin silver finish; super carry serrations; 4-inch barrel; micarta laminated grips; tritium night sights.

Price: \$1,530.00

KIMBER SUPER CARRY HD SERIES

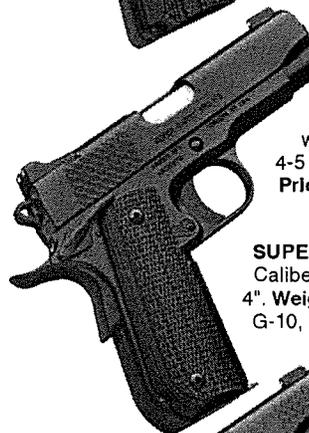
Designated as HD (Heavy Duty), each is chambered in .45 ACP and features a stainless steel slide and frame, premium KimPro II™ finish and night sights with cocking shoulder for one-hand operation. Like the original Super Carry pistols, HD models have directional serrations on slide, front strap and mainspring housing for unequalled control under recoil. A round heel frame and Carry Melt treatment make them comfortable to carry and easy to conceal.



SUPER CARRY ULTRA HD™

Caliber: .45 ACP, 7-shot magazine. **Barrel:** 3". **Weight:** 32 oz. **Length:** 6.8" overall. **Grips:** G-10, Checkered with border. **Sights:** Night sights with cocking shoulder radius (inches): 4.8. **Features:** Rugged stainless steel slide and frame with KimPro II finish. Aluminum match grade trigger with a factory setting of approximately 4-5 pounds.

Price: \$1,625.00



SUPER CARRY PRO HD™

Caliber: .45 ACP, 8-shot magazine. **Barrel:** 4". **Weight:** 35 oz. **Length:** 7.7" overall. **Grips:** G-10, Checkered with border. **Sights:** Night sights with cocking shoulder radius (inches): 5.7. **Features:** Rugged stainless steel slide and frame with KimPro II finish. Aluminum match grade trigger with a factory setting of approximately 4-5 pounds.

Price: \$1,625.00



SUPER CARRY CUSTOM HD™

Caliber: .45 ACP, 8-shot magazine. **Barrel:** 5". **Weight:** 38 oz. **Length:** 8.7" overall. **Grips:** G-10, Checkered with border. **Sights:** Night sights with cocking shoulder radius (inches): 4.8. **Features:** Rugged stainless steel slide and frame with KimPro II finish. Aluminum match grade trigger with a factory setting of approximately 4-5 pounds.

Price: \$1,625.00

KIMBER ULTRA CDP II

Compact 1911-style semiauto pistol chambered in .45 ACP. Features include 7-round magazine; ambidextrous thumb safety; carry melt profiling; full length guide rod; aluminum frame with stainless slide; satin silver finish; checkered frontstrap; 3-inch barrel; rosewood double diamond

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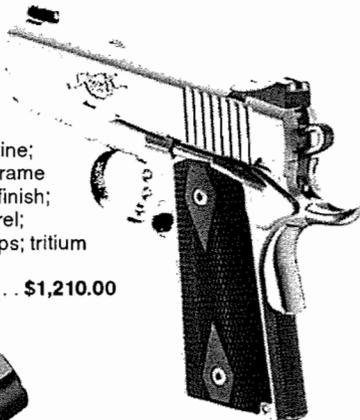


KIMBER STAINLESS ULTRA TLE II

1911-style semiauto pistol chambered in .45 ACP. Features include 7-round magazine; full length guide rod; aluminum frame with stainless slide; satin silver finish; checkered frontstrap; 3-inch barrel; tactical gray double diamond grips; tritium 3-dot night sights.

Price: \$1,210.00

Crimson Trace lasergrips grips; tritium 3-dot night sights.
Price: \$1,603.00



KIMBER ROYAL II

Caliber: .45 ACP, 7-shot magazine.

Barrel: 5". Weight: 38 oz. Length:

8.7" overall. Grips: Solid bone-smooth.

Sights: Fixed low profile radius (inches):

6.8. Features: A classic full-size pistol

wearing a stunning charcoal blue finish

complimented with solid bone grip panels.

Front and rear serrations. Aluminum match grade

trigger with a factory setting of approximately

4-5 pounds.

Price: \$1,938.00



KORTH USA PISTOL SEMI-AUTO

Caliber: 9mm

Para., 9x21. Barrel:

4", 4.5". Weight:

39.9 oz. Grips:

Walnut, Palisander,

Amboinia, Ivory. Sights: Fully

adjustable. Features: DA/SA, 2

models available with either rounded

or combat-style trigger guard, recoil-

operated, locking block system, forged steel.

Available finishes: High polish blue plasma, high

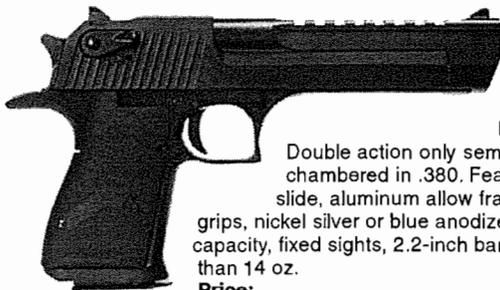
polish or matted silver plasma, gray pickled finish,

or high polish blue. "Schalldampfer Modell" has

special threaded 4.5" barrel and thread protector for

a suppressor, many deluxe options available, 10-shot mag. From

Korth USA.
Price: From \$15,000.00



MAGNUM RESEARCH MICRO DESERT EAGLE PISTOL

Double action only semiauto pistol chambered in .380. Features include steel slide, aluminum allow frame, black polymer grips, nickel silver or blue anodized frame, 6-round capacity, fixed sights, 2.2-inch barrel. Weight less than 14 oz.

Price: \$535.00

MAGNUM RESEARCH DESERT EAGLE MAGNUM PISTOL

Enormous gas-operated semiauto pistol chambered in .50 AE, .44

Magnum, .357 Magnum. Features include 6- or 10-inch barrel,

adjustable sights, variety of finishes. Now made in the USA.

Price: \$1,650.00 to \$2,156.00.

MPA380P PROTECTOR

Caliber: .380 ACP, 5+1 magazine

capacity. Barrel: 2". Weight: 29

oz. Length: 6.7" overall. Grips:

machined aluminum grips with a

bead blasted finish. Sights: Fixed low-

profile dovetail-mounted 3-dot system.

Features: Dubbed the MPA380P (the

"P" stands for "Premium"), the new model features

bead blasted finish protected by a clear anodize coat,

and an extended magazine pad for added shooting

comfort. The Protector is a subcompact double-action-

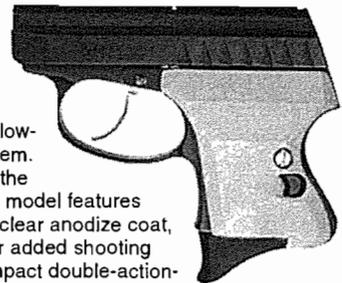
only semiauto. It features a fully machined 4140 steel

slide, a fully machined 4140 steel lower receiver and advanced

handle and grip designs. The pistol is American made and comes

with a lifetime guarantee.

Price: \$345.90



upper



NORTH AMERICAN ARMS GUARDIAN DAO PISTOL

Caliber: 25 NAA, 32 ACP, 380 ACP, 32

NAA, 6-shot magazine. Barrel: 2.49".

Weight: 20.8 oz. Length: 4.75" overall.

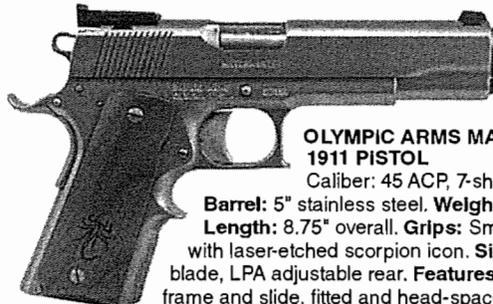
Grips: Black polymer. Sights: Low profile

fixed. Features: Double-action only mechanism.

All stainless steel construction. Introduced 1998. Made in

U.S.A. by North American Arms.

Price: From \$402.00



OLYMPIC ARMS MATCHMASTER 5 1911 PISTOL

Caliber: 45 ACP, 7-shot magazine.

Barrel: 5" stainless steel. Weight: 40 oz.

Length: 8.75" overall. Grips: Smooth walnut

with laser-etched scorpion icon. Sights: Ramped

blade, LPA adjustable rear. Features: Matched

frame and slide, fitted and head-spaced barrel,

complete ramp and throat jobs, lowered and widened

ejection port, beveled mag well, hand-stoned-to-match hammer and

sear, lightweight long-shoe over-travel adjusted trigger, shaped and

tensioned extractor, extended thumb safety, wide beavertail grip safety

and full-length guide rod. Made in U.S.A. by Olympic Arms, Inc.

Price: \$903.00



OLYMPIC ARMS MATCHMASTER 6 1911 PISTOL

Caliber: 45 ACP, 7-shot magazine. Barrel: 6"

stainless steel. Weight: 44 oz. Length: 9.75" overall.

Grips: Smooth walnut with laser-etched scorpion

icon. Sights: Ramped blade, LPA adjustable rear.

Features: Matched frame and slide, fitted and head-spaced barrel,

complete ramp and throat jobs, lowered and widened ejection

port, beveled mag well, hand-stoned-to-match hammer and sear,

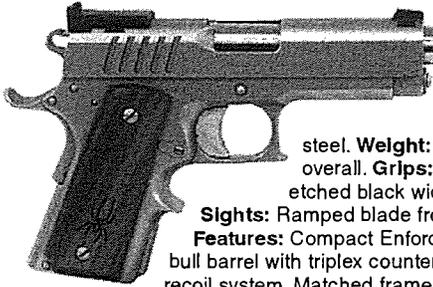
lightweight long-shoe over-travel adjusted trigger, shaped and

tensioned extractor, extended thumb safety, wide beavertail grip

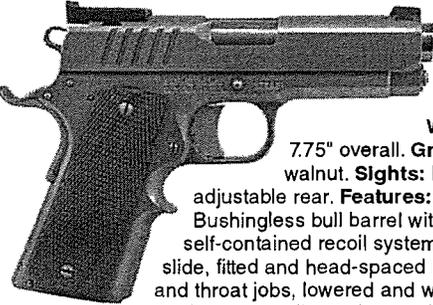
safety and full length guide rod. Made in U.S.A. by Olympic Arms,

Inc.
Price: \$973.00

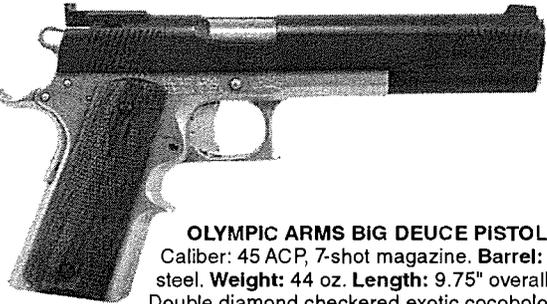
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OLYMPIC ARMS ENFORCER 1911 PISTOL
 Caliber: 45 ACP, 6-shot magazine.
Barrel: 4" bull stainless steel. **Weight:** 35 oz. **Length:** 7.75" overall. **Grips:** Smooth walnut with etched black widow spider icon.
Sights: Ramped blade front, LPA adjustable rear.
Features: Compact Enforcer frame. Bushingless bull barrel with triplex counter-wound self-contained recoil system. Matched frame and slide, fitted and head-spaced barrel, complete ramp and throat jobs, lowered and widened ejection port, beveled mag well, hand-stoned-to-match hammer and sear, lightweight longshoe over-travel adjusted trigger, shaped and tensioned extractor, extended thumb safety, wide beavertail grip safety and full length guide rod. Made in U.S.A. by Olympic Arms.
Price: \$1,033.50



OLYMPIC ARMS COHORT PISTOL
 Caliber: 45 ACP, 7-shot magazine. **Barrel:** 4" bull stainless steel.
Weight: 36 oz. **Length:** 7.75" overall. **Grips:** Fully checkered walnut. **Sights:** Ramped blade front, LPA adjustable rear. **Features:** Full size 1911 frame. Bushingless bull barrel with triplex counter-wound self-contained recoil system. Matched frame and slide, fitted and head-spaced barrel, complete ramp and throat jobs, lowered and widened ejection port, beveled mag well, hand-stoned-to-match hammer and sear, lightweight long-shoe over-travel adjusted trigger, shaped and tensioned extractor, extended thumb safety, wide beavertail grip safety and full length guide rod. Made in U.S.A. by Olympic Arms.
Price: \$973.70



OLYMPIC ARMS BIG DEUCE PISTOL
 Caliber: 45 ACP, 7-shot magazine. **Barrel:** 6" stainless steel. **Weight:** 44 oz. **Length:** 9.75" overall. **Grips:** Double diamond checkered exotic cocobolo wood.
Sights: Ramped blade front, LPA adjustable rear.
Features: Carbon steel parkerized slide with satin bead blast finish full size frame. Matched frame and slide, fitted and head-spaced barrel, complete ramp and throat jobs, lowered and widened ejection port, beveled mag well, hand-stoned-to-match hammer and sear, lightweight long-shoe over-travel adjusted trigger, shaped and tensioned extractor, extended thumb safety, wide beavertail grip safety and full length guide rod. Made in U.S.A. by Olympic Arms.
Price: \$1,033.50

OLYMPIC ARMS WESTERNER SERIES 1911 PISTOLS
 Caliber: 45 ACP, 7-shot magazine. **Barrel:** 4", 5", 6" stainless steel. **Weight:** 35-43 oz. **Length:** 7.75-9.75" overall. **Grips:** Smooth ivory laser-etched Westerner icon. **Sights:** Ramped blade, LPA adjustable rear. **Features:** Matched frame and slide, fitted and head-spaced barrel, complete ramp and throat jobs, lowered and widened ejection port, beveled mag well, hand-stoned-to-match hammer and sear, lightweight long-shoe over-travel adjusted trigger, shaped and tensioned extractor, extended thumb safety, wide beavertail grip safety and full length guide rod. Entire pistol is fitted and assembled, then disassembled and subjected to the color case hardening process. Made in U.S.A. by Olympic Arms, Inc.

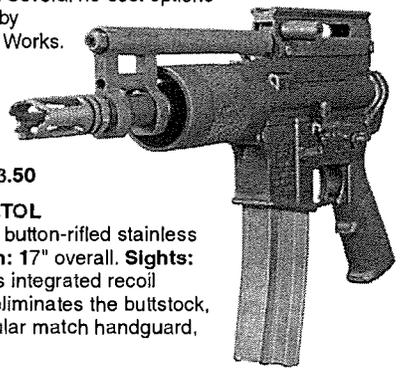


Price: Constable, 4" barrel, 35 oz. . . . \$1,163.50
Price: Westerner, 5" barrel, 39 oz. . . . \$1,033.50
Price: Trail Boss, 6" barrel, 43 oz. . . . \$1,103.70



OLYMPIC ARMS SCHUETZEN PISTOL WORKS 1911 PISTOLS
 Caliber: 45 ACP, 7-shot magazine. **Barrel:** 4", 5.2", bull stainless steel. **Weight:** 35-38 oz. **Length:** 7.75-8.75" overall. **Grips:** Double diamond checkered exotic cocobolo wood. **Sights:** Ramped blade, LPA adjustable rear. **Features:** Carbon steel parkerized slide with satin bead blast finish full size frame. Matched frame and slide, fitted and head-spaced barrel, complete ramp and throat jobs, lowered and widened ejection port, beveled mag well, hand-stoned-to-match hammer and sear, lightweight long-shoe over-travel adjusted trigger, shaped and tensioned extractor, extended thumb safety, wide beavertail grip safety and full length guide rod. Custom made by Olympic Arms Schuetzen Pistol Works. Parts are hand selected and fitted by expert pistolsmiths. Several no-cost options to choose from. Made in U.S.A. by Olympic Arms Schuetzen Pistol Works.
Price: Journeyman, 4" bull barrel, 35 oz. . . . \$1,293.50
Price: Street Deuce, 5.2" bull barrel, 38 oz. . . . \$1,293.50

OLYMPIC ARMS OA-93 AR PISTOL
 Caliber: 5.56 NATO. **Barrel:** 6.5" button-rifled stainless steel. **Weight:** 4.46 lbs. **Length:** 17" overall. **Sights:** None. **Features:** Olympic Arms integrated recoil system on the upper receiver eliminates the buttstock, flat top upper, free floating tubular match handguard,



Prices given are believed to be accurate at time of publication however, many factors affect retail pricing so exact prices are not possible.

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threaded muzzle with flash suppressor. Made in U.S.A. by Olympic Arms, Inc.
Price: \$1,202.50

OLYMPIC ARMS K23P AR PISTOL
 Caliber: 5.56 NATO. **Barrel:** 6.5" button-rifled chrome-moly steel. **Length:** 22.25" overall. **Weight:** 5.12 lbs. **Sights:** Adjustable A2 rear, elevation adjustable front post. **Features:** A2 upper with rear sight, free floating tubular match handguard, threaded muzzle with flash suppressor, receiver extension tube with foam cover, no bayonet lug. Made in U.S.A. by Olympic Arms, Inc. Introduced 2007.
Price: \$973.70

OLYMPIC ARMS K23P-A3-TC AR PISTOL
 Caliber: 5.56 NATO. **Barrel:** 6.5" button-rifled chrome-moly steel. **Length:** 22.25" overall. **Weight:** 5.12 lbs. **Sights:** Adjustable A2 rear, elevation adjustable front post. **Features:** Flat-top upper with detachable carry handle, free floating FIRSH rail handguard, threaded muzzle with flash suppressor, receiver extension tube with foam cover, no bayonet lug. Made in U.S.A. by Olympic Arms, Inc. Introduced 2007.
Price: \$1,118.20

OLYMPIC ARMS WHITNEY WOLVERINE PISTOL
 Caliber: 22 LR, 10-shot magazine. **Barrel:** 4.625" stainless steel. **Weight:** 19.2 oz. **Length:** 9" overall. **Grips:** Black checkered with fire/safe markings. **Sights:** Ramped blade front, dovetail rear. **Features:** Polymer frame with natural ergonomics and ventilated rib. Barrel with 6-groove 1x16 twist rate. All metal magazine shell. Made in U.S.A. by Olympic Arms.
Price: \$291.00



PARA USA BLACK OPS
 Caliber: .45 ACP (8-shot magazine). **Barrel:** 5" **Weight:** 39 oz. **Grips:** G-10. **Sights:** Fixed night sights. Stainless receiver with IONBOND finish.
Price: \$1299



PARA USA GI EXPERT PISTOLS
 Caliber: .45 ACP, 7+1-round capacity. **Barrel:** 5" stainless. **Weight:** 39 oz. **Length:** 8.5" overall. **Grips:** Checkered Polymer. **Sights:** Dovetail Fixed, 3-White Dot. **Features:** The Para "GI Expert" is an entry level 1911 pistol that will allow new marksmen to own a pistol with features such as, Lowered and flared ejection port, beveled magazine well, flat mainspring housing, grip safety contoured for spur hammer.
Price: 1911 Wild Bunch (official SASS) \$789.00



PARA USA WARTHOG
 Caliber: 9mm Para., 45 ACP, 6, 10, or 12-shot magazines. **Barrel:** 3". **Weight:** 24 to 31.5 oz. **Length:** 6.5". **Grips:** Varies by model. **Features:** Single action. Big Hawg (2008) is full-size .45 ACP on



Price: 1911 LTC Single Action Single Stack Model (8+1) \$849.00
Price: 1911 100th Anniversary w/cocobolo grips \$1079.00

PARA USA PXT 1911 SINGLE-ACTION SINGLE-STACK AUTO PISTOLS
 Caliber: 38 Super, 9mm Para., 45 ACP. **Barrel:** 3.5", 4.25", 5". **Weight:** 28-40 oz. **Length:** 7.1-8.5" overall. **Grips:** Checkered cocobolo, textured composition, Mother of Pearl synthetic. **Sights:** Blade front, low-profile Novak Extreme Duty adjustable rear. High visibility 3-dot system. **Features:** Available with alloy, steel or stainless steel frames. Skeletonized trigger, spurred hammer. Manual thumb, grip and firing pin lock safeties. Full-length guide rod. PXT designates new Para Power Extractor throughout the line. Introduced 2004. Made in U.S.A. by Para USA.
Price: 1911 SSP 9mm Para. (2008) \$959.00
Price: 1911 SSP 45 ACP (2008) \$959.00

PARA USA PXT 1911 SINGLE-ACTION HIGH-CAPACITY AUTO PISTOLS
 Caliber: 9mm Para., 45 ACP, 10/14/18-shot magazines. **Barrel:** 3", 5". **Weight:** 34-40 oz. **Length:** 7.1-8.5" overall. **Grips:** Textured composition. **Sights:** Blade front, low-profile Novak Extreme Duty adjustable rear or fixed sights. High visibility 3-dot system. **Features:** Available with alloy, steel or stainless steel frames. Skeletonized match trigger, spurred hammer, flared ejection port. Manual thumb, grip and firing pin lock safeties. Full-length guide rod. Introduced 2004. Made in U.S.A. by Para USA.
Price: PXT P14-45 Gun Rights (2008), 14+1, 5" barrel \$1,149.00
Price: P14-45 (2008), 14+1, 5" barrel \$919.00



Para USA PXT Limited Pistols
 Similar to the PXT-Series pistols except with full-length recoil guide system; fully adjustable rear sight; tuned trigger with over-travel stop; beavertail grip safety; competition hammer; front and rear slide serrations; ambidextrous safety; lowered ejection port; ramped match-grade barrel; dove-tailed front sight. Introduced 2004. Made in U.S.A. by Para USA.
Price: Todd Jarrett 40 S&W, 16+1, stainless \$1,729.00

Para USA LDA Single-Stack Auto Pistols
 Similar to LDA-series with double-action trigger mechanism. Cocobolo and polymer grips. Available in 45 ACP. Introduced 1999. Made in U.S.A. by Para USA.
Price: SSP, 8+1, 5" barrel \$899.00



Para USA LDA HI-Capacity Auto Pistols
 Similar to LDA-series with double-action trigger mechanism. Polymer grips. Available in 9mm Para., 40 S&W, 45 ACP. Introduced 1999. Made in U.S.A. by Para USA.
Price: High-Cap 45, 14+1 ... \$1,279.00

PARA USA STEALTH
 Caliber: .45 ACP (6-shot magazine). **Barrel:** 3". **Weight:** 24 oz. **Grips:** G-10. **Sights:** Fixed night sights. Alloy receiver with IONBOND finish.
Price: \$1399



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PHOENIX ARMS HP22, HP25 AUTO PISTOLS

Caliber: 22 LR, 10-shot (HP22), 25 ACP, 10-shot (HP25). **Barrel:** 3". **Weight:** 20 oz. **Length:** 5.5" overall. **Grips:** Checkered composition. **Sights:** Blade front, adjustable rear.

Features: Single action, exposed hammer; manual hold-open; button magazine release. Available in satin nickel, matte blue finish. Introduced 1993. Made in U.S.A. by Phoenix Arms.

Price: With gun lock \$130.00

Price: HP Range kit with 5" bbl., locking case and accessories (1 Mag) \$171.00

Price: HP Deluxe Range kit with 3" and 5" bbls., 2 mags, case \$210.00



REMINGTON R1

Caliber: .45 (7-shot magazine). **Barrel:** 5"

Weight: 38.5 oz.

Grips: Double diamond walnut. **Sights:** Fixed, dovetail front and rear, 3-dot. **Features:** Flared and lowed ejection port. Comes with two magazines.

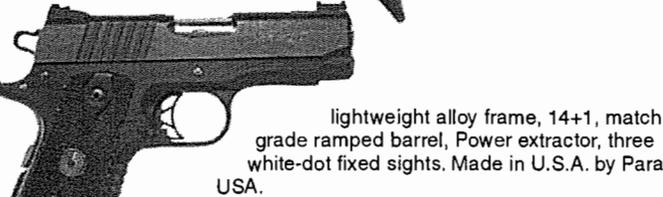
Price: \$729



REMINGTON R1 ENHANCED

Same features as standard R1 except 8-shot magazine, stainless satin black oxide finish, wood laminate grips and adjustable rear sight.

Price: \$940



lightweight alloy frame, 14+1, match grade ramped barrel, Power extractor, three white-dot fixed sights. Made in U.S.A. by Para USA.

Price: Slim Hawg (2006) single stack .45 ACP, stainless, 6+1 \$1,099.00

Price: Nite Hawg .45 ACP, black finish, 10+1 \$1,099.00

Price: Warthog .45 ACP, Regal finish, 10+1 \$959.00

Price: Warthog Stainless \$1,069.00

Price: Big Hawg (2008) \$959.00

Price: PXT Hawg w/fiber optic sight, regal finish, 10+1 \$999.00

Price: PXT Hawg 7 3.5" barrel, covert black finish, 7+1 \$919.00



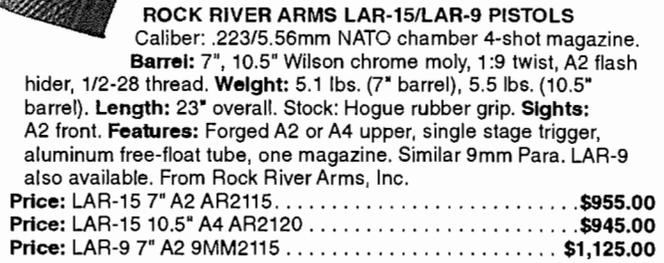
PARA USA PXT TACTICAL PISTOLS

Caliber: .45 ACP, 8+1 round capacity. **Barrel:** 4.25".

Weight: 36 oz. **Length:** 8.5" overall. **Grips:** Checkered Polymer. **Sights:** Fiber-Optic Front/ Adj. Rear. **Features:** A compact tactical pistol equipped with a super strong integral light rail built into the dust shield. The front strap of the frame is checkered 30 lpi for improved gripping surface with or without gloves. The Match grade integral ramp 4.25-inch barrel is locked up at the muzzle with an Ed Brown National Match bushing. Cylinder and Slide provides its Tactical II hammer, sear and disconnecter for a clean crisp trigger. PARA's Power Extractor insures reliable extraction. A flat, checkered mainspring housing mates to the Ed Brown magazine well to funnel the 8-round PXT magazines with alloy base pads into the pistol.

Price: LTC Model \$1,599.00

Price: 14*45 Model 14+1 high-capacity \$1,599.00



ROCK RIVER ARMS LAR-15/LAR-9 PISTOLS

Caliber: .223/5.56mm NATO chamber 4-shot magazine.

Barrel: 7", 10.5" Wilson chrome moly, 1:9 twist, A2 flash hider, 1/2-28 thread. **Weight:** 5.1 lbs. (7" barrel), 5.5 lbs. (10.5" barrel). **Length:** 23" overall. Stock: Hogue rubber grip. **Sights:** A2 front. **Features:** Forged A2 or A4 upper, single stage trigger, aluminum free-float tube, one magazine. Similar 9mm Para. LAR-9 also available. From Rock River Arms, Inc.

Price: LAR-15 7" A2 AR2115 \$955.00

Price: LAR-15 10.5" A4 AR2120 \$945.00

Price: LAR-9 7" A2 9MM2115 \$1,125.00

ROHRBAUGH R9 SEMI-AUTO PISTOL

Caliber: 9mm Parabellum, 380 ACP. **Barrel:** 2.9". **Weight:** 12.8 oz.

Length: 5.2" overall. **Features:** Very small double-action-only semi-auto pocket pistol. Stainless steel slide with matte black aluminum frame. Available with or without sights. Available with all-black (Stealth) and partial Diamond Black (Stealth Elite) finish.

Price: \$1,149.00



RUGER SR9 AUTOLOADING PISTOL

Caliber: 9mm Para. **Barrel:** 4.14".

Weight: 26.25, 26.5 oz. **Grips:** Glass-filled nylon. In two color options—black or OD Green, w/flat or arched reversible backstrap. **Sights:** Adjustable 3-dot, built-in Picatinny-style rail. **Features:** Semi-DA, 6 configurations, striker-fired, through-hardened stainless

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steel slide, brushed or blackened stainless slide with black grip frame or blackened stainless slide with OD Green grip frame, ambi manual 1911-style safety, ambi mag release, mag disconnect, loaded chamber indicator, Ruger camblock design to absorb recoil, two 10 or 17-shot mags. Intr. 2008. Made in U.S.A. by Sturm, Ruger & Co.

Price: SR9 (17-Round), SR9-10 (SS)\$525.00
Price: KBSR9 (17-Round), KBSR9-10 (Blackened SS)\$565.00
Price: KODBSR9 (17-Round), KODBSR9-10 (OD Green Grip)\$565.00



RUGER SR9C COMPACT PISTOL

Compact double action only semiauto pistol chambered in 9mm Parabellum. Features include 1911-style ambidextrous manual safety; internal trigger bar interlock and striker blocker; trigger safety; magazine disconnect; loaded chamber indicator; two magazines, one 10-round and the other 17-round; 3.5-inch barrel; 3-dot sights; accessory rail; brushed stainless or blackened allow finish. Weight 23.40 oz.

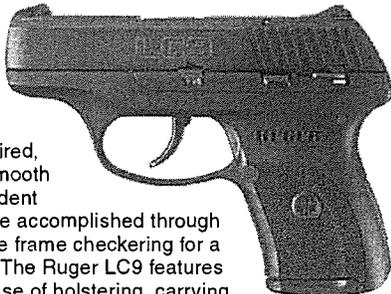
Price:\$525.00

RUGER LC9

Caliber: 9mm luger, 7+1 capacity. **Barrel:** 3.12"
Weight: 17.10 oz. **Grips:** Glass-filled nylon. **Sights:** Adjustable 3-dot. **Features:**

double-action-only, hammer-fired, locked-breech pistol with a smooth trigger pull. Control and confident handling of the Ruger LC9 are accomplished through reduced recoil and aggressive frame checkering for a positive grip in all conditions. The Ruger LC9 features smooth "melted" edges for ease of holstering, carrying and drawing. Made in U.S.A. by Sturm, Ruger & Co.

Price:\$443.00



RUGER LCP

Caliber: .380 (6-shot magazine). **Barrel:** 2.75"
Weight: 9.4 oz. **Length:** 5.16" **Grips:** Glass-filled nylon. **Sights:** Fixed or LaserMax.

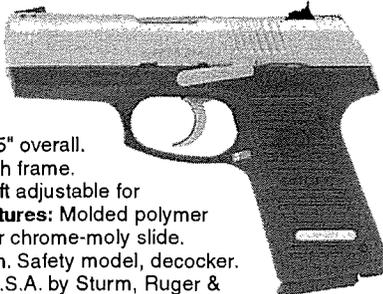
Price:\$379
Price:\$443 (LaserMax)



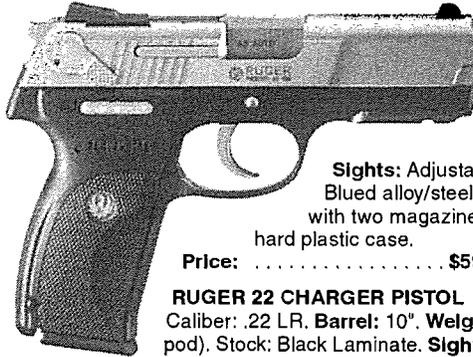
RUGER P95 AUTOLOADING PISTOL

Caliber: 9mm, 15-shot magazine. **Barrel:** 3.9".
Weight: 30 oz. **Length:** 7.25" overall.
Grips: Grooved; integral with frame.
Sights: Blade front, rear drift adjustable for windage; 3-dot system. **Features:** Molded polymer grip frame, stainless steel or chrome-moly slide. Suitable for +P+ ammunition. Safety model, decocker. Introduced 1996. Made in U.S.A. by Sturm, Ruger & Co. Comes with lockable plastic case, spare magazine, loader and lock, Picatinny rails.

Price: KP95PR15 safety model, stainless steel\$424.00



Price: P95PR15 safety model, blued finish\$395.00
Price: P95PR 10-round model, blued finish\$393.00
Price: KP95PR 10-round model, stainless steel\$424.00



RUGER P345
 Caliber: .45 ACP (8-shot magazine).
Barrel: 4.2"
Weight: 29 oz. **Length:** 7.5"

Sights: Adjustable 3-dot. **Features:** Blued alloy/steel or stainless. Comes with two magazines, mag loader and hard plastic case.

Price:\$599, \$639 (stainless)

RUGER 22 CHARGER PISTOL

Caliber: .22 LR. **Barrel:** 10". **Weight:** 3.5 lbs (w/out bi-pod). Stock: Black Laminate. **Sights:** None. **Features:** Rimfire Autoloading, one configuration, 10/22 action, adjustable bi-pod, new mag release for easier removal, precision-rifled barrel, black matte finish, combination Weaver-style and tip-off scope mount, 10-shot mag. Intr. 2008. Made in U.S.A. by Sturm, Ruger & Co.

Price: CHR22-10\$380.00

RUGER MARK III STANDARD AUTOLOADING PISTOL

Caliber: 22 LR, 10-shot magazine. **Barrel:** 4.5", 4.75", 5.5", 6", or 6-7/8". **Weight:** 33 oz. (4.75" bbl.). **Length:** 9" (4.75" bbl.). **Grips:** Checkered composition grip panels. **Sights:** Fixed, fiber-optic front, fixed rear. **Features:** Updated design of original Standard Auto and Mark II series. Hunter models have lighter barrels. Target models have cocobolo grips; bull, target, competition, and hunter barrels; and adjustable sights. Introduced 2005.

Price: MKIII4, MKIII6 (blued)\$352.00
Price: MKIII512 (blued bull barrel)\$417.00
Price: KMKIII512 (stainless bull barrel)\$527.00
Price: MKIII678 (blued)\$417.00
Price: KMKIII678GC (stainless slabside barrel)\$606.00
Price: KMKIII678H (stainless fluted barrel)\$620.00
Price: KMKIII45HCL (Crimson Trace Laser Grips, intr. 2008)\$787.00
Price: KMKIII454 (2009)\$620.00



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Ruger 22/45 Mark III Pistol

Similar to other 22 Mark III autos except has Zytel grip frame that matches angle and magazine latch of Model 1911 45 ACP pistol. Available in 4" standard, 4.5", 5.5", 6-7/8" bull barrels. Comes with extra magazine, plastic case, lock. Introduced 1992. Hunter introduced 2006.

- Price: P4MKIII, 4" bull barrel, adjustable sights \$380.00
- Price: P45GCMKIII, 4.5" bull barrel, fixed sights \$380.00
- Price: P512MKIII (5.5" bull blued barrel, adj. sights) \$380.00
- Price: KP512MKIII (5.5" stainless bull barrel, adj. sights) \$475.00
- Price: Hunter KP45HMKIII 4.5" barrel (2007), KP678HMKIII, 6-7/8" stainless fluted bull barrel, adj. sights \$562.00

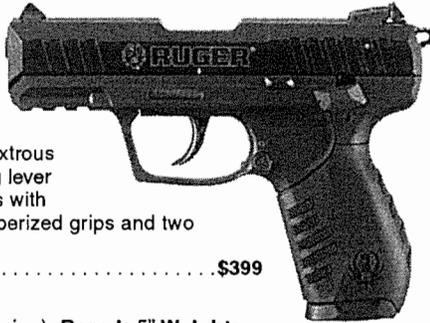
RUGER SR22

Caliber: .22 LR (10-shot magazine).

Barrel: 3.5" Weight: 17.5 oz. Length: 6.4"

Sights: Adjustable 3-dot. Features: Ambidextrous manual safety/decocking lever and mag release. Comes with two interchangeable rubberized grips and two magazines.

Price: \$399



RUGER SR1911

Caliber: .45 (8-shot magazine). Barrel: 5" Weight: 39 oz. Length: 8.6"

Grips: Slim checkered hardwood. Sights: Novak LoMount Carry rear, standard front. Features: Based on Series 70

design. Flared and lowered ejection port. Extended mag release, thumb safety and slide-stop lever, oversized grip safety, checkered backstrap on the flat mainspring housing. Comes with one 7-shot and one 8-shot magazine.

Price: \$799



SEECAMP LWS 32/380 STAINLESS DA AUTO

Caliber: 32 ACP, 380 ACP Win. Silvertip, 6-shot magazine. Barrel: 2", integral with frame. Weight: 10.5 oz. Length: 4-1/8" overall. Grips: Glass-filled nylon. Sights: Smooth, no-slug, contoured slide and barrel top. Features: Aircraft quality 17-4 PH stainless steel. Inertia-operated firing pin. Hammer fired double-action-only. Hammer automatically follows slide down to safety rest position after each shot, no manual safety needed. Magazine safety disconnect. Polished stainless. Introduced 1985. From L.W. Seecamp.

Price: 32 \$446.25
Price: 380 \$795.00

SIG SAUER 250 COMPACT AUTO PISTOL

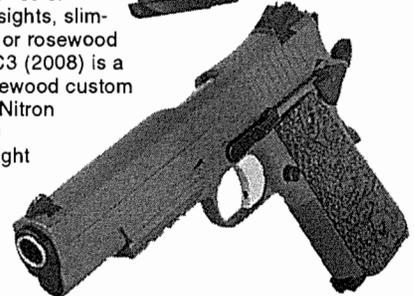
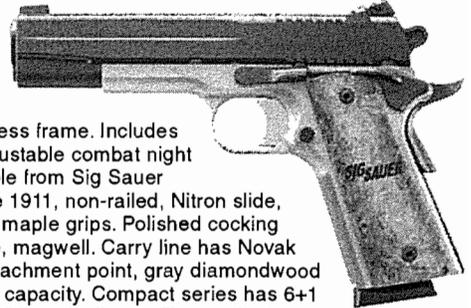
Caliber: 9mm Para. (16-round magazine), 357 SIG, 40 S&W and 45 ACP. Barrel: NA. Weight: 24.6 oz. Length: 7.2" overall. Grips: Interchangeable polymer. Sights: Siglite night sights. Features: Modular design allows for immediate change in caliber and size; subcompact, compact and full. Six different grip combinations for each size. Introduced 2008. From Sig Sauer, Inc.

Price: P250 \$750.00

SIG SAUER 1911 PISTOLS

Caliber: 45 ACP, 8-10 shot magazine. Barrel: 5". Weight: 40.3 oz. Length: 8.65" overall. Grips: Checkered wood grips. Sights: Novak night sights. Blade front, drift adjustable rear for windage. Features: Single-action 1911. Hand-fitted dehorned stainless-steel frame and slide; match-grade barrel, hammer/sear set and trigger; 25-lpi front strap checkering, 20-lpi mainspring housing checkering. Beavertail grip safety with speed bump, extended thumb safety, firing pin safety and hammer intercept notch. Introduced 2005. XO series has contrast sights, Ergo Grip XT textured polymer grips. Target line features adjustable target night sights, match barrel, custom wood

grips, non-railed frame in stainless or Nitron finishes. TTT series is two-tone 1911 with Nitron slide and black controls on stainless frame. Includes burled maple grips, adjustable combat night sights. STX line available from Sig Sauer Custom Shop; two-tone 1911, non-railed, Nitron slide, stainless frame, burled maple grips. Polished cocking serrations, flat-top slide, magwell. Carry line has Novak night sights, lanyard attachment point, gray diamondwood or rosewood grips, 8+1 capacity. Compact series has 6+1 capacity, 7.7" OAL, 4.25" barrel, slim-profile wood grips,



weights 30.3 oz. RCS line (Compact SAS) is Customs Shop version with anti-slug dehorning. Stainless or Nitron finish, Novak night sights, slim-profile gray diamondwood or rosewood grips. 6+1 capacity. 1911 C3 (2008) is a 6+1 compact .45 ACP, rosewood custom wood grips, two-tone and Nitron finishes. Weighs about 30 ounces unloaded, lightweight alloy frame. Length is 7.7". Now offered in more than 30 different models with numerous options for frame size, grips, finishes, sight arrangements and other features. From SIG SAUER, Inc.

- Price: Model 1911-22-B .22 LR w/custom wood grips \$399.99
- Price: Nitron \$1,200.00
- Price: Stainless \$1,170.00
- Price: XO Black \$1,005.00
- Price: Target Nitron (2006) \$1,230.00
- Price: TTT (2006) \$1,290.00
- Price: STX (2006) \$1,455.00
- Price: Carry Nitron (2006) \$1,200.00
- Price: Compact Nitron \$1,200.00
- Price: RCS Nitron \$1,305.00
- Price: C3 (2008) \$1,200.00
- Price: Platinum Elite \$1,275.00
- Price: Blackwater (2009) \$1,290.00
- Price: Scorpion \$1,128.00

SIG SAUER P210 AUTO PISTOLS

Caliber: 9mm, 8-shot magazine. Barrel: 4.7". Weight: 37.4 oz. Length: 8.5" overall. Grips: Custom wood. Sights: Post and notch and adjustable target sights. Features: The carbon steel slide, machined from solid billet steel, now features a durable Nitron® coating, and the improved beavertail adorns the Nitron coated, heavy-style, carbon steel frame. The P210 Legend also offers an improved manual safety, internal drop safety, side magazine release, and

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custom wood grips.

Price: P210-9-LEGEND \$2,199.00

Price: P210-9-LEGEND-TGT w/adjustable target sights \$2,399.00

SIG SAUER P220 AUTO PISTOLS

Caliber: 45 ACP, (7- or 8-shot magazine). **Barrel:** 4.4".

Weight: 27.8 oz. **Length:** 7.8" overall. **Grips:** Checkered black plastic. **Sights:** Blade front,

drift adjustable rear for windage. Optional Siglite night sights.

Features: Double action. Stainless-steel slide, Nitron finish, alloy frame, M1913 Picatinny rail; safety system of decocking lever, automatic firing pin safety block, safety intercept notch, and trigger bar disconnect. Squared combat-type trigger guard. Slide stays open after last shot. Introduced 1976. P220 SAS Anti-Snag has dehorned stainless steel slide, front Siglite Night Sight, rounded trigger guard, dust cover, Custom Shop wood grips. Equinox line is Custom Shop product with Nitron stainless-steel slide with a black hard-anodized alloy frame, brush-polished flats and nickel accents. Truglo tritium fiber-optic front sight, rear Siglite night sight, gray laminated wood grips with checkering and stippling. From SIG SAUER, Inc.

Price: P220 Two-Tone, matte-stainless slide, black alloy frame \$1,110.00
Price: P220 Elite Stainless (2008) \$1,350.00
Price: P220 Two-Tone SAO, single action (2006), from . . . \$1,086.00
Price: P220 DAK (2006) \$853.00
Price: P220 Equinox (2006) \$1,200.00
Price: P220 Elite Dark (2009) \$1,200.00
Price: P220 Elite Dark, threaded barrel (2009) \$1,305.00

SIG SAUER P220 CARRY AUTO PISTOLS

Caliber: 45 ACP, 8-shot magazine. **Barrel:** 3.9".

Weight: NA. **Length:** 7.1" overall. **Grips:**

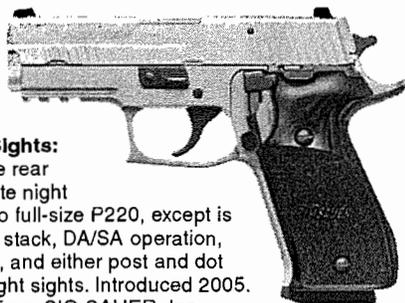
Checkered black plastic. **Sights:** Blade front, drift adjustable rear

for windage. Optional Siglite night sights. **Features:** Similar to full-size P220, except is "Commander" size. Single stack, DA/SA operation, Nitron finish, Picatinny rail, and either post and dot contrast or 3-dot Siglite night sights. Introduced 2005. Many variations available. From SIG SAUER, Inc.

Price: P220 Carry, from \$975.00;
w/night sights \$1,050.00
Price: P220 Carry Elite Stainless (2008) \$1,350.00

SIG SAUER P229 DA Auto Pistol

Similar to the P220 except chambered for 9mm Para. (10- or 15-round magazines), 40 S&W, 357 SIG (10- or 12-round magazines). Has 3.86" barrel, 7.1" overall length and 3.35" height. Weight is 32.4 oz. Introduced 1991. Snap-on modular grips. Frame made



in Germany, stainless steel slide assembly made in U.S.; pistol assembled in U.S. Many variations available. From SIG SAUER, Inc.
Price: P229, from \$975.00; w/night sights \$1,050.00
Price: P229 Platinum Elite (2008) \$1,275.00
Price: P229 Enhanced Elite \$1,175.00

SIG SAUER P226 Pistols

Similar to the P220 pistol except has 4.4" barrel, measures 7.7" overall, weighs 34 oz. Chambered in 9mm, 357 SIG, or 40 S&W. X-Five series has factory tuned single-action trigger, 5" slide and barrel, ergonomic wood grips with beavertail, ambidextrous thumb safety and stainless slide and frame with magwell, low-profile adjustable target sights, front cocking serrations and a 25-meter factory test target. Many variations available. Snap-on modular grips. From SIG SAUER, Inc.

Price: P226, from \$975.00
Price: P226 Blackwater Tactical (2009) \$1,300.00
Price: P226 Extreme \$1,146.00



Price: P226 Enhanced Elite \$1,175.00
Price: P226 Diamond Plate w/diamond plate detailed slide . . \$1,100.00

SIG SAUER SP2022 PISTOLS

Caliber: 9mm Para., 357 SIG, 40 S&W, 10-, 12-, or 15-shot magazines. **Barrel:** 3.9". **Weight:** 30.2 oz. **Length:**

7.4" overall. **Grips:** Composite and rubberized one-piece. **Sights:** Blade front, rear adjustable for windage. Optional Siglite night

sights. **Features:** Polymer frame, stainless steel slide; integral frame accessory rail; replaceable steel frame rails; left- or right-handed magazine release, two interchangeable grips. From SIG SAUER, Inc.

Price: SP2009, Nitron finish \$613.00

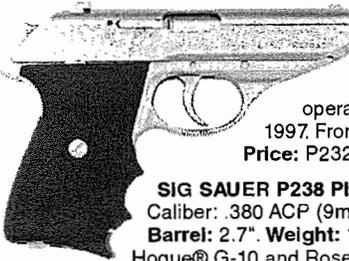
SIG SAUER P232 PERSONAL SIZE PISTOL

Caliber: 380 ACP, 7-shot. **Barrel:** 3.6". **Weight:** 17.6-22.4 oz. **Length:**

6.6" overall. **Grips:** Checkered black composite. **Sights:** Blade front, rear adjustable for windage.

Features: Double action/single action or DAO. Blow-back operation, stationary barrel. Introduced

1997. From SIG SAUER, Inc.
Price: P232, from \$660.00



SIG SAUER P238 PISTOLS

Caliber: .380 ACP (9mm short), 6-7-shot magazine.

Barrel: 2.7". **Weight:** 15.4 oz. **Length:** 5.5" overall. **Grips:** Hogue® G-10 and Rosewood grips. **Sights:** Contrast /

SIGLITE night sights. **Features:** the P238 has redefined the role of a .380 ACP caliber pistol for concealed personal protection, ultimate firepower in an all metal beavertail-style frame.

Price: \$643.00
Price: P238 Lady w/rosewood grips \$752.00

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Price: P238 Gambler w/rosewood grip **\$752.00**

Price: P238 Extreme w/X-Grip extended magazine **\$752.00**

Price: P238 Diamond Plate w/diamond plate detailed slide **\$752.00**



SIG SAUER P290 PISTOLS

Caliber: 9mm, 6/8-shot magazine. **Barrel:** 2.9". **Weight:** 20.5 oz. **Length:** 5.5" overall. **Grips:** Polymer. **Sights:** Contrast / SIGLITE night sights.

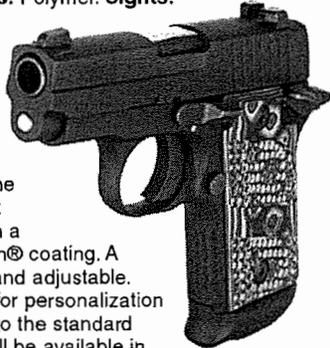
Features: Unlike many small pistols, the P290 features drift adjustable sights in the standard SIG SAUER dovetails. This gives shooters the option of either standard contrast sights or SIGLITE® night sights. The slide is machined from a solid billet of stainless steel and is available in a natural stainless or a durable Nitron® coating. A reversible magazine catch is left-hand adjustable. Interchangeable grip panels allow for personalization as well as a custom fit. In addition to the standard polymer inserts, optional panels will be available in aluminum, G10 and wood.

Price: Model 290-9-BSS **\$758.00**

Price: Model 290-9-TSS **\$786.00**

Price: Model 290-9-BSS-L with laser sights **\$828.00**

Price: Model 290-9-TSS with laser sights **\$856.00**



SIG SAUER P239 PISTOL

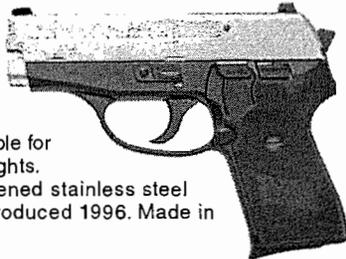
Caliber: 9mm Para., 8-shot, 357 SIG 40 S&W, 7-shot magazine. **Barrel:** 3.6". **Weight:** 25.2 oz.

Length: 6.6" overall. **Grips:** Checkered black composite.

Sights: Blade front, rear adjustable for windage. Optional Siglite night sights.

Features: SA/DA or DAO; blackened stainless steel slide, aluminum alloy frame. Introduced 1996. Made in U.S.A.

by SIG SAUER, Inc. **Price:** P239, from **\$840.00**



SIG SAUER MOSQUITO PISTOL

Caliber: 22 LR, 10-shot magazine. **Barrel:** 3.9". **Weight:** 24.6 oz. **Length:** 7.2" overall. **Grips:** Checkered black composite.

Sights: Blade front, rear adjustable for windage. **Features:** Blowback operated, fixed barrel, polymer frame, slide-mounted ambidextrous safety. Introduced 2005. Made in U.S.A.

by SIG SAUER, Inc. **Price:** Mosquito, from **\$375.00**



SIG SAUER P522 PISTOL

Semiauto blowback pistol chambered in .22 LR. Pistol version of SIG522 rifle. Features include a 10-inch barrel; lightweight polymer lower receiver with pistol grip; ambi mag catch; aluminum upper; faux gas valve; birdcage; 25-round magazine; quad rail or "clean" handguard; optics rail.

Price: **\$572.00 to \$643.00**

SIG SAUER P938

Caliber: 9mm (6-shot magazine). **Barrel:** 3.9". **Weight:** 16 oz. **Length:** 5.9". **Grips:** Rosewood, Blackwood, Hogue Extreme, Hogue Diamondwood. **Sights:** Siglite night sights or Siglite rear with Tru-Glo front. **Features:** Slightly larger version of P238 with 9mm chambering.

Price: **\$809.00 to \$823.00**



SPHINX PISTOLS

Caliber: 9mm Para., 45 ACP, 10-shot magazine.

Barrel: 4.43". **Weight:** 39.15 oz. **Length:** 8.27" overall. **Grips:** Textured polymer. **Sights:** Fixed Trijicon

Night Sights. **Features:** CNC engineered from stainless steel billet; grip frame in stainless steel, titanium or high-strength aluminum. Integrated accessory rail, high-cut beavertail, decocking lever. Made in Switzerland. Imported by Sabre Defence Industries.

Price: 45 ACP (2007) **\$2,990.00**

Price: 9mm Para. Standard, titanium w/decocker **\$2,700.00**

SPHINX SDP

Caliber: 9mm (15-shot magazine). **Barrel:** 3.7". **Weight:** 27.5 oz.

Length: 7.4". **Sights:** Defiance Day & Night

Green fiber/tritium front, tritium 2-dot

red rear. **Features:** Double/single action with ambidextrous decocker, integrated slide position safety,

aluminum MIL-STD 1913 Picatinny rail, Blued alloy/steel or stainless. Aluminum and polymer frame, machined steel slide.

Price: **NA**



SMITH & WESSON M&P AUTO PISTOLS

Caliber: .22 LR, 9mm Para., 40 S&W, 357 Auto. **Barrel:** 4.25". **Weight:** 24.25 oz. **Length:** 7.5" overall. **Grips:** One-piece Xenoy, wraparound with straight backstrap. **Sights:** Ramp dovetail mount front; tritium sights optional; Novak Lo-mount Carry rear. **Features:** Zytel polymer frame, embedded stainless steel chassis; stainless steel slide and barrel, stainless steel structural components, black Melonite finish, reversible magazine catch, 3 interchangeable palmwell grip sizes, universal rail, sear deactivation lever, internal lock system, magazine disconnect. Ships with 2 magazines. Internal lock models available. Overall height: 5.5"; width: 1.2"; sight radius: 6.4". Introduced November 2005. 45 ACP version introduced 2007, 10+1 or 14+1 capacity. **Barrel:** 8.05". **Length:** 29.6 ounces. **Features:** Picatinny-style equipment rail; black or bi-tone, dark-earth-brown frame. Bi-tone M&P45 includes ambidextrous, frame-mounted thumb safety, take down tool with lanyard attachment. Compact 9mm Para./357 SIG/40 S&W versions introduced 2007. Compacts have 3.5" barrel, OAL 6.7". 10+1 or 12+1 capacity. **Weight:** 21.7 ounces. **Features:** Picatinny-style equipment rail.

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Made in U.S.A. by Smith & Wesson.
 Price: M&P22 .22 LR model \$569.00 to \$758.00

Price: Crimson Trace Lasergrip models, from \$809.00

SMITH & WESSON PRO SERIES MODEL M&P40
 Striker-fired DAO semiauto pistol chambered in .40 S&W. Features include 4.25- or 5-inch barrel, matte black polymer frame and stainless steel slide, tactical rail,

Novak front and rear sights or two-dot night sights, polymer grips, 15+1 capacity.



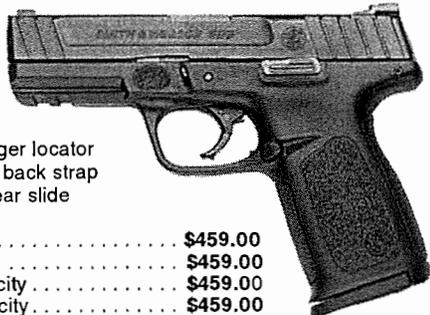
Price: \$830.00
 Price: VTAC® Viking Tactics \$779.00



SMITH & WESSON PRO SERIES MODEL M&P9
 Similar to M&P40 but chambered in 9mm Parabellum. Capacity 17+1, 4.25-inch barrel, two-dot night sights. Price: \$830.00

SMITH & WESSON MODEL SD9 PISTOLS
 Caliber: .40 S&W and 9mm, 10+1, 14+1 and 16+1 round capacities. Barrel: 4". Weight: 39 oz. Length: 8.7". Grips: Wood or rubber. Sights: Front: Tritium Night Sight, Rear: Steel Fixed 2-Dot. Features: SDT™ - Self Defense Trigger for optimal, consistent pull first round to Last, standard picatinny-style rail, slim ergonomic textured grip, textured finger locator and aggressive front and back strap texturing with front and rear slide serrations.

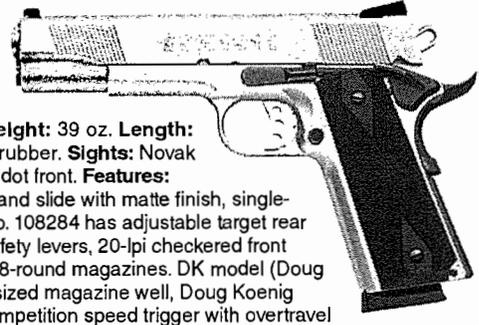
Price: 9mm Std. Capacity \$459.00
 Price: 9mm Low Capacity \$459.00
 Price: .40 S&W Std. Capacity \$459.00
 Price: .40 S&W Low Capacity \$459.00



SMITH & WESSON MODEL SW1911 PISTOLS

Caliber: 45 ACP, 8 rounds; 9mm, 11 rounds. Barrel: 5". Weight: 39 oz. Length: 8.7". Grips: Wood or rubber. Sights: Novak Lo-Mount Carry, white dot front. Features:

Large stainless frame and slide with matte finish, single-side external safety. No. 108284 has adjustable target rear sight, ambidextrous safety levers, 20-lpi checkered front strap, comes with two 8-round magazines. DK model (Doug Koenig) also has oversized magazine well, Doug Koenig speed hammer, flat competition speed trigger with overtravel stop, rosewood grips with Smith & Wesson silver medallions, oversized magazine well, special serial number run. No. 108295 has olive drab Crimson Trace lasergrips. No. 108299 has carbon-steel frame and slide with polished flats on slide, standard GI recoil guide, laminated double-diamond walnut grips with silver Smith & Wesson medallions, adjustable target sights. Tactical Rail No. 108293 has a Picatinny rail, black Melonite finish, Novak Lo-Mount Carry Sights, scandium alloy frame. Tactical Rail Stainless introduced 2006. SW1911PD gun is Commander size, scandium-alloy frame, 4.25" barrel, 8" OAL, 28.0 oz., non-reflective black matte finish. Gunsite edition has scandium alloy frame, beveled edges, solid match aluminum trigger, Herrett's logoed tactical oval walnut stocks, special serial number run, brass bead Novak front sight. SC model has 4.25" barrel, scandium alloy frame, stainless-steel slide, non-reflective matte finish.



Price: From \$1,130.00
 Price: Crimson Trace Laser Grips \$1,493.00
 Price: SW1911 E Series .45 ACP \$919.00
 Price: SW1911 E Series Tactical Accessory Rail \$1,319.00
 Price: SW1911 E Series Round Butt, Scandium Frame \$1,369.00
 Price: SW1911 E Series Crimson Trace® Lasergrips \$1,089.00



SMITH & WESSON MODEL 1911 SUB-COMPACT PRO SERIES

Caliber: 45 ACP, 7 + 1-shot magazine. Barrel: 3". Weight: 24 oz. Length: 6-7/8". Grips: Fully stippled synthetic. Sights: Dovetail white dot front, fixed white 2-dot rear. Features: Scandium frame with stainless steel slide, matte black finish throughout. Oversized external extractor, 3-hole curved trigger with overtravel stop, full-length guide rod, and cable lock. Introduced 2009.

Price: \$1,304.00

SMITH & WESSON ENHANCED SIGMA SERIES DAO PISTOLS

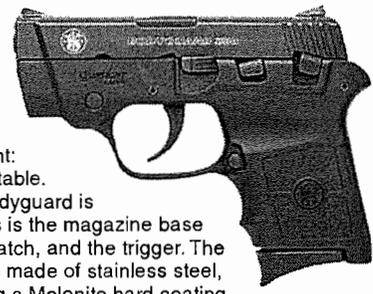
Caliber: 9mm Para., 40 S&W; 10-, 16-shot magazine. Barrel: 4". Weight: 24.7 oz. Length: 7.25" overall. Grips: Integral. Sights: White dot front, fixed rear; 3-dot system. Tritium night sights available. Features: Ergonomic polymer frame; low barrel centerline; internal striker firing system; corrosion-resistant slide; Teflon-filled, electroless-nickel coated magazine, equipment rail. Introduced 1994. Made in U.S.A. by Smith & Wesson.

Price: From \$482.00

SMITH & WESSON BODYGUARD® 380

Caliber: .380 Auto, 6+1 round capacity. Barrel: 2.75". Weight: 11.85 oz. Length: 5.25". Grips: Polymer. Sights: Integrated laser sights with front: stainless steel, rear: drift adjustable.

Features: The frame of the Bodyguard is made of reinforced polymer, as is the magazine base plate and follower, magazine catch, and the trigger. The slide, sights, and guide rod are made of stainless steel, with the slide and sights having a Melonite hard coating. Price: \$399.00



SPRINGFIELD ARMORY EMP ENHANCED MICRO PISTOL

Caliber: 9mm Para., 40 S&W; 9-round magazine. Barrel: 3" stainless steel match grade, fully supported ramp, bull. Weight: 26 oz. Length:

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6.5" overall. **Grips:** Thinline cocobolo hardwood. **Sights:** Fixed low profile combat rear, dovetail front, 3-dot tritium. **Features:** Two 9-round stainless steel magazines with slam pads, long aluminum match-grade trigger adjusted to 5 to 6 lbs., forged aluminum alloy frame, black hardcoat anodized; dual spring full-length guide rod, forged satin-finish stainless steel slide. Introduced 2007. From Springfield Armory.

Price: 9mm Para. Compact Bi-Tone \$1,329.00
Price: 40 S&W Compact Bi-Tone (2008) \$1,329.00

- Price:** Service Black 45 ACP, external thumb safety (2008) \$571.00
- Price:** V-10 Ported Black 9mm Para./40 S&W \$573.00
- Price:** Tactical Black 45 ACP, fixed sights \$616.00
- Price:** Service Bi-Tone 40 S&W, Trijicon night sights (2008) . . . \$695.00



SPRINGFIELD ARMY GI 45 1911A1 AUTO PISTOLS
 Caliber: 45 ACP; 6-, 7-, 13-shot magazines. **Barrel:** 3", 4", 5".
Weight: 28-36 oz. **Length:** 5.5-8.5" overall. **Grips:** Checkered double-

diamond walnut, "U.S." logo. **Sights:** Fixed GI style. **Features:** Similar to WWII GI-issue 45s at hammer, beavertail, mainspring housing. From Springfield Armory.

Price: GI .45 4" Champion Lightweight, 7+1, 28 oz. \$619.00
Price: GI .45 5" High Capacity, 13+1, 36 oz. \$676.00
Price: GI .45 5" OD Green, 7+1, 36 oz. \$619.00
Price: GI .45 3" Micro Compact, 6+1, 32 oz. \$667.00



SPRINGFIELD ARMY XD POLYMER AUTO PISTOLS
 Caliber: 9mm Para., 40 S&W, 45 ACP. **Barrel:** 3", 4", 5". **Weight:** 20.5-31 oz. **Length:** 6.26-8" overall. **Grips:** Textured polymer. **Sights:** Varies by model;

Fixed sights are dovetail front and rear steel 3-dot units. **Features:** Three sizes in X-Treme Duty (XD) line: Sub-Compact (3" barrel), Service (4" barrel), Tactical (5" barrel). Three ported models available. Ergonomic polymer frame, hammer-forged barrel, no-tool disassembly, ambidextrous magazine release, visual/tactile loaded chamber indicator, visual/tactile striker status indicator, grip safety, XD gear system included. Introduced 2004. XD 45 introduced 2006. Compact line introduced 2007. Compacts ship with one extended magazine (13) and one compact magazine (10). From Springfield Armory.

- SPRINGFIELD ARMY MIL-SPEC 1911A1 AUTO PISTOLS**
 Caliber: 38 Super, 9-shot magazines; 45 ACP, 7-shot magazines. **Barrel:** 5". **Weight:** 35.6-39 oz. **Length:** 8.5-8.625" overall. **Features:** Similar to GI 45s. From Springfield Armory.
- Price:** Mil-Spec Parkerized, 7+1, 35.6 oz. \$715.00
 - Price:** Mil-Spec Stainless Steel, 7+1, 36 oz. \$784.00
 - Price:** Mil-Spec 38 Super, 9+1, 39 oz. \$775.00

Springfield Armory Custom Loaded Champion 1911A1 Pistol
 Similar to standard 1911A1, slide and barrel are 4". 7.5" OAL. Available in 45 ACP only. Novak Night Sights. Delta hammer and cocobolo grips. Parkerized or stainless. Introduced 1989.

- Price:** Stainless, 34 oz. \$1,031.00
- Price:** Lightweight, 28 oz. \$989.00

Springfield Armory Custom Loaded Ultra Compact Pistol
 Similar to 1911A1 Compact, shorter slide, 3.5" barrel, 6+1, 7" OAL. Beavertail grip safety, beveled magazine well, fixed sights. Videxi speed trigger, flared ejection port, stainless steel frame, blued slide, match grade barrel, rubber grips. Introduced 1996. From Springfield Armory.

- Price:** Stainless Steel \$1,031.00

SPRINGFIELD ARMY CUSTOM LOADED MICRO-COMPACT 1911A1 PISTOL
 Caliber: 45 ACP, 6+1 capacity. **Barrel:** 3" 1:16 LH. **Weight:** 24-32 oz. **Length:** 4.7". **Grips:** Slimline cocobolo. **Sights:** Novak LoMount tritium. Dovetail front. **Features:** Aluminum hard-coat anodized alloy frame, forged steel slide, forged barrel, ambi-thumb safety, Extreme Carry Bevel dehorning. Lockable plastic case, 2 magazines.

- Price:** Lightweight Bi-Tone \$992.00

SPRINGFIELD ARMY CUSTOM LOADED LONG SLIDE 1911A1 PISTOL
 Caliber: 45 ACP, 7+1 capacity. **Barrel:** 6" 1:16 LH. **Weight:** 41 oz. **Length:** 9.5". **Grips:** Slimline cocobolo. **Sights:** Dovetail front; fully adjustable target rear. **Features:** Longer sight radius, 7.9".

- Price:** Bi-Tone Operator w/light rail \$1,189.00

Springfield Armory Tactical Response Loaded Pistols
 Similar to 1911A1 except 45 ACP only, checkered front strap and mainspring housing, Novak Night Sight combat rear sight and matching dove-tailed front sight, tuned, polished extractor, oversize barrel link; lightweight speed trigger and combat action job, match barrel and



- Price:** Sub-Compact OD Green 9mm Para./40 S&W, fixed sights \$543.00
- Price:** Compact 45 ACP, 4" barrel, Bi-Tone finish (2008) \$589.00
- Price:** Compact 45 ACP, 4" barrel, OD green frame, stainless slide (2008) \$653.00
- Price:** Service Black 9mm Para./40 S&W, fixed sights \$543.00
- Price:** Service Dark Earth 45 ACP, fixed sights \$571.00

Prices given are believed to be accurate at time of publication however, many factors affect retail pricing so exact prices are not possible.

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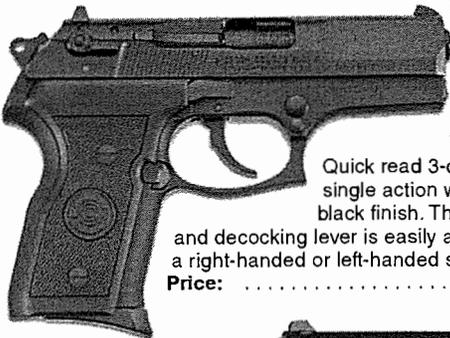
bushing, extended ambidextrous thumb safety and fitted beavertail grip safety. Checkered cocobolo wood grips, comes with two Wilson 7-shot magazines. Frame is engraved "Tactical" both sides of frame with "TRP." Introduced 1998. TRP-Pro Model meets FBI specifications for SWAT Hostage Rescue Team. From Springfield Armory.
Price: 45 TRP Service Model, black Armory Kote finish, fixed Trijicon night sights **\$1,741.00**

SPRINGFIELD ARMOY XDM SERIES

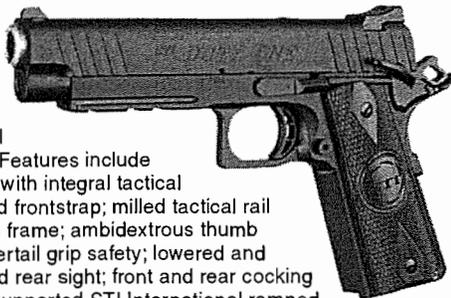


Calibers: 9mm, .40 S&W, .45 ACP. **Barrel:** 3.8 or 4.5". **Sights:** Fiber optic front with interchangeable red and green filaments, adjustable target rear. **Grips:** Integral polymer with three optional backstrap designs. **Features:** Variation of XD design with improved ergonomics, deeper and longer slide serrations, slightly modified grip contours and texturing. Black polymer frame, forged steel slide. Black and two-tone finish options.
Price: **N/A**

STOEGER COMPACT COUGAR PISTOL



Caliber: 9mm, 13+1 round capacity. **Barrel:** 3.6". **Weight:** 32 oz. **Length:** 7". **Grips:** Wood or rubber. **Sights:** Quick read 3-dot. **Features:** Double/single action with a Bruniton® Matte black finish. The ambidextrous safety and decocking lever is easily accessible to the thumb of a right-handed or left-handed shooter.
Price: **\$449.00**



STI DUTY ONE PISTOL

1911-style semiauto pistol chambered in .45 ACP. Features include government size frame with integral tactical rail and 30 lpi checkered frontstrap; milled tactical rail on the dust cover of the frame; ambidextrous thumb safeties; high rise beavertail grip safety; lowered and flared ejection port; fixed rear sight; front and rear cocking serrations; 5-inch fully supported STI International ramped bull barrel.
Price: **\$1312.00**

STI APEIRO

PISTOL

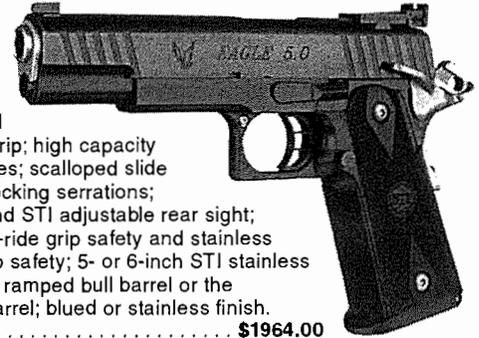
1911-style semiauto pistol chambered in 9x19, .40 S&W, and .45 ACP. Features include Schuemann "Island" barrel; patented modular steel frame with polymer grip; high capacity double-stack magazine; stainless steel ambidextrous thumb safeties and knuckle relief high-rise beavertail grip safety; unique sabertooth rear cocking serrations; 5-inch fully ramped, fully supported "island" bull barrel, with the sight milled in to allow faster recovery to



point of aim; custom engraving on the polished sides of the (blued) stainless steel slide; stainless steel magwell; STI adjustable rear sight and Dawson fiber optic front sight; blued frame.
Price: **\$2717.00**

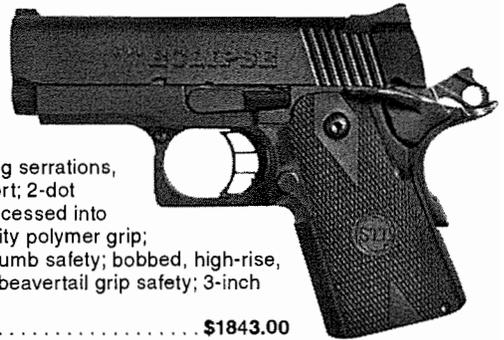
STI EAGLE PISTOL

1911-style semiauto pistol chambered in .45 ACP, 9mm, .40 S&W. Features include modular steel frame with polymer grip; high capacity double-stack magazines; scalloped slide with front and rear cocking serrations; dovetail front sight and STI adjustable rear sight; stainless steel STI hi-ride grip safety and stainless steel STI ambi-thumb safety; 5- or 6-inch STI stainless steel fully supported, ramped bull barrel or the traditional bushing barrel; blued or stainless finish.
Price: **\$1964.00**



STI ECLIPSE PISTOL

Compact 1911-style semiauto pistol chambered in 9x19, .40 S&W, and .45 ACP. Features include 3-inch slide with rear cocking serrations, oversized ejection port; 2-dot tritium night sights recessed into the slide; high-capacity polymer grip; single sided blued thumb safety; bobbed, high-rise, blued, knuckle relief beavertail grip safety; 3-inch barrel.
Price: **\$1843.00**



STI ESCORT PISTOL

Similar to STI Eclipse but with aluminum alloy frame and chambered in .45 ACP only.
Price: **\$1843.00**

TAURUS MODEL 800 SERIES

Caliber: 9mm Para., 40 S&W, 45 ACP. **Barrel:** 4". **Weight:** 32 oz. **Length:** 8.25". **Grips:** Checkered. **Sights:** Novak. **Features:** DA/SA. Blue and Stainless Steel finish. Introduced in 2007. Imported from Brazil by Taurus International.
Price: 809B, 9mm Para., Blue, 17+1 **\$623.00**



TAURUS MODEL 1911

Caliber: 45 ACP, 8+1 capacity. **Barrel:** 5". **Weight:** 33 oz. **Length:** 8.5". **Grips:** Checkered black. **Sights:** Heine straight 8. **Features:** SA. Blue, stainless steel, duotone blue, and blue/gray finish. Standard/picatinny rail, standard frame, alloy frame, and alloy/picatinny rail. Introduced in 2007. Imported from Brazil by Taurus International.
Price: 1911B, Blue **\$719.00**
Price: 1911SS, Stainless Steel **\$816.00**
Price: 1911SS-1, Stainless Steel **\$847.00**
Price: 1911 DT, Duotone Blue **\$795.00**



TAURUS MODEL 917

Caliber: 9mm Para., 19+1 capacity. **Barrel:** 4.3". **Weight:** 32.2 oz. **Length:** 8.5". **Grips:** Checkered rubber. **Sights:** Fixed. **Features:** SA/DA. Blue and stainless steel finish. Medium frame. Introduced in 2007. Imported from Brazil by Taurus International.
Price: 917B-20, Blue **\$542.00**
Price: 917SS-20, Stainless Steel **\$559.00**

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TAURUS MODEL PT-22/PT-25 AUTO PISTOLS

Caliber: 22 LR, 8-shot (PT-22); 25 ACP, 9-shot (PT-25). **Barrel:** 2.75". **Weight:** 12.3 oz. **Length:** 5.25" overall. **Grips:** Smooth rosewood or mother-of-pearl. **Sights:** Fixed. **Features:** Double action. Tip-up barrel for loading, cleaning. Blue, nickel, duo-tone or blue with gold accents. Introduced 1992. Made in U.S.A. by Taurus International.
Price: PT-22B or PT-25B, checkered wood grips **\$248.00**

TAURUS PT2011 DT

Caliber: .380 (15-shot), 9mm (13-shot), .40 S&W(11-shot magazine). **Barrel:** 3.2" **Weight:** 21 oz. **Length:** 6.3" **Finish:** Blue or stainless. **Features:** Manual safety, removable polymer grip backstraps.
Price: **\$544 to \$588**

TAURUS MODEL 22PLY SMALL POLYMER FRAME PISTOLS

Similar to Taurus Models PT-22 and PT-25 but with lightweight polymer frame. Features include 22 LR (9+1) or 25 ACP (8+1) chambering. 2.33" tip-up barrel, matte black finish, extended magazine with finger lip, manual safety. Overall length is 4.8". Weighs 10.8 oz.
Price: **\$273.00**



TAURUS MODEL 24/7
 Caliber: 9mm Para., 40 S&W, 45 ACP. **Barrel:** 4". **Weight:** 27.2 oz. **Length:** 7-1/8". **Grips:** "Ribber" rubber-finned overlay on polymer. **Sights:** Adjustable. **Features:** SA/DA; accessory rail, four safeties, blue or stainless finish. One-piece guide rod, flush-fit magazine, flared bushingless barrel, Picatinny accessory rail, manual safety, user changeable sights, loaded chamber indicator, tuned ejector and lowered port, one piece guide rod and flat wound captive spring. Introduced 2003. Long Slide models have 5" barrels, measure 8-1/8" overall, weigh 27.2 oz. Imported from Brazil by Taurus International.

Price: 40BP, 40 S&W, blued, 10+1 or 15+1 **\$452.00**
Price: 24/7-PRO Standard Series: 4" barrel; stainless, duotone or blued finish **\$452.00**
Price: 24/7-PRO Compact Series; 3.2" barrel; stainless, titanium or blued finish **\$467.00**
Price: 24/7-PRO Long Slide Series: 5.2" barrel; matte stainless, blued or stainless finish **\$506.00**
Price: 24/7PLS, 5" barrel, chambered in 9mm Parabellum, 38 Super and 40 S&W **\$506.00**

TAURUS 24/7 G2

Double/single action semiauto pistol chambered in 9mm Parabellum (15+1), .40 S&W (13+1), and .45 ACP (10+1). Features include blued or stainless finish; "Strike Two" capability; new trigger safety; low-profile adjustable rear sights for windage and elevation; ambidextrous magazine release; 4.2-inch barrel; Picatinny rail; polymer frame; polymer grip with metallic inserts and three interchangeable backstraps. Also offered in compact model with shorter grip frame and 3.5-inch barrel.
Price: **\$523.00**

TAURUS MODEL 2045 LARGE FRAME PISTOL

Similar to Taurus Model 24/7 but chambered in 45 ACP only. Features include polymer frame, blued or matte stainless steel slide, 4.2" barrel, ambidextrous "memory pads" to promote safe finger position during loading, ambi three-position safety/decocker. Picatinny rail system, fixed sights. Overall length is 7.34". Weighs 31.5 oz.
Price: **\$577.00**

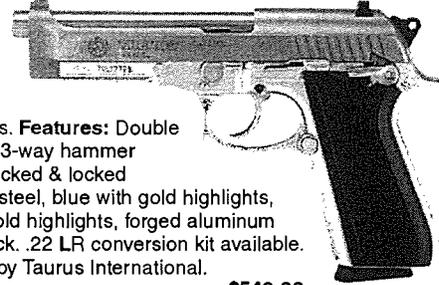
TAURUS MODEL 58 PISTOL

Caliber: 380 ACP (19+1). **Barrel:** 3.25. **Weight:** 18.7 oz. **Length:** 6.125" overall. **Grips:** Polymer. **Sights:** Fixed. **Features:** SA/DA semi-auto. Scaled-down version of the full-size Model 92; steel slide, alloy frame, frame-mounted ambi safety, blued or stainless finish, and extended magazine.
Price: 58HCB **\$602.00**
Price: 58HCSS **\$617.00**

TAURUS MODEL 92 AUTO PISTOL

Caliber: 9mm Para., 10- or 17-shot mags. **Barrel:** 5". **Weight:** 34 oz. **Length:** 8.5" overall. **Grips:** Checkered rubber, rosewood, mother-

of-pearl. **Sights:** Fixed notch rear. 3-dot sight system. Also offered with micrometer-click adjustable night sights. **Features:** Double action, ambidextrous 3-way hammer drop safety, allows cocked & locked carry. Blue, stainless steel, blue with gold highlights, stainless steel with gold highlights, forged aluminum frame, integral key-lock. .22 LR conversion kit available. Imported from Brazil by Taurus International.



Price: 92B **\$542.00**
Price: 92SS **\$559.00**

TAURUS MODEL 99 AUTO PISTOL

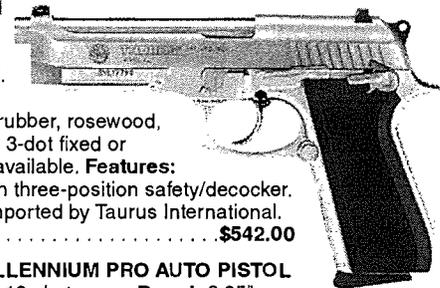
Similar to Model 92, fully adjustable rear sight.
Price: 99B **\$559.00**

TAURUS MODEL 90-TWO SEMI-AUTO PISTOL

Similar to Model 92 but with one-piece wraparound grips, automatic disassembly latch, internal recoil buffer, addition slide serrations, picatinny rail with removable cover, 10- and 17-round magazine (9mm) or 10- and 12-round magazines (40 S&W). Overall length is 8.5". Weight is 32.5 oz.
Price: **\$725.00**

TAURUS MODEL 100/101 AUTO PISTOL

Caliber: 40 S&W, 10- or 11-shot mags. **Barrel:** 5". **Weight:** 34 oz. **Length:** 8.5". **Grips:** Checkered rubber, rosewood, mother-of-pearl. **Sights:** 3-dot fixed or adjustable; night sights available. **Features:** Single/double action with three-position safety/decocker. Reintroduced in 2001. Imported by Taurus International.
Price: 100B **\$542.00**



TAURUS MODEL 111 MILLENNIUM PRO AUTO PISTOL

Caliber: 9mm Para., 10- or 12-shot mags. **Barrel:** 3.25". **Weight:** 18.7 oz. **Length:** 6-1/8" overall. **Grips:** Checkered polymer. **Sights:** 3-dot fixed; night sights available. Low profile, 3-dot combat. **Features:** Double action only, polymer frame, matte stainless or blue steel slide, manual safety, integral key-lock. Deluxe models with wood grip inserts.
Price: 111BP, 111BP-12 **\$419.00**
Price: 111PTi titanium slide **\$592.00**

TAURUS 132 MILLENNIUM PRO AUTO PISTOL

Caliber: 32 ACP, 10-shot mag. **Barrel:** 3.25". **Weight:** 18.7 oz. **Grips:** Polymer. **Sights:** 3-dot fixed; night sights available. **Features:** Double-action-only, polymer frame, matte stainless or blue steel slide, manual safety, integral key-lock action. Introduced 2001.
Price: 132BP **\$419.00**



TAURUS 138 MILLENNIUM PRO SERIES

Caliber: 380 ACP, 10- or 12-shot mags. **Barrel:** 3.25". **Weight:** 18.7 oz. **Grips:** Polymer. **Sights:** Fixed 3-dot fixed. **Features:** Double-action-only, polymer frame, matte stainless or blue steel slide, manual safety, integral key-lock.
Price: 138BP **\$419.00**



TAURUS 140 MILLENNIUM PRO AUTO PISTOL

Caliber: 40 S&W, 10-shot mag. **Barrel:** 3.25". **Weight:** 18.7 oz. **Grips:** Checkered polymer. **Sights:** 3-dot fixed; night sights available. **Features:** Double action only;

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matte stainless or blue steel slide, black polymer frame, manual safety, integral key-lock action. From Taurus International.
Price: 140BP\$436.00

TAURUS 145 MILLENNIUM PRO AUTO PISTOL
 Caliber: 45 ACP, 10-shot mag. **Barrel:** 3.27". **Weight:** 23 oz. **Stock:** Checkered polymer. **Sights:** 3-dot fixed; night sights available. **Features:**

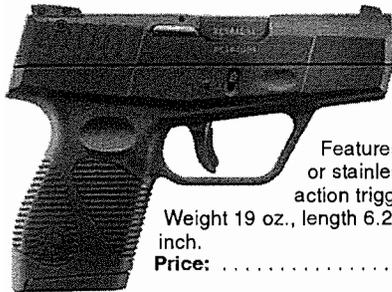
Double-action only, matte stainless or blue steel slide, black polymer frame, manual safety, integral key-lock. Compact model is 6+1 with a 3.25" barrel, weighs 20.8 oz. From Taurus International.

Price: 145BP, blued\$436.00
Price: 145SSP, stainless,\$453.00

Taurus Model 609TI-Pro

Similar to other Millennium Pro models but with titanium slide. Chambered in 9mm Parabellum. Weighs 19.7 oz. Overall length is 6.125". Features include 13+1 capacity, 3.25" barrel, checkered polymer grips, and Heinie Straight-8 sights.

Price:\$608.00

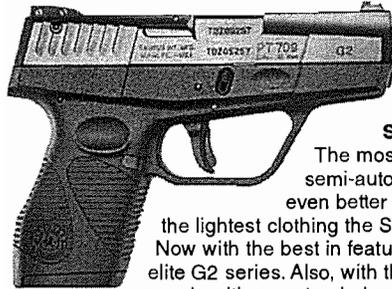


TAURUS SLIM 700 SERIES
 Compact double/single action semiauto pistol chambered in 9mm Parabellum (7+1), .40 S&W (6+1), and .380 ACP (7+1).

Features include polymer frame; blue or stainless slide; single action/double action trigger pull; low-profile fixed sights.

Weight 19 oz., length 6.24 inches, width less than an inch.

Price:N/A



TAURUS MODEL 709 G2 SLIM PISTOL

Caliber: 9mm., 9+1-shot magazine. **Barrel:** 3". **Weight:** 19 oz. **Length:** 6.24" overall. **Grips:** Black.

Sights: Low profile. **Features:**

The most heralded concealed carry semi-auto in company history is getting even better with the G2 Slim. Even under the lightest clothing the Slim design reveals nothing. Now with the best in features and performance from the elite G2 series. Also, with the G2 Slim, there are extra rounds with an extended magazine for added confidence.

Price:\$376.00

TAURUS MODEL 738 TCP COMPACT PISTOL

Caliber: 380 ACP, 6+1 (standard magazine) or 8+1 (extended magazine). **Barrel:** 3.3". **Weight:** 9 oz. (titanium slide) to 10.2 oz. **Length:** 5.19". **Sights:** Low-profile fixed. **Features:** Lightweight DAO semi-auto with polymer frame; blued (738B), stainless (738SS) or titanium (738TI) slide; concealed hammer; ambi safety; loaded chamber indicator.

Price:\$623.00 to \$686.00

TAURUS SLIM 740 PISTOL

Caliber: .380 ACP and .40 cal., 6+1/8+1-shot magazines. **Barrel:** 4". **Weight:** 19 oz. **Length:**



6.24" overall. **Grips:** Polymer Grips. **Features:** Double action with stainless steel finish. Remarkably lean, lightweight design, but it still steps up with big firepower.

Price:\$483.00



TAURUS 800 SERIES COMPACT

Compact double/single action semiauto pistol chambered in 9mm (12+1), .357 SIG (10+1) and .40 cal (10+1).

Features include 3.5-inch barrel; external hammer; loaded chamber indicator; polymer frame; blued or stainless slide.

Price:N/A

TAURUS 809 COMPACT PISTOL

Caliber: 9mm, .357 SIG and .40 cal. 12+1 round capacity. **Barrel:** 3.5". **Grips:** Checkered Polymer.

Description: Little brother of the 800 Series, these new pistols were born to perform. They give everything you

could want in a 3.5" barrel semi-auto—the best in features, handling, speed and reliability.

Price:\$555.00

THOMPSON CUSTOM 1911A1 AUTOMATIC PISTOL

Caliber: 45 ACP, 7-shot magazine. **Barrel:** 4.3".

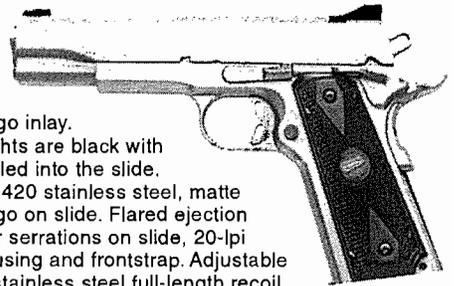
Weight: 34 oz. **Length:** 8" overall. **Grips:**

Checkered laminate grips with a Thompson bullet logo inlay.

Sights: Front and rear sights are black with serrations and are dovetailed into the slide.

Features: Machined from 420 stainless steel, matte finish. Thompson bullet logo on slide. Flared ejection port, angled front and rear serrations on slide, 20-lpi checkered mainspring housing and frontstrap. Adjustable trigger, combat hammer, stainless steel full-length recoil guide rod, extended beavertail grip safety; extended magazine release; checkered slide-stop lever. Made in U.S.A. by Kahr Arms.

Price: 1911TC, 5", 39 oz., 8.5" overall, stainless frame\$813.00



THOMPSON TA5 1927A-1 LIGHTWEIGHT DELUXE PISTOL

Caliber: 45 ACP, 50-round drum magazine. **Barrel:** 10.5" 1:16 right-hand twist. **Weight:** 94.5 oz. **Length:** 23.3" overall. **Grips:** Walnut, horizontal foregrip **Sights:** Blade front, open rear adjustable.

Features: Based on Thompson machine gun design. Introduced 2008. Made in U.S.A. by Kahr Arms.

Price: TA5 (2008)\$1,237.00

TURNBULL MFG. CO. 1911 CENTENIAL PISTOL

Features: Forged slide with appropriate shape and style. Proper size and shape of sights.

Barrel of correct external contour. Safety lock is the thin style, with a knurled undercut thumb-piece.

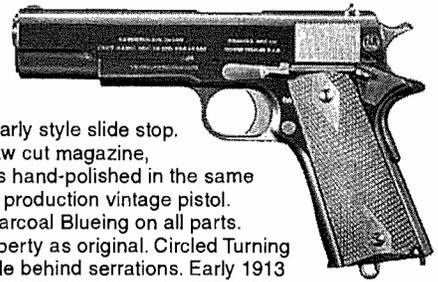
Short, wide spur hammer with standard checkering. Early style slide stop.

Lanyard loop, punch and saw cut magazine, finished in two tone. Pistol is hand-polished in the same manner as an original early production vintage pistol.

Period-correct Carbonia Charcoal Blueing on all parts. Stamped United States Property as original. Circled Turning Bull trademark on left of slide behind serrations. Early 1913

patent markings and Turnbull Mfg. Co. Bloomfield, NY slide address. Model(s) of 1911 U.S. Army, U.S. Navy and U.S. Marine Corps variations are all available. Inspector's marks are available from Doug Turnbull (TMC Owner, founder) and Keith VanOrman (TMC President).

Price:\$3895.00

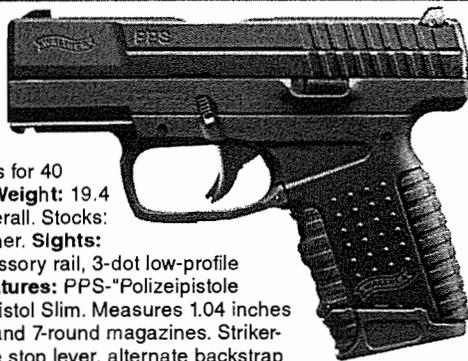


HANDGUNS—Autoloaders, Service & Sport

WALTHER PPS PISTOL

Caliber: 9mm Para., 40 S&W. 6-, 7-, 8-shot magazines for 9mm Para.; 5-, 6-, 7-shot magazines for 40 S&W. **Barrel:** 3.2". **Weight:** 19.4 oz. **Length:** 6.3" overall. **Stocks:** Stippled black polymer. **Sights:** Picatinny-style accessory rail, 3-dot low-profile contoured sight. **Features:** PPS—"Polizeipistole Schmal," or Police Pistol Slim. Measures 1.04 inches wide. Ships with 6- and 7-round magazines. Striker-fired action, flat slide stop lever, alternate backstrap sizes. QuickSafe feature decocks striker assembly when backstrap is removed. Loaded chamber indicator. First Edition model, limited to 1,000 units, has anthracite grey finish, aluminum gun case. Introduced 2008. Made in U.S.A. by Smith & Wesson.

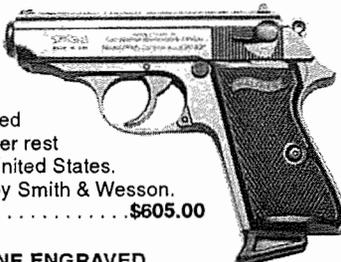
Price: \$713.00
Price: First Edition \$665.00



WALTHER PPK/S AMERICAN AUTO PISTOL

Caliber: .32 ACP, .380 ACP, 7-shot magazine. **Barrel:** 3.27". **Weight:** 23-1/2 oz. **Length:** 6.1" overall. **Stocks:** Checkered plastic. **Sights:** Fixed, white markings. **Features:** Double action; manual safety blocks firing pin and drops hammer; chamber loaded indicator on 32 and 380; extra finger rest magazine provided. Made in the United States. Introduced 1980. Made in U.S.A. by Smith & Wesson.

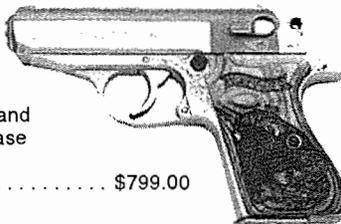
Price: \$605.00



WALTHER MODEL PPK/S MACHINE ENGRAVED

Caliber: .380 ACP, 7 & 8-round capacity. **Barrel:** 3.3". **Weight:** 22.4 oz. **Length:** 6.1". **Grips:** Engraved wood. **Sights:** Fixed. **Features:** Traditional Double Action with Stainless frame, slide and barrel. Mahogany Presentation Case Included.

Price: \$799.00



WALTHER P99 AUTO PISTOL

Caliber: 9mm Para., 9x21, 40 S&W, 10-shot magazine. **Barrel:** 4". **Weight:** 25 oz. **Length:** 7" overall. **Grips:** Textured polymer. **Sights:** Blade front (comes with three interchangeable blades for elevation adjustment), micrometer rear adjustable for windage. **Features:** Double-action mechanism with trigger safety, decock safety, internal striker safety; chamber loaded indicator; ambidextrous magazine release levers; polymer frame with interchangeable backstrap inserts. Comes with two magazines. Introduced 1997. Made in U.S.A. by Smith & Wesson.

Price: From . . . \$799.00



WALTHER P99AS NIGHT SIGHT DEFENSE KIT

Striker-fired DAO semiauto pistol similar to Walther P99AS but with front and rear tritium sights. Chambered in .40 S&W (12 rounds) or 9mm Parabellum (15 rounds). Features include polymer frame and grip, decocker button, 4-inch (9mm) or 4.17-inch



(.40) stainless steel barrel, integral weaver-style accessory rail, black Tenifer finish overall.

Price: N/A

WALTHER PK380

Caliber: .380 ACP (8-shot magazine). **Barrel:** 3.66" **Weight:** 19.4 oz. **Length:** 6.5" **Sights:** Three-dot system, drift adjustable rear. **Features:** Double action with external hammer, ambidextrous mag release and manual safety. Picatinny rail.

Price: \$389

WALTHER PPO

Caliber: 9mm, .40 S&W (12-shot magazine). **Barrel:** 4.2" **Weight:** 24.9 oz. **Length:** 7.2" **Sights:** Drift adjustable. **Features:** Quick Defense trigger, firing pin block, ambidextrous slide lock and mag release, Picatinny rail. Comes with two extra magazines, two interchangeable frame backstraps and hard case.

Price: \$599

WALTHER PPS NIGHT SIGHT DEFENSE KIT

Striker-fired compact DAO semiauto pistol similar to Walther PPS but with front and rear tritium sights. Chambered in .40 S&W (6 rounds) or 9mm Parabellum (7 rounds). Features include polymer frame and grip, decocker button, loaded chamber indicator, 3.2-inch stainless steel barrel, integral weaver-style accessory rail, black Tenifer finish overall.

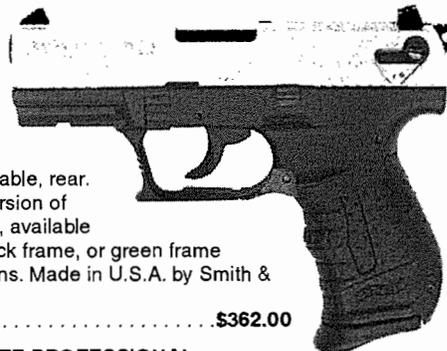
Price: N/A



WALTHER P22 PISTOL

Caliber: 22 LR. **Barrel:** 3.4", 5". **Weight:** 19.6 oz. (3.4"), 20.3 oz. (5"). **Length:** 6.26", 7.83". **Grips:** NA. **Sights:** Interchangeable white dot, front, 2-dot adjustable, rear. **Features:** A rimfire version of the Walther P99 pistol, available in nickel slide with black frame, or green frame with black slide versions. Made in U.S.A. by Smith & Wesson.

Price: From \$362.00



WILSON COMBAT ELITE PROFESSIONAL

Caliber: 9mm Para., 38 Super, 40 S&W; 45 ACP, 8-shot magazine. **Barrel:** Compensated 4.1" hand-fit, heavy flanged cone match grade. **Weight:** 36.2 oz. **Length:** 7.7" overall. **Grips:** Cocobolo. **Sights:** Combat Tactical yellow rear tritium inserts, brighter green tritium front insert. **Features:** High-cut front strap, 30-lpi checkering on front strap and flat mainspring housing. High-Ride Beavertail grip safety. Dehorned, ambidextrous thumb safety, extended ejector, skeletonized ultralight hammer, ultralight trigger, Armor-Tuff finish on frame and slide. Introduced 1997. Made in U.S.A. by Wilson Combat. This manufacturer offers more than 100 different 1911 models ranging in price from about \$2800 to \$5000.

Price: From \$3,650.00

EXHIBIT B PART 2 OF 2

HANDGUNS—Competition

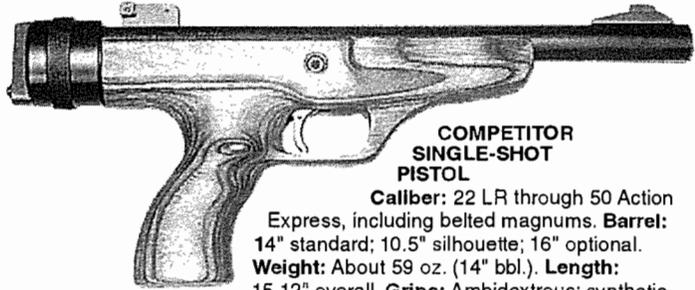


BAER 1911 ULTIMATE

MASTER COMBAT PISTOL

Caliber: 38 Super, 400 Cor-Bon 45 ACP (others available), 10-shot magazine. **Barrel:** 5", 6"; Baer NM. **Weight:** 37 oz. **Length:** 8.5" overall. **Grips:** Checkered cocobolo. **Sights:** Baer dovetail front, low-mount Bo-Mar rear with hidden leaf. **Features:** Full-house competition gun. Baer forged NM blued steel frame and double serrated slide; Baer triple port, tapered cone compensator; fitted slide to frame; lowered, flared ejection port; Baer reverse recoil plug; full-length guide rod; recoil buff; beveled magazine well; Baer Commander hammer, sear; Baer extended ambidextrous safety, extended ejector, checkered slide stop, beavertail grip safety with pad, extended magazine release button; Baer speed trigger. Made in U.S.A. by Les Baer Custom, Inc.

Price: 45 ACP Compensated \$2,880.00
Price: 38 Super Compensated \$3,140.00



COMPETITOR SINGLE-SHOT PISTOL

Caliber: 22 LR through 50 Action Express, including belted magnums. **Barrel:** 14" standard; 10.5" silhouette; 16" optional. **Weight:** About 59 oz. (14" bbl.). **Length:** 15.12" overall. **Grips:** Ambidextrous; synthetic (standard) or laminated or natural wood. **Sights:**

Ramp front, adjustable rear. **Features:** Rotary cannon-type action cocks on opening; cammed ejector; interchangeable barrels, ejectors. Adjustable single stage trigger, sliding thumb safety and trigger safety. Matte blue finish. Introduced 1988. From Competitor Corp., Inc.

Price: 14", standard calibers, synthetic grip \$660.00

CZ 75 TS CZECHMATE

Caliber: 9mm Luger, 20-shot magazine. **Barrel:** 130mm. **Weight:** 1360 g **Length:** 266 mm overall.

Features: The handgun is custom-built, therefore the quality of workmanship is



fully comparable with race pistols built directly to IPSC shooters wishes. Individual parts and components are excellently match fitted, broke-in and tested. Every handgun is outfitted with a four-port compensator, nut for shooting without a compensator, the slide stop with an extended finger piece, the slide stop without a finger piece, ergonomic grip panels from aluminium with a new type pitting and side mounting provision with the C-More red dot sight. For the shooting without a red dot sight there is included a standard target rear sight of Tactical Sports type, package contains also the front sight.

Price: \$3,220.00

CZ 75 TACTICAL SPORTS

Caliber: 9mm Luger and .40 S&W, 17-20-shot magazine capacity. **Barrel:** 114mm. **Weight:** 1270 g **Length:** 225 mm overall. **Features:** semi-automatic handgun with a locked breech. This pistol model is designed for competition shooting in accordance with world IPSC (International Practical Shooting Confederation) rules and regulations. The pistol allow rapid and accurate shooting within a very short time frame. The CZ 75 TS pistol model design stems from the standard CZ 75 model. However, this model feature number of special modifications, which are usually required for competitive handguns: - single-action trigger mechanism (SA) - match trigger made of plastic featuring option for trigger travel adjustments before discharge (using upper screw), and for overtravel (using bottom screw). The adjusting screws are set by the manufacturer - sporting hammer specially adapted for a reduced trigger pull weight - an extended magazine catch - grip panels made of walnut wood - guiding funnel made of plastic for quick inserting of the magazine into pistol's frame. Glossy blue slide, silver polycoat frame. Packaging includes 3 pcs of magazines.

Price: \$1,272.00

CZ 85 COMBAT

Caliber: 9mm Luger, 16-shot magazine. **Barrel:** 114mm. **Weight:** 1000 g **Length:** 206 mm overall. **Features:** The CZ 85 Combat modification was created as an extension to the CZ 85 model in its standard configuration with some additional special elements. The rear sight is adjustable for elevation and windage, and the trigger for overtravel regulation. An extended magazine catch, elimination of the magazine brake and ambidextrous controlling elements directly predispose this model for sport shooting competitions. Characteristic features of all versions A universal handgun for both left-handers and right-handers. The selective SA/DA firing mechanism, a large



BAER 1911 NATIONAL MATCH HARDBALL PISTOL

Caliber: 45 ACP, 7-shot magazine. **Barrel:** 5". **Weight:** 37 oz. **Length:** 8.5" overall. **Grips:** Checkered walnut. **Sights:** Baer dovetail front with under-cut post, low-mount Bo-Mar rear with hidden leaf. **Features:** Baer NM forged steel frame, double serrated slide and barrel with stainless bushing; slide fitted to

frame; Baer match trigger with 4-lb. pull; polished feed ramp, throated barrel; checkered front strap, arched mainspring housing; Baer beveled magazine well; lowered, flared ejection port; tuned extractor; Baer extended ejector, checkered slide stop; recoil buff. Made in U.S.A. by Les Baer Custom, Inc.

Price: \$1,960.00

BAER 1911 BULLSEYE WADCUTTER PISTOL

Similar to National Match Hardball except designed for wadcutter loads only. Polished feed ramp and barrel throat; Bo-Mar rib on slide; full length recoil rod; Baer speed trigger with 3-1/2-lb. pull; Baer deluxe hammer and sear; Baer beavertail grip safety with pad; flat mainspring housing checkered 20 lpi. Blue finish; checkered walnut grips. Made in U.S.A. by Les Baer Custom, Inc.

Price: From \$2,140.00

COLT GOLD CUP TROPHY PISTOL

Caliber: 45 ACP, 8-shot + 1 magazine. **Barrel:** 5". **Weight:** NA. **Length:** 8.5". **Grips:** Checkered rubber composite with silver-plated medallion. **Sights:** (O5070X) Dovetail front, Champion rear; (O5870CS) Patridge Target Style front, Champion rear. **Features:** Adjustable aluminum trigger, Beavertail grip safety, full length recoil spring and target recoil spring, available in blued finish and stainless steel.

Price: O5070X \$1,125.00
Price: O5870CS \$1,175.00

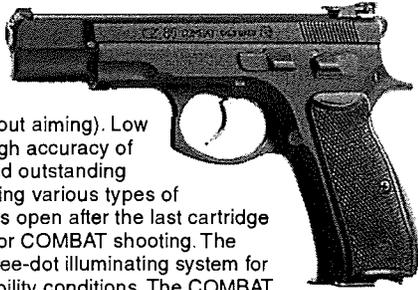
COLT SPECIAL COMBAT GOVERNMENT

Caliber: 45 ACP, 38 Super. **Barrel:** 5". **Weight:** 39 oz. **Length:** 8.5". **Grips:** Rosewood w/double diamond checkering pattern. **Sights:** Clark dovetail, front; Bo-Mar adjustable, rear. **Features:** A competition-ready pistol with enhancements such as skeletonized trigger, upswept grip safety, custom tuned action, polished feed ramp. Blue or satin nickel finish. Introduced 2003. Made in U.S.A. by Colt's Mfg. Co.

Price: \$1,995.00

HANDGUNS—Competition

capacity double-column magazine, a comfortable grip and balance in either hand lead to good results at instinctive shooting (without aiming). Low trigger pull weight and high accuracy of fire. A long service life and outstanding reliability - even when using various types of cartridges. The slide stays open after the last cartridge has been fired, suitable for COMBAT shooting. The sights are fitted with a three-dot illuminating system for better aiming in poor visibility conditions. The COMBAT version features an adjustable rear sight by means of micrometer screws.

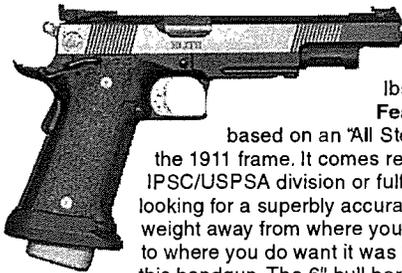


Price: \$615.00

DAN WESSON HAVOC

Caliber: 9mm Luger & .38 Super, 21-shot magazine capacity. **Barrel:** 4.25". **Weight:** 2.20 lbs. **Length:** 8" overall. **Features:** The HAVOC is based on an "All Steel" Hi-capacity version of the 1911 frame. It comes ready to dominate Open IPSC/USPSA division. The C-more mounting system offers the lowest possible mounting configuration possible, enabling extremely fast target acquisition. The barrel and compensator arrangement pairs the highest level of accuracy with the most effective compensator available. The combination of the all steel frame with industry leading parts delivers the most well balanced, softest shooting Open gun on the market.

Price: \$4,299.00



DAN WESSON MAYHEM

Caliber: .40 S&W, 18-shot magazine capacity. **Barrel:** 6". **Weight:** 2.42 lbs. **Length:** 8.75" overall. **Features:** The MAYHEM is based on an "All Steel" Hi-capacity version of the 1911 frame. It comes ready to dominate Limited IPSC/USPSA division or fulfill the needs of anyone looking for a superbly accurate target grade 1911. Taking weight away from where you don't want it and adding it to where you do want it was the first priority in designing this handgun. The 6" bull barrel and the tactical rail add to the static weight "good weight". We wanted a 6" long slide for the added sight radius and the enhanced pointability, but that would add to the "bad weight" so the 6" slide has been lightened to equal the weight of a 5". The result is a 6" long slide that balances and feels like a 5" but shoots like a 6". The combination of the all steel frame with industry leading parts delivers the most well balanced, softest shooting 6" limited gun on the market.

Price: \$3,899.00

DAN WESSON TITAN

Caliber: 10mm, 21-shot magazine capacity. **Barrel:** 4.25". **Weight:** 1.62 lbs. **Length:** 8" overall. **Features:** The TITAN is based on an "All Steel" Hi-capacity version of the 1911 frame. Turning the most well known defensive pistol "1911" into a true combat handgun was no easy task. The rugged HD night sights are moved forward and recessed deep in the slide yielding target accuracy and extreme durability. The Snake Scale serrations' aggressive 25 lpi checkering, and the custom competition G-10 grips ensure controllability even in the harshest of conditions. The combination of the all steel frame, bull barrel, and tactical rail enhance the balance and durability of the most formidable target grade Combat handgun on the market.

Price: \$3,829.00

EAA WITNESS ELITE GOLD TEAM AUTO

Caliber: 9mm Para., 9x21, 38 Super, 40 S&W, 45 ACP. **Barrel:** 5.1". **Weight:** 44 oz. **Length:** 10.5" overall. **Grips:** Checkered walnut, competition-style. **Sights:** Square post front, fully adjustable rear. **Features:** Triple-chamber cone compensator; competition SA trigger; extended safety and magazine release; competition hammer; beveled magazine well; beavertail grip. Hand-fitted major components. Hard chrome finish. Match-grade barrel. From E.A.A. Custom Shop. Introduced 1992. Limited designed for IPSC Limited Class competition. Features include full-length dust-cover frame, funneled magazine well, interchangeable front sights. Stock (2005)



designed for IPSC Production Class competition. Match introduced 2006. Made in Italy, imported by European American Armory.
Price: Gold Team \$1,902.00
Price: Limited, 4.5" barrel, 18+1 capacity . . . \$1,219.00
Price: Stock, 4.5" barrel, hard-chrome finish. . . \$930.00
Price: Match, 4.75" barrel, two-tone finish . . . \$632.00



FREEDOM ARMS MODEL 83 22 FIELD GRADE SILHOUETTE CLASS

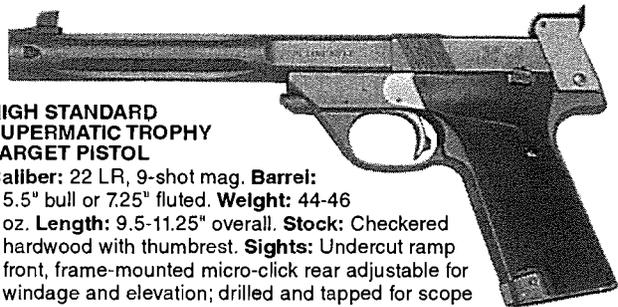
Caliber: 22 LR, 5-shot cylinder. **Barrel:** 10". **Weight:** 63 oz. **Length:** 15.5" overall. **Grips:** Black micarta. **Sights:** Removable Patridge front blade; Iron Sight Gun Works silhouette rear, click adjustable for windage and elevation (optional adj. front sight and hood). **Features:** Stainless steel, matte finish, manual sliding-bar safety system; dual firing pins, lightened hammer for fast lock time, pre-set trigger stop. Introduced 1991. Made in U.S.A. by Freedom Arms.

Price: Silhouette Class \$2,237.00

FREEDOM ARMS MODEL 83 CENTERFIRE SILHOUETTE MODELS

Caliber: 357 Mag., 41 Mag., 44 Mag.; 5-shot cylinder. **Barrel:** 10", 9" (357 Mag. only). **Weight:** 63 oz. (41 Mag.). **Length:** 15.5", 14.5" (357 only). **Grips:** Pachmayr Presentation. **Sights:** Iron Sight Gun Works silhouette rear sight, replaceable adjustable front sight blade with hood. **Features:** Stainless steel, matte finish, manual sliding-bar safety system. Made in U.S.A. by Freedom Arms.

Price: Silhouette Models, from \$1,970.00



HIGH STANDARD SUPERMATIC TROPHY TARGET PISTOL

Caliber: 22 LR, 9-shot mag. **Barrel:** 5.5" bull or 7.25" fluted. **Weight:** 44-46 oz. **Length:** 9.5-11.25" overall. **Stock:** Checkered hardwood with thumbrest. **Sights:** Undercut ramp front, frame-mounted micro-click rear adjustable for windage and elevation; drilled and tapped for scope mounting. **Features:** Gold-plated trigger, slide lock, safety-lever and magazine release; stippled front grip and backstrap; adjustable trigger and sear. Barrel weights optional. From High Standard Manufacturing Co., Inc.

Price: 5.5" barrel, adjustable sights \$935.00

Price: 7.25", adjustable sights \$985.00

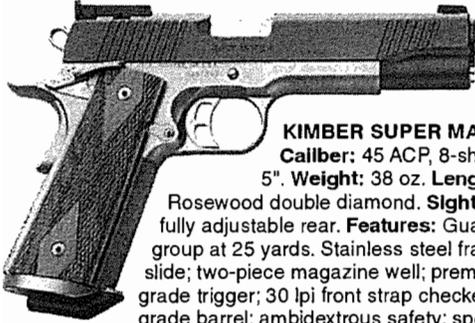
HIGH STANDARD VICTOR TARGET PISTOL

Caliber: 22 LR, 10-shot magazine. **Barrel:** 4.5" or 5.5" polished steel; push-button takedown. **Weight:** 46 oz. **Length:** 9.5" overall. **Stock:** Checkered walnut with thumbrest. **Sights:** Undercut ramp front, micro-click rear adjustable for windage and elevation. Also available with scope mount, rings, no sights. **Features:** Stainless steel frame. Full-length vent rib. Gold-plated trigger, slide lock, safety-lever and magazine release; stippled front grip and backstrap; polished blue slide; adjustable trigger and sear. Comes with barrel weight. From High Standard Manufacturing Co., Inc.

HANDGUNS—Competition



Price: 4.5" or 5.5" barrel, vented sight rib, universal scope base \$935.00



KIMBER SUPER MATCH II
Caliber: 45 ACP, 8-shot magazine. **Barrel:** 5". **Weight:** 38 oz. **Length:** 8.7" overall. **Grips:** Rosewood double diamond. **Sights:** Blade front, Kimber fully adjustable rear. **Features:** Guaranteed shoot 1" group at 25 yards. Stainless steel frame, black KimPro slide; two-piece magazine well; premium aluminum match-grade trigger; 30 lpi front strap checkering; stainless match-grade barrel; ambidextrous safety; special Custom Shop markings. Introduced 1999. Made in U.S.A. by Kimber Mfg., Inc.

Price: \$2,225.00

KIMBER RIMFIRE TARGET
Caliber: 22 LR, 10-shot magazine. **Barrel:** 5". **Weight:** 23 oz. **Length:** 8.7" overall. **Grips:** Rosewood, Kimber logo, double diamond checkering, or black synthetic double diamond. **Sights:** Blade front, Kimber fully adjustable rear. **Features:** Bumped beavertail grip safety, extended thumb safety, extended magazine release button. Serrated flat top slide with flutes, machined aluminum slide and frame, matte black or satin silver finishes, 30 lines-per-inch checkering on frontstrap and under trigger guard; aluminum trigger, test target, accuracy guarantee. No slide lock-open after firing the last round in the magazine. Introduced 1999. Made in U.S.A. by Kimber Mfg., Inc.

Price: \$833.00



RUGER MARK III TARGET MODEL AUTOLOADING PISTOL
Caliber: 22 LR, 10-shot magazine. **Barrel:** 5.5" to 6-7/8". **Weight:** 41 to 45 oz. **Length:** 9.75" to 11-1/8" overall. **Grips:** Checkered cocobolo/laminate. **Sights:** .125" blade front, micro-click rear, adjustable for windage and elevation, loaded chamber indicator; integral lock, magazine disconnect. Plastic case with lock included. Mark II series introduced 1982, discontinued 2004. Mark III introduced 2005.

Price: MKIII512 (bull barrel, blued) \$449.00
 Price: KMKIII512 (bull barrel, stainless) \$559.00
 Price: MKIII678 (blued Target barrel, 6-7/8") \$449.00
 Price: KMKIII678GC (stainless slabside barrel) \$639.00
 Price: KMKIII678H (stainless fluted barrel) \$659.00

SMITH & WESSON MODEL 41 TARGET
Caliber: 22 LR, 10-shot clip. **Barrel:** 5.5", 7". **Weight:** 41 oz. (5.5" barrel). **Length:** 10.5" overall (5.5" barrel). **Grips:** Checkered walnut with modified thumbrest, usable with either hand. **Sights:** 1/8" Patridge on ramp base; micro-click rear adjustable for windage and elevation. **Features:** 3/8" wide, grooved trigger; adjustable trigger stop drilled and tapped.

Price: S&W Bright Blue, either barrel \$1,288.00

SMITH & WESSON MODEL 22A PISTOLS
Caliber: 22 LR, 10-shot magazine. **Barrel:** 4", 5.5" bull. **Weight:** 28-39



oz. Length: 9.5" overall. **Grips:** Dymondwood with ambidextrous thumbrests and flared bottom or rubber soft touch with thumbrest. **Sights:** Patridge front, fully adjustable rear. **Features:** Sight bridge with Weaver-style integral optics mount; alloy frame, stainless barrel and slide; blue/black finish. Introduced 1997. The 22S is similar to the Model 22A except has stainless steel frame. Introduced 1997. Made in U.S.A. by Smith & Wesson.
 Price: from \$308.00
 Price: Realtree APG camo finish (2008) \$356.00

SPRINGFIELD ARMORY LEATHAM LEGEND TGO SERIES PISTOLS
 Three models of 5" barrel, 45 ACP 1911 pistols built for serious competition. TGO 1 has deluxe low mount Bo-Mar rear sight, Dawson fiber optics front sight, 3.5 lb. trigger pull.
 Price: TGO 1 \$3,095.00



SPRINGFIELD ARMORY TROPHY MATCH PISTOL
 Similar to Springfield Armory's Full

Size model, but designed for bullseye and action shooting competition. Available with a Service Model 5" frame with matching slide and barrel in 5" and 6" lengths. Fully adjustable sights, checkered frame front strap, match barrel and bushing. In 45 ACP only. From Springfield Inc.
 Price: \$1,573.00

STI EAGLE 5.0, 6.0 PISTOL
Caliber: 9mm Para., 9x21, 38 & 40 Super, 40 S&W, 10mm, 45 ACP, 10-shot magazine. **Barrel:** 5", 6" bull. **Weight:** 34.5 oz. **Length:** 8.62" overall. **Grips:** Checkered polymer. **Sights:** STI front, Novak or Heinie rear. **Features:** Standard frames plus 7 others; adjustable match trigger; skeletonized hammer; extended grip safety with locator pad. Introduced 1994. Made in U.S.A. by STI International.
 Price: (5.0 Eagle) \$1,940.12
 Price: (6.0 Eagle) \$1,049.98

STI EXECUTIVE PISTOL
Caliber: 40 S&W. **Barrel:** 5" bull. **Weight:** 39 oz. **Length:** 8-5/8". **Grips:** Gray polymer. **Sights:** Dawson fiber optic, front; STI adjustable rear. **Features:** Stainless mag. well, front and rear serrations on slide. Made in U.S.A. by STI.
 Price: \$2,464.00



STI STEELMASTER
Caliber: 9mm minor, comes with one 126mm magazine. **Barrel:** 4.15". **Weight:** 38.9 oz. **Length:** 9.5" overall. **Features:** Based on the renowned STI race pistol design, the SteelMaster is a shorter and lighter pistol that allows for faster target acquisition with reduced muzzle flip and dip. Designed to shoot factory 9mm (minor) ammo, this gun delivers all the advantages of a full size race pistol in a smaller, lighter, faster reacting, and less violent package. The Steelmaster is built on the patented modular steel frame with polymer grip. It has a 4.15" classic slide which has been flat topped. Slide lightening cuts on the front and rear further reduce weight while "Sabertooth" serrations further enhance the aesthetics of this superior pistol. It also uses the innovative Trubor compensated barrel which has been designed

HANDGUNS—Competition



to eliminate misalignment of the barrel and compensator bore or movement of the compensator on the barrel. The shorter Trubor barrel system in the SteelMaster gives an even greater reduction in muzzle flip, and the shorter slide decreases overall slide cycle time allowing the shooter to achieve faster follow up shots. The SteelMaster is mounted with a C-More, 6-minute, red-dot scope with blast shield and thumb rest. Additional enhancements include aluminum magwell, stainless steel ambidextrous safeties, stainless steel high rise grip safety, STI's "Spur" hammer, STI's RecoilMaster guide rod system, and checkered front strap and mainspring housing.

Price: **\$2,864.00**

STI TROJAN

Caliber: 9mm Para., 38 Super, 40 S&W, 45 ACP. **Barrel:** 5", 6".
Weight: 36 oz. **Length:** 8.5". **Grips:** Rosewood. **Sights:** STI front with STI adjustable rear.
Features: Stippled front strap, flat top slide, one-piece steel guide rod.
Price: (Trojan 5") **\$1,110.00**
Price: (Trojan 6", not available in 38 Super) **\$1,419.60**



STI TRUBOR

Caliber: 9mm 'Major', 9x23, .38 Super - USPSA, IPSC. **Barrel:** 5" with integrated compensator. **Weight:** 41.3 oz. (including scope and mount) **Length:** 10.5" overall. **Features:** Built on the patented modular steel frame with polymer grip, the STI Trubor utilizes the Trubor compensated barrel which is machined from ONE PIECE of 416, Rifle Grade, Stainless Steel. The Trubor is designed to eliminate misalignment of the barrel and compensator bore or movement of the compensator along the barrel threads, giving the shooter a more consistent performance and reduced muzzle flip. True to 1911 tradition, the Trubor has a classic scalloped slide with front and rear cocking serrations on a forged steel slide (blued) with polished sides, aluminum magwell, stainless steel ambidextrous safeties, stainless steel high rise grip safety, full length guide rod, checkered front strap, and checkered mainspring housing. With mounted C-More Railway sight included with the pistol.

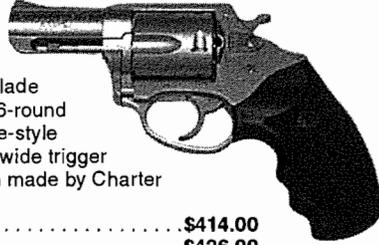
Price: **\$2,864.00**

HANDGUNS—Double-Action Revolvers, Service & Sport

CHARTER ARMS BULLDOG REVOLVER

Caliber: 44 Special. **Barrel:** 2.5". **Weight:** NA. **Sights:** Blade front, notch rear. **Features:** 6-round cylinder, soft-rubber pancake-style grips, shrouded ejector rod, wide trigger and hammer spur. American made by Charter Arms.

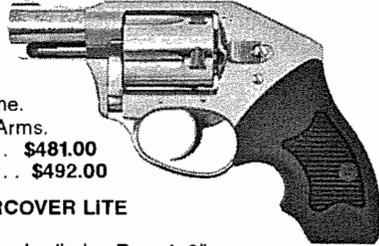
Price: Blued \$414.00
Price: Stainless \$426.00
Price: Target Bulldog, 4" barrel, 23 oz. \$479.00
Price: Heller Commemorative stainless 2.5" \$1595.00



CHARTER ARMS CHIC LADY & CHIC LADY DAO REVOLVERS

Caliber: .38 special - 5-round cylinder. **Barrel:** 2". **Weight:** 12 oz. **Grip:** Combat. **Sights:** Fixed. **Features:** 2-tone pink & stainless with aluminum frame. American made by Charter Arms.

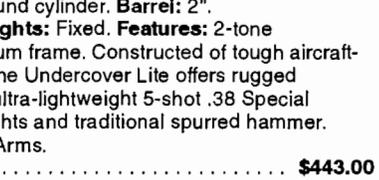
Price: Chic Lady \$481.00
Price: Chic Lady DAO \$492.00



CHARTER COUGAR UNDERCOVER LITE REVOLVER

Caliber: .38 special +P - 5-round cylinder. **Barrel:** 2". **Weight:** 12 oz. **Grip:** Full. **Sights:** Fixed. **Features:** 2-tone pink & stainless with aluminum frame. Constructed of tough aircraft-grade aluminum and steel, the Undercover Lite offers rugged reliability and comfort. This ultra-lightweight 5-shot .38 Special features a 2" barrel, fixed sights and traditional spurred hammer. American made by Charter Arms.

Price: \$443.00



CHARTER ARMS CRIMSON UNDERCOVER REVOLVER
Caliber: .38 special +P - 5-round cylinder. **Barrel:** 2". **Weight:** 16 oz. **Grip:** Crimson Trace™. **Sights:** Fixed. **Features:** Stainless finish & frame. American made by Charter Arms.

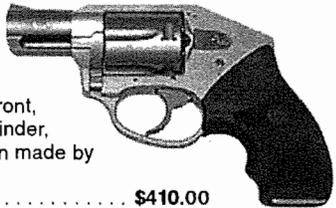
Price: \$525.00



CHARTER ARMS OFF DUTY REVOLVER

Caliber: 38 Spec. **Barrel:** 2". **Weight:** 12.5 oz. **Sights:** Blade front, notch rear. **Features:** 5-round cylinder, aluminum casting, DAO. American made by Charter Arms.

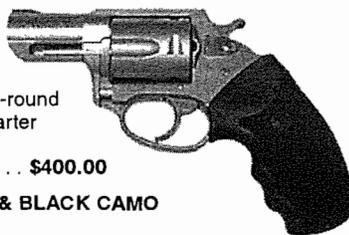
Price: Aluminum \$410.00



CHARTER ARMS MAG PUG REVOLVER

Caliber: 357 Mag. **Barrel:** 2.2". **Weight:** 23 oz. **Sights:** Blade front, notch rear. **Features:** Five-round cylinder. American made by Charter Arms.

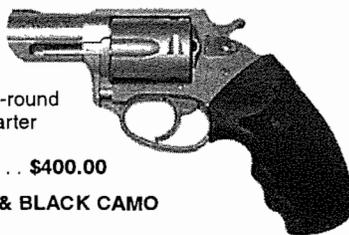
Price: Blued or stainless \$400.00



CHARTER PANTHER BRONZE & BLACK CAMO STANDARD REVOLVER

Caliber: .22 Mag. - 5-round cylinder. **Barrel:** 1-1/8". **Weight:** 6 oz. **Grip:** Compact. **Sights:** Fixed. **Features:** 2-tone bronze & black with aluminum frame. Constructed of tough aircraft-grade aluminum and steel, the Undercover Lite offers rugged reliability and comfort. This ultra-lightweight 5-shot .38 Special features a 2" barrel, fixed sights and traditional spurred hammer. American made by Charter Arms.

Price: \$443.00



CHARTER ARMS PINK LADY REVOLVER

Caliber: 32 H&R Magnum, 38 Special +P. **Barrel:** 2". **Weight:** 12 oz.

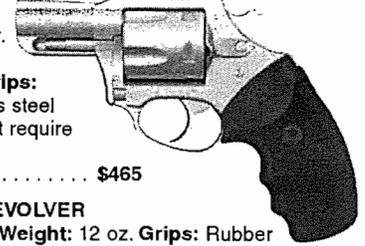
Grips: Rubber Pachmayr-style. **Sights:** Fixed. **Features:** Snubnose, five-round cylinder. Pink anodized aluminum alloy frame.

Price: \$422.00
Price: Lavender Lady, lavender frame \$422.00
Price: Goldfinger, gold anodized frame, matte black barrel and cylinder assembly \$422.00

CHARTER ARMS PIT BULL

Caliber: .40 S&W, 5-round cylinder. **Barrel:** 21.3". **Weight:** 20 oz. **Sights:** Fixed rear, ramp front. **Grips:** Rubber. **Features:** Matte stainless steel frame. Five-shot cylinder does not require moon clips.

Price: \$465



CHARTER ARMS SOUTHPAW REVOLVER

Caliber: 38 Special +P. **Barrel:** 2". **Weight:** 12 oz. **Grips:** Rubber Pachmayr-style. **Sights:** NA. **Features:** Snubnose, five-round cylinder, matte black aluminum alloy frame with stainless steel cylinder. Cylinder latch and crane assembly are on right side of frame for convenience to left-hand shooters.

Price: \$427.00

CHARTER ARMS TARGET PATHFINDER COMBO REVOLVER

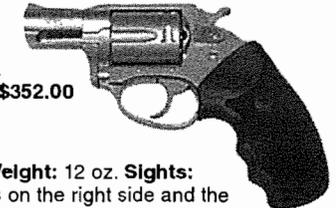
Caliber: .22 LR / .22 Mag. - 6-round cylinder. **Barrel:** 4". **Weight:** 20 oz. **Grip:** Full. **Sights:** Fixed. **Features:** Stainless finish & frame. Charter's Target Pathfinder is a great introductory revolver for the novice shooter. It has the look, feel and weight of a higher-caliber revolver, allowing you to gain proficiency while using relatively inexpensive .22 ammo. Part of the fun of shooting is doing it well, and proficiency requires practice. That's why Charter makes target configurations, with 4" barrels and precision sights. American made by Charter Arms.

Price: \$548.00

CHARTER ARMS UNDERCOVER REVOLVER

Caliber: .38 Spec. **Barrel:** 2". **Weight:** 12 oz. **Sights:** Blade front, notch rear. **Features:** 6-round cylinder. American made by Charter Arms.

Price: Blued \$352.00



CHARTER ARMS UNDERCOVER SOUTHPAW REVOLVER

Caliber: 38 Spec. +P. **Barrel:** 2". **Weight:** 12 oz. **Sights:** NA. **Features:** Cylinder release is on the right side and the cylinder opens to the right side. Exposed hammer for both single and double-action firing. 5-round cylinder. American made by Charter Arms.

Price: \$428.00

CHARTER ARMS UNDERCOVER LITE, RED & BLACK STANDARD REVOLVER

Caliber: 38 special +P - 5-round cylinder. **Barrel:** 2". **Weight:** 12 oz. **Grip:** Standard. **Sights:** Fixed. **Features:** 2-tone red & black with aluminum frame. American made by Charter Arms.

Price: \$422.00

CHIAPPA RHINO
 Chambered in .357 Magnum. Features include 2-, 4-, 5- or 6-inch barrel; fixed or adjustable sights; visible hammer or hammerless design. Weight 24 to 33 oz. Walnut or synthetic grips with black frame; hexagonal-shaped cylinder. Unique design fires from bottom chamber of cylinder.

Price: \$749.00



COMANCHE I, II, III DA REVOLVERS

Caliber: 22 LR, 9 shot. 38 Spec., 6 shot. 357 Mag, 6 shot. **Barrel:** 6", 22 LR; 2" and 4", 38 Spec.; 2" and 3", 357 Mag. **Weight:** 39 oz. **Length:** 10.8" overall. **Grips:** Rubber. **Sights:** Adjustable rear. **Features:** Blued or stainless. Distributed by SGS Importers.

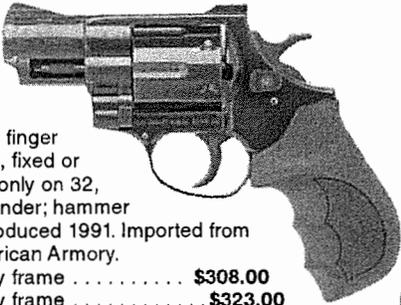
Price: I Blue \$236.95
Price: I Alloy \$258.95
Price: II 38 Spec., 3" bbl., 6-shot, stainless, intr. 2006 \$236.95

HANDGUNS—Double-Action Revolvers, Service & Sport



Price: II 38 Spec., 4" bbl., 6-shot, stainless \$219.95
Price: III 357 Mag, 3" bbl., 6-shot, blue \$253.95
Price: III 357 Mag, 4" bbl., 6-shot, blue \$274.95

EAA WINDICATOR REVOLVERS



Calliber: 38 Spec., 6-shot; 357 Mag., 6-shot. **Barrel:** 2", 4". **Weight:** 30 oz. (4"). **Length:** 8.5" overall (4" bbl.). **Grips:** Rubber with finger grooves. **Sights:** Blade front, fixed or adjustable on rimfires; fixed only on 32, 38. **Features:** Swing-out cylinder; hammer block safety; blue finish. Introduced 1991. Imported from Germany by European American Armory.
Price: 38 Spec. 2" barrel, alloy frame \$308.00
Price: 38 Spec. 4" barrel, alloy frame \$323.00
Price: 357 Mag, 2" barrel, steel frame \$324.00
Price: 357 Mag, 4" barrel, steel frame \$343.00

KORTH USA REVOLVERS

Calliber: 22 LR, 22 WMR, 32 S&W Long, 38 Spec., 357 Mag., 9mm Para. **Barrel:** 3", 4", 5.25", 6". **Weight:** 36-52 oz. **Grips:** Combat, Sport: Walnut, Palisander, Amboinia, Ivory. **Grips:** Target: German Walnut, matte with oil finish, adjustable ergonomic competition style. **Sights:** Adjustable Patridge (Sport) or Baughman (Combat), interchangeable and adjustable rear w/Patridge front (Target) in blue and matte. **Features:** DA/SA, 3 models, over 50 configurations, externally adjustable trigger stop and weight, interchangeable cylinder, removable wide-milled trigger shoe on Target model. Deluxe models are highly engraved editions. Available finishes include high polish blue finish, plasma coated in high polish or matted silver, gold, blue, or charcoal. Many deluxe options available. 6-shot. From Korth USA.
Price: From \$8,000.00
Price: Deluxe Editions, from \$12,000.00

ROSSI R461/R462

Calliber: .357 Mag. **Barrel:** 2". **Weight:** 26-35 oz. **Grips:** Rubber. **Sights:** Fixed. **Features:** DA/SA, +P rated frame, blue carbon or high polish stainless steel, patented Taurus Security System, 6-shot.
Price: From \$389.00



ROSSI MODEL R971/R972 REVOLVERS

Calliber: 357 Mag. +P, 6-shot. **Barrel:** 4", 6". **Weight:** 32 oz. **Length:** 8.5" or 10.5" overall. **Grips:** Rubber. **Sights:** Blade front, adjustable rear. **Features:** Single/double action. Patented key-lock Taurus Security System; forged steel frame. Introduced 2001. Made in Brazil by Amadeo Rossi. Imported by BrazTech/Taurus.
Price: Model R971 (blued finish, 4" bbl.) \$452.00

Price: Model R972 (stainless steel finish, 6" bbl.) \$508.00

ROSSI MODEL 851

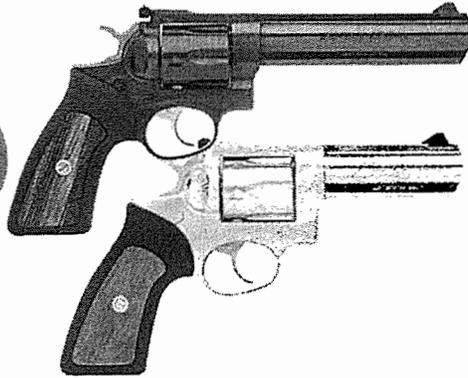
Similar to Model R971/R972, chambered for 38 Spec. +P. Blued finish, 4" barrel. Introduced 2001. Made in Brazil by Amadeo Rossi. From BrazTech/Taurus.



Price: \$389.00

RUGER GP-100 REVOLVERS

Calliber: 327 Federal, 38 Spec. +P, 357 Mag., 6-shot, 327 Federal (7-shot cylinder). **Barrel:** 3" full shroud, 4" full shroud, 6" full shroud. **Weight:** 3" full shroud-36 oz., 4" full shroud-38 oz. **Sights:** Fixed;



adjustable on 4" full shroud, all 6" barrels. **Grips:** Ruger Santoprene Cushioned Grip with Goncalo Alves inserts. **Features:** Uses action, frame features of both the Security-Six and Redhawk revolvers. Full length, short ejector shroud. Satin blue and stainless steel.

Price: .357 Mag., blued \$699.00
Price: .357, satin stainless \$759.00
Price: .357, Federal, stainless \$759.00

RUGER LCR REVOLVER

Calliber: .22 LR (8-shot cylinder), .38 Special and .357 Mag., 5-shot cylinder. **Barrel:** 1-7/8". **Weight:** 13.5 oz.-17.10 oz. **Length:** 6-1/2" overall. **Grips:** Hogue® Tamer™ or Crimson Trace® Lasergrips®. **Sights:** Pinned ramp front, U-notch integral rear.



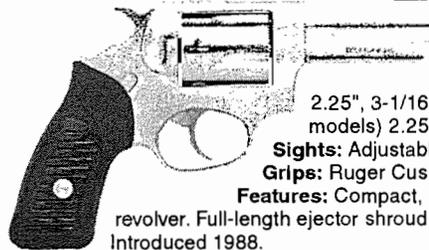
Features: The Ruger Lightweight Compact

Revolver (LCR), a 13.5 ounce, small frame revolver with a smooth, easy-to-control trigger and highly manageable recoil. Packed with the latest technological advances and features required by today's most demanding shooters.

Price: 22 LR, iron sights \$525.00
Price: .38/.357, iron sights \$599.00
Price: 22 LR, Crimson Trace Laser grip \$792.00
Price: .38/.357, Crimson Trace Laser grip \$869.00

RUGER SP-101 REVOLVERS

Calliber: 327 Federal, 6-shot; 38 Spec. +P, 357 Mag., 5-shot. **Barrel:** 2.25", 3-1/16". **Weight:** (38 & 357 mag models) 2.25"-25 oz.; 3-1/16"-27 oz.



Sights: Adjustable on 327, fixed on others. **Grips:** Ruger Cushioned Grip with inserts. **Features:** Compact, small frame, double-action revolver. Full-length ejector shroud. Stainless steel only. Introduced 1988.

Price: Fixed sights \$639.00
Price: Fiber optic sights \$689.00

RUGER REDHAWK

Calliber: 44 Rem. Mag., 45 Colt, 6-shot. **Barrel:** 4", 5.5", 7.5". **Weight:** About 54 oz. (7.5" bbl.). **Length:** 13" overall (7.5" barrel). **Grips:** Square butt cushioned grip panels. **Sights:** Interchangeable Patridge-type front, rear adjustable for windage and elevation.

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Features: Stainless steel, brushed satin finish, blued ordnance steel. 9.5" sight radius. Introduced 1979.
Price: KRH-44, stainless, 7.5" barrel **\$989.00**
Price: KRH-44R, stainless 7.5" barrel w/scope mount **\$989.00**
Price: KRH-44S, stainless 5.5" barrel **\$989.00**
Price: KRH-444, stainless 4" barrel (2007) ... **\$989.00**
Price: KRH-45-4, Hogue Monogrip, 45 Colt (2008) **\$989.00**



RUGER SUPER REDHAWK REVOLVER

Caliber: 44 Rem. Mag., 45 Colt, 454 Casull, 480 Ruger, 5 or 6-shot. **Barrel:** 2.5", 5.5", 7.5", 9.5". **Weight:** About 54 oz. (7.5" bbl.). **Length:** 13" overall (7.5" barrel). **Grips:** Hogue Tamer Monogrip. **Features:** Similar to standard Redhawk except has heavy extended frame with Ruger Integral Scope Mounting System on wide topstrap. Wide hammer spur lowered for better scope clearance. Incorporates mechanical design features and improvements of GP-100. Ramp front sight base has Redhawk-style interchangeable insert sight blades, adjustable rear sight. Satin stainless steel and low-glare stainless finishes. Introduced 1987.

Price: .44 Magnum **\$1049.00**
Price: .454 Casull **\$1079.00**
Price: .454 Alaskan **\$1079.00**
Price: .44 Mag. Alaskan **\$1079.00**



SMITH & WESSON MODEL GOVERNOR™ REVOLVER

Caliber: .410 2 1/2", .45 ACP, .45 Colt; 6 rounds. **Barrel:** 2.75". **Weight:** 35 oz. (2.5" barrel). **Length:** 7.5", (2.5" barrel). **Grip:** Synthetic.

Sights: Front: Tritium Night Sight (Dovetailed), Rear: fixed. **Grips:** Synthetic.

Finish: Matte Black. **Weight:** 29.6 oz. **Features:** Capable of chambering a mixture of .45 Colt, .45 ACP and .410 gauge 2 1/2-inch shotshells, the Governor is suited for both close and distant encounters, allowing users to customize the load to their preference. The shooter's choice of ammunition is housed in the revolver's six-shot stainless PVD-coated cylinder, which adds an extra level of protection to this already rugged platform. On top of the revolver's compact 2-3/4" barrel, Smith & Wesson has added a dovetailed Tritium front night sight for enhanced accuracy in low-light conditions, while the Governor's fixed rear sight is aptly suited for this self-defense handgun. The Governor measures 8-1/2" inches in overall length along with a width of 1-3/4". Carry ability of this revolver has been further enhanced with the Governor's unloaded weight of 29.6 ounces and standard matte black finish designed to reduce unwanted glare while adding an all-business like demeanor to this self-defense handgun. On the lower portion of the frame, the revolver will be

packaged with either shock absorbing synthetic grips or with factory-installed laser grips from Crimson Trace®. Accurate, rugged and reliable, the Governor is further enhanced by Smith & Wesson's renowned smooth double-action and crisp single-action trigger pull. The new revolver will also come standard with 2-round and 6-round moon clips. Made in U.S.A. by Smith & Wesson.

Price: **\$679.00**
Price: with Crimson Trace® Laser Grip **\$899.00**

SMITH & WESSON MODEL 14 CLASSIC

Caliber: 38 Spec. +P, 6-shot. **Barrel:** 6". **Weight:** 35 oz. **Length:** 11.5". **Grips:** Wood. **Sights:** Pinned Patridge front, micro adjustable rear. **Features:** Recreation of the vintage Model 14 revolver. Carbon steel frame and cylinder with blued finish.

Price: **\$995.00**
Price: Model 14 150253, nickel finish **\$1,074.00**



SMITH & WESSON NIGHT GUARD REVOLVERS

Caliber: 357 Mag., 38 Spec. +P, 5-, 6-, 7-, 8-shot. **Barrel:** 2.5 or 2.75" (45 ACP). **Weight:** 24.2 oz. (2.5" barrel). **Length:** 7.325" overall (2.5" barrel). **Grips:** Pachmayr Compac Custom.

Sights: XS Sight 24/7 Standard Dot Tritium front, Cylinder & Slide Extreme Duty fixed rear. **Features:** Scandium alloy frame, stainless PVD cylinder, matte black finish. Introduced 2008. Made in U.S.A. by Smith & Wesson.

Price: Model 325, 45 ACP, 2.75" barrel, large-frame snubnose **\$1,049.00**
Price: Model 327, 38/357, 2.5" barrel, large-frame snubnose **\$1,049.00**
Price: Model 329, 44 Magnum/38 Special (interchangeable), 2.5" barrel, large-frame snubnose **\$1,049.00**
Price: Model 386, 357 Magnum/44 Special +P (interchangeable), 2.5" barrel, medium-frame snubnose **\$979.00**

SMITH & WESSON J-FRAME REVOLVERS

The smallest S&W wheelguns come in a variety of chamberings, barrel lengths, and materials, as noted in the individual model listings.

SMITH & WESSON 60LS/642LS LADYSMITH REVOLVERS

Caliber: .38 Spec. +P, 357 Mag., 5-shot. **Barrel:** 1-7/8" (642LS); 2-1/8" (60LS) **Weight:** 14.5 oz. (642LS); 21.5 oz. (60LS); **Length:** 6.6" overall (60LS); . **Grips:** Wood. **Sights:** Black blade, serrated ramp front, fixed notch rear. **Features:** 60LS model has a Chiefs Special-style frame. 642LS has Centennial-style frame, frosted matte finish, smooth combat wood grips. Introduced 1996. Comes in a fitted carry/storage case. Introduced 1989. Made in U.S.A. by Smith & Wesson.
Price: From **\$749.00**

SMITH & WESSON MODEL 63

Caliber: 22 LR, 8-shot. **Barrel:** 5". **Weight:** 28.8 oz. **Length:** 9.5" overall. **Grips:** Black rubber. **Sights:** Black ramp front sight, adjustable black blade rear sight. **Features:** Stainless steel construction throughout. Made in U.S.A. by Smith & Wesson.
Price: **\$769.00**



SMITH & WESSON MODEL 442/637/638/642 AIRWEIGHT REVOLVERS

Caliber: 38 Spec. +P, 5-shot. **Barrel:** 1-7/8", 2-1/2". **Weight:** 15 oz. (37, 442); 20 oz. (3); 21.5 oz.; **Length:** 6-3/8" overall. **Grips:** Soft rubber.

Sights: Fixed, serrated ramp front, square notch rear. **Features:** Aluminum-alloy frames.

Models 37, 637; Chiefs Special-style frame with exposed hammer. Introduced 1996.
 Models 442, 642; Centennial-style frame, enclosed hammer. Model 638, Bodyguard style,

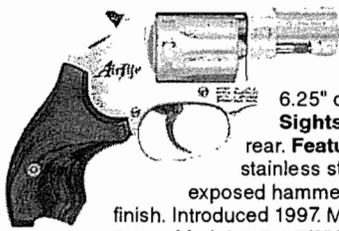
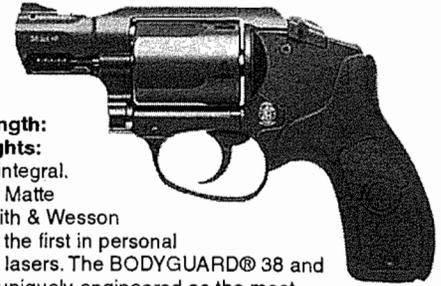
HANDGUNS—Double-Action Revolvers, Service & Sport

shrouded hammer. Comes in a fitted carry/storage case. Introduced 1989. Made in U.S.A. by Smith & Wesson.
Price: From\$449.00



SMITH & WESSON MODELS 637 CT/638 CT/642 CT
 Similar to Models 637, 638 and 642 but with Crimson Trace Laser Grips.
Price:\$669.00

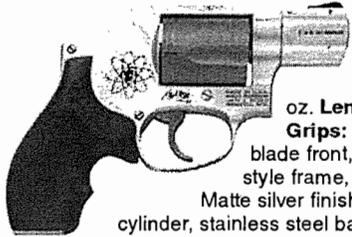
SMITH & WESSON BODYGUARD® 38 REVOLVER
Caliber: .38 S&W Special +P; 5 rounds. **Barrel:** 1.9". **Weight:** 14.3 oz. **Length:** 6.6". **Grip:** Synthetic. **Sights:** Front: Black ramp, Rear: integral. **Grips:** Synthetic. **Finish:** Matte Black. **Features:** The Smith & Wesson BODYGUARD® series is the first in personal protection with integrated lasers. The BODYGUARD® 38 and BODYGUARD® 380 are uniquely engineered as the most state-of-the-art, concealable and accurate personal protection possible. Lightweight, simple to use and featuring integrated laser sights – nothing protects like a BODYGUARD.
Price:\$509.00



SMITH & WESSON MODEL 317 AIRLITE REVOLVERS
Caliber: 22 LR, 8-shot. **Barrel:** 1-7/8". **Weight:** 10.5 oz. **Length:** 6.25" overall (1-7/8" barrel). **Grips:** Rubber. **Sights:** Serrated ramp front, fixed notch rear. **Features:** Aluminum alloy, carbon and stainless steels, Chiefs Special-style frame with exposed hammer. Smooth combat trigger. Clear Cote finish. Introduced 1997. Made in U.S.A. by Smith & Wesson.
Price: Model 317, 1-7/8" barrel\$699.00



SMITH & WESSON MODEL 438
Caliber: 38 Spec. +P, 5-shot. **Barrel:** 1-7/8". **Weight:** 15.1 oz. **Length:** 6.31" overall. **Grips:** Synthetic. **Sights:** Fixed front and rear. **Features:** Aluminum alloy frame, stainless steel cylinder. Matte black finish throughout. Made in U.S.A. by Smith & Wesson.
Price:\$449.00



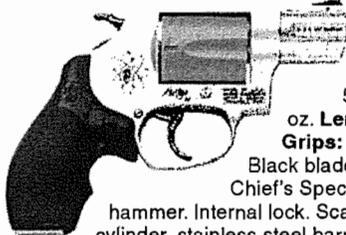
SMITH & WESSON MODEL 340/340PD AIRLITE SC CENTENNIAL
Caliber: 357 Mag., 38 Spec. +P, 5-shot. **Barrel:** 1-7/8". **Weight:** 12 oz. **Length:** 6-3/8" overall (1-7/8" barrel). **Grips:** Rounded butt rubber. **Sights:** Black blade front, rear notch. **Features:** Centennial-style frame, enclosed hammer. Internal lock. Matte silver finish. Scandium alloy frame, titanium cylinder, stainless steel barrel liner. Made in U.S.A. by Smith & Wesson.
Price: Model 340\$1,019.00

SMITH & WESSON MODEL 640 CENTENNIAL DA ONLY
Caliber: 357 Mag., 38 Spec. +P, 5-shot. **Barrel:** 2-1/8". **Weight:** 23 oz. **Length:** 6.75" overall. **Grips:** Uncle Mike's Boot grip. **Sights:** Serrated ramp front, fixed notch rear. **Features:** Stainless steel. Fully concealed hammer, snag-proof smooth edges. Internal lock. Introduced 1995 in 357 Mag.
Price:\$798.00

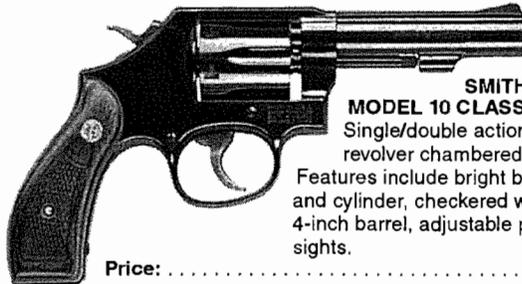
SMITH & WESSON MODEL 351PD REVOLVER
Caliber: 22 Mag., 7-shot. **Barrel:** 1-7/8". **Weight:** 10.6 oz. **Length:** 6.25" overall (1-7/8" barrel). **Sights:** HiViz front sight, rear notch. **Grips:** Wood. **Features:** Seven-shot, aluminum-alloy frame. Chiefs Special-style frame with exposed hammer. Nonreflective matte-black finish. Internal lock. Made in U.S.A. by Smith & Wesson.
Price:\$759.00

SMITH & WESSON MODEL 649 BODYGUARD REVOLVER
Caliber: 357 Mag., 38 Spec. +P, 5-shot. **Barrel:** 2-1/8". **Weight:** 23 oz. **Length:** 6-5/8" overall. **Grips:** Uncle Mike's Combat. **Sights:** Black pinned ramp front, fixed notch rear. **Features:** Stainless steel construction, satin finish. Internal lock. Bodyguard style, shrouded hammer. Made in U.S.A. by Smith & Wesson.
Price:\$798.00

SMITH & WESSON K-FRAME/L-FRAME REVOLVERS
 These mid-size S&W wheelguns come in a variety of chamberings, barrel lengths, and materials, as noted in individual model listings.



SMITH & WESSON MODEL 360/360PD AIRLITE CHIEF'S SPECIAL
Caliber: 357 Mag., 38 Spec. +P, 5-shot. **Barrel:** 1-7/8". **Weight:** 12 oz. **Length:** 6-3/8" overall (1-7/8" barrel). **Grips:** Rounded butt rubber. **Sights:** Black blade front, fixed rear notch. **Features:** Chief's Special-style frame with exposed hammer. Internal lock. Scandium alloy frame, titanium cylinder, stainless steel barrel. Made in U.S.A. by Smith & Wesson.
Price: 360PD\$988.00



SMITH & WESSON MODEL 10 CLASSIC
 Single/double action K frame revolver chambered in .38 Special. Features include bright blue steel frame and cylinder, checkered wood grips, 4-inch barrel, adjustable patridge-style sights.
Price:\$719.00



SMITH & WESSON MODEL M&P360
 Single/double-action J-frame revolver chambered in .357 Magnum. Features include 3-inch barrel, 5-round cylinder, fixed XS tritium sights, scandium frame, stainless steel cylinder, matte black finish, synthetic grips.
Price:\$980.00



SMITH & WESSON MODEL 48 CLASSIC
 Single/double action K frame revolver chambered in .22 Magnum Rimfire (.22 WMR). Features include bright blue steel frame and cylinder, checkered wood grips, 4- or 6-inch barrel, adjustable patridge-style sights.
Price:\$1,043.00 to \$1,082.00

Prices given are believed to be accurate at time of publication however, many factors affect retail pricing so exact prices are not possible.

HANDGUNS—Double-Action Revolvers, Service & Sport

SMITH & WESSON MODEL 64/67 REVOLVERS

Caliber: 38 Spec. +P, 6-shot. **Barrel:** 3". **Weight:** 33 oz. **Length:** 8-7/8" overall. **Grips:** Soft rubber. **Sights:** Fixed, 1/8" serrated ramp front, square notch rear. Model 67 (**Weight:** 36 oz. **Length:** 8-7/8") similar to Model 64 except for adjustable sights. **Features:** Satin finished stainless steel, square butt.

Price: From **\$689.00 to \$749.00**

SMITH & WESSON MODEL 617 REVOLVERS

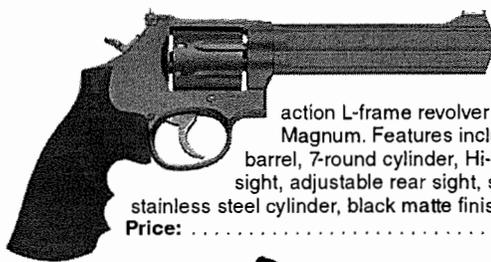
Caliber: 22 LR, 6- or 10-shot. **Barrel:** 4". **Weight:** 41 oz. (4" barrel). **Length:** 9-1/8" (4" barrel). **Grips:** Soft rubber. **Sights:** Patridge front, adjustable rear. Drilled and tapped for scope mount. **Features:** Stainless steel with satin finish; 4" has .312" smooth trigger, .375" semi-target hammer; 6" has either .312" combat or .400" serrated trigger, .375" semi-target or .500" target hammer; 8-3/8" with .400" serrated trigger, .500" target hammer. Introduced 1990.

Price: From **\$829.00**

SMITH & WESSON MODELS 620 REVOLVERS

Caliber: 38 Spec. +P; 357 Mag., 7 rounds. **Barrel:** 4". **Weight:** 37.5 oz. **Length:** 9.5". **Grips:** Rubber. **Sights:** Integral front blade, fixed rear notch on the 619; adjustable white-outline target style rear, red ramp front on 620. **Features:** Replaces Models 65 and 66. Two-piece semi-lug barrel. Satin stainless frame and cylinder. Made in U.S.A. by Smith & Wesson.

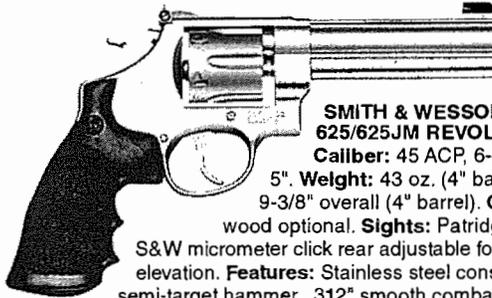
Price: **\$893.00**



SMITH & WESSON MODEL 386 XL HUNTER
Single/double

action L-frame revolver chambered in .357 Magnum. Features include 6-inch full-lug barrel, 7-round cylinder, Hi-Viz fiber optic front sight, adjustable rear sight, scandium frame, stainless steel cylinder, black matte finish, synthetic grips.

Price: **\$1,019.00**



SMITH & WESSON MODEL 625/625JM REVOLVERS

Caliber: 45 ACP, 6-shot. **Barrel:** 4", 5". **Weight:** 43 oz. (4" barrel). **Length:** 9-3/8" overall (4" barrel). **Grips:** Soft rubber; wood optional. **Sights:** Patridge front on ramp, S&W micrometer click rear adjustable for windage and elevation. **Features:** Stainless steel construction with .400" semi-target hammer, .312" smooth combat trigger; full lug barrel. Glass beaded finish. Introduced 1989. "Jerry Miculek" Professional (JM) Series has .265"-wide grooved trigger, special wooden Miculek Grip, five full moon clips, gold bead Patridge front sight on interchangeable front sight base, bead blast finish. Unique serial number run. Mountain Gun has 4" tapered barrel, drilled and tapped, Hogue Rubber Monogrip, pinned black ramp front sight, micrometer click-adjustable rear sight, satin stainless frame and barrel, weighs 39.5 oz.

Price: 625JM **\$1,074.00**

SMITH & WESSON MODEL 686/686 PLUS REVOLVERS

Caliber: 357 Mag., 38 S&W Special; 6 rounds. **Barrel:** 2.5", 4", 6". **Weight:** 35 oz. (2.5" barrel). **Length:** 7.5", (2.5" barrel). **Grips:** Rubber. **Sights:** White outline adjustable rear, red ramp front. **Features:** Satin stainless frame and cylinder. Plus series guns have 7-shot cylinders. Introduced 1996. Powerport (PP) has Patridge front, adjustable rear sight. Introduced early 1980s. Stock Service Revolver (SSR) intr. 2007. **Capacity:** 6. **Barrel:** 4". **Sights:** Interchangeable front, adjustable rear. **Grips:** Wood. **Finish:** Satin stainless frame and cylinder. **Weight:** 38.3 oz. **Features:** Chamfered charge holes, custom barrel w/recessed crown, bossed mainspring. High-hold ergonomic grip. Made in U.S.A. by Smith & Wesson.

Price: 686 **\$909.00**
Price: Plus, 7 rounds **\$932.00**
Price: PP, 6" barrel, 6 rounds, 11-3/8" OAL **\$877.00**
Price: SSR **\$1,059.00**



SMITH & WESSON MODEL 686 PLUS PRO SERIES

Single/double-action L-frame revolver chambered in .357 Magnum. Features include 5-inch barrel with tapered underlug, 7-round cylinder, satin stainless steel frame and cylinder, synthetic grips, interchangeable and adjustable sights.

Price: **\$1,059.00**

SMITH & WESSON N-FRAME REVOLVERS

These large-frame S&W wheelguns come in a variety of chamberings, barrel lengths, and materials, as noted in the individual model listings.

SMITH & WESSON MODEL 29 CLASSIC

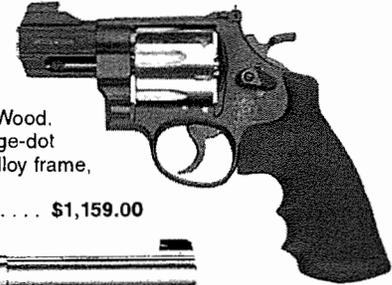
Caliber: 44 Mag, 6-round. **Barrel:** 6.5". **Weight:** 48.5 oz. **Length:** 12". **Grips:** Altamont service walnut. **Sights:** Adjustable white-outline rear, red ramp front. **Features:** Carbon steel frame, polished-blued or nickel finish. Has integral key lock safety feature to prevent accidental discharges. Also available with 3" barrel. Original Model 29 made famous by "Dirty Harry" character created in 1971 by Clint Eastwood.

Price: **\$1240.00**

SMITH & WESSON MODEL 329PD AIRLITE REVOLVERS

Caliber: 44 Spec., 44 Mag., 6-round. **Barrel:** 4". **Weight:** 26 oz. **Length:** 9.5". **Grips:** Wood. **Sights:** Adj. rear, HiViz orange-dot front. **Features:** Scandium alloy frame, blue/black finish.

Price: From **\$1,159.00**



SMITH & WESSON MODEL 629 REVOLVERS

Caliber: 44 Magnum, 44 S&W Special, 6-shot. **Barrel:** 4", 5", 6.5". **Weight:** 41.5 oz. (4" bbl.). **Length:** 9-5/8" overall (4" bbl.). **Grips:** Soft rubber; wood optional. **Sights:** 1/8" red ramp front, white outline rear, internal lock, adjustable for windage and elevation. Classic similar to standard Model 629, except Classic has full-lug 5" barrel, chamfered front of cylinder, interchangeable red ramp front sight with adjustable white outline rear, Hogue grips with S&W monogram, drilled and tapped for scope mounting. Factory accurizing and endurance packages. Introduced 1990. Classic Power Port has Patridge front sight and adjustable rear sight. Model 629CT has 5" barrel, Crimson Trace Hoghunter Lasergrrips, 10.5" OAL, 45.5 oz. weight. Introduced 2006.

Price: From **\$1,035.00**



SMITH & WESSON MODEL 329 XL HUNTER

Similar to Model 386 XL Hunter but built on large N-frame and chambered in .44 Magnum. Other features include 6-round cylinder and 6.5-barrel.

Price: **\$1,138.00**

SMITH & WESSON X-FRAME REVOLVERS

These extra-large X-frame S&W wheelguns come in a variety of chamberings, barrel lengths, and materials, as noted in individual model listings.

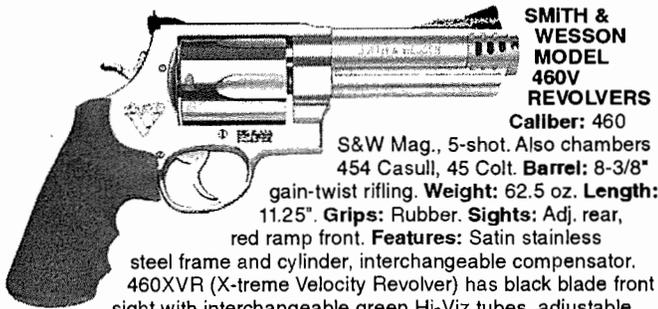
HANDGUNS—Double-Action Revolvers, Service & Sport



SMITH & WESSON MODEL 500 REVOLVERS
Caliber: 500 S&W Mag., 5 rounds.

Barrel: 4", 8-3/8". **Weight:** 72.5 oz. **Length:** 15" (8-3/8" barrel). **Grips:** Hogue Sorbothane Rubber. **Sights:** Interchangeable blade, front, adjustable rear. **Features:** Recoil compensator, ball detent cylinder latch, internal lock. 6.5"-barrel model has orange-ramp dovetail Millet front sight, adjustable black rear sight, Hogue Dual Density Monogrip, .312" chrome trigger with over-travel stop, chrome tear-drop hammer, glassbead finish. 10.5"-barrel model has red ramp front sight, adjustable rear sight, .312 chrome trigger with overtravel stop, chrome tear drop hammer with pinned sear, hunting sling. Compensated Hunter has .400 orange ramp dovetail front sight, adjustable black blade rear sight, Hogue Dual Density Monogrip, glassbead finish w/black clear coat. Made in U.S.A. by Smith & Wesson.

Price: From **\$1,249.00**



SMITH & WESSON MODEL 460V REVOLVERS
Caliber: 460 S&W Mag., 5-shot. Also chambers 454 Casull, 45 Colt. **Barrel:** 8-3/8" gain-twist rifling. **Weight:** 62.5 oz. **Length:** 11.25". **Grips:** Rubber. **Sights:** Adj. rear, red ramp front. **Features:** Satin stainless steel frame and cylinder, interchangeable compensator. 460XVR (X-treme Velocity Revolver) has black blade front sight with interchangeable green Hi-Viz tubes, adjustable rear sight. 7.5"-barrel version has Lothar-Walther barrel, 360-degree recoil compensator, tuned Performance Center action, pinned sear, integral Weaver base, non-glare surfaces, scope mount accessory kit for mounting full-size scopes, flashed-chromed hammer and trigger, Performance Center gun rug and shoulder sling. Interchangeable Hi-Viz green dot front sight, adjustable black rear sight, Hogue Dual Density Monogrip, matte-black frame and shroud finish with glass-bead cylinder finish, 72 oz. Compensated Hunter has tear drop chrome hammer, .312 chrome trigger, Hogue Dual Density Monogrip, satin/matte stainless finish, HiViz interchangeable front sight, adjustable black rear sight. XVR introduced 2006.

Price: 460V **\$1,519.00**
Price: 460XVR, from **\$1,519.00**

SUPER SIX CLASSIC BISON BULL

Caliber: 45-80 Government, 6-shot. **Barrel:** 10" octagonal with 1:14 twist. **Weight:** 6 lbs. **Length:** 17.5" overall. **Grips:** NA. **Sights:** Ramp front sight with dovetailed blade, click-adjustable rear. **Features:** Manganese bronze frame. Integral scope mount, manual crossbolt safety.

Price: **Appx. \$1,500.00**

TAURUS MODEL 17 "TRACKER"

Caliber: 17 HMR, 7-shot. **Barrel:** 6.5". **Weight:** 45.8 oz. **Grips:** Rubber. **Sights:** Adjustable. **Features:** Double action, matte stainless, integral key-lock.

Price: From **\$453.00**



TAURUS MODEL 44 REVOLVER

Caliber: 44 Mag., 6-shot. **Barrel:** 4", 6.5", 8-3/8". **Weight:** 44-3/4 oz. **Grips:** Rubber. **Sights:** Adjustable. **Features:** Double-action. Integral key-lock. Introduced 1994. New Model 44S12 has 12" vent rib barrel. Imported from Brazil by Taurus International Manufacturing, Inc.

Price: From **\$633.00**

TAURUS MODEL 65 REVOLVER

Caliber: 357 Mag., 6-shot. **Barrel:** 4". **Weight:** 38 oz. **Length:** 10.5" overall. **Grips:** Soft rubber. **Sights:** Fixed. **Features:** Double action, integral key-lock. Seven models for 2006 Imported by Taurus International.

Price: From **\$419.00**

TAURUS MODEL 66 REVOLVER

Similar to Model 65, 4" or 6" barrel, 7-shot cylinder, adjustable rear sight. Integral key-lock action. Imported by Taurus International.

Price: From **\$469.00**

TAURUS MODEL 82 HEAVY BARREL REVOLVER

Caliber: 38 Spec., 6-shot. **Barrel:** 4", heavy. **Weight:** 36.5 oz. **Length:** 9-1/4" overall (4" bbl.). **Grips:** Soft black rubber. **Sights:** Serrated ramp front, square notch rear. **Features:** Double action, solid rib, integral key-lock. Imported by Taurus International.

Price: From **\$403.00**

TAURUS MODEL 85 REVOLVER

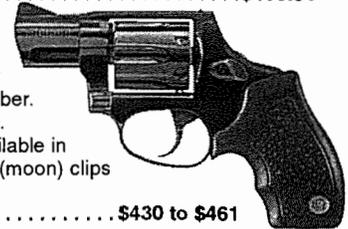
Caliber: 38 Spec., 5-shot. **Barrel:** 2". **Weight:** 17-24.5 oz., titanium 13.5-15.4 oz. **Grips:** Rubber, rosewood or mother-of-pearl. **Sights:** Ramp front, square notch rear. **Features:** Blue, matte stainless, blue with gold accents, stainless with gold accents; rated for +P ammo. Integral keylock. Some models have titanium frame. Introduced 1980. Imported by Taurus International.

Price: From **\$403.00**

TAURUS 380 MINI REVOLVER

Caliber: .380 ACP (5-shot cylinder w/moon clip). **Barrel:** 1.75". **Weight:** 15.5 oz. **Length:** 5.95". **Grips:** Rubber. **Sights:** Adjustable rear, fixed front. **Features:** Double-action-only. Available in blued or stainless finish. Five Star (moon) clips included.

PRICE: **\$430 to \$461**



TAURUS PROTECTOR POLYMER

Single/double action revolver chambered in .38 Special +P. Features include 5-round cylinder; polymer frame; faux wood rubber-feel grips; fixed sights; shrouded hammer with cocking spur; blued finish; 2.5-inch barrel. **Weight:** 18.2 oz.

Price: **N/A**

TAURUS 851 & 651 REVOLVERS

Small frame SA/DA revolvers similar to Taurus Model 85 but with Centennial-style concealed-hammer frame. Chambered in 38 Special +P (Model 851) or 357 Magnum (Model 651). Features include five-shot cylinder; 2" barrel; fixed sights; blue, matte blue, titanium or stainless finish; Taurus security lock. Overall length is 6.5". Weighs 15.5 oz. (titanium) to 25 oz. (blued and stainless).

Price: From **\$411.00**

TAURUS MODEL 94 REVOLVER

Caliber: 22 LR, 9-shot cylinder; 22 Mag, 8-shot cylinder **Barrel:** 2", 4", 5". **Weight:** 18.5-27.5 oz. **Grips:** Soft black rubber. **Sights:** Serrated ramp front, click-adjustable rear. **Features:** Double action, integral key-lock. Introduced 1989. Imported by Taurus International.

Price: From **\$369.00**



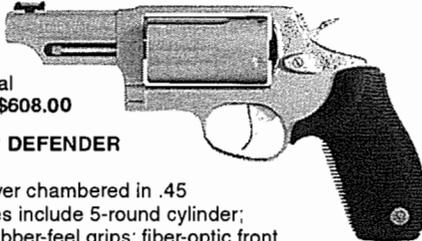
TAURUS MODEL 4510 JUDGE

Caliber: 3" .410/45 LC, 2.5" .410/45 LC. **Barrel:** 3", 6.5" (blued finish). **Weight:** 35.2 oz., 22.4 oz. **Length:** 7.5". **Grips:** Rubber. **Sights:** Fiber Optic. **Features:** DA/SA. Matte Stainless and Ultra-Lite Stainless finish. Introduced in 2007. Imported from Brazil by Taurus International.

Price: 4510T TrackerSS Matte Stainless **\$569.00**

HANDGUNS—Double-Action Revolvers, Service & Sport

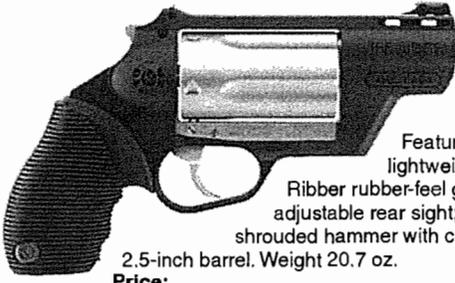
Price: 4510TKR-3B Judge . \$558.00
 4510TKR-SSR, ported barrel, tactical rail \$608.00



TAURUS JUDGE PUBLIC DEFENDER POLYMER

Single/double action revolver chambered in .45 Colt/.410 (2-1/2). Features include 5-round cylinder; polymer frame; Ribber rubber-feel grips; fiber-optic front sight; adjustable rear sight; blued or stainless cylinder; shrouded hammer with cocking spur; blued finish; 2.5-inch barrel. Weight 27 oz.

Price: N/A



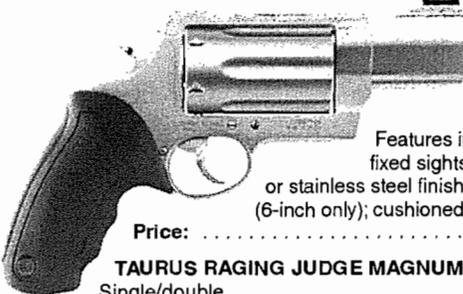
TAURUS JUDGE PUBLIC DEFENDER ULTRA-LITE

Single/double action revolver chambered in .45 Colt/.410 (2-1/2).

Features include 5-round cylinder; lightweight aluminum frame;

Ribber rubber-feel grips; fiber-optic front sight; adjustable rear sight; blued or stainless cylinder; shrouded hammer with cocking spur; blued finish; 2.5-inch barrel. Weight 20.7 oz.

Price: N/A



TAURUS RAGING JUDGE MAGNUM

Single/double action revolver chambered for .454 Casull, .45 Colt, 2.5-inch and 3-inch .410.

Features include 3- or 6-inch barrel; fixed sights with fiber-optic front; blued or stainless steel finish; vent rib for scope mounting (6-inch only); cushioned Raging Bull grips.

Price: N/A

TAURUS RAGING JUDGE MAGNUM ULTRA-LITE

Single/double action revolver chambered for .454 Casull, .45 Colt, 2.5-inch and 3-inch .410.

Features include 3- or 6-inch barrel; aluminum alloy frame; fixed sights with fiber-optic front; blued or stainless steel finish; cushioned Raging Bull grips. Weight: 41.4 oz. (3-inch barrel).

Price: N/A



TAURUS RAGING BULL MODEL 416

Caliber: 41 Magnum, 6-shot. **Barrel:** 6.5". **Weight:** 61.9 oz. **Grips:** Rubber. **Sights:** Adjustable. **Features:** Double-action, ported, ventilated rib, matte stainless, integral key-lock.

Price: \$706.00

TAURUS MODEL 425 TRACKER REVOLVERS

Caliber: 357 Mag., 7-shot; 41 Mag., 5-shot. **Barrel:** 4" and 6". **Weight:** 28.8-40 oz. (titanium) 24.3-28. (6"). **Grips:** Rubber. **Sights:** Fixed front, adjustable rear. **Features:** Double-action stainless steel, Shadow Gray or Total Titanium; vent rib (steel models only); integral key-lock action. Imported by Taurus International.

Price: From \$569.00

TAURUS MODEL 444 ULTRA-LIGHT

Caliber: 44 Mag, 5-shot. **Barrel:** 4". **Weight:** 28.3 oz. **Length:** 9.8" overall. **Grips:** Cushioned inset rubber. **Sights:** Fixed red-fiber optic front, adjustable rear. **Features:** UltraLite titanium blue finish, titanium/alloy frame built on Raging Bull design. Smooth trigger shoe, 1.760" wide, 6.280" tall. Barrel rate of twist 1:16", 6 grooves. Introduced 2005. Imported by Taurus International.

Price: \$666.00

TAURUS MODEL 416/444/454 RAGING BULL REVOLVERS

Caliber: 41 Mag., 44 Mag., 454 Casull. **Barrel:** 2.25" (454 Casull only), 5", 6.5", 8-3/8". **Weight:** 53-63 oz. **Length:** 12" overall (6.5" barrel). **Grips:** Soft black rubber. **Sights:** Patridge front, adjustable rear. **Features:** Double-action, ventilated rib, ported, integral key-lock. Introduced 1997. Imported by Taurus International.

Price: From \$641.00

TAURUS MODEL 605 REVOLVER

Caliber: 357 Mag., 5-shot. **Barrel:** 2". **Weight:** 24 oz. **Grips:** Rubber. **Sights:** Fixed. **Features:** Double-action, blue or stainless or titanium, concealed hammer models DAO, porting optional, integral key-lock. Introduced 1995. Imported by Taurus International.

Price: From \$403.00

TAURUS MODEL 608 REVOLVER

Caliber: 357 Mag. 38 Spec., 8-shot. **Barrel:** 4", 6.5", 8-3/8". **Weight:** 44-57 oz. **Length:** 9-3/8" overall. **Grips:** Soft black rubber. **Sights:** Adjustable. **Features:** Double-action, integral key-lock action. Available in blue or stainless. Introduced 1995. Imported by Taurus International.

Price: From \$584.00

TAURUS MODEL 617 REVOLVER

Caliber: 357 Mag., 7-shot. **Barrel:** 2". **Weight:** 28.3 oz. **Length:** 6.75" overall. **Grips:** Soft black rubber. **Sights:** Fixed. **Features:** Double-action, blue, Shadow Gray, bright spectrum blue or matte stainless steel, integral key-lock. Available with porting, concealed hammer. Introduced 1998. Imported by Taurus International.

Price: \$436.00

TAURUS MODEL 650 CIA REVOLVER

Caliber: 357 Mag., 5-shot. **Barrel:** 2". **Weight:** 24.5 oz. **Grips:** Rubber. **Sights:** Ramp front, square notch rear. **Features:** Double-action only, blue or matte stainless steel, integral key-lock, internal hammer. Introduced 2001. From Taurus International.

Price: From \$411.00

TAURUS MODEL 651 PROTECTOR REVOLVER

Caliber: 357 Mag., 5-shot. **Barrel:** 2". **Weight:** 17-24.5 oz. **Grips:** Rubber. **Sights:** Fixed. **Features:** Concealed single-action/double-action design. Shrouded cockable hammer, blue, matte stainless, Shadow Gray, Total Titanium, integral key-lock. Made in Brazil. Imported by Taurus International Manufacturing, Inc.

Price: From \$411.00

TAURUS MODEL 731 REVOLVER

Similar to the Taurus Model 605, except in .32 Magnum.

Price: \$469.00

TAURUS MODEL 817 ULTRA-LITE REVOLVER

Caliber: 38 Spec., 7-shot. **Barrel:** 2". **Weight:** 21 oz. **Length:** 6.5" overall. **Grips:** Soft rubber. **Sights:** Fixed. **Features:** Double-action, integral key-lock. Rated for +P ammo. Introduced 1999. Imported from Brazil by Taurus International.

Price: From \$436.00

TAURUS MODEL 850 CIA REVOLVER

Caliber: 38 Spec., 5-shot. **Barrel:** 2". **Weight:** 17-24.5 oz. **Grips:** Rubber, mother-of-pearl. **Sights:** Ramp front, square notch rear. **Features:** Double-action only, blue or matte stainless steel, rated for +P ammo, integral key-lock, internal hammer. Introduced 2001. From Taurus International.

Price: From \$411.00

TAURUS MODEL 941 REVOLVER

Caliber: 22 LR (Mod. 94), 22 WMR (Mod. 941), 8-shot. **Barrel:** 2", 4", 5". **Weight:** 27.5 oz. (4" barrel). **Grips:** Soft black rubber. **Sights:** Serrated ramp front, rear adjustable. **Features:** Double-action, integral key-lock. Introduced 1992. Imported by Taurus International.

Price: From \$386.00

TAURUS MODEL 970/971 TRACKER REVOLVERS

Caliber: 22 LR (Model 970), 22 Magnum (Model 971); 7-shot. **Barrel:** 6". **Weight:** 53.6 oz. **Grips:** Rubber. **Sights:** Adjustable. **Features:** Double barrel, heavy barrel with ventilated rib; matte stainless finish, integral key-lock. Introduced 2001. From Taurus International.

Price: \$453.00

Price: Model 17SS6, chambered in 17 HMR \$453.00

HANDGUNS—Single-Action Revolvers

BERETTA STAMPEDE SINGLE-ACTION REVOLVER

Caliber: 357 Mag, 45 Colt, 6-shot. **Barrel:** 4.75", 5.5", 7.5", blued.
Weight: 36.8 oz. (4.75" barrel). **Length:** 9.5" overall (4.75" barrel).
Grips: Wood, walnut, black polymer. **Sights:** Blade front, notch rear. **Features:** Transfer-bar safety. Introduced 2003. Stampede Inox (2004) is stainless steel with black polymer grips. Compact Stampede Marshall (2004) has birdshead-style walnut grips, 3.5" barrel, color-case-hardened frame, blued barrel and cylinder. Manufactured for Beretta by Uberti.

Price: Nickel, 45 Colt\$630.00
 Blued, 45 Colt, 357 Mag, 4.75", 5-1/2"\$575.00
 Deluxe, 45 Colt, 357 Mag, 4.75", 5-1/2"\$675.00
 Marshall, 45 Colt, 357 Mag, 3.5"\$575.00
 Bisley nickel, 4.75", 5.5"\$775.00
 Bisley, 4.75", 5.5"\$675.00
 Stampede Deluxe, 45 Colt 7.5"\$775.00
 Stampede Blued, 45 Colt 7.5"\$575.00
 Marshall Old West, 45 Colt 3.5"\$650.00

CHARTER DIXIE DERRINGER COMBO REVOLVER

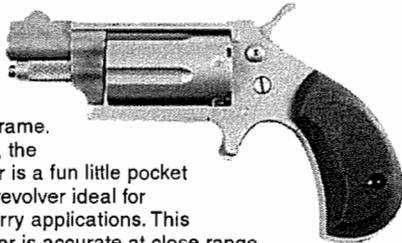
Caliber: .38 special +P - 5-round cylinder. **Barrel:** 2". **Weight:** 12 oz.
Grip: Compact. **Sights:** Fixed. **Features:** Stainless finish & frame. Chambered in .22 LR., .22 Magnum, or in Combo, the single action Dixie Derringer is a fun little pocket gun. It is also a lightweight revolver ideal for moderate-risk concealed carry applications. This quick-drawing pocket revolver is accurate at close range and features Charter's patent-pending hammer block safety. American made by Charter Arms.

Price:\$264.00

CHARTER DIXIE DERRINGER REVOLVER

Caliber: .38 special +P - 5-round cylinder. **Barrel:** 2". **Weight:** 12 oz.
Grip: Compact. **Sights:** Fixed. **Features:** Black & stainless finish & stainless frame. Chambered in .22 Magnum, the single action Dixie Derringer is a fun little pocket gun. It is also a lightweight revolver ideal for moderate-risk concealed carry applications. This quick-drawing pocket revolver is accurate at close range and features Charter's patent-pending hammer block safety. American made by Charter Arms.

Price:\$221.00



CIMARRON 1872 OPEN TOP REVOLVER

Caliber: 38, 44 Special, 44 Colt, 44 Russian, 45 LC, 45 S&W Schofield. **Barrel:** 5.5" and 7.5". **Grips:** Walnut. **Sights:** Blade front, fixed rear. **Features:** Replica of first cartridge-firing revolver. Blue, charcoal blue, nickel or Original finish; Navy-style brass or steel Army-style frame. Introduced 2001 by Cimarron F.A. Co.

Price:\$467.31

CIMARRON 1875 OUTLAW REVOLVER

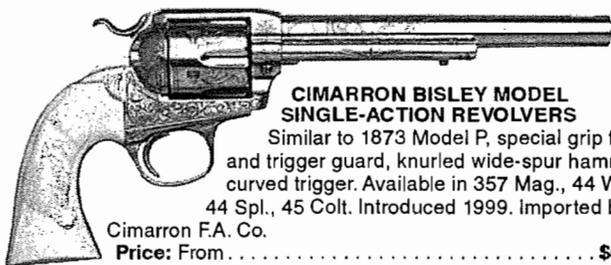
Caliber: .357, .38 special, .44 W.C.F., .45 Colt, .45 ACP. **Barrel:** 5-1/2" and 7-1/2". **Weight:** 2.5-2.6 lbs. **Grip:** 1 piece walnut. **Features:** Standard blue finish with color case hardened frame.

Price:\$559.94
 CA150 Dual Cyl.\$665.40

CIMARRON MODEL 1890 REVOLVER

Caliber: .357, .38 special, .44 W.C.F., .45 Colt, .45 ACP. **Barrel:** 5-1/2". **Weight:** 2.4-2.5 lbs. **Grip:** 1 piece walnut. **Features:** Standard blue finish with standard blue frame.

Price:\$576.28
 CA159 Dual Cyl.\$681.73



CIMARRON BISLEY MODEL SINGLE-ACTION REVOLVERS

Similar to 1873 Model P, special grip frame and trigger guard, knurled wide-spur hammer, curved trigger. Available in 357 Mag., 44 WCF, 44 Spl., 45 Colt. Introduced 1999. Imported by Cimarron F.A. Co.

Price: From\$574.43



CIMARRON LIGHTNING SA

Caliber: 22 LR, 32-20, 32 H&R, 38 Colt, **Barrel:** 3.5", 4.75", 5.5". **Grips:** Smooth or checkered walnut. **Sights:** Blade front. **Features:** Replica of the Colt 1877 Lightning DA. Similar to Cimarron Thunderer, except smaller grip frame to fit smaller hands. Standard blue, charcoal blue or nickel finish with forged, old model, or color case hardened frame. Introduced 2001. From Cimarron F.A. Co.

Price: From\$480.70

CIMARRON MAN WITH NO NAME REVOLVER

Caliber: .45 LC. **Barrel:** 4-3/4" and 5-1/2". **Weight:** 2.66-2.76 lbs. **Grip:** 1 piece walnut with silver rattle snake inlay in both sides. **Features:** Standard blue finish with case hardened pre-war frame. An accurate copy of the gun used by our nameless hero in the classic Western movies "Fist Full Of Dollars" & "For A Few Dollars More."

Price:\$889.71

CIMARRON MODEL P

Caliber: 32 WCF, 38 WCF, 357 Mag., 44 WCF, 44 Spec., 45 Colt, 45 LC and 45 ACP. **Barrel:** 4.75", 5.5", 7.5". **Weight:** 39 oz. **Length:** 10" overall (4" barrel). **Grips:** Walnut. **Sights:** Blade front, fixed or adjustable rear. **Features:** Uses "old model" black powder frame with "Bullseye" ejector or New Model frame. Imported by Cimarron F.A. Co.

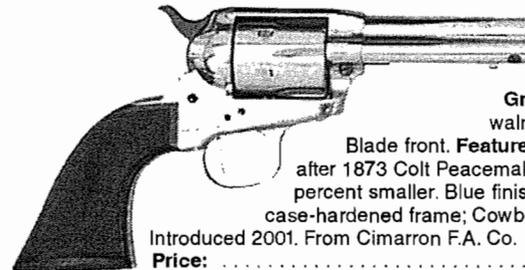
Price: From\$494.09
 Laser Engraved, from\$879.00
 New Sheriff, from\$494.09



CIMARRON MODEL "P" JR.

Caliber: 32-20, 32 H&R, **Barrel:** 3.5", 4.75", 5.5". **Grips:** Checkered walnut. **Sights:** Blade front. **Features:** Styled after 1873 Colt Peacemaker, except 20 percent smaller. Blue finish with color case-hardened frame; Cowboy action. Introduced 2001. From Cimarron F.A. Co.

Price:\$400.36



CIMARRON ROOSTER SHOOTER REVOLVER

Caliber: .357, .38 special, .45 Colt, and .44 W.C.F. **Barrel:** 4-3/4". **Weight:** 2.49-2.53 lbs. **Grip:** 1 piece orange finger grooved. **Features:** A replica of John Wayne's Colt® Single Action, used in many of his great Westerns, including his Oscar winning performance in "True Grit", where he brings the colorful character Rooster Cogburn to life.

Price:\$845.11



CIMARRON THUNDERER REVOLVER

Caliber: 357 Mag., 44 WCF, 45 Colt, 6-shot. **Barrel:** 3.5", 4.75", with ejector. **Weight:** 38 oz. (3.5" barrel). **Grips:** Smooth or checkered walnut. **Sights:** Blade front, notch rear. **Features:** Thunderer grip. Introduced 1993. Imported by Cimarron F.A. Co.

Price: Stainless\$534.26

HANDGUNS—Single-Action Revolvers

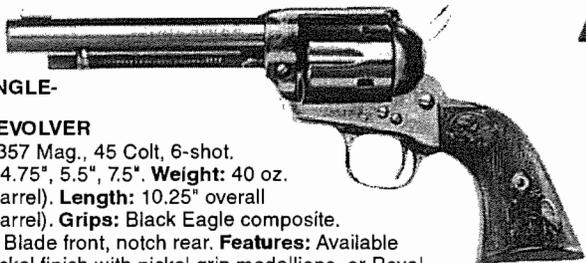


CIMARRON U.S.V. ARTILLERY MODEL SINGLE-ACTION

Caliber: 45 Colt. **Barrel:** 5.5". **Weight:** 39 oz. **Length:** 11.5" overall. **Grips:** Walnut. **Sights:** Fixed. **Features:** U.S. markings and cartouche, case-hardened frame and hammer; 45 Colt only. Imported by Cimarron F.A. Co.
Price:\$547.65

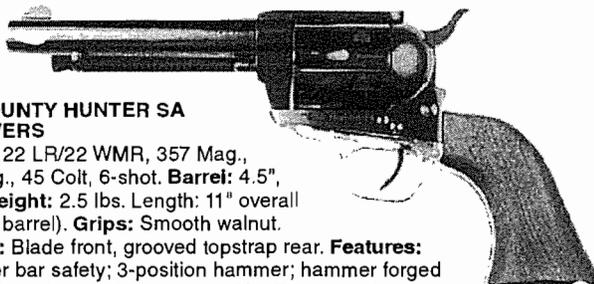
COLT NEW FRONTIER REVOLVER

Caliber: .44 Special and .45 Colt. **Barrel:** 4-3/4", 5-1/2", and 7-1/2". **Grip:** Walnut. **Features:** The legend of Colt continues in the New Frontier®, Single Action Army. From 1890 to 1898, Colt manufactured a variation of the venerable Single Action Army with a uniquely different profile. The "Flatop Target Model" was fitted with an adjustable leaf rear sight and blade front sights. Colt has taken this concept several steps further to bring shooters a reintroduction of a Colt classic. The New Frontier has that sleek flatop design with an adjustable rear sight for windage and elevation and a target ready ramp style front sight. The guns are meticulously finished in Colt Royal Blue on both the barrel and cylinder, with a case colored frame.
Price: \$1455.00



COLT SINGLE-ACTION ARMY REVOLVER

Caliber: 357 Mag., 45 Colt, 6-shot. **Barrel:** 4.75", 5.5", 7.5". **Weight:** 40 oz. (4.75" barrel). **Length:** 10.25" overall (4.75" barrel). **Grips:** Black Eagle composite. **Sights:** Blade front, notch rear. **Features:** Available in full nickel finish with nickel grip medallions, or Royal Blue with color case-hardened frame. Reintroduced 1992. Sheriff's Model and Frontier Six introduced 2008, available in nickel in 2010.
Price: P1540, 32-20, 4.75" barrel, color case-hardened/blued finish \$1,315.00
Price: P1656, 357 Mag., 5.5" barrel, nickel finish \$1,518.00
Price: P1876, 45 LC, 7.5" barrel, nickel finish \$1,518.00
Price: P2830S SAA Sheriff's, 3" barrel, 45 LC (2008) \$1,315.00
Price: P2950FSS Frontier Six Shooter, 5.5" barrel, 44-40 (2008) \$1,350.00



EAA BOUNTY HUNTER SA REVOLVERS

Caliber: 22 LR/22 WMR, 357 Mag., 44 Mag., 45 Colt, 6-shot. **Barrel:** 4.5", 7.5". **Weight:** 2.5 lbs. **Length:** 11" overall (4-5/8" barrel). **Grips:** Smooth walnut. **Sights:** Blade front, grooved topstrap rear. **Features:** Transfer bar safety; 3-position hammer; hammer forged barrel. Introduced 1992. Imported by European American Armory.
Price: Blue or case-hardened, from \$392.00
Price: Nickel \$432.00
Price: 22 LR/22 WMR, blue \$292.00
Price: As above, nickel \$325.00

EMF MODEL 1873 FRONTIER MARSHAL

Caliber: 357 Mag., 45 Colt. **Barrel:** 4.75", 5-1/2", 7.5". **Weight:** 39 oz. **Length:** 10.5" overall. **Grips:** One-piece walnut. **Sights:** Blade front, notch rear. **Features:** Bright brass trigger guard and backstrap, color case-hardened frame, blued barrel and cylinder. Introduced 1998. Imported from Italy.
Price: \$485.00

EMF HARTFORD SINGLE-ACTION REVOLVERS

Caliber: 357 Mag., 32-20, 38-40, 44-40, 44 Spec., 45 Colt. **Barrel:** 4.75", 5.5", 7.5". **Weight:** 45 oz. **Length:** 13" overall (7.5" barrel). **Grips:** Smooth walnut. **Sights:** Blade front, fixed rear. **Features:** Identical to the original Colts. All major parts serial numbered using original Colt-style lettering, numbering. Bullseye ejector head and color case-hardening on old model frame and hammer. Introduced 1990. Imported by E.M.F. Co.
Price: Old Model \$489.90
Price: Case-hardened New Model frame \$489.90

EMF GREAT WESTERN II EXPRESS SINGLE-ACTION REVOLVER

Same as the regular model except uses grip of the Colt Lightning revolver. Barrel lengths of 4.75". Introduced 2006. Imported by E.M.F. Co.
Price: Stainless, Ultra Ivory grips \$715.00
Price: Walnut grips \$690.00



EMF 1875 OUTLAW REVOLVER

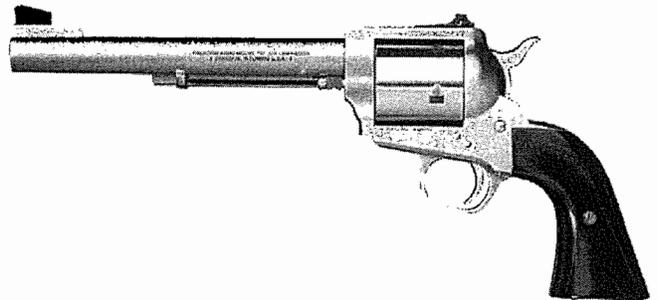
Caliber: 357 Mag., 44-40, 45 Colt. **Barrel:** 7.5", 9.5". **Weight:** 46 oz. **Length:** 13.5" overall. **Grips:** Smooth walnut. **Sights:** Blade front, fixed groove rear. **Features:** Authentic copy of 1875 Remington with firing pin in hammer; color case-hardened frame, blue cylinder, barrel, steel backstrap and trigger guard. Also available in nickel, factory engraved. Imported by E.M.F. Co.
Price: All calibers \$479.90
Price: Laser Engraved \$684.90

EMF 1890 POLICE REVOLVER

Similar to the 1875 Outlaw except has 5.5" barrel, weighs 40 oz., with 12.5" overall length. Has lanyard ring in butt. No web under barrel. Calibers: 45 Colt. Imported by E.M.F. Co.
Price: \$489.90

EMF 1873 GREAT WESTERN II

Caliber: .357, 45 LC, 44/40. **Barrel:** 4 3/4", 5.5", 7.5". **Weight:** 36 oz. **Length:** 11" (5.5"). **Grips:** Walnut. **Sights:** Blade front, notch rear. **Features:** Authentic reproduction of the original 2nd generation Colt single-action revolver. Standard and bone case hardening. Coil hammer spring. Hammer-forged barrel.
Price: 1873 Californian \$520.00
Price: 1873 Custom series, bone or nickel, ivory-like grips .. \$689.90
Price: 1873 Stainless steel, ivory-like grips \$589.90



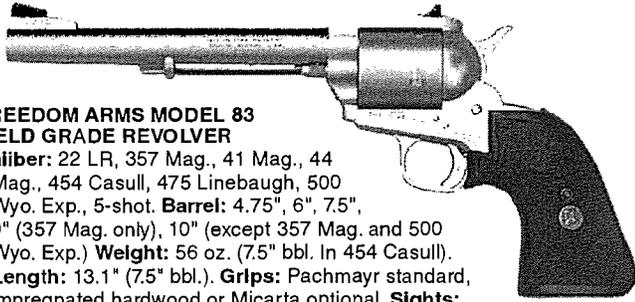
FREEDOM ARMS MODEL 83 PREMIER GRADE REVOLVER

Caliber: 357 Mag., 41 Mag., 44 Mag., 454 Casull, 475 Linebaugh, 500 Wyo. Exp., 5-shot. **Barrel:** 4.75", 6", 7.5", 9" (357 Mag. only), 10" (except 357 Mag. and 500 Wyo. Exp. **Weight:** 53 oz. (7.5" bbl. In 454 Casull). **Length:** 13" (7.5" bbl.). **Grips:** Impregnated hardwood. **Sights:** Adjustable rear with

HANDGUNS—Single-Action Revolvers

replaceable front sight. Fixed rear notch and front blade. **Features:** Stainless steel construction with brushed finish; manual sliding safety bar. Micarta grips optional. 500 Wyo. Exp. Introduced 2006. Lifetime warranty. Made in U.S.A. by Freedom Arms, Inc.

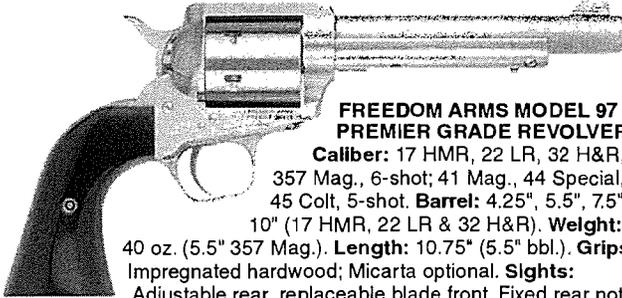
Price: From \$1,870.00



**FREEDOM ARMS MODEL 83
FIELD GRADE REVOLVER**

Caliber: 22 LR, 357 Mag., 41 Mag., 44 Mag., 454 Casull, 475 Linebaugh, 500 Wyo. Exp., 5-shot. **Barrel:** 4.75", 6", 7.5", 9" (357 Mag. only), 10" (except 357 Mag. and 500 Wyo. Exp.) **Weight:** 56 oz. (7.5" bbl. In 454 Casull). **Length:** 13.1" (7.5" bbl.). **Grips:** Pachmayr standard, impregnated hardwood or Micarta optional. **Sights:** Adjustable rear with replaceable front sight. Model 83 frame. All stainless steel. Introduced 1988. Made in U.S.A. by Freedom Arms Inc.

Price: From \$1,623.00



**FREEDOM ARMS MODEL 97
PREMIER GRADE REVOLVER**

Caliber: 17 HMR, 22 LR, 32 H&R, 357 Mag., 6-shot; 41 Mag., 44 Special, 45 Colt, 5-shot. **Barrel:** 4.25", 5.5", 7.5", 10" (17 HMR, 22 LR & 32 H&R). **Weight:** 40 oz. (5.5" 357 Mag.). **Length:** 10.75" (5.5" bbl.). **Grips:** Impregnated hardwood; Micarta optional. **Sights:** Adjustable rear, replaceable blade front. Fixed rear notch and front blade. **Features:** Stainless steel construction, brushed finish, automatic transfer bar safety system. Introduced in 1997. Lifetime warranty. Made in U.S.A. by Freedom Arms.

Price: From \$1,891.00



**HERITAGE ROUGH RIDER
REVOLVER**

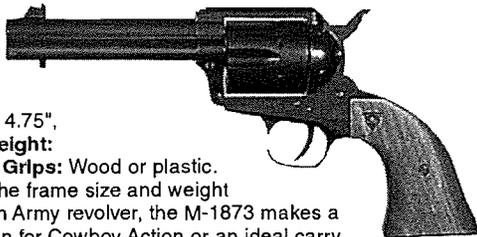
Caliber: 17 HMR, 17 LR, 32 H&R, 32 S&W, 32 S&W Long, 357 Mag, 44-40, 45 LC, 22 LR, 22 LR/22 WMR combo, 6-shot. **Barrel:** 2.75", 3.5", 4.75", 5.5", 6.5", 7.5", 9". **Weight:** 31 to 38 oz. **Length:** NA. **Grips:** Exotic cocobolo laminated wood or mother-of-pearl; bird's-head models offered. **Sights:** Blade front, fixed rear.

Adjustable sight on 4", 6" and 9" models. **Features:** Hammer block safety. Transfer bar with Big Bores. High polish blue, black satin, silver satin, case-hardened and stainless finish. Introduced 1993. Made in U.S.A. by Heritage Mfg., Inc.

Price: From \$169.95

**LEGACY
SPORTS
PUMA M-1873
REVOLVER**

Caliber: .22 LR / .22 Mag. **Barrel:** 4.75", 5.5", and 7.5". **Weight:** 2.2 lbs. - 2.4 lbs. **Grips:** Wood or plastic. **Features:** With the frame size and weight of a Single Action Army revolver, the M-1873 makes a great practice gun for Cowboy Action or an ideal carry gun for camping, hiking or fishing. The M-1873 loads from a side gate and at the half cock position just like a centerfire "Peacemaker", but is chambered for .22 LR or .22 magnum rounds. The hammer is made to traditional SAA appearance and feel. A key-operated, hammer block safety is standard on the left side of the



recoil shield. The M-1873 is offered in matte black or antiqued finish. Construction is of alloy and steel.

Price: \$178.00 to \$320.00



**MAGNUM RESEARCH BFR
SINGLE ACTION REVOLVER**

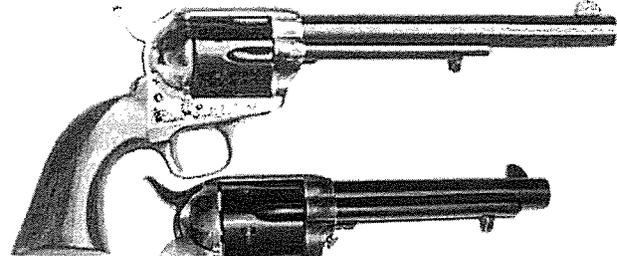
Caliber: .45/70, .480 Ruger/.475 Linebaugh, .450 Marlin, .500 S&W, .50AE, .444 Marlin, .30/30 Winchester, .45 Long Colt/.410 (not for sale in CA), and the new .460 S&W Magnum - as well as .454 Casull. **Barrel:** 6.5", 7.5", and 10". **Weight:** 3.6 lbs. - 5.3 lbs. **Grips:** Black rubber. **Sights:** Rear sights are the same configuration as the Ruger revolvers. Many after-market rear sights will fit the BFR. Front sights are machined by Magnum in four heights and anodized flat black. The four heights accommodate all shooting styles, barrel lengths and calibers. All sights are interchangeable with each BFR's. **Features:** Crafted in the U.S.A., the BFR single action 5-shot stainless steel revolver frames are CNC machined inside and out from a "pre-heat treated" investment casting. This is done to prevent warping and dimensional changes or shifting that occurs during the heat treat process. The result is a dimensionally perfect-machined frame. Magnum Research designed the frame with large calibers and large recoil in mind, built to close tolerances to handle the pressure of true big-bore calibers. The BFR is equipped with Transfer Bar. This is a safety feature that allows the gun to be carried safely with all five chambers loaded. The transfer bar allows the revolver to fire ONLY after the hammer has been fully cocked and trigger pulled. If the revolver is dropped or the hammer slips while in the process of cocking it the gun will not accidentally discharge.

Price: \$1050.00

NAVY ARMS BISLEY MODEL SINGLE-ACTION REVOLVER

Caliber: 44-40 or 45 Colt, 6-shot cylinder. **Barrel:** 4.75", 5.5", 7.5". **Weight:** 40 oz. **Length:** 12.5" overall (7.5" barrel). **Grips:** Smooth walnut. **Sights:** Blade front, notch rear. **Features:** Replica of Colt's Bisley Model. Polished blue finish, color case-hardened frame. Introduced 1997. Imported by Navy Arms.

Price: \$503.00



**NAVY ARMS 1873 GUNFIGHTER
SINGLE-ACTION REVOLVER**

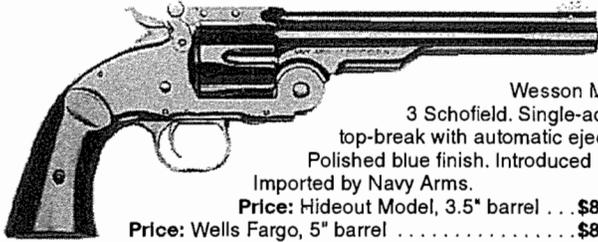
Caliber: 357 Mag., 44-40, 45 Colt, 6-shot cylinder. **Barrel:** 4.75", 5.5", 7.5". **Weight:** 37 oz. **Length:** 10.25" overall (4.75" barrel). **Grips:** Checkered black polymer. **Sights:** Blade front, notch rear. **Features:** Blued with color case-hardened receiver, trigger and hammer; German Silver backstrap and triggerguard. American made Wolff trigger and mainsprings installed. Introduced 2005. Imported by Navy Arms.

Price: \$545.00

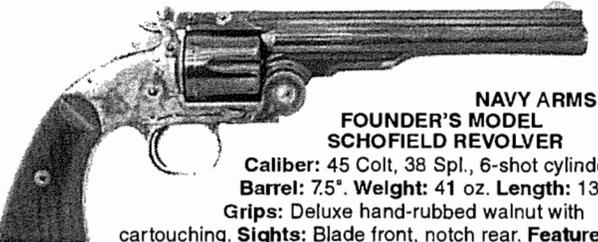
NAVY ARMS 1875 SCHOFIELD REVOLVER

Caliber: 44-40, 45 Colt, 6-shot cylinder. **Barrel:** 3.5", 5", 7". **Weight:** 39 oz. **Length:** 10.75" overall (5" barrel). **Grips:** Smooth walnut. **Sights:** Blade front, notch rear. **Features:** Replica of Smith &

HANDGUNS—Single-Action Revolvers



Wesson Model 3 Schofield. Single-action, top-break with automatic ejection. Polished blue finish. Introduced 1994. Imported by Navy Arms.
Price: Hideout Model, 3.5" barrel . . . \$882.00
Price: Wells Fargo, 5" barrel . . . \$882.00
Price: U.S. Cavalry model, 7" barrel, military markings . . . \$882.00

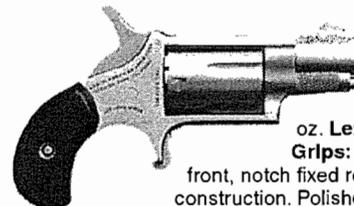


NAVY ARMS FOUNDER'S MODEL SCHOFIELD REVOLVER
Caliber: 45 Colt, 38 Spl., 6-shot cylinder. **Barrel:** 7.5". **Weight:** 41 oz. **Length:** 13.75".
Grips: Deluxe hand-rubbed walnut with cartouching. **Sights:** Blade front, notch rear. **Features:** Charcoal blued with bone color case-hardened receiver, trigger, hammer and backstrap. Limited production "VF" serial number prefix. Introduced 2005. Imported by Navy Arms.
Price: . . . \$924.00

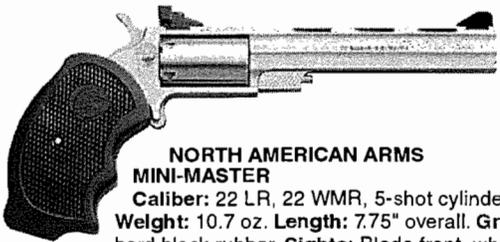


NAVY ARMS NEW MODEL RUSSIAN REVOLVER
Caliber: 44 Russian, 6-shot cylinder. **Barrel:** 6.5". **Weight:** 40 oz. **Length:** 12" overall. **Grips:** Smooth walnut. **Sights:** Blade front, notch rear.
Features: Replica of the S&W Model 3 Russian Third Model revolver. Spur trigger guard, polished blue finish. Introduced 1999. Imported by Navy Arms.
Price: . . . \$924.00

NAVY ARMS SCOUT SMALL FRAME SINGLE-ACTION REVOLVER
Caliber: 38 Spec., 6-shot cylinder. **Barrel:** 4.75", 5.5". **Weight:** 37 oz. **Length:** 10.75" overall (5.5" barrel). **Grips:** Checkered black polymer.
Sights: Blade front, notch rear. **Features:** Blued with color case-hardened receiver, trigger and hammer; German silver backstrap and triggerguard. Introduced 2005. Imported by Navy Arms.
Price: . . . \$545.00

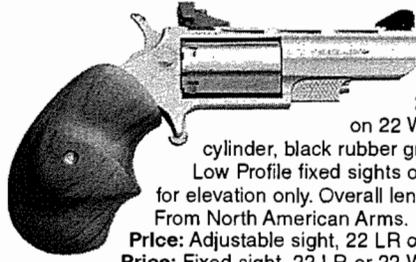


NORTH AMERICAN ARMS MINI REVOLVERS
Caliber: 22 Short, 22 LR, 22 WMR, 5-shot. **Barrel:** 1-1/8", 1-5/8". **Weight:** 4 to 6.6 oz. **Length:** 3-5/8" to 6-1/8" overall.
Grips: Laminated wood. **Sights:** Blade front, notch fixed rear. **Features:** All stainless steel construction. Polished satin and matte finish. Engraved models available. From North American Arms.
Price: 22 Short, 22 LR . . . \$229.00



NORTH AMERICAN ARMS MINI-MASTER
Caliber: 22 LR, 22 WMR, 5-shot cylinder. **Barrel:** 4". **Weight:** 10.7 oz. **Length:** 7.75" overall. **Grips:** Checkered hard black rubber. **Sights:** Blade front, white outline rear adjustable for elevation, or fixed. **Features:** Heavy vented barrel; full-size grips. Non-fluted cylinder. Introduced 1989.

Price: Fixed sight . . . \$284.00
Price: Adjustable sight . . . \$314.00



NORTH AMERICAN ARMS BLACK WIDOW REVOLVER
 Similar to Mini-Master, 2" heavy vent barrel. Built on 22 WMR frame. Non-fluted cylinder, black rubber grips. Available with Millett Low Profile fixed sights or Millett sight adjustable for elevation only. Overall length 5-7/8", weighs 8.8 oz. From North American Arms.
Price: Adjustable sight, 22 LR or 22 WMR . . . \$299.00
Price: Fixed sight, 22 LR or 22 WMR . . . \$269.00

NORTH AMERICAN ARMS "THE EARL" SINGLE-ACTION REVOLVER
Caliber: 22 Magnum with 22 LR accessory cylinder, 5-shot cylinder. **Barrel:** 4" octagonal. **Weight:** 6.8 oz. **Length:** 7-3/4" overall. **Grips:** Wood. **Sights:** Barleycorn front and fixed notch rear. **Features:** Single-action mini-revolver patterned after 1858-style Remington percussion revolver. Includes a spur trigger and a faux loading lever that serves as cylinder pin release.
Price: . . . \$289.00 (22 Magnum only); \$324.00 (convertible)

RUGER NEW MODEL SINGLE SIX & NEW MODEL .32 H&R SINGLE SIX REVOLVERS
Caliber: 17 HMR, 22 LR, 22 Mag. **Barrel:** 4-5/8", 5.5", 6.5", 7.5", 9.5". 6-shot. **Grips:** Rosewood, black laminate. **Sights:** Adjustable or fixed. **Features:** Blued or stainless metalwork, short grips available, convertible models available. Introduced 2003 in 17 HMR.
Price: 17 HMR (blued) . . . \$519.00
Price: 22 LR/22 Mag., from . . . \$506.00

RUGER SINGLE-TEN
Caliber: .22 LR, 10-shot cylinder. **Barrel:** 5.5" **Weight:** 38 oz. **Length:** 11" **Grips:** Hardwood Gunfighter. **Sights:** Williams adjustable fiber optic. **Finish:** Stainless steel.
Price: . . . \$629



RUGER NEW MODEL BLACKHAWK/BLACKHAWK CONVERTIBLE
Caliber: 30 Carbine, 327 Federal, 357 Mag./38 Spec., 41 Mag., 44 Special, 45 Colt, 6-shot. **Barrel:** 4-5/8", 5.5", 6.5", 7.5" (30 carbine and 45 Colt). **Weight:** 36 to 45 oz. **Lengths:** 10-3/8" to 13.5". **Grips:** Rosewood or black checkered. **Sights:** 1/8" ramp front, micro-click rear adjustable for windage and elevation. **Features:** Rosewood grips, Ruger transfer bar safety system, independent firing pin, hardened chrome-moly steel frame, music wire springs through-out. Case and lock included. Convertibles come with extra cylinder.
Price: 30 Carbine, 7.5" (BN31, blued) . . . \$541.00
Price: 357 Mag. (blued or satin stainless), from . . . \$541.00
Price: 41 Mag. (blued) . . . \$541.00
Price: 45 Colt (blued or satin stainless), from . . . \$541.00
Price: 357 Mag./9mm Para. Convertible (BN34XL, BN36XL) . . . \$617.00
Price: 45 Colt/45 ACP Convertible (BN44X, BN455XL) . . . \$617.00



RUGER BISLEY SINGLE-ACTION REVOLVER
 Similar to standard Blackhawk, hammer is lower with smoothly curved, deeply checkered wide spur. The trigger is strongly curved with wide smooth surface. Longer grip frame. Adjustable rear sight, ramp-style front. Unfluted cylinder and roll engraving, adjustable sights. Chambered for 44 Mag.

HANDGUNS—Single-Action Revolvers

and 45 Colt; 7.5" barrel; overall length 13.5"; weighs 48-51 oz. Plastic lockable case. Orig. fluted cylinder introduced 1985; discontinued 1991. Unfluted cylinder introduced 1986.
Price: RB-44W (44 Mag), RB45W (45 Colt)\$683.00



RUGER NEW MODEL SUPER BLACKHAWK

Caliber: 44 Mag., 6-shot. Also fires 44 Spec. Barrel: 4-5/8", 5.5", 7.5", 10.5" bull.

Weight: 45-55 oz. **Length:** 10.5" to 16.5" overall. **Grips:** Rosewood. **Sights:** 1/8" ramp front, micro-click rear adjustable for windage and elevation. **Features:** Ruger transfer bar safety system, fluted or unfluted cylinder, steel grip and cylinder frame, round or square back trigger guard, wide serrated trigger, wide spur hammer. With case and lock.

Price: Blue, 4-5/8", 5.5", 7.5" (S-458N, S-45N, S-47N)\$650.00

Price: Blue, 10.5" bull barrel (S-411N)\$667.00

Price: Stainless, 4-5/8", 5.5", 7.5" (KS-458N, KS-45N, KS-47N)\$667.00

Price: Stainless, 10.5" bull barrel (KS-411N)\$694.00

Price: Super Blackhawk 50th Anniversary: Gold highlights, ornamentation; commemorates 50-year anniversary of Super Blackhawk\$729.00



RUGER NEW MODEL SUPER BLACKHAWK HUNTER

Caliber: 44 Mag., 6-shot. **Barrel:** 7.5", full-length solid rib, unfluted cylinder.

Weight: 52 oz. **Length:** 13-5/8". **Grips:** Black laminated wood. **Sights:** Adjustable rear, replaceable front blade. **Features:** Reintroduced Ultimate SA revolver. Includes instruction manual, high-impact case, set 1" medium scope rings, gun lock, ejector rod as standard.

Price: Hunter model, satin stainless, 7.5" (KS-47NHNN)\$781.00

Price: Hunter model, Bisley frame, satin stainless 7.5" (KS-47NHB)\$781.00



RUGER NEW VAQUERO SINGLE-ACTION REVOLVER

Caliber: 357 Mag., 45 Colt, 6-shot. **Barrel:** 4-5/8", 5.5", 7.5". **Weight:** 39-45 oz. **Length:** 10.5" overall (4-5/8" barrel). **Grips:** Rubber with Ruger medallion. **Sights:** Fixed blade front, fixed notch rear. **Features:** Transfer bar safety system and loading gate interlock. Blued model color case-hardened finish on frame, rest polished and blued. Engraved model available. Gloss stainless. Introduced 2005.

Price: 357 Mag., blued or stainless\$719.00

Price: 45 Colt, blued or stainless\$719.00

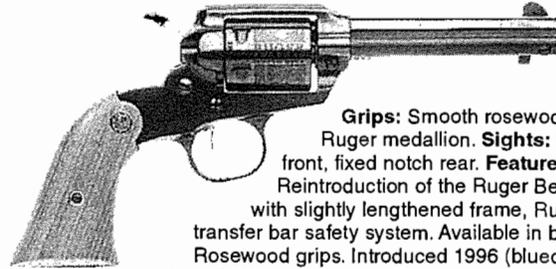
RUGER NEW MODEL BISLEY VAQUERO

Similar to New Vaquero but with Bisley-style hammer and grip frame. Chambered in 357 and 45 Colt. Features include a 5.5" barrel, simulated ivory grips, fixed sights, six-shot cylinder. Overall length is 11.12", weighs 45 oz.

Price:\$799.00

RUGER NEW BEARCAT SINGLE-ACTION

Caliber: 22 LR, 6-shot. **Barrel:** 4". **Weight:** 24 oz. **Length:** 9" overall.



Grips: Smooth rosewood with Ruger medallion. **Sights:** Blade front, fixed notch rear. **Features:** Reintroduction of the Ruger Bearcat with slightly lengthened frame, Ruger transfer bar safety system. Available in blue only. Rosewood grips. Introduced 1996 (blued), 2003 (stainless). With case and lock.

Price: SBC-4, blued\$501.00
Price: KSBC-4, satin stainless\$540.00

STI TEXICAN SINGLE-ACTION REVOLVER

Caliber: 45 Colt, 6-shot. **Barrel:** 5.5", 4140 chrome-moly steel by Green Mountain Barrels. 1:16 twist, air gauged to .0002". Chamber to bore alignment less than .001". Forcing cone angle, 3 degrees.

Weight: 36 oz. **Length:** 11". **Grips:** "No crack" polymer. **Sights:** Blade front, fixed notch rear. **Features:** Parts made by ultra-high speed or electron discharge machined processes from chrome-moly steel forgings or bar stock. Competition sights, springs, triggers and hammers. Frames, loading gates, and hammers are color case hardened by Turnbull Restoration. Frame, back strap, loading gate, trigger guard, cylinders made of 4140 re-sulphurized Maxell 3.5 steel. Hammer firing pin (no transfer bar). S.A.S.S. approved. Introduced 2008. Made in U.S.A. by STI International.

Price: 5.5" barrel\$1,299.99

UBERTI 1851-1860 CONVERSION REVOLVERS

Caliber: 38 Spec., 45 Colt, 6-shot engraved cylinder. **Barrel:** 4.75", 5.5", 7.5", 8" **Weight:** 2.6 lbs. (5.5" bbl.). **Length:** 13" overall (5.5" bbl.). **Grips:** Walnut. **Features:** Brass backstrap, trigger guard; color case-hardened frame, blued barrel, cylinder. Introduced 2007. Imported from Italy by Stoeger Industries.

Price: 1851 Navy\$519.00

Price: 1860 Army\$549.00

UBERTI 1871-1872 OPEN TOP REVOLVERS

Caliber: 38 Spec., 45 Colt, 6-shot engraved cylinder. **Barrel:** 4.75", 5.5", 7.5". **Weight:** 2.6 lbs. (5.5" bbl.). **Length:** 13" overall (5.5" bbl.). **Grips:** Walnut. **Features:** Blued backstrap, trigger guard; color case-hardened frame, blued barrel, cylinder. Introduced 2007. Imported from Italy by Stoeger Industries.

Price:\$499.00



UBERTI 1873 CATTLEMAN SINGLE-ACTION

Caliber: 45 Colt; 6-shot fluted cylinder. **Barrel:** 4.75", 5.5", 7.5". **Weight:** 2.3 lbs. (5.5" bbl.). **Length:** 11" overall (5.5" bbl.).

Grips: Styles: Frisco (pearl styled); Desperado (buffalo horn styled); Chisholm (checkered walnut); Gunfighter (black checkered), Cody (ivory styled), one-piece walnut. **Sights:** Blade front, groove rear. **Features:** Steel or

brass backstrap, trigger guard; color case-hardened frame, blued barrel, cylinder. NM designates New Model plunger style frame; OM designates Old Model screw cylinder pin retainer. Imported from Italy by Stoeger Industries.

Price: 1873 Cattleman Frisco\$789.00

Price: 1873 Cattleman Desperado (2006)\$789.00

Price: 1873 Cattleman Chisholm (2006)\$539.00

Price: 1873 Cattleman NM, blued 4.75" barrel\$479.00

Price: 1873 Cattleman NM, Nickel finish, 7.5" barrel\$609.00

Price: 1873 Cattleman Cody\$789.00

UBERTI 1873 CATTLEMAN BIRD'S HEAD SINGLE ACTION

Caliber: 357 Mag., 45 Colt; 6-shot fluted cylinder **Barrel:** 3.5", 4", 4.75", 5.5". **Weight:** 2.3 lbs. (5.5" bbl.). **Length:** 10.9" overall (5.5" bbl.). **Grips:** One-piece walnut. **Sights:** Blade front, groove rear. **Features:** Steel or brass backstrap, trigger guard; color case-

HANDGUNS—Single-Action Revolvers

hardened frame, blued barrel, cylinder. Imported from Italy by Stoeger Industries.

Price: 1873 Cattleman Bird's Head OM 3.5" barrel \$539.00

UBERTI 1873 BISLEY SINGLE-ACTION REVOLVER

Caliber: 357 Mag., 45 Colt (Bisley); 22 LR and 38 Spec. (Stallion), both with 6-shot fluted cylinder. **Barrel:** 4.75", 5.5", 7.5". **Weight:** 2 to 2.5 lbs. **Length:** 12.7" overall (7.5" barrel). **Grips:** Two-piece walnut.

Sights: Blade front, notch rear. **Features:** Replica of Colt's Bisley Model. Polished blue finish, color case-hardened frame. Introduced 1997. Imported by Stoeger Industries.

Price: 1873 Bisley, 7.5" barrel \$569.00

UBERTI 1873 BUNTLINE AND REVOLVER CARBINE SINGLE-ACTION

Caliber: 357 Mag., 44-40, 45 Colt; 6-shot fluted cylinder **Barrel:** 18".

Length: 22.9" to 34". **Grips:** Walnut pistol grip or rifle stock. **Sights:** Fixed or adjustable. **Features:** Imported from Italy by Stoeger Industries.

Price: 1873 Revolver Carbine, 18" barrel, 34" OAL \$729.00

Price: 1873 Cattleman Buntline Target, 18" barrel, 22.9" OAL \$639.00

UBERTI OUTLAW, FRONTIER, AND POLICE REVOLVERS

Caliber: 45 Colt, 6-shot fluted cylinder. **Barrel:** 5.5", 7.5". **Weight:** 2.5 to 2.8 lbs. **Length:** 10.8" to 13.6" overall. **Grips:** Two-piece smooth walnut. **Sights:** Blade front, notch rear. **Features:** Cartridge version of 1858 Remington percussion revolver. Nickel and blued finishes. Imported by Stoeger Industries.

Price: 1875 Outlaw nickel finish \$629.00

Price: 1875 Frontier, blued finish \$539.00

Price: 1890 Police, blued finish \$549.00

UBERTI 1870 SCHOFIELD-STYLE TOP BREAK REVOLVER

Caliber: 38, 44 Russian, 44-40, 45 Colt, 6-shot cylinder. **Barrel:** 3.5", 5", 7". **Weight:** 2.4 lbs. (5" barrel) **Length:** 10.8" overall (5" barrel).

Grips: Two-piece smooth walnut or pearl. **Sights:** Blade front, notch rear. **Features:** Replica of Smith & Wesson Model 3 Schofield. Single-action, top break with automatic ejection. Polished blue finish (first model). Introduced 1994. Imported by Stoeger Industries.

Price: No. 3-2nd Model, nickel finish \$1,369.00



U.S. FIRE ARMS SINGLE-ACTION REVOLVER

Caliber: 45 Colt (standard); 32 WCF, 38 WCF, 38 Spec., 44 WCF, 44 Special, 6-shot cylinder. **Barrel:** 4.75", 5.5", 7.5". **Weight:** 37 oz. **Length:** NA.

Grips: Hard rubber. **Sights:** Blade front, notch rear. **Features:** Recreation of original guns; 3" and 4" have no ejector. Available with all-blue, blue with

color case-hardening, or full nickel-plate finish. Other models include Custer Battlefield Gun (\$1,625, 7.5" barrel), Flattop Target (\$1,625), Sheriff's Model (\$875, with barrel lengths starting at 2"), Snubnose (\$1,475, barrel lengths 2", 3", 4"), Omni-Potent Six-Shooter and Omni-Target Six-Shooter (from \$1,625), Bisley (\$1,350, introduced 2006). Made in U.S.A. by United States Fire Arms Mfg. Co.

Price: Blue/cased-colors \$1,150.00

Price: Nickel \$1,220.00

U.S. FIRE ARMS U.S. PRE-WAR

Caliber: 45 Colt (standard); 32 WCF, 38 WCF, 38 Spec., 44 WCF, 44 Special. **Barrel:** 4.75", 5.5", 7.5". **Grips:** Hard rubber. **Features:** Armory bone case/Armory blue finish standard, cross-pin or black powder frame. Introduced 2002. Made in U.S.A. by United States Firearms Mfg. Co.

Price: \$1,495.00

HANDGUNS—Miscellaneous



BOND ARMS TEXAS DEFENDER DERRINGER
Calliber: From 22 LR to 45 LC/410 shotshells. **Barrel:** 3". **Weight:** 20 oz. **Length:** 5". **Grips:** Rosewood. **Sights:** Blade front, fixed rear. **Features:** Interchangeable barrels, stainless steel firing pins, cross-bolt safety, automatic extractor for rimmed calibers. Stainless steel construction, brushed finish. Right or left hand.
Price: **\$399.00**
Price: Interchangeable barrels, 22 LR thru 45 LC, 3" **\$139.00**
Price: Interchangeable barrels, 45 LC, 3.5" **\$159.00 to \$189.00**

BOND ARMS RANGER
Calliber: 45 LC/.410 shotshells. **Barrel:** 4.25". **Weight:** 23.5 oz. **Length:** 6.25". **Features:** Similar to Snake Slayer except no trigger guard. Intr. 2008. From Bond Arms.
Price: **\$649.00**



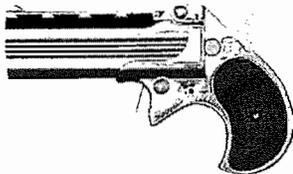
BOND ARMS CENTURY 2000 DEFENDER
Calliber: 45 LC/.410 shotshells. **Barrel:** 3.5". **Weight:** 21 oz. **Length:** 5.5". **Features:** Similar to Defender series.
Price: **\$420.00**

BOND ARMS COWBOY DEFENDER
Calliber: From 22 LR to 45 LC/.410 shotshells. **Barrel:** 3". **Weight:** 19 oz. **Length:** 5.5". **Features:** Similar to Defender series. No trigger guard.
Price: **\$399.00**

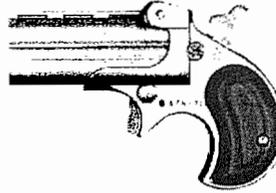
BOND ARMS SNAKE SLAYER
Calliber: 45 LC/.410 shotshell (2.5" or 3"). **Barrel:** 3.5". **Weight:** 21 oz. **Length:** 5.5". **Grips:** Extended rosewood. **Sights:** Blade front, fixed rear. **Features:** Single-action; interchangeable barrels; stainless steel firing pin. Introduced 2005.
Price: **\$469.00**

BOND ARMS SNAKE SLAYER IV
Calliber: 45 LC/.410 shotshell (2.5" or 3"). **Barrel:** 4.25". **Weight:** 22 oz. **Length:** 6.25". **Grips:** Extended rosewood. **Sights:** Blade front, fixed rear. **Features:** Single-action; interchangeable barrels; stainless steel firing pin. Introduced 2006.
Price: **\$499.00**

CHARTER ARMS DIXIE DERRINGERS
Calliber: 22 LR, 22 WMR. **Barrel:** 1.125". **Weight:** 6 oz. **Length:** 4" overall. **Grips:** Black polymer **Sights:** Blade front, fixed notch rear. **Features:** Stainless finish. Introduced 2006. Made in U.S.A. by Charter Arms.
Price: **\$215.00**



COBRA BIG BORE DERRINGERS
Calliber: 22 WMR, 32 H&R Mag., 38 Spec., 9mm Para., 380 ACP. **Barrel:** 2.75". **Weight:** 14 oz. **Length:** 4.65" overall. **Grips:** Textured black or white synthetic or laminated



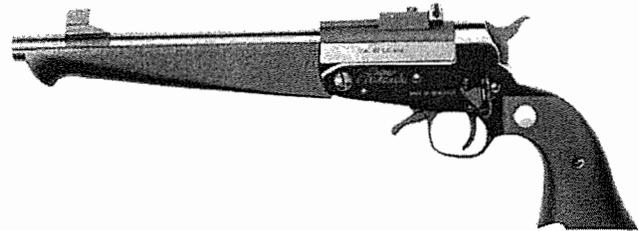
rosewood. **Sights:** Blade front, fixed notch rear. **Features:** Alloy frame, steel-lined barrels, steel breech block. Plunger-type safety with integral hammer block. Black, chrome or satin finish. Introduced 2002. Made in U.S.A. by Cobra Enterprises of Utah, Inc.
Price: **\$165.00**

COBRA STANDARD SERIES DERRINGERS
Calliber: 22 LR, 22 WMR, 25 ACP, 32 ACP. **Barrel:** 2.4". **Weight:** 9.5 oz. **Length:** 4" overall. **Grips:** Laminated wood or pearl. **Sights:** Blade front, fixed notch rear. **Features:** Choice of black powder coat, satin nickel or chrome finish. Introduced 2002. Made in U.S.A. by Cobra Enterprises of Utah, Inc.
Price: **\$145.00**

COBRA LONG-BORE DERRINGERS
Calliber: 22 WMR, 38 Spec., 9mm Para. **Barrel:** 3.5". **Weight:** 16 oz. **Length:** 5.4" overall. **Grips:** Black or white synthetic or rosewood. **Sights:** Fixed. **Features:** Chrome, satin nickel, or black Teflon finish. Introduced 2002. Made in U.S.A. by Cobra Enterprises of Utah, Inc.
Price: **\$165.00**



COBRA TITAN .45 LC/.410 DERRINGER
Calliber: .45 LC, .410 or 9mm, 2 round capacity. **Barrel:** 3-1/2". **Weight:** 16.4 oz. **Grip:** Rosewood. **Features:** The Titan is a powerhouse derringer designed to shoot a .45 Long Colt or the wide range of personal protection .410 shells with additional calibers to follow soon. Standard finishes include: satin stainless, black stainless, and brushed stainless. Made in U.S.A. by Cobra Enterprises of Utah, Inc.
Price: **\$419.00**



COMANCHE SUPER SINGLE-SHOT PISTOL
Calliber: 45 LC, .410 **Barrel:** 10". **Sights:** Adjustable. **Features:** Blue finish, not available for sale in CA, MA. Distributed by SGS Importers International, Inc.
Price: **\$200.00**

MAXIMUM SINGLE-SHOT PISTOL
Calliber: 22 LR, 22 Hornet, 22 BR, 22 PPC, 223 Rem., 22-250, 6mm BR, 6mm PPC, 243, 250 Savage, 6.5mm-35M, 270 MAX, 270 Win., 7mm TCU, 7mm BR, 7mm-35, 7mm INT-R, 7mm-08, 7mm Rocket, 7mm Super-Mag., 30 Herrett, 30 Carbine, 30-30, 308 Win., 30x39, 32-20, 350 Rem. Mag., 357 Mag., 357 Maximum, 358 Win., 375 H&H, 44 Mag., 454 Casull. **Barrel:** 8.75", 10.5", 14". **Weight:** 61 oz. (10.5" bbl.); 78 oz. (14" bbl.). **Length:** 15", 18.5" overall (with 10.5" and 14" bbl.,

HANDGUNS—Miscellaneous



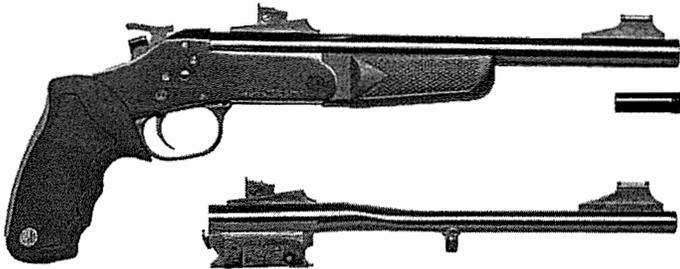
respectively). **Grips:** Smooth walnut stocks and forend. Also available with 17" finger groove grip. **Sights:** Ramp front, fully adjustable open rear. **Features:** Falling block action; drilled and tapped for M.O.A. scope mounts; integral grip frame/receiver; adjustable trigger; Douglas barrel (interchangeable). Introduced 1983. Made in U.S.A. by M.O.A. Corp.

Price: Stainless receiver, blue barrel \$839.00
Price: Stainless receiver, stainless barrel \$937.00

PUMA BOUNTY HUNTER RIFLE

Caliber: .44/40, .44 Mag. and .45 Colt, 6-shot magazine capacity. **Barrel:** 12". **Weight:** 4.5 lbs. **Length:** 24". **Stock:** Walnut. **Sights:** Fixed sights. **Features:** A piece of 1950's TV nostalgia, the Bounty Hunter is a reproduction of the gun carried by Western character Josh Randall in the series "Wanted: Dead or Alive". The Bounty Hunter is based on a Model 92 rifle, but is considered by Federal Law as a pistol, because it is built from the ground up as a handgun. Manufactured in the U.S.A. by Chiappa Firearms of Dayton, OH, the Bounty Hunter features a 12" barrel and 6 round tubular magazine. At just 24" OAL, the Bounty Hunter makes an ideal pack gun or camp defense pistol. The Bounty Hunter has a teardrop shaped loop lever and is built with the same fit, finish and high grade Italian walnut stocks as our Puma M-92 and M-86 rifles.

Price: .45LC, Case Hardened/Blued \$1,372.00
Price: .44/40, Case Hardened/Blued \$1,372.00
Price: .44MAG, Case Hardened/Blued \$1,372.00



ROSSI MATCHED PAIR PISTOL, "DUAL THREAT PERFORMER"

Caliber: .22LR, .45 Colt and .410 GA. 2.5" shotshells, single shot. **Sights:** Fiber optic front sights, adjustable rear. **Features:** Two-in-one pistol system with single-shot simplicity. Removable choke and cushioned grip with a Taurus Security System.

Price: \$336.00



ROSSI RANCH HAND PISTOL

Caliber: .38/.357, .45 Colt or .44 magnum, 6-shot. **Weight:** 4 lbs. **Length:** 24" overall. **Stock:** Brazilian hardwood. **Sights:** Adjustable buckhorn. **Features:** Matte blue or case hardened finish with

oversized lever loop to accommodate gloved hands. Equipped with classic buckhorn sights for fast target acquisition and a Taurus Security System.

Price: \$615.00



ROSSI WIZARD PISTOL

Caliber: .243 Win. or .22-.250 Rem with other calibers coming soon, single shot. **Barrel:** 11" **Length:** 20.4" **Features:** Offered in blue finish, additional features include pistol grip with custom grooves for fast handling and comfort, manual safety with "S" mark for visual confirmation, hammer extension, scope rail and the unique onboard Taurus Security System. Pistol offers outstanding and reliable performance in a versatile package. Its ingenious break-open barrel system changes quickly by unscrewing the front swivel with no tools needed.

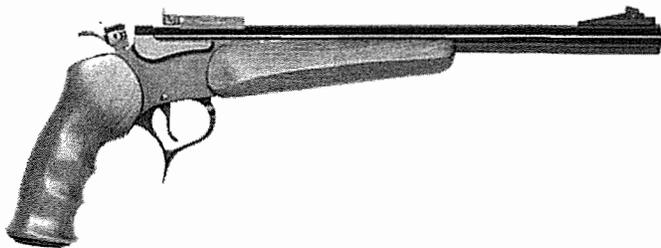
Price: N/A



THOMPSON/CENTER ENCORE PISTOL

Caliber: 22-250, 223, 204 Ruger, 6.8 Rem., 260 Rem., 7mm-08, 243, 308, 270, 30-06, 375 JDJ, 204 Ruger, 44 Mag., 454 Casull, 480 Ruger, 444 Marlin single shot, 450 Marlin with muzzle tamer, no sights. **Barrel:** 12", 15", tapered round. **Weight:** NA. **Length:** 21" overall with 12" barrel. **Grips:** American walnut with finger grooves, walnut forend. **Sights:** Blade on ramp front, adjustable rear, or none. **Features:** Interchangeable barrels; action opens by squeezing the trigger guard; drilled and tapped for scope mounting; blue finish. Announced 1996. Made in U.S.A. by Thompson/Center Arms.

Price: \$761.00



THOMPSON/CENTER G2 CONTENDER PISTOL

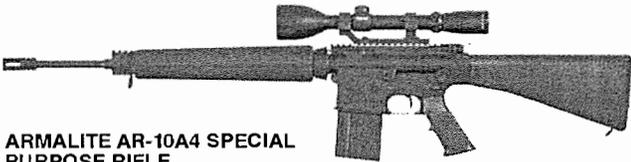
A second generation Contender pistol maintaining the same barrel interchangeability with older Contender barrels and their corresponding forends (except Herrett forend). The G2 frame will not accept old-style grips due to the change in grip angle. Incorporates an automatic hammer block safety with built-in interlock. Features include trigger adjustable for overtravel, adjustable rear sight; ramp front sight blade, blued steel finish.

Price: \$809.00

CENTERFIRE RIFLES—Autoloaders



ARMALITE M15A2 CARBINE
Caliber: 223 Rem., 30-round magazine. **Barrel:** 16" heavy chrome lined; 1:9" twist. **Weight:** 7 lbs. **Length:** 35-11/16" overall. **Stock:** Green or black composition. **Sights:** Standard A2. **Features:** Upper and lower receivers have push-type pivot pin; hard coat anodized; A2-style forward assist; M16A2-type raised fence around magazine release button. Made in U.S.A. by ArmaLite, Inc.
Price: Green \$1,150.00
Price: Black \$1,150.00



ARMALITE AR-10A4 SPECIAL PURPOSE RIFLE
Caliber: 308 Win., 10- and 20-round magazine. **Barrel:** 20" chrome-lined, 1:11.25" twist. **Weight:** 9.6 lbs. **Length:** 41" overall. **Stock:** Green or black composition. **Sights:** Detachable handle, front sight, or scope mount available; comes with international style flattop receiver with Picatinny rail. **Features:** Forged upper receiver with case deflector. Receivers are hard-coat anodized. Introduced 1995. Made in U.S.A. by ArmaLite, Inc.
Price: Green \$1,557.00
Price: Black \$1,557.00

ARMALITE AR-10A2
 Utilizing the same 20" double-lapped, heavy barrel as the ArmaLite AR10A4 Special Purpose Rifle. Offered in 308 Win. only. Made in U.S.A. by ArmaLite, Inc.
Price: AR-10A2 rifle or carbine \$1,561.00



ARMALITE AR-10B RIFLE
Caliber: 308 Win. **Barrel:** 20" chrome lined. **Weight:** 9.5 lbs. **Length:** 41" **Stock:** Synthetic. **Sights:** Rear sight adjustable for windage, small and large apertures. **Features:** Early-style AR-10. Lower and upper receivers made of forged aircraft alloy. Brown Sudanese-style furniture, elevation scale window. Charging handle in carry handle. Made in U.S.A. by ArmaLite.
Price: \$1,699.00

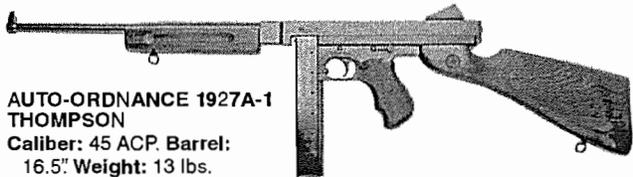
ARSENAL, INC. SLR-107F
Caliber: 7.62x39mm. **Barrel:** 16.25" **Weight:** 7.3 lbs. **Stock:** Left-side folding polymer stock. **Sights:** Adjustable rear. **Features:** Stamped receiver, 24mm flash hider, bayonet lug, accessory lug, stainless steel heat shield, two-stage trigger. Introduced 2008. Made in U.S.A. by Arsenal, Inc.
Price: SLR-107FR, includes scope rail \$1,035.00

ARSENAL, INC. SLR-107CR
Caliber: 7.62x39mm. **Barrel:** 16.25" **Weight:** 6.9 lbs. **Stock:** Left-side folding polymer stock. **Sights:** Adjustable rear. **Features:** Stamped receiver, front sight block/gas block combination, 500-meter rear sight, cleaning rod, stainless steel heat shield, scope rail, and removable muzzle attachment. Introduced 2007. Made in U.S.A. by Arsenal, Inc.
Price: SLR-107CR \$1,200.00

ARSENAL, INC. SLR-106CR
Caliber: 5.56 NATO. **Barrel:** 16.25" Steyr chrome-lined barrel, 1:7 twist rate. **Weight:** 6.9 lbs. **Stock:** Black polymer folding stock with cutout for scope rail. Stainless-steel heatshield handguard. **Sights:** 500-meter rear sight and rear sight block calibrated for 5.56 NATO.

Warsaw Pact scope rail. **Features:** Uses Arsenal, Bulgaria, Mil-Spec receiver, two-stage trigger, hammer and disconnecter. Polymer magazines in 5- and 10-round capacity in black and green, with Arsenal logo. Others are 30-round black waffles, 20- and 30-round versions in clear/smoke waffle, featuring the "10" in a double-circle logo of Arsenal, Bulgaria. Ships with 5-round magazine, sling, cleaning kit in a tube, 16" cleaning rod, oil bottle. Introduced 2007. Made in U.S.A. by Arsenal, Inc.

Price: SLR-106CR \$1,200.00



AUTO-ORDNANCE 1927A-1 THOMPSON
Caliber: 45 ACP. **Barrel:** 16.5" **Weight:** 13 lbs. **Length:** About 41" overall (Deluxe). **Stock:** Walnut stock and vertical forend. **Sights:** Blade front, open rear adjustable for windage. **Features:** Recreation of Thompson Model 1927. Semi-auto only. Deluxe model has finned barrel, adjustable rear sight and compensator; Standard model has plain barrel and military sight. From Auto-Ordnance Corp.

Price: Deluxe \$1,420.00
Price: Lightweight model (9.5 lbs.) \$1,145.00

AUTO-ORDNANCE THOMPSON M1/M1-C
 Similar to the 1927 A-1 except is in the M-1 configuration with side cocking knob, horizontal forend, smooth unfinned barrel, sling swivels on butt and forend. Matte-black finish. Introduced 1985.
Price: M1 semi-auto carbine \$1,334.00
Price: M1-C lightweight semi-auto \$1,065.00

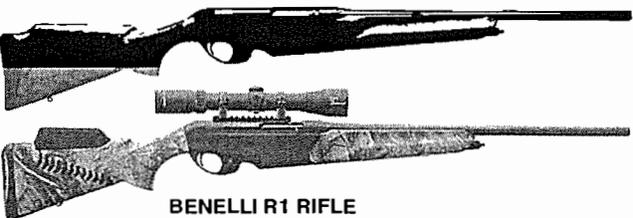
AUTO-ORDNANCE 1927 A-1 COMMANDO
 Similar to the 1927 A-1 except has Parkerized finish, black-finish wood butt, pistol grip, horizontal forend. Comes with black nylon sling. Introduced 1998. Made in U.S.A. by Auto-Ordnance Corp.
Price: T1-C \$1,393.00

AUTO ORDNANCE M1 CARBINE
Caliber: .30 Carbine (15-shot magazine). **Barrel:** 18" **Weight:** 5.4 to 5.8 lbs. **Length:** 36.5" **Stock:** Wood or polymer. **Sights:** Blade front, flip style rear. A faithful recreation of the military carbine.
Price: \$816.00



BARRETT MODEL 82A-1 SEMI-AUTOMATIC RIFLE
Caliber: 50 BMG, 10-shot detachable box magazine. **Barrel:** 29" **Weight:** 28.5 lbs. **Length:** 57" overall. **Stock:** Composition with energy-absorbing

recoil pad. **Sights:** Scope optional. **Features:** Semi-automatic, recoil operated with recoiling barrel. Three-lug locking bolt; muzzle brake. Adjustable bipod. Introduced 1985. Made in U.S.A. by Barrett Firearms.
Price: From \$8,900.00



BENELLI R1 RIFLE
Caliber: .30-06 (4+1), .300 Win Mag (3+1), .338 Win Mag (3+1). **Weight:** 7.1 lbs. **Length:** 43.75" to 45.75" **Stock:** Select satin walnut or synthetic. **Sights:** None. **Features:** Auto-regulating gas-

CENTERFIRE RIFLES—Autoloaders

operated system, three-lug rotary bolt, interchangeable barrels, optional recoil pads. Introduced 2003. Imported from Italy by Benelli USA.

Price: \$1,019.00 to \$1,249.00



BENELLI MR1 RIFLE

Gas-operated semiauto rifle chambered in 5.56 NATO. Features include 16-inch 1:9 hard chrome-lined barrel, synthetic stock with pistol grip, rotating bolt, military-style aperture sights with picatinny rail. Comes equipped with 5-round detachable magazine but accepts M16 magazines.

Price: \$1299.00



BERETTA CX4/PX4 STORM CARBINE

Caliber: 9mm Para., 40 S&W, 45 ACP. **Weight:** 5.75 lbs. **Barrel Length:** 16.6" chrome lined, rate of twist 1:16 (40 S&W) or 1:10 (9mm Para.). **Length:** NA. **Stock:** Black synthetic. **Sights:** NA. **Features:** Introduced 2005. Imported from Italy by Beretta USA.

Price: \$900.00



BROWNING BAR SAFARI AND SAFARI W/BOSS SEMI-AUTO RIFLES

Caliber: Safari: 243 Win., 25-06 Rem., 270 Win., 7mm Rem. Mag., 30-06 Spfl., 308 Win., 300 Win. Mag., 338 Win. Mag. Safari w/BOSS: 270 Win., 7mm Rem. Mag., 30-06 Spfl., 300 Win. Mag., 338 Win. Mag., plus 270 WSM, 7mm WSM, 300 WSM. **Barrel:** 22-24" round tapered. **Weight:** 7.4-8.2 lbs. **Length:** 43-45" overall. **Stock:** French walnut pistol grip stock and forend, hand checked. **Sights:** No sights. **Features:** Has new bolt release lever; removable trigger assembly with larger trigger guard; redesigned gas and buffer systems. Detachable 4-round box magazine. Scroll-engraved receiver is tapped for scope mounting. BOSS barrel vibration modulator and muzzle brake system available. Mark II Safari introduced 1993. Imported from Belgium by Browning.

Price: BAR MK II Safari, from \$1,300.00

Price: BAR Safari w/BOSS, from \$1,500.00



BROWNING BAR SHORTTRAC/LONGTRAC AUTO RIFLES

Caliber: (ShortTrac models) 270 WSM, 7mm WSM, 300 WSM, 243 Win., 308 Win., 325 WSM; (LongTrac models) 270 Win., 30-06 Spfl., 7mm Rem. Mag., 300 Win. Mag. **Barrel:** 23". **Weight:** 6 lbs. 10 oz. to 7 lbs. 4 oz. **Length:** 41.5" to 44". **Stock:** Satin-finish walnut, pistol-grip, fluted forend. **Sights:** Adj. rear, bead front standard, no sights on BOSS models (optional). **Features:** Designed to handle new WSM chamberings. Gas-operated, blued finish, rotary bolt design (LongTrac models).

Price: BAR ShortTrac, 243 Win., 308 Win. from \$1,079.00

Price: BAR ShortTrac Left-Hand, intr. 2007, from \$1,129.00

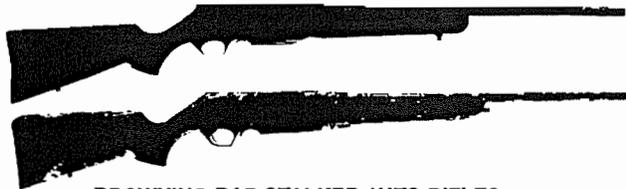
Price: BAR ShortTrac Mossy Oak New Break-up \$1,249.00 to \$1,349.00

Price: BAR LongTrac Left Hand, 270 Win., 30-06 Spfl., from \$1,129.00

Price: BAR LongTrac, from \$1,079.00

Price: BAR LongTrac Mossy Oak Break Up, intr. 2007, from \$1,249.00

Price: BAR LongTrac, Digital Green camo (2009) \$1,247.00 to \$1,347.00



BROWNING BAR STALKER AUTO RIFLES

Caliber: 243 Win., 308 Win., 270 Win., 30-06 Spfl., 270 WSM, 7mm WSM, 300 WSM, 300 Win. Mag., 338 Win. Mag. **Barrel:** 20-24". **Weight:** 7.1-7.75 LBS. **Length:** 41-45" overall. **Stock:** Black composite stock and forearm. **Sights:** Hooded front and adjustable rear. **Features:** Gas-operated action with seven-lug rotary bolt; dual action bars; 2-, 3- or 4-shot magazine (depending on cartridge). Introduced 2001. Imported by Browning.

Price: BAR ShortTrac or LongTrac Stalker, from \$1,340.00

Price: BAR Lightweight Stalker, from \$1,230.00

BUSHMASTER 300 AAC BLACKOUT

Caliber: .300 AAC. New cartridge for AR platform that matches 7.62x39 ballistics. **Features:** Utilizes regular AR magazines at full capacity. Muzzle brake. Magpul stock and grip.

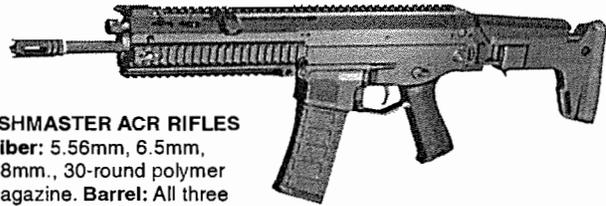
Price: \$1471

BUSHMASTER 308 HUNTER RIFLES

Caliber: .308 Win / 7.62 NATO., 5-round magazine. **Barrel:** 20". **Weight:** 8-1/2 lbs. **Length:** 38-1/4" overall. **Stock:** Standard A2 stock with Hogue® rubberized pistol grip. **Sights:** Two 3/4" mini-risers for optics mounting. **Features:** These top quality Bushmaster .308 Rifles were developed for the Hunter who intends to immediately add optics (scope, red dot or holographic sight) to the rifle. The premium 20" heavy fluted profile barrel is chrome lined in both bore and chamber to provide Bushmaster accuracy, durability and maintenance ease.

Price: 308 Hunter \$1518.00

Price: 308 Vista Hunter..... \$1,618.00



BUSHMASTER ACR RIFLES

Caliber: 5.56mm, 6.5mm, 6.8mm., 30-round polymer magazine. **Barrel:** All three calibers are available with 10-1/2", 14-1/2", 16-1/2" and 18" barrels. **Weight:** 14-1/2" bbl 7 lbs.. **Length:** 14-1/5" bbl with stock folded: 25-3/4", with stock deployed (mid) 32-5/8", 10.5" bbl with stock folded: 21-5/16", with stock deployed (mid): 27-7/8", with stock deployed and extended: 31-3/4". Folding Stock Length of Pull - 3". **Stock:** Fixed high-impact composite A-frame stock with rubber butt pad and sling mounts (ORC & A-TACS®) **Features:** Cold hammer-forged barrels with melonite coating for extreme long life. A2 birdcage-type hider to control muzzle flash and adjustable, two-position, gas piston-driven system for firing suppressed or unsuppressed, supported by hardened internal bearing rails. Tool-less, quick-change barrel system available in 10.5", 14.5" and 16.5" and in multiple calibers. Multi-caliber bolt carrier assembly quickly and easily changes from 223/5.56mm NATO to 6.8mm Rem SPC (spec II chamber) Free-floating MIL-STD 1913 monolithic top rail for optic mounting. Fully ambidextrous controls including magazine release, bolt catch and release, fire selector and non reciprocating charging handle. High-impact composite hand guard with heat shield - accepts rail inserts. High-impact composite lower receiver with textured magazine well and modular grip storage. Fire Control - Semi and Full Auto two-stage standard AR capable of accepting drop-in upgrade. Magazine - Optimized for MagPul PMAG Accepts standard NATO/M-16 magazines.

Price: Basic ORC Configuration \$2,343.00

Price: A-TACS Basic Configuration \$2,540.00

CENTERFIRE RIFLES—Autoloaders

Price: Basic Folder Configuration \$2,490.00
 Price: Basic State Compliant Configuration \$2,343.00

BUSHMASTER SUPERLIGHT CARBINES

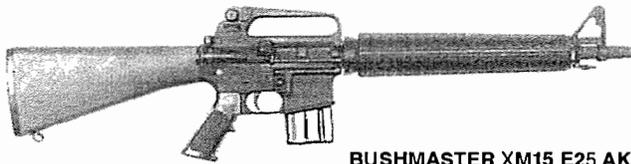
Calliber: 223 Rem., 30-shot magazine. **Barrel:** 16", heavy; 1:9" twist. **Weight:** 6.25 lbs. **Length:** 31.25-34.5" overall. **Stock:** 6-position telescopic or Stubby (7.25" length). **Sights:** Fully adjustable M16A2 sight system. **Features:** Adapted from original G.I. pencil-barrel profile. Chrome-lined barrel with manganese phosphate finish. "Shorty" handguards. Has forged aluminum receivers with pushpin. Made in U.S.A. by Bushmaster Firearms, Inc.

Price: From \$1,250.00

BUSHMASTER XM15 E2S DISSIPATOR CARBINE

Similar to the XM15 E2S Shorty carbine except has full-length "Dissipator" handguards. Weighs 7.6 lbs.; 34.75" overall; forged aluminum receivers with push-pin style takedown. Made in U.S.A. by Bushmaster Firearms, Inc.

Price: From \$1,240.00



BUSHMASTER XM15 E25 AK SHORTY CARBINE

Similar to the XM15 E2S Shorty except has 14.5" barrel with an AK muzzle brake permanently attached giving 16" barrel length. Weighs 7.3 lbs. Introduced 1999. Made in U.S.A. by Bushmaster Firearms, Inc.

Price: From \$1,215.00

BUSHMASTER M4 POST-BAN CARBINE

Similar to the XM15 E2S except has 14.5" barrel with Mini Y compensator, and fixed telescopic. MR configuration has fixed carry handle.

Price: \$1,190.00



BUSHMASTER VARMINTER RIFLE

Calliber: 223 Rem., 5-shot. **Barrel:** 24", 1:9" twist, fluted, heavy, stainless. **Weight:** 8.75 lbs. **Length:** 42.25" **Stock:** Rubberized pistol grip. **Sights:** 1/2" scope risers. **Features:** Gas-operated, semi-auto, two-stage trigger, slotted free floater forend, lockable hard case.

Price: \$1,360.00

Price: Bushmaster Predator: 20" 1:8 barrel, 223 Rem. \$1,245.00

Price: Bushmaster Stainless Varmint Special: Same as Varminter but with 24" stainless barrel \$1,277.00

BUSHMASTER 6.8 SPC CARBINE

Calliber: 6.8 SPC, 26-shot mag. **Barrel:** 16" M4 profile. **Weight:** 6.57 lbs. **Length:** 32.75" overall. **Features:** Semi-auto AR-style with Izzy muzzle brake, six-position telescopic. Available in A2 (fixed carry handle) or A3 (removable carry handle) configuration.

Price: \$1,500.00

BUSHMASTER ORC CARBINE

Calliber: 5.56/223. **Barrel:** 16" M4 profile. **Weight:** 6 lbs. **Length:** 32.5" overall. **Features:** AR-style carbine with chrome-lined barrel, fixed carry handle, receiver-length picatinny optics rail, heavy oval M4-style handguards.

Price: \$1,085.00

BUSHMASTER 11.5" BARREL CARBINE

Calliber: 5.56/223, 30-shot mag. **Barrel:** 11.5". **Weight:** 6.46 lbs. or 6.81 lbs. **Length:** 31.625" overall. **Features:** AR-style carbine with chrome-lined barrel with permanently attached BATF-approved 5.5" flash suppressor, fixed or removable carry handle, optional optics rail.

Price: \$1,215.00

BUSHMASTER HEAVY-BARRELED CARBINE

Calliber: 5.56/223. **Barrel:** 16". **Weight:** 6.93 lbs. to 7.28 lbs. **Length:** 32.5" overall. **Features:** AR-style carbine with chrome-lined heavy profile vanadium steel barrel, fixed or removable carry handle, six-position telescopic.

Price: \$1,215.00

BUSHMASTER MODULAR CARBINE

Calliber: 5.56/223, 30-shot mag. **Barrel:** 16" **Weight:** 7.3 lbs. **Length:** 36.25" overall. **Features:** AR-style carbine with chrome-lined chrome-moly vanadium steel barrel, skeleton stock or six-position telescopic, clamp-on front sight and detachable flip-up dual aperture rear.

Price: \$1,745.00

BUSHMASTER CARBON 15 TOP LOADER RIFLE

Calliber: 5.56/223, internal 10-shot mag. **Barrel:** 16" chrome-lined M4 profile. **Weight:** 5.8 lbs. **Length:** 32.75" overall. **Features:** AR-style carbine with standard A2 front sight, dual aperture rear sight, receiver-length optics rail, lightweight carbon fiber receiver, six-position telescopic. Will not accept detachable box magazines.

Price: \$1,070.00

BUSHMASTER CARBON 15 FLAT-TOP CARBINE

Calliber: 5.56/223, 30-shot mag. **Barrel:** 16" M4 profile. **Weight:** 5.77 lbs. **Length:** 32.75" overall. **Features:** AR-style carbine Izzy flash suppressor, AR-type front sight, dual aperture rail, lightweight carbon composite receiver with receiver-length optics rail.

Price: \$1,155.00

Price: Carbon 15 9mm, chambered in 9mm Parabellum . . . \$1,025.00

BUSHMASTER 450 RIFLE AND CARBINE

Calliber: 450 Bushmaster. **Barrel:** 20" (rifle), 16" (carbine), five-round mag. **Weight:** 8.3 lbs. (rifle), 8.1 lbs. (carbine). **Length:** 39.5" overall (rifle), 35.25" overall (carbine). **Features:** AR-style with chrome-lined chrome-moly barrel, synthetic stock, Izzy muzzle brake.

Price: \$1,350.00

BUSHMASTER GAS PISTON RIFLE

Calliber: 223, 30-shot mag. **Barrel:** 16" **Weight:** 7.46 lbs. **Length:** 32.5" overall. **Features:** Semi-auto AR-style with telescoping stock, carry handle, piston assembly rather than direct gas impingement.

Price: \$1,795.00

BUSHMASTER TARGET RIFLE

Calliber: 5.56/223, 30-shot mag. **Barrel:** 20" or 24" heavy or standard. **Weight:** 8.43 lbs. to 9.29 lbs. **Length:** 39.5" or 43.5" overall. **Features:** Semi-auto AR-style with chrome-lined or stainless steel 1:9 barrel, fixed or removable carry handle, manganese phosphate finish.

Price: \$1,195.00

BUSHMASTER M4A3 TYPE CARBINE

Calliber: 5.56/223, 30-shot mag. **Barrel:** 16" **Weight:** 6.22 to 6.7 lbs. **Length:** 31" to 32.5" overall. **Features:** AR-style carbine with chrome-moly vanadium steel barrel, Izzy-type flash-hider, six-position telescopic, various sight options, standard or multi-rail handguard, fixed or removable carry handle.

Price: \$1,270.00

Price: Patrolman's Carbine: Standard mil-style sights \$1,270.00

Price: State Compliance Carbine: Compliant with various state regulations \$1,270.00



CENTURY INTERNATIONAL AES-10 HI-CAP RIFLE

Calliber: 7.62x39mm. 30-shot magazine. **Barrel:** 23.2". **Weight:** NA. **Length:** 41.5" overall. **Stock:** Wood grip, forend. **Sights:** Fixed-notch rear, windage-adjustable post front. **Features:** RPK-style, accepts standard double-stack AK-type mags. Side-mounted scope mount, integral carry handle, bipod. Imported by Century Arms Int'l.

Price: AES-10, from. \$450.00



CENTURY INTERNATIONAL GP WASR-10 HI-CAP RIFLE

Calliber: 7.62x39mm. 30-shot magazine. **Barrel:** 16.25", 1:10 right-hand twist. **Weight:** 7.2 lbs. **Length:** 34.25" overall. **Stock:** Wood laminate or composite, grip, forend. **Sights:** Fixed-notch rear, windage-adjustable post front. **Features:** Two 30-rd. detachable

Prices given are believed to be accurate at time of publication however, many factors affect retail pricing so exact prices are not possible.

CENTERFIRE RIFLES—Autoloaders

box magazines, cleaning kit, bayonet. Version of AKM rifle; U.S.-parts added for BATFE compliance. Threaded muzzle, folding stock, bayonet lug, compensator, Dragunov stock available. Made in Romania by Cugir Arsenal. Imported by Century Arms Int'l.
Price: GP WASR-10, from..... **\$350.00**



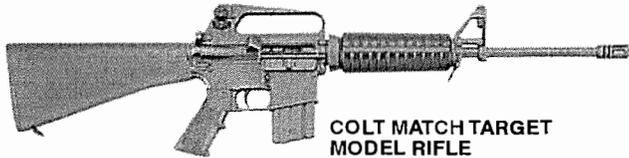
CENTURY INTERNATIONAL WASR-2 HI-CAP RIFLE
Caliber: 5.45x39mm. 30-shot

magazine. **Barrel:** 16.25" **Weight:** 7.5 lbs. **Length:** 34.25" overall. Stocks: Wood laminate. **Sights:** Fixed-notch rear, windage-adjustable post front. **Features:** 1 30-rd. detachable box magazine, cleaning kit, sling. WASR-3 HI-CAP chambered in 223 Rem. Imported by Century Arms Int'l.
Price: GP WASR-2/3, from..... **\$250.00**



CENTURY INTERNATIONAL M70AB2 SPORTER RIFLE
Caliber: 7.62x39mm. 30-shot magazine. **Barrel:** 16.25" **Weight:** 7.5 lbs.

Length: 34.25" overall. Stocks: Metal grip, wood forend. **Sights:** Fixed-notch rear, windage-adjustable post front. **Features:** 2 30-rd. double-stack magazine, cleaning kit, compensator, bayonet lug and bayonet. Paratrooper-style Kalashnikov with under-folding stock. Imported by Century Arms Int'l.
Price: M70AB2, from..... **\$480.00**



COLT MATCH TARGET MODEL RIFLE
Caliber: 223 Rem., 5-shot magazine.

Barrel: 16.1" or 20" **Weight:** 7.1 to 8.5 lbs. **Length:** 34.5" to 39" overall. **Stock:** Composition stock, grip, forend. **Sights:** Post front, rear adjustable for windage and elevation. **Features:** 5-round detachable box magazine, flash suppressor, sling swivels. Forward bolt assist included. Introduced 1991. Made in U.S.A. by Colt's Mfg. Co., Inc.
Price: Match Target HBAR MT6601..... **\$1,182.00**

DPMS PANTHER ARMS AR-15 RIFLES

Caliber: .204 Ruger, 6.8x43mm SPC. **Barrel:** 16" to 24" **Weight:** 7.75 to 11.75 lbs. **Length:** 34.5" to 42.25" overall. **Stock:** Black Zytel composite. **Sights:** Square front post, adjustable A2 rear. **Features:** Steel or stainless steel heavy or bull barrel; hardcoat anodized receiver; aluminum free-float tube handguard; many options. From DPMS Panther Arms.
Price:..... **\$939.00 to \$1,269.00**



DPMS PANTHER ARMS PRAIRIE PANTHER

Semiauto AR-style rifle chambered in 5.56 NATO. Features include 20-inch 416 stainless fluted heavy 1:8 barrel; phosphated steel bolt; free-floated carbon fiber handguard; flattop upper with Picatinny rail; aluminum lower; two 30-round magazines; skeletonized Zytel stock; finished in King's Desert Shadow camo overall.
Price:..... **\$1,249.00**



DPMS PANTHER ARMS PANTHER REPR

Semiauto AR-style rifle chambered in .308 Win./7.62 NATO. Features include 18-inch 416 stainless steel 1:10 barrel; phosphated steel bolt; 4-rail free-floated handguard; no sights; 19-round magazines; Coyote Brown

aluminum lower; two camo finish overall.
Price:..... **\$2,549.00**



DPMS PANTHER ARMS PANTHER LR308 RIFLES

Semiauto AR-style rifle chambered in .308 NATO, .260 Rem., .243 Win., 6.5 Creedmoor, .338 Federal. Features include 16-inch 4140 chrome-moly heavy 1:10 barrel; phosphated steel bolt; 4-rail free-floated handguard; flip-up front and rear sights; aluminum lower; two 19-round magazines; matte black finish overall; Magpul CTR adjustable stock.

Price:..... **\$2,549.00**

DSA Z4 GTC CARBINE WITH C.R.O.S.

Caliber: 5.56 NATO **Barrel:** 16" 1:9 twist M4 profile fluted chrome lined heavy barrel with threaded Vortec flash hider. **Weight:** 7.6 lbs. **Stock:** 6 position collapsible M4 stock, Predator P4X free float tactical rail. **Sights:** Chrome lined Picatinny gas block w/removable front sight. **Features:** The Corrosion Resistant Operating System incorporates the new P.O.F. Gas Trap System with removable gas plug eliminates problematic features of standard AR gas system, Forged 7075T6 DSA lower receiver. Introduced 2006. Made in U.S.A. by DSA, Inc.
Price:..... **\$1,800.00**

DSA CQB MRP, STANDARD MRP

Caliber: 5.56 NATO **Barrel:** 16" or 18" 1:7 twist chrome-lined or stainless steel barrel with A2 flash hider **Stock:** 6 position collapsible M4 stock. **Features:** LMT 1/2" MRP upper receiver with 20.5" Standard quad rail or 16.5" CQB quad rail, LMT-enhanced bolt with dual extractor springs, free float barrel, quick change barrel system, forged 7075T6 DSA lower receiver. EOTech and vertical grip additional. Introduced 2006. Made in U.S.A. by DSA, Inc.
Price: CQB MRP w/16" chrome-lined barrel..... **\$2,420.00**
Price: CQB MRP w/16" stainless steel barrel..... **\$2,540.00**
Price: Standard MRP w/16" chrome-lined barrel..... **\$2,620.00**
Price: Standard MRP w/16" or 18" stainless steel barrel.... **\$2,740.00**

DSA STD CARBINE

Caliber: 5.56 NATO. **Barrel:** 16" 1:9 twist D4 w/A2 flash hider. **Weight:** 6.25 lbs. **Length:** 31" **Stock:** A2 buttstock, D4 handguard w/heatshield. **Sights:** Forged A2 front sight with lug. **Features:** Forged 7075T6 DSA lower receiver, forged A2 or flattop upper receiver. Introduced 2006. Made in U.S.A. by DSA, Inc.
Price: A2 or Flattop STD Carbine..... **\$1,025.00**
Price: With LMT SOPMOD stock..... **\$1,267.00**

DSA 1R CARBINE

Caliber: 5.56 NATO. **Barrel:** 16" 1:9 twist D4 w/A2 flash hider. **Weight:** 6.25 lbs. **Length:** Variable. **Stock:** 6 position collapsible M4 stock, D4 handguard w/heatshield. **Sights:** Forged A2 front sight with lug. **Features:** Forged 7075T6 DSA lower receiver, forged A2 or flattop upper receiver. Introduced 2006. Made in U.S.A. by DSA, Inc.
Price: A2 or Flattop 1R Carbine..... **\$1,055.00**
Price: With VLTOR ModStock..... **\$1,175.00**

DSA XM CARBINE

Caliber: 5.56 NATO. **Barrel:** 11.5" 1:9 twist D4 with 5.5" permanently

CENTERFIRE RIFLES—Autoloaders

attached flash hider. **Weight:** 6.25 lbs. **Length:** Variable. **Stock:** Collapsible, Handguard w/heatshield. **Sights:** Forged A2 front sight with lug. **Features:** Forged 7075T6 DSA lower receiver, forged A2 upper receiver. Introduced 2006. Made in U.S.A. by DSA, Inc.
Price: **\$1,055.00**

DSA STANDARD

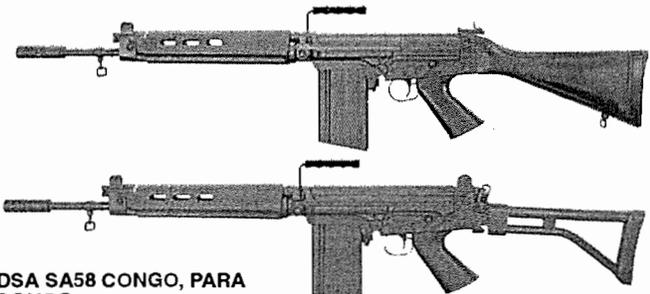
Caliber: 5.56 NATO. **Barrel:** 20" 1:9 twist heavy barrel w/A2 flash hider. **Weight:** 6.25 lbs. **Length:** 38-7/16" **Stock:** A2 buttstock, A2 handguard w/heatshield. **Sights:** Forged A2 front sight with lug. **Features:** Forged 7075T6 DSA lower receiver, forged A2 or flattop upper receiver. Introduced 2006. Made in U.S.A. by DSA, Inc.
Price: A2 or Flattop Standard **\$1,025.00**

DSA DCM RIFLE

Caliber: 223 Wylde Chamber. **Barrel:** 20" 1:8 twist chrome moly match grade Badger Barrel. **Weight:** 10 lbs. **Length:** 39.5" **Stock:** DCM freefloat handguard system, A2 buttstock. **Sights:** Forged A2 front sight with lug. **Features:** NM two stage trigger, NM rear sight, forged 7075T6 DSA lower receiver, forged A2 upper receiver. Introduced 2006. Made in U.S.A. by DSA, Inc.
Price: **\$1,520.00**

DSA S1

Caliber: 223 Rem. Match Chamber. **Barrel:** 16", 20" or 24" 1:8 twist stainless steel bull barrel. **Weight:** 8.0, 9.5 and 10 lbs. **Length:** 34.25", 38.25" and 42.25" **Stock:** A2 buttstock with free float aluminum handguard. **Sights:** Picatinny gas block sight base. **Features:** Forged 7075T6 DSA lower receiver, Match two stage trigger, forged flattop upper receiver, fluted barrel optional. Introduced 2006. Made in U.S.A. by DSA, Inc.
Price: **\$1,155.00**



DSA SA58 CONGO, PARA CONGO

Caliber: 308 Win. **Barrel:** 18" w/ short Belgian short flash hider. **Weight:** 8.6 lbs. (Congo); 9.85 lbs. (Para Congo). **Length:** 39.75" **Stock:** Synthetic w/military grade furniture (Congo); Synthetic with non-folding steel para stock (Para Congo). **Sights:** Elevation adjustable protected post front sight, windage adjustable rear peep (Congo); Belgian type Para Flip Rear (Para Congo). **Features:** Fully-adjustable gas system, high-grade steel upper receiver with carry handle. Made in U.S.A. by DSA, Inc.
Price: Congo **\$1,850.00**
Price: Para Congo **\$2,095.00**

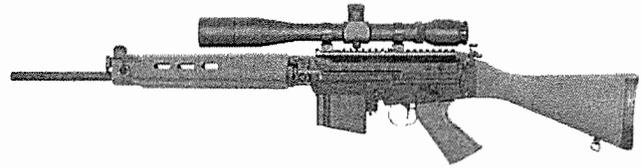


DSA SA58 GRAY WOLF

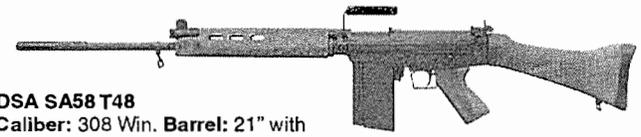
Caliber: 308 Win. **Barrel:** 21" match-grade bull w/target crown. **Weight:** 13 lbs. **Length:** 41.75" **Stock:** Synthetic. **Sights:** Elevation-adjustable post front sight, windage-adjustable match rear peep. **Features:** Fully-adjustable gas system, high-grade steel upper receiver, Picatinny scope mount, DuraCoat finish. Made in U.S.A. by DSA, Inc.
Price: **\$2,120.00**

DSA SA58 PREDATOR

Caliber: 243 Win., 260 Rem., 308 Win. **Barrel:** 16" and 19" w/target crown. **Weight:** 9 to 9.3 lbs. **Length:** 36.25" to 39.25" **Stock:** Green synthetic. **Sights:** Elevation-adjustable post front; windage-adjustable match rear peep. **Features:** Fully-adjustable gas system, high-grade steel upper receiver, Picatinny scope mount, DuraCoat solid and camo finishes. Made in U.S.A. by DSA, Inc.



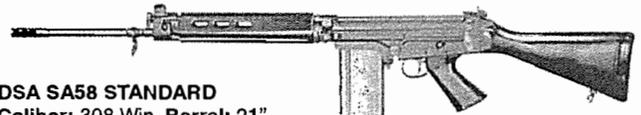
Price: 243 Win., 260 Rem. **\$1,695.00**
Price: 308 Win. **\$1,640.00**



DSA SA58 T48
Caliber: 308 Win. **Barrel:** 21" with Browning long flash hider. **Weight:** 9.3 lbs. **Length:** 44.5" **Stock:** European walnut. **Sights:** Elevation-adjustable post front, windage adjustable rear peep. **Features:** Gas-operated semi-auto with fully adjustable gas system, high grade steel upper receiver with carry handle. DuraCoat finishes. Made in U.S.A. by DSA, Inc.
Price: **\$1,995.00**



DSA SA58 G1
Caliber: 308 Win. **Barrel:** 21" with quick-detach flash hider. **Weight:** 10.65 lbs. **Length:** 44" **Stock:** Steel bipod cut handguard with hardwood stock and synthetic pistol grip. **Sights:** Elevation-adjustable post front, windage adjustable rear peep. **Features:** Gas-operated semi-auto with fully adjustable gas system, high grade steel upper receiver with carry handle, original G1 steel lower receiver with G1 bipod. DuraCoat finishes. Made in U.S.A. by DSA, Inc.
Price: **\$1,850.00**



DSA SA58 STANDARD
Caliber: 308 Win. **Barrel:** 21" bipod cut w/threaded flash hider. **Weight:** 8.75 lbs. **Length:** 43" **Stock:** Synthetic, X-Series or optional folding para stock. **Sights:** Elevation-adjustable post front, windage-adjustable rear peep. **Features:** Fully adjustable short gas system, high grade steel or 416 stainless upper receiver. Made in U.S.A. by DSA, Inc.
Price: High-grade steel **\$1,595.00**
Price: Folding para stock **\$1,845.00**



DSA SA58 CARBINE
Caliber: 308 Win. **Barrel:** 16.25" bipod cut w/threaded flash hider. **Weight:** 8.35 lbs. **Length:** 37.5" **Stock:** Synthetic, X-Series or optional folding para stock. **Sights:** Elevation-adjustable post front, windage-adjustable rear peep. **Features:** Fully adjustable short gas system, high grade steel or 416 stainless upper receiver. Made in U.S.A. by DSA, Inc.
Price: High-grade steel **\$1,595.00**
Price: Stainless steel **\$1,850.00**



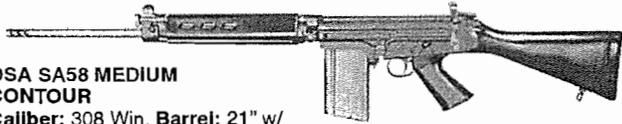
DSA SA58 TACTICAL CARBINE
Caliber: 308 Win. **Barrel:** 16.25" fluted with A2 flash hider. **Weight:** 8.25 lbs. **Length:** 36.5" **Stock:** Synthetic, X-Series or

Prices given are believed to be accurate at time of publication however, many factors affect retail pricing so exact prices are not possible.

CENTERFIRE RIFLES—Autoloaders

optional folding para stock. **Sights:** Elevation-adjustable post front, windage-adjustable match rear peep. **Features:** Shortened fully adjustable short gas system, high grade steel or 416 stainless upper receiver. Made in U.S.A. by DSA, Inc.

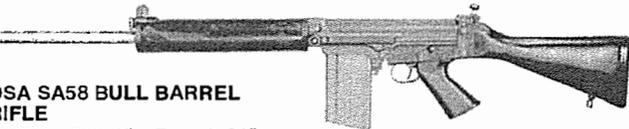
Price: High-grade steel \$1,595.00
Price: Stainless steel \$1,850.00



DSA SA58 MEDIUM CONTOUR

Caliber: 308 Win. **Barrel:** 21" w/ threaded flash hider. **Weight:** 9.75 lbs. **Length:** 43" **Stock:** Synthetic military grade. **Sights:** Elevation-adjustable post front, windage-adjustable match rear peep. **Features:** Gas-operated semi-auto with fully adjustable gas system, high grade steel receiver. Made in U.S.A. by DSA, Inc.

Price: \$1,595.00



DSA SA58 BULL BARREL RIFLE

Caliber: 308 Win. **Barrel:** 21" **Weight:** 11.1 lbs. **Length:** 41.5" **Stock:** Synthetic, free floating handguard. **Sights:** Elevation-adjustable windage-adjustable post front, match rear peep. **Features:** Gas-operated semi-auto with fully adjustable gas system, high grade steel or stainless upper receiver. Made in U.S.A. by DSA, Inc.

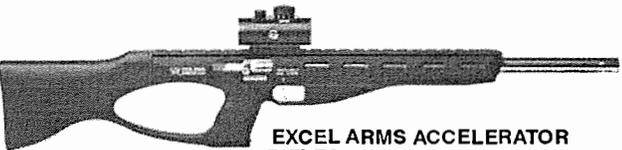
Price: \$1,745.00
Price: Stainless steel \$1,995.00



DSA SA58 MINI OSW

Caliber: 308 Win. **Barrel:** 11" or 13" w/A2 flash hider. **Weight:** 9 to 9.35 lbs. **Length:** 32.75" to 35" **Stock:** Fiberglass reinforced short synthetic handguard, para folding stock and synthetic pistol grip. **Sights:** Adjustable post front, para rear sight. **Features:** Semi-auto or select fire with fully adjustable short gas system, optional FAL rail handguard, SureFire Vertical Foregrip System, EOTech HOLOgraphic Sight and ITC cheekrest. Made in U.S.A. by DSA, Inc.

Price: \$1,845.00



EXCEL ARMS ACCELERATOR RIFLES

Caliber: 17 HMR, 22 WMR, 17M2, 22 LR, 9-shot magazine. **Barrel:** 18" fluted stainless steel bull barrel. **Weight:** 8 lbs. **Length:** 32.5" overall. **Grips:** Textured black polymer. **Sights:** Fully adjustable target sights. **Features:** Made from 17-4 stainless steel, aluminum shroud w/Weaver rail, manual safety, firing-pin block, last-round bolt-hold-open feature. Four packages with various equipment available. American made, lifetime warranty. Comes with one 9-round stainless steel magazine and a California-approved cable lock. Introduced 2006. Made in U.S.A. by Excel Arms.

Price: MR-17 17 HMR \$488.00
Price: MR-22 22 WMR \$523.00

EXCEL ARMS X-5.7R/X-30R RIFLE

Caliber: 5.7x28mm (10 or 25-round), .30 Carbine (10 or 20-round magazine). **Barrel:** 18". **Weight:** 6.25 lbs. **Length:** 34 to 38". Available with or without adjustable iron sights. Blow-back action (5.7x28) or

delayed blow-back (.30 Carbine.)
PRICE: \$795.00 to \$916.00



HECKLER & KOCH MODEL MR556A1 RIFLE

Caliber: .223 Remington/5.56 NATO, 10+1 capacity. **Barrel:** 16.5". **Weight:** 8.9 lbs. **Length:** 33.9"-37.68". **Stock:** Black Synthetic Adjustable. **Features:** Uses the gas piston system found on the HK 416 and G26, which does not introduce propellant gases and carbon fouling into the rifle's interior.

Price: \$2,995.00

HECKLER & KOCH MODEL MR762A1

Caliber: Similar to Model MR556A1 except chambered for 7.62x51mm/.308 Win. cartridge. **Weight:** 10 lbs. w/empty magazine. **Length:** 36 to 39.5". Variety of optional sights are available. Stock has five adjustable positions.

Price: \$3995



HECKLER & KOCH USC CARBINE

Caliber: 45 ACP, 10-shot magazine. **Barrel:** 16". **Weight:** 8.6 lb. **Length:** 35.4" overall. **Stock:** Skeletonized polymer thumbhole. **Sights:** Blade front with integral hood, fully adjustable diopter. **Features:** Based on German UMP submachine gun. Blowback operation; almost entirely constructed of carbon fiber-reinforced polymer. Free-floating heavy target barrel. Introduced 2000. From H&K.

Price: \$1,249.00



HI-POINT 9MM CARBINE

Caliber: 9mm Para., 40 S&W, 10-shot magazine. **Barrel:** 16.5" (17.5" for 40 S&W). **Weight:** 4.5 lbs. **Length:** 31.5" overall. **Stock:** Black polymer, camouflage. **Sights:** Protected post front, aperture rear. Integral scope mount. **Features:** Grip-mounted magazine release. Black or chrome finish. Sling swivels. Available with laser or red dot sights. Introduced 1996. Made in U.S.A. by MKS Supply, Inc.

Price: 995-B (black) \$220.00
Price: 995-CMO (camo) \$235.00

LES BAER CUSTOM ULTIMATE AR 223 RIFLES

Caliber: 223. **Barrel:** 18", 20", 22", 24". **Weight:** 7.75 to 9.75 lb. **Length:** NA. **Stock:** Black synthetic. **Sights:** None furnished; Picatinny-style flattop rail for scope mounting. **Features:** Forged receiver; Ultra single-stage trigger (Jewell two-stage trigger optional); titanium firing pin; Versa-Pod bipod; chromed National Match carrier; stainless steel, hand-lapped and cryo-treated barrel; guaranteed to shoot



CENTERFIRE RIFLES—Autoloaders



1/2 or 3/4 MOA, depending on model. Made in U.S.A. by Les Baer Custom Inc.

- Price: Super Varmint Model \$2,390.00
- Price: Super Match Model (introduced 2006) \$2,490.00
- Price: M4 Flattop model \$2,360.00
- Price: Police Special 16" (2008) \$1,690.00
- Price: IPSC Action Model \$2,640.00

LR 300 RIFLES

Caliber: 5.56 NATO, 30-shot magazine. **Barrel:** 16.5"; 1:9" twist. **Weight:** 7.4-7.8 lbs. **Length:** NA. **Stock:** Folding. **Sights:** YHM flip front and rear. **Features:** Flattop receive, full length top picatinny rail. Phantom flash hider, multi sling mount points, field strips with no tools. Made in U.S.A. from Z-M Weapons.

- Price: AXL, AXLT. \$2,139.00
- Price: NXL \$2,208.00

MERKEL MODEL SR1 SEMI-AUTOMATIC RIFLE

Caliber: 308 Win., 300 Win Mag. **Features:** Streamlined profile, checkered walnut stock and forend, 19.7- (308) or 20-8" (300 SM) barrel, two- or five-shot detachable box magazine. Adjustable front and rear iron sights with Weaver-style optics rail included. Imported from Germany by Merkel USA.

- Price: \$1,595.00



OLYMPIC ARMS K9, K10, K40, K45 PISTOL-CALIBER AR15 CARBINES

Caliber: 9mm Para., 10mm, 40 S&W, 45 ACP; 32/10-shot modified magazines. **Barrel:** 16" button rifled stainless steel, 1x16 twist rate. **Weight:** 6.73 lbs. **Length:** 31.625" overall. **Stock:** A2 grip, M4 6-point collapsible stock. **Features:** A2 upper with adjustable rear sight, elevation adjustable front post, bayonet lug, sling swivel, threaded muzzle, flash suppressor, carbine length handguards. Made in U.S.A. by Olympic Arms, Inc.

- Price: K9GL, 9mm Para., Glock lower \$1,092.00
- Price: K10, 10mm, modified 10-round Uzi magazine \$1,006.20
- Price: K40, 40 S&W, modified 10-round Uzi magazine \$1,006.20
- Price: K45, 45 ACP, modified 10-round Uzi magazine \$1,006.20



OLYMPIC ARMS K3B SERIES AR15 CARBINES

Caliber: 5.56 NATO, 30-shot magazines. **Barrel:** 16" button rifled chrome-moly steel, 1x9 twist rate. **Weight:** 5-7 lbs. **Length:** 31.75" overall. **Stock:** A2 grip, M4 6-point collapsible buttstock. **Features:** A2 upper with adjustable rear sight, elevation adjustable front post, bayonet lug, sling swivel, threaded muzzle, flash suppressor, carbine length handguards. Made in U.S.A. by Olympic Arms, Inc.

- Price: K3B base model, A2 upper \$815.00
- Price: K3B-M4 M4 contoured barrel & handguards \$1,038.70
- Price: K3B-M4-A3-TC A3 upper, M4 barrel, FIRSH rail handguard. \$1,246.70
- Price: K3B-CAR 11.5" barrel with 5.5" permanent flash suppressor \$968.50
- Price: K3B-FAR 16" featherweight contoured barrel \$1,006.20



OLYMPIC ARMS PLINKER PLUS AR15 MODELS

Caliber: 5.56 NATO, 30-shot magazine. **Barrel:** 16" or 20" button-rifled chrome-moly steel, 1x9 twist. **Weight:** 7.5-8.5 lbs. **Length:** 35.5"-39.5" overall. **Stock:** A2 grip, A2 buttstock with trapdoor. **Sights:** A1 windage rear, elevation-adjustable front post. **Features:** A1 upper, fiberlite handguards, bayonet lug, threaded muzzle and flash suppressor. Made in U.S.A. by Olympic Arms, Inc.

- Price: Plinker Plus. \$713.70
- Price: Plinker Plus 20 \$843.70

OLYMPIC ARMS GAMESTALKER

Sporting AR-style rifle chambered in .223, .243 and .25 WSSM and .300 OSSM. Features include forged aluminum upper and lower; flat top receiver with Picatinny rail; gas block front sight; 22-inch stainless steel fluted barrel; free-floating slotted tube handguard; camo finish overall; ACE FX skeleton stock.

- Price: \$1,359.00

REMINGTON MODEL R-15 MODULAR REPEATING RIFLE

Caliber: 223, 450 Bushmaster and 30 Rem. AR, five-shot magazine. **Barrel:** 18" (carbine), 22", 24". **Weight:** 6.75 to 7.75 lbs. **Length:** 36.25" to 42.25". **Stock:** Camo. **Features:** AR-style with optics rail, aluminum alloy upper and lower.

- Price: R-15 Hunter: 30 Rem. AR, 22" barrel, Realtree AP HD camo \$1,225.00
- Price: R-15 VTR Byron South Edition: 223, 18" barrel, Advantage MAX-1 HD camo \$1,772.00
- Price: R-15 VTR SS Varmint: Same as Byron South Edition but with 24" stainless steel barrel \$1,412.00
- Price: R-15 VTR Thumbhole: Similar to R-15 Hunter but with thumbhole stock \$1,412.00
- Price: R-15 VTR Predator: 204 Ruger or .223, 22" barrel . . . \$1,225.00
- Price: R-15 Predator Carbine: Similar to above but with 18" barrel \$1,225.00

REMINGTON MODEL R-25 MODULAR REPEATING RIFLE

Caliber: 243, 7mm-08, 308 Win., four-shot magazine. **Barrel:** 20" chrome-moly. **Weight:** 7.75 lbs. **Length:** 38.25" overall. **Features:** AR-style semi-auto with single-stage trigger, aluminum alloy upper and lower, Mossy Oak Treestand camo finish overall.

- Price: \$1,567.00

REMINGTON MODEL 750 WOODSMASTER

Caliber: 243 Win., 270 Win., 308 Win., 30-06 Spfl., 35 Whelen. 4-shot magazine. **Barrel:** 22" round tapered. **Weight:** 7.5 lbs. **Length:** 42.6" overall. **Stock:** Restyled American walnut forend and stock with machine-cut checkering. Satin finish. **Sights:** Gold bead front sight on ramp; step rear sight with windage adjustable. **Features:** Replaced wood-stocked Model 7400 line introduced 1981. Gas action, SuperCell recoil pad. Positive cross-bolt safety. Carbine chambered in 308 Win., 30-06 Spfl., 35 Whelen. Receiver tapped for scope mount. Introduced 2006. Made in U.S.A. by Remington Arms Co.

- Price: 750 Woodsmaster. \$1,004.00

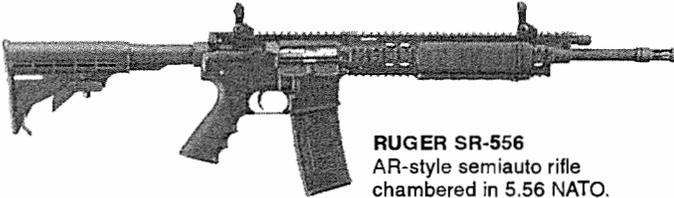
Prices given are believed to be accurate at time of publication however, many factors affect retail pricing so exact prices are not possible.

CENTERFIRE RIFLES—Autoloaders

Price: 750 Woodsmaster Carbine (18.5" bbl.) \$1,004.00
 Price: 750 Synthetic stock (2007) \$884.00

ROCK RIVER ARMS STANDARD A2 RIFLE

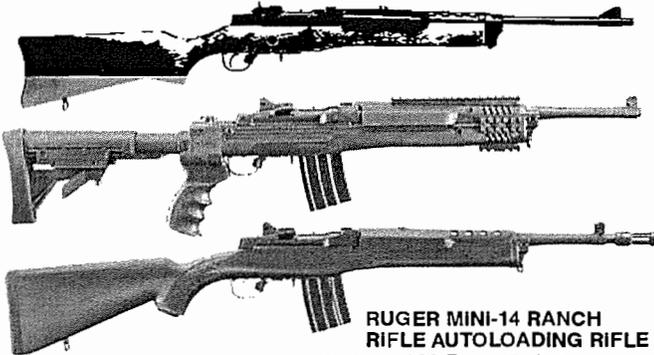
Caliber: 45 ACP. **Barrel:** NA. **Weight:** 8.2 lbs. **Length:** NA. **Stock:** Thermoplastic. **Sights:** Standard AR-15 style sights. **Features:** Two-stage, national match trigger; optional muzzle brake. Pro-Series Government package includes side-mount sling swivel, chrome-lined 1:9 twist barrel, mil-spec forged lower receiver, Hogue rubber grip, NM two-stage trigger, 6-position tactical CAR stock, Surefire M73 quad rail handguard, other features. Made in U.S.A. From Rock River Arms.
Price: Standard A2 AR1280 \$945.00
Price: Pro-Series Government Package GOVT1001 (2008) \$2,290.00
Price: Elite Comp AR1270 (2008) \$1,145.00



RUGER SR-556
 AR-style semiauto rifle chambered in 5.56 NATO. Feature include two-stage

piston; quad rail handguard; Troy Industries sights; black synthetic fixed or telescoping buttstock; 16.12-inch 1:9 steel barrel with birdcage; 10- or 30-round detachable box magazine; black matte finish overall.

Price: \$1,995.00



RUGER MINI-14 RANCH RIFLE AUTOLOADING RIFLE
Caliber: 223 Rem., 5-shot

detachable box magazine. **Barrel:** 18.5" Rifling twist 1:9" **Weight:** 6.75 to 7 lbs. **Length:** 37.25" overall. **Stock:** American hardwood, steel reinforced, or synthetic. **Sights:** Protected blade front, fully adjustable Ghost Ring rear. **Features:** Fixed piston gas-operated, positive primary extraction. New buffer system, redesigned ejector system. Ruger S100RM scope rings included on Ranch Rifle. Heavier barrels added in 2008, 20-round magazine added in 1009.

Price: Mini-14/5, Ranch Rifle, blued, scope rings \$855.00
Price: K-Mini-14/5, Ranch Rifle, stainless, scope rings \$921.00
Price: K-Mini-6.8/5P, All-Weather Ranch Rifle, stainless, synthetic stock (2008) \$921.00
Price: Mini-14 Target Rifle: laminated thumbhole stock, heavy crowned 22" stainless steel barrel, other refinements \$1,066.00
Price: Mini-14 ATI Stock: Tactical version of Mini-14 but with six-position collapsible stock or folding stock, grooved pistol grip, multiple picatinny optics/accessory rails . . . \$872.00
Price: Mini-14 Tactical Rifle: Similar to Mini-14 but with 16-21" barrel with flash hider, black synthetic stock, adjustable sights \$894.00

RUGER MINI THIRTY RIFLE

Similar to the Mini-14 Ranch Rifle except modified to chamber the 7.62x39 Russian service round. **Weight:** 6.75 lbs. Has 6-groove barrel with 1:10" twist, Ruger Integral Scope Mount bases and protected blade front, fully adjustable Ghost Ring rear. Detachable 5-shot staggered box magazine. Available 2010 with two 30-round magazines. Stainless w/synthetic stock. Introduced 1987.
Price: Stainless, scope rings \$921.00

SABRE DEFENCE SABRE RIFLES

Caliber: 5.56 NATO, 6.5 Grendel, 30-shot magazines. **Barrel:** 20" 410 stainless steel, 1x8 twist rate; or 18" vanadium alloy, chrome-lined barrel with Sabre Gill-Brake. **Weight:** 6.77 lbs. **Length:** 31.75" overall. **Stock:** SOCOM 3-position stock with Samson M-EX handguards. **Sights:** Flip-up front and rear sights. **Features:** Fluted barrel, Harris bipod, and two-stage match trigger, Ergo Grips; upper and matched lower CNC machined from 7075-T6 forgings. SOCOM adjustable stock, Samson tactical handguards, M4 contour barrels available in 14.5" and 16" are made of MIL-B-11595 vanadium alloy and chrome lined. Introduced 2002. From Sabre Defence Industries.

Price: 6.5 Grendel, from \$1,409.00
Price: Competition Extreme, 20" barrel, from \$2,189.00
Price: Competition Deluxe, from \$2,299.00
Price: Competition Special, 5.56mm, 18" barrel, from \$1,899.00
Price: SPR Carbine, from \$2,499.00
Price: M4 Tactical, from \$1,969.00
Price: M4 Carbine, 14.5" barrel, from \$1,399.00
Price: M4 Flat-top Carbine, 16" barrel, from \$1,349.00
Price: M5 Flat-top, 16" barrel, from \$1,399.00
Price: M5 Tactical, 14.5" barrel, from \$2,099.00
Price: M5 Carbine, from \$1,309.00
Price: Precision Marksman, 20" barrel, from \$2,499.00
Price: A4 Rifle, 20" barrel, from \$1,349.00
Price: A3 National Match, 20" barrel \$1,699.00
Price: Heavy Bench Target, 24" barrel, from \$1,889.00
Price: Varmint, 20" barrel \$1,709.00

SIG 556 AUTOLOADING RIFLE

Caliber: 223 Rem., 30-shot detachable box magazine. **Barrel:** 16" Rifling twist 1:9" **Weight:** 6.8 lbs. **Length:** 36.5" overall. **Stock:** Polymer, folding style. **Sights:** Flip-up front combat sight, adjustable for windage and elevation. **Features:** Based on SG



CENTERFIRE RIFLES—Autoloaders



550 series rifle. Two-position adjustable gas piston operating rod system, accepts standard AR magazines. Polymer forearm, three integrated Picatinny rails, forward mount for right- or left-side sling attachment. Aircraft-grade aluminum alloy trigger housing, hard-coat anodized finish; two-stage trigger, ambidextrous safety, 30-round polymer magazine, battery compartments, pistol-grip rubber-padded watertight adjustable butt stock with sling-attachment points. SIG 556 SWAT model has flat-top Picatinny railed receiver, tactical quad rail. SIG 556 HOLO sight options include front combat sight, flip-up rear sight, and red-dot style holographic sighting system with four illuminated reticle patterns. DMR features a 24" military grade cold hammer-forged heavy contour barrel, 5.56mm



NATO, target crown. Imported by Sig Sauer, Inc.
 Price: From \$1,667.00
SIG-SAUER SIG516

GAS PISTON RIFLE

AR-style rifle chambered in 5.56 NATO. Features include 14.5-, 16-, 18- or 20-inch chrome-lined barrel; free-floating, aluminum quad rail fore-end with four M1913 Picatinny rails; threaded muzzle with a standard (0.5x28TPI) pattern; aluminum upper and lower receiver is machined; black anodized finish; 30-round magazine; flattop upper; various configurations available.
 Price: \$1,262.00 to \$1,734.00

SIG-SAUER SIG716 TACTICAL PATROL RIFLE

AR-10 type rifle chambered in 7.62 NATO/.308 Winchester. Features include gas-piston operation with 3 round-position (4-position optional) gas valve; 16-, 18- or 20-inch chrome-lined barrel with threaded muzzle and nitride finish; free-floating aluminum quad rail fore-end with four M1913 Picatinny rails; telescoping buttstock; lower receiver is machined from a 7075-T6 Aircraft grade aluminum forging; upper receiver, machined from 7075-T6 aircraft grade aluminum with integral M1913 Picatinny rail.
 Price: \$1,866.00 to \$2,200.00

SMITH & WESSON M&P15 RIFLES

Caliber: 5.56mm NATO/223, 30-shot steel magazine. **Barrel:** 16"; 1:9 **Weight:** 6.74 lbs., w/o magazine. **Length:** 32-35" overall. **Stock:** Black synthetic. **Sights:** Adjustable post front sight, adjustable dual aperture rear sight. **Features:** 6-position telescopic stock, thermo-set M4 handguard, 14.75" sight radius. 7-lbs. (approx.) trigger pull. 7075 T6 aluminum upper, 4140 steel barrel. Chromed barrel bore, gas key, bolt carrier. Hard-coat black-anodized receiver and barrel finish. Introduced 2006. Made in U.S.A. by Smith & Wesson.
 Price: From \$1,039.00 to \$1,700.00
 Price: Sport Model \$739.00

SMITH & WESSON M&P15-22

Caliber: .22 LR. (10-round magazine). **Barrel:** 16" **Weight:** 5.5 lbs. **Length:** 30.5 to 33.75" **Stock:** 6-position adjustable. **Sights:** Adjustable. Offered in several variations.
 Price: \$549 to \$769

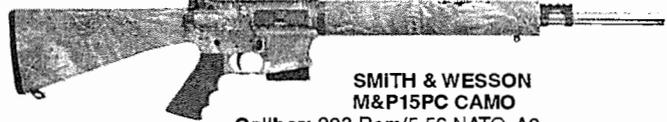
SMITH & WESSON M&P15-300

Caliber: .300 Whisper/.300 AAC Blackout. Other specifications the same of 5.56 models.
 Price: \$1119



SMITH & WESSON MODEL M&P15VTAC VIKING TACTICS MODEL
Caliber: 223 Remington/5.56

NATO, 30-round magazine. **Barrel:** 16" **Weight:** 6.5 lbs. **Length:** 35" extended, 32" collapsed, overall. **Features:** Six-position CAR stock. Surefire flash-hider and G2 light with VTAC light mount; VTAC/JP handguard; JP single-stage match trigger and speed hammer; three adjustable picatinny rails; VTAC padded two-point adjustable sling.
 Price: \$2,196.00



SMITH & WESSON M&P15PC CAMO

Caliber: 223 Rem/5.56 NATO, A2 configuration, 10-round mag. **Barrel:** 20" stainless with 1:8 twist. **Weight:** 8.2 lbs. **Length:** 38.5" overall. **Features:** AR-style, no sights but integral front and rear optics rails. Two-stage trigger, aluminum lower. Finished in Realtree Advantage Max-1 camo.
 Price: \$2,046.00

SMITH & WESSON M&P15 PISTON RIFLE

Similar to AR-derived M&P15 but with gas piston. Chambered in 5.56 NATO. Features include adjustable gas port, optional Troy quad mount handguard, chromed bore/gas key/bolt carrier/chamber, 6-position telescoping or MagPul MOE stock, flattop or folding MBUS sights, aluminum receiver, alloy upper and lower, black anodized finish, 30-round magazine, 16-inch barrel with birdcage.
 Price Standard handguard \$1,531.00
 Price: Troy quad mount handguard \$1,692.00



SPRINGFIELD ARMORY M1A RIFLE

Caliber: 7.62mm NATO (308), 5- or 10-shot box magazine. **Barrel:** 25-1/16" with flash suppressor, 22" without suppressor. **Weight:** 9.75 lbs. **Length:** 44.25" overall. **Stock:** American walnut with walnut-colored heat-resistant fiberglass handguard. Matching walnut handguard available. Also available with fiberglass stock. **Sights:** Military, square blade front, full click-adjustable aperture rear. **Features:** Commercial equivalent of the U.S. M-14 service rifle with no provision for automatic firing. From Springfield Armory
 Price: SOCOM 16 \$1,855.00
 Price: SOCOM II, from \$2,090.00
 Price: Scout Squad, from \$1,726.00
 Price: Standard M1A, from \$1,608.00
 Price: Loaded Standard, from \$1,759.00
 Price: National Match, from \$2,249.00
 Price: Super Match (heavy premium barrel) about \$2,818.00
 Price: Tactical, from \$3,780.00



STAG ARMS MODEL 3 RIFLE

Caliber: 5.56 NATO., 30-shot magazine capacity. **Barrel:** 16" **Stock:** Six position collapsible stock. **Sights:** N/A. **Features:** A short barrel with a chrome lined bore and a 6 position collapsible stock. It uses a gas-operated firing system, so the recoil is delayed until the

CENTERFIRE RIFLES—Autoloaders

round exits the barrel. Although it doesn't have any sights, it does have a Diamondhead Versa Rail System, which allows users to add Picatinny rails to the top, bottom and sides. The Picatinny rail allows for easy mounting of optics and accessories. Features the Diamondhead Versa Rail System; and right and left handed models are available. Perfect for modification, the Stag Arms Model 3 AR 15 is made to mil-spec requirements to give you the most authentic experience possible.

Price: \$895.00



STONER SR-15 M-5 RIFLE

Caliber: 223. Barrel: 20"

Weight: 7.6 lbs. Length: 38" overall. Stock: Black synthetic.

Sights: Post front, fully adjustable rear (300-meter sight). Features: Modular weapon system; two-stage trigger. Black finish. Introduced 1998. Made in U.S.A. by Knight's Mfg.

Price: \$1,695.00



STONER SR-25 CARBINE

Caliber: 7.62 NATO, 10-shot steel magazine. Barrel: 16" free-floating

Weight: 7.75 lbs. Length: 35.75" overall. Stock: Black synthetic.

Sights: Integral Weaver-style rail. Scope rings, iron sights optional.

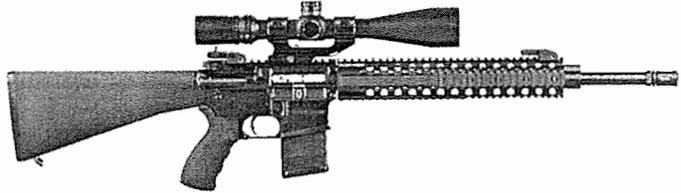
Features: Shortened, non-slip handguard; removable carrying handle. Matte black finish. Introduced 1995. Made in U.S.A. by Knight's Mfg. Co.

Price: \$3,345.00

TAURUS CT G2 CARBINE

Caliber: .40 S&W, 9 mm and .45 ACP, Capacity is 34+1 for 9mm, 15+1 for .40 S&W and 10+1 for .45 ACP. Barrel: 16". Weight: 134-148 ozs. Length: 35.75" overall. Stock: Aluminum & Polymer. Sights: Adjustable rear sight and fixed front sight. Features: Full length Picatinny rail, ambidextrous slide catch, two-position safety/fire selector (semi-auto only...) Made in U.S.A. by Knight's Mfg. Co.

Price: \$639.00



WILSON COMBAT TACTICAL RIFLES

Caliber: 5.56mm NATO, accepts all M-16/AR-15 Style Magazines, includes one 20-round magazine. Barrel: 16.25"; 1:9 twist, match-grade fluted. Weight: 6.9 lbs. Length: 36.25" overall. Stock: Fixed or collapsible. Features: Free-float ventilated aluminum quad-rail handguard, Mil-Spec parkerized barrel and steel components, anodized receiver, precision CNC-machined upper and lower receivers, 7075 T6 aluminum forgings. Single stage JP Trigger/Hammer Group, Wilson Combat Tactical Muzzle Brake, nylon tactical rifle case. M-4T version has flat-top receiver for mounting optics, OD green furniture, 16.25" match-grade M-4 style barrel. SS-15 Super Sniper Tactical Rifle has 1-in-8 twist, heavy 20" match-grade fluted stainless steel barrel. Made in U.S.A. by Wilson Combat.

Price: \$2,225.00 to \$2,450.00

COMPETITION RIFLES—Centerfire & Rimfire

ANSCHUTZ 1903 MATCH RIFLE

Caliber: 22 LR, single shot. **Barrel:** 21.25". **Weight:** 8 lbs. **Length:** 43.75" overall. **Stock:** Walnut-finished hardwood with adjustable cheekpiece; stippled grip and forend. **Sights:** None furnished. **Features:** Uses Anschutz Match 64 action. A medium weight rifle for intermediate and advanced Junior Match competition. Available from Champion's Choice.

Price: Right-hand \$965.00

ANSCHUTZ 64-MP R SILHOUETTE RIFLE

Caliber: 22 LR, 5-shot magazine. **Barrel:** 21.5", medium heavy; 7/8" diameter. **Weight:** 8 lbs. **Length:** 39.5" overall. **Stock:** Walnut-finished hardwood, silhouette-type. **Sights:** None furnished.

Features: Uses Match 64 action. Designed for metallic silhouette competition. Stock has stippled checkering, contoured thumb groove with Wundhammer swell. Two-stage #5098 trigger. Slide safety locks seat and bolt. Introduced 1980. Available from Champion's Choice.

Price: 64-MP R \$950.00

Price: 64-S BR Benchrest (2008) \$1,175.00

ANSCHUTZ 2007 MATCH RIFLE

Uses same action as the Model 2013, but has a lighter barrel. European walnut stock in right-hand, true left-hand or extra-short models. Sights optional. Available with 19.6" barrel with extension tube, or 26", both in stainless or blue. Introduced 1998. Available from Champion's Choice.

Price: Right-hand, blue, no sights \$2,410.90

ANSCHUTZ 1827BT FORTNER BIATHLON RIFLE

Caliber: 22 LR, 5-shot magazine. **Barrel:** 21.7". **Weight:** 8.8 lbs. with sights. **Length:** 40.9" overall. **Stock:** European walnut with cheekpiece, stippled pistol grip and forend. **Sights:** Optional globe front specially designed for Biathlon shooting, micrometer rear with hinged snow cap. **Features:** Uses Anschutz/Fortner system straight-pull bolt action, blue or stainless steel barrel. Introduced 1982. Available from Champion's Choice.

Price: Nitride finish with sights, about \$2,895.00

ANSCHUTZ SUPER MATCH SPECIAL MODEL 2013 RIFLE

Caliber: 22 LR, single shot. **Barrel:** 25.9". **Weight:** 13 lbs. **Length:** 41.7" to 42.9". **Stock:** Adjustable aluminum. **Sights:** None furnished. **Features:** 2313 aluminum-silver/blue stock, 500mm barrel, fast lock time, adjustable cheek piece, heavy action and muzzle tube, w/ handstop and standing riser block. Introduced in 1997. Available from Champion's Choice.

Price: Right-hand \$3,195.00

ANSCHUTZ 1912 SPORT RIFLE

Caliber: 22 LR. **Barrel:** 26" match. **Weight:** 11.4 lbs. **Length:** 41.7" overall. **Stock:** Non-stained thumbhole stock adjustable in length with adjustable butt plate and cheek piece adjustment. Flat forend raiser block 4856 adjustable in height. Hook butt plate. **Sights:** None furnished. **Features:** "Free rifle" for women. Smallbore model 1907 with 1912 stock: Match 54 action. Delivered with: Hand stop 6226, forend raiser block 4856, screw driver, instruction leaflet with test target. Available from Champion's Choice.

Price: \$2,595.00



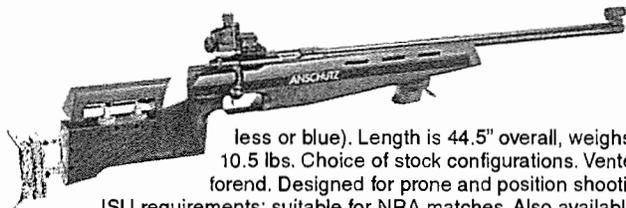
ANSCHUTZ 1913 SUPER MATCH RIFLE

Same as the Model 1911 except European walnut International-type stock with adjustable cheekpiece, or color laminate, both available with straight or lowered forend, adjustable aluminum hook buttplate, adjustable hand stop, weighs 13 lbs., 46" overall. Stainless or blue barrel. Available from Champion's Choice.

Price: Right-hand, blue, no sights, walnut stock \$2,695.00

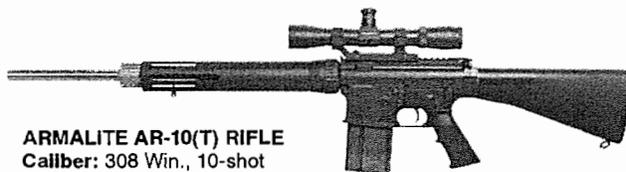
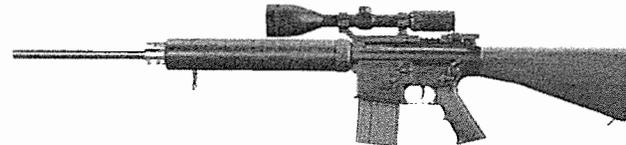
ANSCHUTZ 1907 STANDARD MATCH RIFLE

Same action as Model 1913 but with 7/8" diameter 26" barrel (stain-



less or blue). Length is 44.5" overall, weighs 10.5 lbs. Choice of stock configurations. Vented forend. Designed for prone and position shooting ISU requirements; suitable for NRA matches. Also available with walnut flat-forend stock for benchrest shooting. Available from Champion's Choice.

Price: Right-hand, blue, no sights \$1,655.00



ARMALITE AR-10(T) RIFLE

Caliber: 308 Win., 10-shot magazine. **Barrel:** 24" target-weight Rock 5R custom. **Weight:** 10.4 lbs. **Length:** 43.5" overall. **Stock:** Green or black composition; N.M. fiberglass handguard tube. **Sights:** Detachable handle, front sight, or scope mount available. Comes with international-style flattop receiver with Picatinny rail. **Features:** National Match two-stage trigger. Forged upper receiver. Receivers hard-coat anodized. Introduced 1995. Made in U.S.A. by ArmaLite, Inc.

Price: Black \$1,912.00

Price: AR-10, 338 Federal \$1,912.00

ARMALITE AR-10 NATIONAL MATCH

Caliber: .308/7.62 NATO. **Barrel:** 20", triple lapped Match barrel, 1:10" twist rifling. **Weight:** 11.5 lbs. **Length:** 41". **Features:** Stainless steel flash suppressor, two-stage National Match trigger. Forged flat top receiver with Picatinny rail and forward assist.

Price: \$2,365.00

ARMALITE M15A4(T) EAGLE EYE RIFLE

Caliber: 223 Rem., 10-round magazine. **Barrel:** 24" heavy stainless; 1:8" twist. **Weight:** 9.2 lbs. **Length:** 42-3/8" overall. **Stock:** Green or black butt, N.M. fiberglass handguard tube. **Sights:** One-piece international-style flattop receiver with Weaver-type rail, including case deflector. **Features:** Detachable carry handle, front sight and scope mount (30mm or 1") available. Upper and lower receivers have push-type pivot pin, hard coat anodized. Made in U.S.A. by ArmaLite, Inc.

Price: Green or black furniture \$1,296.00

ARMALITE M15 A4 CARBINE 6.8 & 7.62X39

Caliber: 6.8 Rem, 7.62x39. **Barrel:** 16" chrome-lined with flash suppressor. **Weight:** 7 lbs. **Length:** 26.6". **Features:** Front and rear picatinny rails for mounting optics, two-stage tactical trigger, anodized aluminum/phosphate finish.

Price: \$1,107.00

BLASER R93 LONG RANGE SPORTER 2 RIFLE

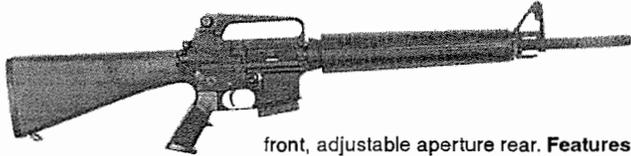
Caliber: 308 Win., 10-shot detachable box magazine. **Barrel:** 24". **Weight:** 10.4 lbs. **Length:** 44" overall. **Stock:** Aluminum with synthetic lining. **Sights:** None furnished; accepts detachable scope mount. **Features:** Straight-pull bolt action with adjustable trigger; fully adjustable stock; quick takedown; corrosion resistant finish. Introduced 1998. Imported from Germany by Blaser USA.

Price: \$3,848.00

BUSHMASTER A2/A3 TARGET RIFLE

Caliber: 5.56mm, 223 Rem., 30-round magazine **Barrel:** 20", 24". **Weight:** 8.43 lbs. (A2); 8.78 lbs. (A3). **Length:** 39.5" overall (20" barrel). **Stock:** Black composition; A2 type. **Sights:** Adjustable post

COMPETITION RIFLES—Centerfire & Rimfire



front, adjustable aperture rear. **Features:** Patterned after Colt M-16A2. Chrome-lined barrel with manganese phosphate exterior.

Available in stainless barrel. Made in U.S.A. by Bushmaster Firearms Co.
Price: (A3 type) \$1,135.00



BUSHMASTER DCM-XR COMPETITION RIFLE

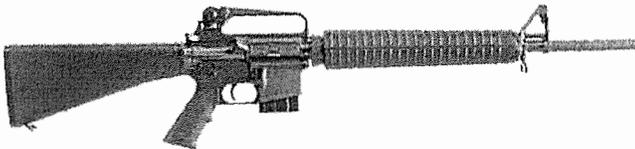
Caliber: 5.56mm, 223 Rem., 10-round magazine. **Barrel:** 20" extra-heavy (1" diameter) barrel with 1.8" twist for heavier competition bullets. **Weight:** About 12 lbs. with balance weights. **Length:** 38.5". **Stock:** NA. **Sights:** A2 rear sight. **Features:** Has special competition rear sight with interchangeable apertures, extra-fine 1/2- or 1/4-MOA windage and elevation adjustments; specially ground front sight post in choice of three widths. Full-length handguards over free-floater barrel tube. Introduced 1998. Made in U.S.A. by Bushmaster Firearms, Inc.

Price: A2 \$1,150.00
 A3 \$1,250.00

BUSHMASTER VARMINTER RIFLE

Caliber: 5.56mm. **Barrel:** 24" fluted. **Weight:** 8.4 lbs. **Length:** 42.25" overall. **Stock:** Black composition, A2 type. **Sights:** None furnished; upper receiver has integral scope mount base. **Features:** Chrome-lined .950" extra heavy barrel with counter-bored crown, manganese phosphate finish, free-floating aluminum handguard, forged aluminum receivers with push-pin takedown, hard anodized mil-spec finish. Competition trigger optional. Made in U.S.A. by Bushmaster Firearms, Inc.

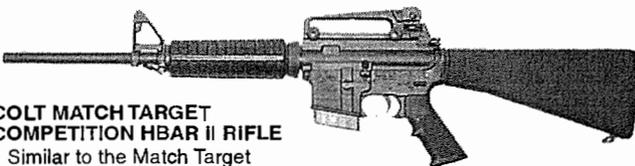
Price: \$1,360.00



COLT MATCH TARGET COMPETITION HBAR RIFLE

Similar to the Match Target except has removable carry handle for scope mounting, 1:9" rifling twist, 9-round magazine. Weighs 8.5 lbs. Introduced 1991.

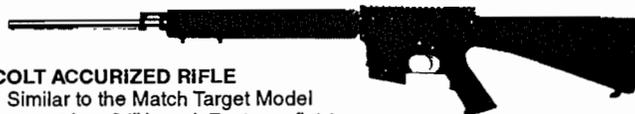
Price: Model MT6700C \$1,250.00



COLT MATCH TARGET COMPETITION HBAR II RIFLE

Similar to the Match Target Competition HBAR except has 16:1" barrel, overall length 34.5", and weighs 7.1 lbs. Introduced 1995.

Price: Model MT6731 \$1,172.00



COLT ACCURIZED RIFLE

Similar to the Match Target Model except has 24" barrel. Features flat-top receiver for scope mounting, stainless steel heavy barrel, tubular handguard, and free-floating barrel. Matte black finish. Weighs 9.25 lbs. Made in U.S.A. by Colt's Mfg. Co., Inc.

Price: Model CR6724 \$1,334.00

EAA/HW 660 MATCH RIFLE

Caliber: 22 L.R. **Barrel:** 26" **Weight:** 10.7 lbs. **Length:** 45.3" overall. **Stock:** Match-type walnut with adjustable cheekpiece and buttplate. **Sights:** Globe front, match aperture rear. **Features:** Adjustable match trigger; stippled pistol grip and forend; forend accessory rail. Introduced 1991. Imported from Germany by European American Armory.

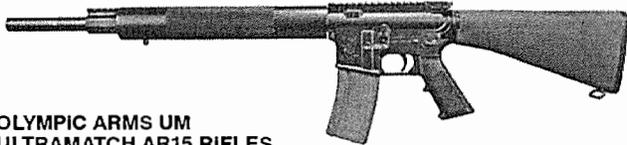
Price: About \$999.00
 With laminate stock \$1,159.00



OLYMPIC ARMS SM SERVICEMATCH AR15 RIFLES

Caliber: 223 Rem. minimum SAAMI spec, 30-shot magazine. **Barrel:** 20" broach-cut Ultramatch stainless steel 1x8 twist rate. **Weight:** 10 lbs. **Length:** 39.5" overall. **Stock:** A2 grip, A2 buttstock with trapdoor. **Sights:** A2 NM rear, elevation adjustable front post. **Features:** DCM-ready AR15, free-floating handguard looks standard, A2 upper, threaded muzzle, flash suppressor. Premium model adds pneumatic recoil buffer, Bob Jones interchangeable sights, two-stage trigger and Turner Saddlery sling. Made in U.S.A. by Olympic Arms, Inc.

Price: SM-1, 20" DCM ready \$1,272.70
 SM-1P, Premium 20" DCM ready \$1,727.70



OLYMPIC ARMS UM ULTRAMATCH AR15 RIFLES

Caliber: 223 Rem. minimum SAAMI spec, 30-shot magazine. **Barrel:** 20" or 24" bull broach-cut Ultramatch stainless steel 1x10 twist rate. **Weight:** 8-10 lbs. **Length:** 38.25" overall. **Stock:** A2 grip, A2 buttstock with trapdoor. **Sights:** None, flat-top upper and gas block with rails. **Features:** Flat top upper, free floating tubular match handguard, Picatinny gas block, crowned muzzle, factory trigger job and "Ultramatch" pantograph. Premium model adds pneumatic recoil buffer, Harris S-series bipod, hand selected premium receivers and William Set Trigger. Made in U.S.A. by Olympic Arms, Inc.

Price: UM-1, 20" Ultramatch \$1,332.50
 UM-1P \$1,805.70

OLYMPIC ARMS ML-1/ML-2 MULTIMATCH AR15 CARBINES

Caliber: 223 Rem. minimum SAAMI spec, 30-shot magazine. **Barrel:** 16" broach-cut Ultramatch stainless steel 1x10 twist rate. **Weight:** 7-8 lbs. **Length:** 34-36" overall. **Stock:** A2 grip and varying buttstock. **Sights:** None. **Features:** The ML-1 includes A2 upper with adjustable rear sight, elevation adjustable front post, free floating tubular match handguard, bayonet lug, threaded muzzle, flash suppressor and M4 6-point collapsible buttstock. The ML-2 includes bull diameter barrel, flat top upper, free floating tubular match handguard, Picatinny gas block, crowned muzzle and A2 buttstock with trapdoor. Made in U.S.A. by Olympic Arms, Inc.

Price: ML-1 or ML-2 \$1,188.20

OLYMPIC ARMS K8 TARGETMATCH AR15 RIFLES

Caliber: 5.56 NATO, 223 WSSM, 243 WSSM, .25 WSSM 30/7-shot magazine. **Barrel:** 20", 24" bull button-rifled stainless/chrome-moly steel 1x9/1x10 twist rate. **Weight:** 8-10 lbs. **Length:** 38"-42" overall. **Stock:** A2 grip, A2 buttstock with trapdoor. **Sights:** None. **Features:** Barrel has satin bead-blast finish; flat-top upper, free-floating tubular match handguard, Picatinny gas block, crowned muzzle and "Targetmatch" pantograph on lower receiver. K8-MAG model uses Winchester Super Short Magnum cartridges. Includes 24" bull chrome-moly barrel, flat-top upper, free-floating tubular match handguard, Picatinny gas block, crowned muzzle and 7-shot magazine. Made in U.S.A. by Olympic Arms, Inc.

Price: K8 \$908.70
 K8-MAG \$1,363.70

COMPETITION RIFLES—Centerfire & Rimfire



REMINGTON 40-XB RANGEMASTER TARGET CENTERFIRE

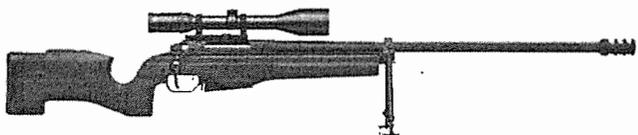
Caliber: 15 calibers from 220 Swift to 300 Win. Mag. **Barrel:** 27.25" **Weight:** 11.25 lbs. **Length:** 47" overall. **Stock:** American walnut, laminated thumbhole or Kevlar with high comb and beavertail forend stop. Rubber non-slip buttplate. **Sights:** None. Scope blocks installed. **Features:** Adjustable trigger. Stainless barrel and action. Receiver drilled and tapped for sights. Model 40-XB Tactical (2008) chambered in 308 Win., comes with guarantee of 0.75-inch maximum 5-shot groups at 100 yards. **Weight:** 10.25 lbs. Includes Teflon-coated stainless button-rifled barrel, 1:14 twist, 27.25 inch long, three longitudinal flutes. Bolt-action repeater, adjustable 40-X trigger and precision machined aluminum bedding block. Stock is H-S Precision Pro Series synthetic tactical stock, black with green web finish, vertical pistol grip. From Remington Custom Shop.

- Price:** 40-XB KS, aramid fiber stock, single shot \$2,780.00
- Price:** 40-XB KS, aramid fiber stock, repeater \$2,634.00
- Price:** 40-XB Tactical 308 Win. (2008). \$2,927.00
- Price:** 40-XB Thumbhole Repeater \$2,927.00

REMINGTON 40-XBRR KS

Caliber: Five calibers from 22 BR to 308 Win. **Barrel:** 20" (light varmint class), 24" (heavy varmint class). **Weight:** 7.25 lbs. (light varmint class); 12 lbs. (heavy varmint class). **Length:** 38" (20" bbl.), 42" (24" bbl.). **Stock:** Aramid fiber. **Sights:** None. Supplied with scope blocks. **Features:** Unblued benchrest with stainless steel barrel, trigger adjustable from 1-1/2 lbs. to 3.5 lbs. Special two-oz. trigger extra cost. Scope and mounts extra.

- Price:** Single shot \$3,806.00



REMINGTON 40-XC KS TARGET RIFLE

Caliber: 762 NATO, 5-shot. **Barrel:** 24" stainless steel. **Weight:** 11 lbs. without sights. **Length:** 43.5" overall. **Stock:** Aramid fiber. **Sights:** None furnished. **Features:** Designed to meet the needs of competitive shooters. Stainless steel barrel and action.

- Price:** \$3,000.00

REMINGTON 40-XR CUSTOM SPORTER

Caliber: 22 LR, 22 WM. **Barrel:** 24" stainless steel, no sights. **Weight:** 9.75 lbs. **Length:** 40". **Features:** Model XR-40 Target rifle action. Many options available in stock, decoration or finish.

- Price:** Single shot \$4,391.00
- Price:** 40-XRBR KS, bench rest 22 LR \$2,927.00

SAKO TRG-22 BOLT-ACTION RIFLE

Caliber: 308 Win., 10-shot magazine. **Barrel:** 26" **Weight:** 10.25 lbs. **Length:** 45.25" overall. **Stock:** Reinforced polyurethane with fully adjustable cheekpiece and buttplate. **Sights:** None furnished. Optional quick-detachable, one-piece scope mount base, 1" or 30mm rings. **Features:** Resistance-free bolt, free-floating heavy stainless barrel, 60-degree bolt lift. Two-stage trigger is adjustable for length, pull, horizontal or vertical pitch. Introduced 2000. Imported from Finland by Beretta USA.

- Price:** TRG-22 folding stock \$3,540.00



SPRINGFIELD ARMORY M1A SUPER MATCH

Caliber: 308 Win. **Barrel:** 22" heavy Douglas Premium. **Weight:** About 11 lbs. **Length:** 44.31" overall. **Stock:** Heavy walnut competition stock with longer pistol grip, contoured area behind the rear sight, thicker butt and forend, glass bedded. **Sights:** National Match front and rear. **Features:** Has figure-eight-style operating rod guide.

Introduced 1987. From Springfield Armory.

- Price:** About \$2,479.00



SPRINGFIELD ARMORY M1A/M-21 TACTICAL MODEL RIFLE

Similar to M1A Super Match except special sniper stock with adjustable cheekpiece and rubber recoil pad. Weighs 11.6 lbs. From Springfield Armory.

- Price:** \$2,975.00



SPRINGFIELD ARMORY M-1 GARAND AMERICAN COMBAT RIFLES

Caliber: 30-06 Spfl., 308 Win., 8-shot. **Barrel:** 24" **Weight:** 9.5 lbs. **Length:** 43.6" **Stock:** American walnut. **Sights:** Military square post front, military aperture, MOA adjustable rear. **Features:** Limited production, certificate of authenticity, all new receiver, barrel and stock with remaining parts USGI mil-spec. Two-stage military trigger.

- Price:** About \$2,479.00

STI SPORTING COMPETITION RIFLE

AR-style semiauto rifle chambered in 5.56 NATO. Features include 16-inch 410 stainless 1:8 barrel; mid-length gas system; Nordic Tactical Compensator and JP Trigger group; custom STI Valkyrie hand guard and gas block; flat-top design with picatinny rail; anodized finish with black Teflon coating. Also available in Tactical configuration.

- Price:** \$1328.53

STONER SR-15 MATCH RIFLE

Caliber: 223. **Barrel:** 20" **Weight:** 7.9 lbs. **Length:** 38" overall. **Stock:** Black synthetic. **Sights:** None furnished; flattop upper receiver for scope mounting. **Features:** Short Picatinny rail, two-stage match trigger. Introduced 1998. Made in U.S.A. by Knight's Mfg. Co.

- Price:** \$1,650.00

STONER SR-25 MATCH RIFLE

Caliber: 762 NATO, 10-shot steel magazine, 5-shot optional. **Barrel:** 24" heavy match; 1:11.25" twist. **Weight:** 10.75 lbs. **Length:** 44" overall. **Stock:** Black synthetic AR-15A2 design. Full floating forend of mil-spec synthetic attaches to upper receiver at a single point. **Sights:** None furnished. Has integral Weaver-style rail. Rings and iron sights optional. **Features:** Improved AR-15 trigger, AR-15-style seven-lug rotating bolt. Introduced 1993. Made in U.S.A. by Knight's Mfg. Co.

- Price:** \$3,345.00
- Price:** SR-25 Lightweight Match (20" medium match target contour barrel, 9.5 lbs., 40" overall) \$3,345.00

TIME PRECISION 22 RF BENCH REST RIFLE

Caliber: 22 LR, single shot. **Barrel:** Shilen match-grade stainless. **Weight:** 10 lbs. with scope. **Length:** NA. **Stock:** Fiberglass. Pillar bedded. **Sights:** None furnished. **Features:** Shilen match trigger removable trigger bracket, full-length steel sleeve, aluminum receiver. Introduced 2008. Made in U.S.A. by Time Precision.

- Price:** \$2,200.00

Prices given are believed to be accurate at time of publication however, many factors affect retail pricing so exact prices are not possible.

EXHIBIT C PART 1 OF 2

Witness Protection

Witness by Tanfoglio is one of the world's premier pistol lines. The Witness family offers a variety of firearms designed for home defense, plinking, hunting and competitive shooting. For lawful, lightweight concealed carry, home defense or plinking pick up a Witness Polymer. Each pistol comes fully featured including a molded integral accessory rail. Witness Polymer is available in full size, compact and 2-Tone P Carry.

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- Low Profile Fixed Sight
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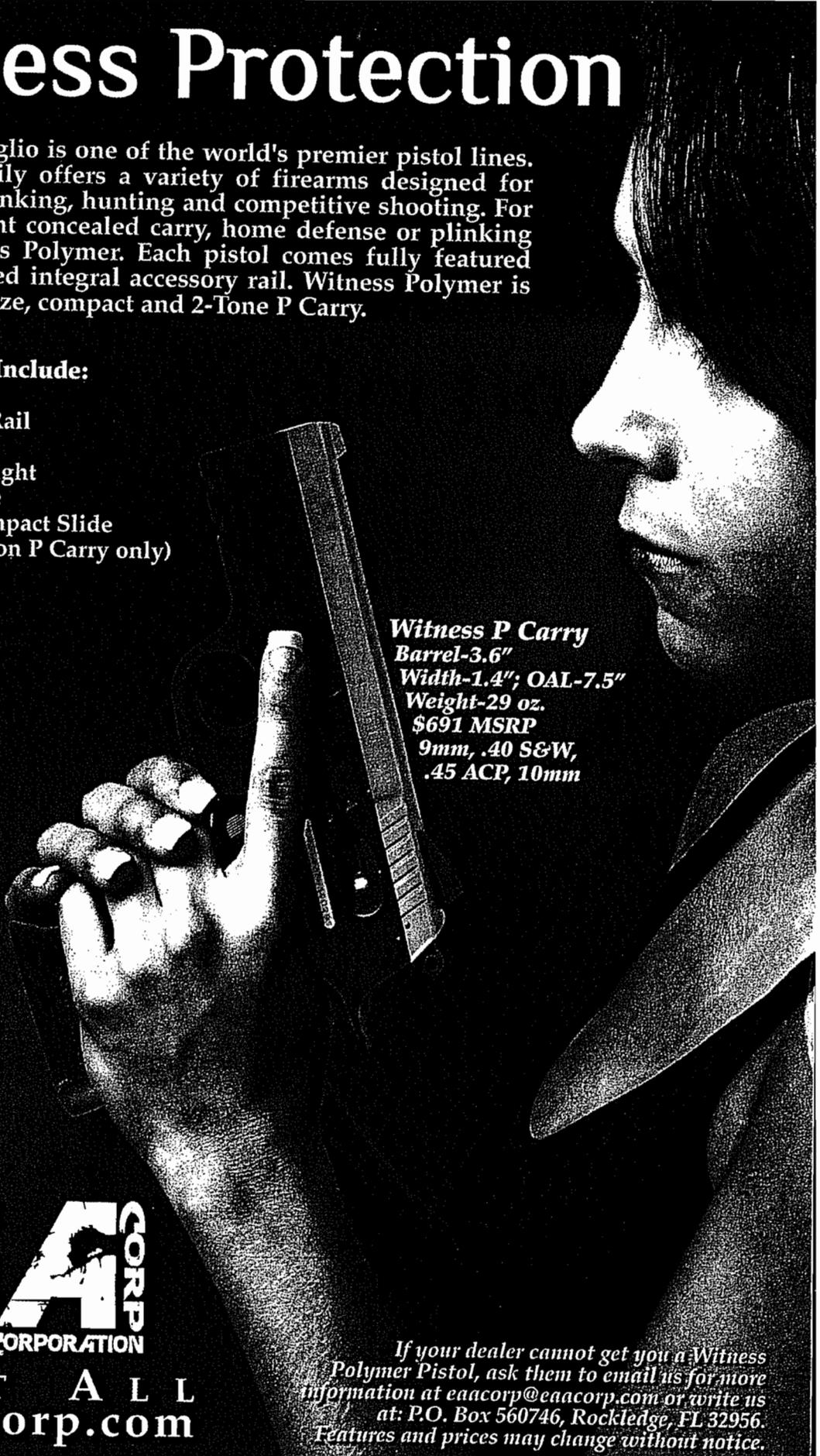


Also Available (not shown):

Witness P Full Size
 Barrel-4.5"
 Width-1.4"; OAL-8.1"
 Weight-31 oz.
 \$571 MSRP
 9mm, .40 S&W,
 .45 ACP, 10mm

Witness P Compact
 Barrel-3.6";
 Width-1.4"; OAL-7.3"
 Weight-28 oz.
 \$571 MSRP
 9mm, .40 S&W,
 .45 ACP, 10mm

Witness P Carry
 Barrel-3.6"
 Width-1.4"; OAL-7.5"
 Weight-29 oz.
 \$691 MSRP
 9mm, .40 S&W,
 .45 ACP, 10mm



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All Models:	
Caliber:	9mm Luger
Grip Frame:	Black, High Performance, Glass-Filled Nylon
Sights:	Adjustable 3-Dot
Length:	7.55"
Height:	5.52"
Width:	1.27"
Grooves:	6
Barrel Length:	4.14"
Twist:	1:10" RH



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Model Options:								
Cat. #	Mod. #	Cap.	Slide Material	Slide Finish	Weight	Sug. Retail	Spec Sheet	
SR9	3301	17+1	Stainless Steel	Brushed Stainless	26.50 oz.	\$529.00		ORDER
KSR9-10-L	3309	10+1	Stainless Steel	Brushed Stainless	26.25 oz.	\$529.00		ORDER
SR9B-10-L	3312	10+1	Alloy Steel	Black Nitride	26.25 oz.	\$529.00		ORDER
SR9B	3321	17+1	Alloy Steel	Black Nitride	26.50 oz.	\$529.00		ORDER



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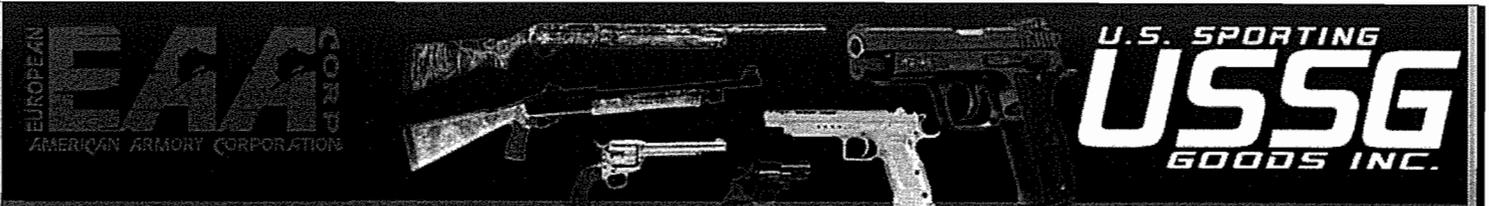
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Witness Polymer Full Size- Tanfoglio

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Gun Documents (PDFs)

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- [Exploded View and Parts List](#)
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UPC	SKU NO.	DESCRIPTION	CALIBER	CAP.	BBL	OAL	WI	HI	WT(OZ)	SRP
741566111150	999104	FULL SIZE POLYMER, LPWS, DA/SA, AR	9MM	17+1	4.5"	8.1"	1.4"	5.5"	31	<u>\$571</u>
741566111143	999103	FULL SIZE POLYMER, LPWS, DA/SA, AR	40SW	15+1	4.5"	8.1"	1.4"	5.5"	31	<u>\$571</u>
741566111372	999061	FULL SIZE POLYMER, LPWS, DA/SA, AR	10MM	15+1	4.5"	8.1"	1.4"	5.5"	31	<u>\$571</u>
741566111136	999163	FULL SIZE POLYMER, LPWS, DA/SA, AR	45ACP	10+1	4.5"	8.1"	1.4"	5.5"	31	<u>\$571</u>

AC=Ambidextrous Controls, AR=Integral Accessory Rail, BM=Beveled Mag Well, CB=Cone Barrel/Slide Lockup, CS=Checkered Front/Back Strap, DA/SA=Double Action/Single Action, EMR=Extended Mag Release, ES=Extended Safety, FAS= Full Adjustable Sight, FDC=Full Length Dust Cover; HSH=Heart Shaped Hammer, LPWS=Low Profile Windage Sight, PC3=Three Port Comp, PR=Polygonal Rifling, SA=Single Action, SMH=Drilled & Tapped for Scope Mount, WAS=Windage Adjustable Sight, WD=Wonder Finish

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See specs page 37

800 COMPACT SERIES

Little brother of the 800 Series, these pistols were born to perform. They give everything you could want in a 3.5" barrel semi-auto—the best in features, handling, speed and reliability. We just can't deny that these compacts are going to shake up the shooting world. If you're looking for top-end performance in a smaller size, the 800 Compacts are the pistols for you.

FEATURES

CARRY ON SERIES

- Available in 9mm and .40 cal.
- Blue finish
- Loaded chamber indicator
- Contoured ambidextrous thumb rests and finger indexing Taurus Memory Pad® for added purchase and safe firearm handling
- Ambidextrous magazine release
- "Strike Two" trigger capability for incredible reliability
- Shortened grip frame for easier carry
- Smaller, lighter 800 design
- External hammer
- Aggressive grip
- All models come with one flush fit magazine and one hi-cap magazine
- Taurus Security System®

24/7 GENERATION 2 LOW PROFILE ADJ REAR SIGHT RAIL AMBI MAG RELEASE DECOCKER AND SAFETY

Model #	Order #	UPC #	Description	O.A.L.	Weight	Page
24/7-G298-17	1-247091G2-17	7-25327-60815-8	PT24/7 G2 9mm DA/SA DS STD, 4.2" 17 + 1 Blue	7.28"	28 oz.	26
24/7-G29SS-17	1-247099G2-17	7-25327-60856-1	PT24/7 G2 9mm DA/SA DS STD, 4.2" 17 + 1 SS	7.28"	28 oz.	26
24/7-G240B-15	1-247401G2-15	7-25327-60857-8	PT24/7 G2 40Cal DA/SA DS STD, 4.2" 15 + 1 Blue	7.28"	28 oz.	26
24/7-G240SS-15	1-247409G2-15	7-25327-60858-5	PT24/7 G2 40Cal DA/SA DS STD, 4.2" 15 + 1 SS	7.28"	28 oz.	26
24/7-G245B-12	1-247451G2-12	7-25327-60859-2	PT24/7 G2 45 ACP DA/SA DS STD, 4.2" 12 + 1 Blue	7.28"	28 oz.	26
24/7-G245SS-12	1-247459G2-12	7-25327-60860-8	PT24/7 G2 45 ACP DA/SA DS STD, 4.2" 12 + 1 SS	7.28"	28 oz.	26

24/7 GENERATION 2 COMPACT LOW PROFILE ADJ REAR SIGHT RAIL AMBI MAG RELEASE DECOCKER AND SAFETY

Model #	Order #	UPC #	Description	O.A.L.	Weight	Page
24/7-G298C-17	1-247091G2C-17	7-25327-60873-8	PT24/7 G2 9mm Comp DA/SA DS 3.5" 17 & 13+1 BI	6.6"	27 oz.	27
24/7-G29SSC-17	1-247099G2C-17	7-25327-60874-5	PT24/7 G2 9mm Comp DA/SA DS 3.5" 17 & 13+1 SS	6.6"	27 oz.	27
24/7-G240BC-15	1-247401G2C-15	7-25327-60818-9	PT24/7 G2 40Cal Comp DA/SA DS 3.5" 15 & 11+1 BI	6.6"	27 oz.	27
24/7-G240SSC-15	1-247409G2C-15	7-25327-60876-9	PT24/7 G2 40Cal Comp DA/SA DS 3.5" 15 & 11+1 SS	6.6"	27 oz.	27
24/7-G245BC-12	1-247451G2C-12	7-25327-60878-3	PT24/7 G2 45 ACP Comp DA/SA DS 3.5" 12 & 10+1 BI	6.6"	27 oz.	27
24/7-G245SSC-12	1-247459G2C-12	7-25327-60877-6	PT24/7 G2 45 ACP Comp DA/SA DS 3.5" 12 & 10+1 SS	6.6"	27 oz.	27

SPECS

800 SERIES NOVAK SIGHTS AMBIDEXTROUS DECOCKER/SAFETY DA/SA

Model #	Order #	UPC #	Description	O.A.L.	Weight	Page
809B	1-809041	7-25327-60454-9	4" 809 Blue 9mm 17 rd +1	8.25"	30.2 oz.	28
840B	1-840041	7-25327-60469-3	4" 840 Blue 40Cal 15 rd +1	8.25"	29.6 oz.	28
845B	1-845041	7-25327-60476-1	4" 845 Blue 45Cal 12 rd +1	8.25"	28.2 oz.	28

800 SERIES COMPACT NOVAK SIGHTS DA/SA

Model #	Order #	UPC #	Description	O.A.L.	Weight	Page
809BC	1-809041C	7-25327-60853-0	3.5" 809 Blue 9mm 17 rd +1	6.7"	24.7 oz.	29
840BC	1-840041C	7-25327-60812-7	3.5" 840 Blue 40Cal 15 rd +1	8.7"	24.7 oz.	29

92 9MM FIXED SIGHTS AMBIDEXTROUS SAFETY ACCESSORY RAIL

Model #	Order #	UPC #	Description	O.A.L.	Weight	Page
92B	1-920151	7-25327-10067-6	5" Blue 10 rd +1	8.5"	34 oz.	30
92SS	1-920159	7-25327-10072-0	5" Stainless 10 rd +1	8.5"	34 oz.	30
92B-17	1-920151-17	7-25327-60052-7	5" Blue 17 rd +1	8.5"	34 oz.	30
92SS-17	1-920159-17	7-25327-60053-4	5" Stainless 17 rd +1	8.5"	34 oz.	30

100.40 CAL AMBIDEXTROUS SAFETY FIXED SIGHTS ACCESSORY RAIL

Model #	Order #	UPC #	Description	O.A.L.	Weight	Page
100SS-16	1-100059-16	7-25327-61121-9	5" Stainless 16 rd +1	8.5"	34 oz.	30

BASE MOUNTS

Model #	Order #	UPC #	Description
44/608B6	10-026	7-25327-50035-3	Model 608/44 Scope Mount; 6-1/2" Blue
44/608SS6	10-027	7-25327-50027-8	Model 608/44 Scope Mount; 6-1/2" Stainless
44/608B8	10-028	7-25327-50036-0	Model 608/44 Scope Mount; 8-3/8" Blue
44/608SS8	10-029	7-25327-50037-7	Model 608/44 Scope Mount; 8-3/8" Stainless
454B6	10-030	7-25327-50030-8	Raging Bull Scope Mount; 6-1/2" Blue
454SS6	10-031	7-25327-50031-5	Raging Bull Scope Mount; 6-1/2" Stainless
454B8	10-032	7-25327-50032-2	Raging Bull Scope Mount; 8-3/8" Blue
454SS8	10-033	7-25327-50033-9	Raging Bull Scope Mount; 8-3/8" Stainless
10-034	10-034	7-25327-93022-8	Tracker Scope Mount
M-62/72MT-B	10-040	7-25327-50040-9	Model 62, 72 & 172 Scope Mount; Blue
M-63MT-B	10-050	7-25327-60085-5	Model 63 Scope Mount; Blue



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SKU:	209331
Model:	M&P9 Carry and Range Kit
Caliber:	9mm
Capacity:	17 Rounds
Action:	Striker Fire Action
Barrel Length:	4.25" / 10.8 cm
Overall Length:	7.625" / 19.4 cm
Overall Height:	5.5" / 13.9 cm
Width:	1.2" / 3.048 cm
Weight (No Mag):	24.0 oz. / 680.4 g
Front Sight:	White Dot Dovetail
Rear Sight:	Steel Low Profile Carry
Grip:	(3) Palmwell Grip Sizes
Material:	Frame/Polymer Slide/Stainless Steel Barrel/Stainless Steel
Finish:	Black 68HRc
Purpose:	Personal Protection Home Protection Professional / Duty Recreational

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Product: Model M&P9

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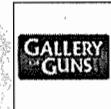
SKU:	178010
Model:	M&P9
Caliber:	9mm
Capacity:	17+1 Rounds
Barrel Length:	5" / 12.7 cm
Action:	Striker Fire (Double Action Only)
Front Sight:	Novak® Fiber Optic Green
Rear Sight:	Novak® Reduced Glare
Trigger Pull:	4 - 5 1/2 lb.
Weight:	26 oz / 737.1 g
Frame Size:	Large
Overall Length:	8.5" / 21.2 cm
Grip:	(3) Interchangeable Palmwell Grip Sizes Polymer
Material:	Polymer Frame/Stainless Steel Barrel and Slide
Finish:	Black, 68 HRC
Purpose:	Competitive Recreational Home Protection

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- Novak® Designed Reduced Glare Rear Sight
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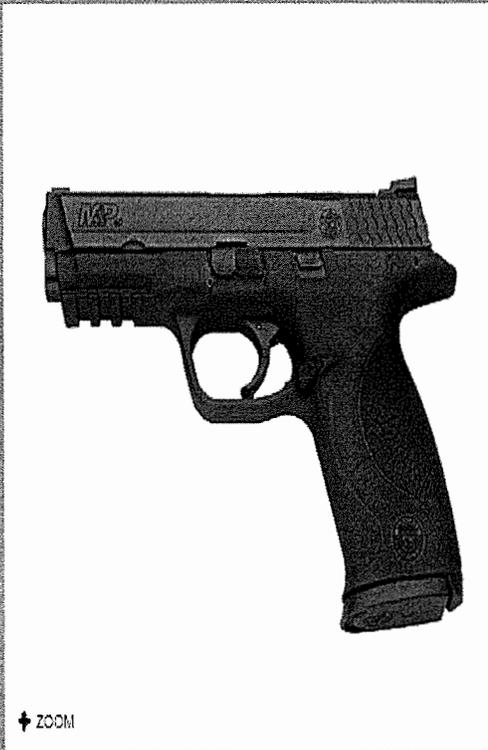
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Smith & Wesson M&P .40

\$569.00 *

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SKU:	209000
Model:	M&P40
Caliber:	.40S&W
Capacity:	15+1 Rounds
Barrel Length:	4.25"
Front Sight:	Steel Ramp Dovetail Mount - Tritium Sights Optional
Rear Sight:	Steel Novak® Lo-Mount Carry - Tritium Sights Optional
Trigger Pull:	6.5 lbs.
Trigger Travel:	Rest to Fire .300 in.
Trigger Reset:	Approx. 140 in.
Frame:	Large
Finish:	Slide and Barrel Black, 68HRc
Overall Length:	7.63" / 19.4 cm
Material:	Zytel Polymer Frame, Stainless Steel Barrel/Slide and Structural Components

Weight Empty (No Mag): 24.25 oz

Overall Height: 5.5" / 13.9 cm

Width: 1.2"

Sight Length: 6.4"

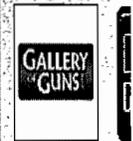
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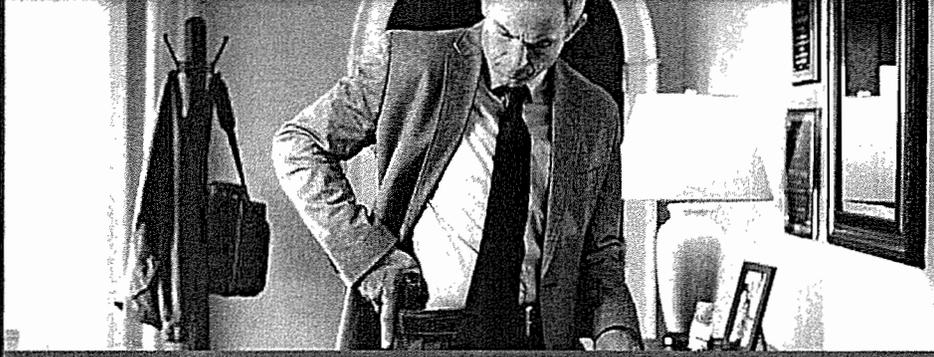
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GLOCK PERSONAL DEFENSE

Defense is personal, and it should be, it's about invading your space. Our goal is to put serious confidence in your hand for any situation where your safety—or your family's safety—could be compromised. Your best choice would likely be proportionate to your threat, therefore we make self defense in numerous calibers and many sizes. We hope you never need it, but if you do, a GLOCK is very discouraging to the bad guys.



 **TOP CHOICE**

G30S

Built from the G30 SF frame and the G36 Slide, the G30S combines the full capacity .45 Auto round count with reduced slide bulk. This pistol offers a lighter, more easily concealable option for Law Enforcement and legal concealed-carry enthusiasts. >



 **TOP CHOICE**

G19 Gen4

A new GLOCK design for the new century. The GLOCK 19 Gen4, in 9x19, brings revolutionary design changes to the pistol that has found worldwide acclaim with security services both private and public. >



 **TOP CHOICE**

G30 Gen4

The GLOCK 30 Gen4 in the legendary .45 Auto offers excellent out-of-the-box precision paired with the ballistic quality of this genuine big-bore caliber. The Gen4 design combining a shorter trigger reach with maximum capacity. >

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GLOCK Gen4 Pistol Models

GLOCK 17 Gen4



CALIBER
9x19
SYSTEM
Safe Action

WEIGHT
625 g / 22.04 oz
LOADED (-)
905 g / 31.91 oz

MAG. CAPACITY
Standard: 17
OPTIONAL
19 / 33



GLOCK 22 Gen4



CALIBER
.40
SYSTEM
Safe Action

WEIGHT
645 g / 23 oz
LOADED (-)
972 g / 35 oz

MAG. CAPACITY
Standard: 15
OPTIONAL
17



G17, Gen4 and G22 Gen4 Models:

Length (slide cpl.) 186 mm 7.32 inch
Width 30 mm 1.18 inch
Height with Magazine (incl. sights) 138 mm 5.43 inch

Length between sights 165 mm 6.50 inch
Barrel length 114 mm 4.49 inch
Length of twist 250 mm 9.84 inch

Barrel profile hexag. right hand twist
Trigger Pull 2.5 kg 5.5 lbs.
Trigger Travel 12.5 mm 0.49 inch

GLOCK 19 Gen4



CALIBER
9x19
SYSTEM
Safe Action

WEIGHT
595 g / 21 oz
LOADED (-)
850 g / 30.16 oz

MAG. CAPACITY
Standard: 15
OPTIONAL
17 / 19 / 33



G19, Gen4 and G23 Gen4 Models:

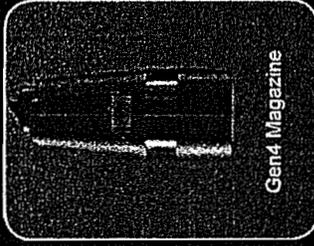
Length (slide cpl.) 174 mm 6.85 inch
Width 30 mm 1.18 inch
Height with Magazine (incl. sights) 127 mm 5.00 inch

Length between sights 153 mm 6.02 inch
Barrel length 102 mm 4.02 inch
Length of twist 250 mm 9.84 inch

Barrel profile hexag. right hand twist
Trigger Pull 2.5 kg 5.5 lbs.
Trigger Travel 12.5 mm 0.49 inch

Subject to technical changes

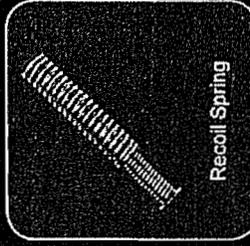
MAGAZINE



Gen4 Magazine

The 4th generation magazine has a recess and two notches to operate properly with all types of existing magazine catches.

RECOIL SPRING



Recoil Spring

Internally, the original recoil spring has been replaced with a dual recoil spring assembly. The dual recoil spring assembly noticeably reduces the recoil while simultaneously increasing the life cycle of the assembly.

GEN4
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GLOCK 31 Gen4 STANDARD

The GLOCK 31 Gen4, in .357, introduces revolutionary design changes to the pistol that's been the optimum solution for those seeking high muzzle velocity and superior precision in a reliable, yet lightweight, pistol with large magazine capacity. The Modular Back Strap design lets you instantly customize its grip to adapt to an individual shooter's hand size. The surface of the frame employs the new scientifically designed, real-world-tested, Gen4 rough textured technology. Internally, the new GLOCK dual recoil spring assembly substantially increases the life of the system. A reversible enlarged magazine catch, changeable in seconds, accommodates left or right-handed operators. The G31 Gen4 .357 retains the GLOCK accessory rail for your attachments.

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GLOCK INNOVATION

CALIBER / SYSTEM	DIMENSIONS			WEIGHTS	TRIGGER PULL / TRAVEL	BARREL RIFLING / LENGTH OF TWIST	MAGAZINE CAPACITY
.357 / Safe Action	LENGTH: 202 mm / 7.95 in. HEIGHT: 138 mm / 5.43 in.	WIDTH: 30.00 mm / 1.18 in. BARREL HEIGHT: 32 mm / 1.26 in.	LENGTH BETWEEN SIGHTS: 165 mm / 6.49 in. BARREL LENGTH: 114 mm / 4.48 in.	UNLOADED: 740 g / 26.12 oz. LOADED: 940 g / 33.18 oz.	TRIGGER PULL: ~2.5 kg / ~5.5 lbs. TRIGGER TRAVEL: ~12.5 mm / 0.49 in.	BARREL RIFLING: right hand, hexagonal LENGTH OF TWIST: 250 mm / 9.84 in.	STANDARD: 15

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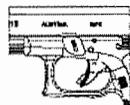
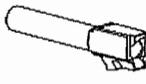
9 x 19mm
.40
10mm Auto
.45 Auto
.45 G.A.P.
.380 Auto
.357
Cutaway
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Practice
Reset

GLOCK 32 Gen4

COMPACT

The GLOCK 32 Gen4, in .357, introduces revolutionary design changes to the pistol that offers a unique combination of versatility, convincing ballistics, optimum carry comfort, and the GLOCK pistol reliability. The Modular Back Strap design lets you instantly customize its grip to adapt to an individual shooter's hand size. The surface of the frame employs the new scientifically designed, real-world-tested, Gen4 rough textured technology. Internally, the new GLOCK dual recoil spring assembly substantially increases the life of the system. A reversible enlarged magazine catch, changeable in seconds, accommodates left or right-handed operators. The G32 Gen4 retains the GLOCK accessory rail for your attachments.

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CALIBER / SYSTEM	DIMENSIONS	WEIGHTS	TRIGGER PULL / TRAVEL	BARREL RIFLING / LENGTH OF TWIST	MAGAZINE CAPACITY
 .357 / Safe Action	 LENGTH: 185 mm / 7.28 in HEIGHT: 127 mm / 4.99 in WIDTH: 30 mm / 1.18 in BARREL HEIGHT: 32 mm / 1.26 in	 UNLOADED: 680 g / 24.00 oz LOADED: 855 g / 31.18 oz	 TRIGGER PULL: ~2.5 kg / ~5.5 lbs. TRIGGER TRAVEL: ~12.5 mm / 0.49 in.	 BARREL RIFLING: right hand, hexagonal LENGTH OF TWIST: 250 mm / 9.84 in	 STANDARD: 13 OPTIONAL: 15

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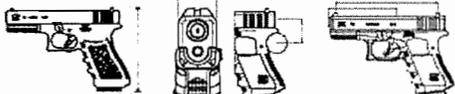
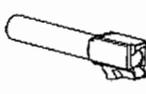
GLOCK 23 Gen4

COMPACT

The GLOCK 23 Gen4, in .40, introduces revolutionary design changes to the pistol that combines compact dimensions for both open and concealed carry, with minimum weight-despite its large magazine capacity. The Modular Back Strap design lets you instantly customize its grip to adapt to an individual shooter's hand size. The surface of the frame employs the new scientifically designed, real-world-tested, Gen4 rough textured technology. Internally, the new GLOCK dual recoil spring assembly substantially increases the life of the system. A reversible magazine catch, changeable in seconds, accommodates left or right-handed operators. The G23 Gen4 in .40 caliber retains the GLOCK accessory rail for your attachments.

[Compare](#)

GLOCK INNOVATION

CALIBER / SYSTEM	DIMENSIONS	WEIGHTS	TRIGGER PULL / TRAVEL	BARREL RIFLING / LENGTH OF TWIST	MAGAZINE CAPACITY
 <p>.40 / Safe Action</p>	 <p>LENGTH: 185 mm / 7.28 in</p> <p>WIDTH: 30.00 mm / 1.18 in</p> <p>HEIGHT: 127 mm / 4.99 in.</p> <p>BARREL HEIGHT: 32 mm / 1.26 in</p>	 <p>UNLOADED: 670 g / 23.65 oz</p> <p>LOADED: 888 g / 31.06 oz</p>	 <p>TRIGGER PULL: ~2.5 kg / ~5.5 lbs</p> <p>TRIGGER TRAVEL: ~12.5 mm / 0.49 in.</p>	 <p>BARREL RIFLING: right hand, hexagonal</p> <p>LENGTH OF TWIST: 250 mm / 9.84 in.</p>	 <p>STANDARD: 13 OPTIONAL: 15/22</p>

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Item Number	E24-9-SAS2B(9mm) E24-40-SAS2B(.40S&W) E24-357-SAS2B (.357SIG), E24-9-SAS2B-DAK (9mm) E24-40-SAS2B-DAK (.40S&W) E24-357-SAS2B-DAK (.357SIG)
Caliber	9mm or .40S&W, .357SIG
Action Type	DA/SA (SRT) or DAK
Trigger Pull DA	10.0 lbs or 5.5-6.5 lb (DAK)
Trigger Pull SA	4.4 lbs
Overall Length	6.7 in
Overall Height	4.5 in
Overall Width	1.3 in
Barrel Length	3.5 in
Sight Radius	5.3 in
Weight w/Mag	29.0 oz
Mag Capacity	12 Rounds (9mm), 10 Rounds (.40S&W, .357SIG)
Sights	SIGLITE® Night Sights
Grips	Black Polymer Factory Grips
Frame Finish	Black Hard Anodized
Slide Finish	Nitron®
Accessory Rail	No
Features	Sub-Compact, Double stack mag., One Piece Grip
MSRP	\$1,125

EA000254

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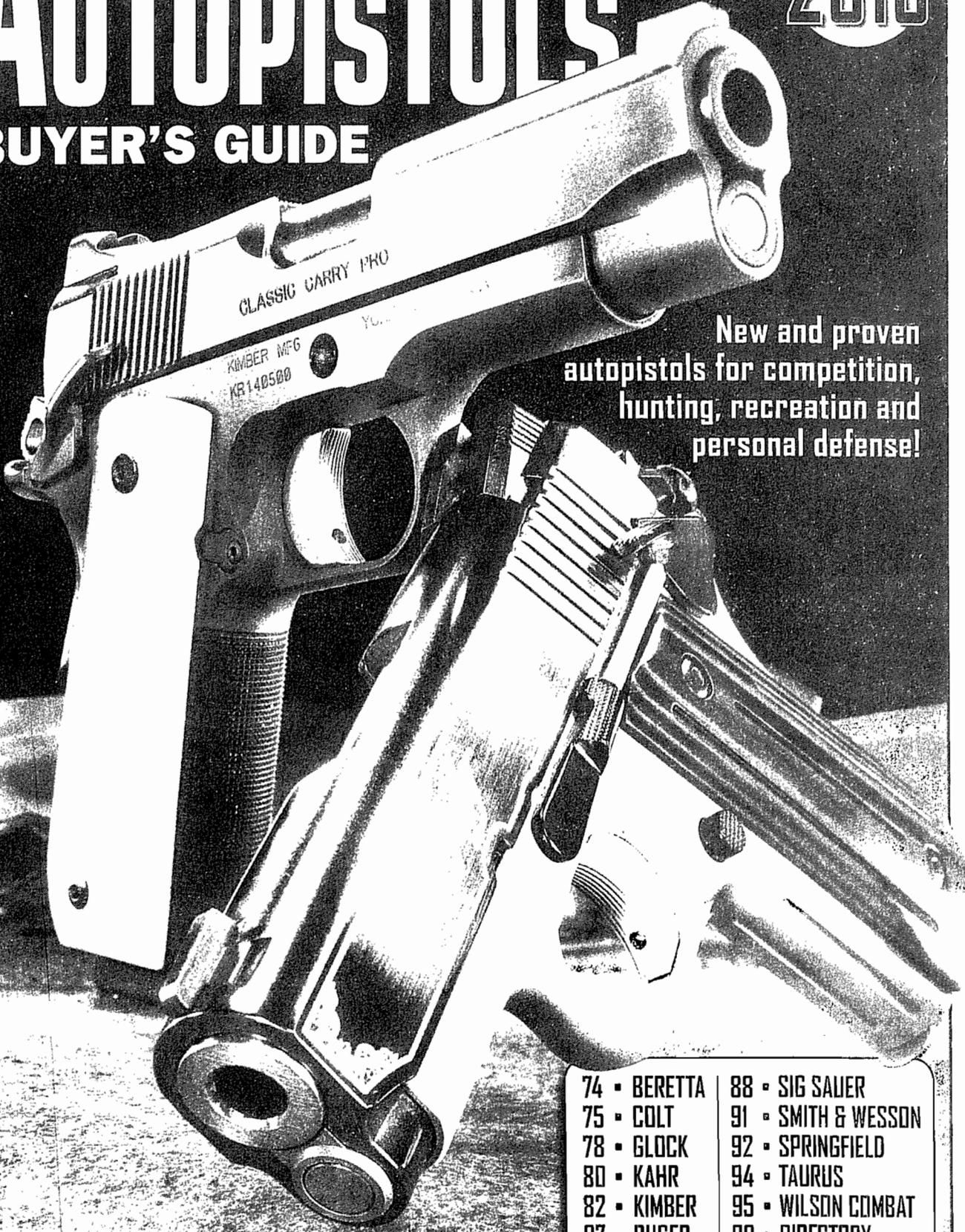


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EA000258

Handguns: Autoloaders



AMERICAN TACTICAL IMPORTS FX45

Caliber: .45 ACP. **Barrel:** 3.18 inches, 4.25 inches, 4.75 inches, 5 inches. **Weight:** 38.4-49.6 ounces. **Grips:** Mahogany. **Sights:** Fixed, fixed front, adjustable rear. **Features:** Single-action, matte black, blued or stainless finish, 7/8/10-shot mag capacity. **MSRP:** \$499.95-899.95.



BERETTA 3032 TOMCAT

Caliber: .32 ACP. **Barrel:** 2.4 inches. **Weight:** 14.5 ounces. **Grips:** Polymer, wood. **Sights:** Blade front, notch rear. **Features:** Double-action/single-action, black, Inox finish, 7/8/13-shot mag capacity. **MSRP:** \$390-430.



ARMALITE AR-24

Caliber: 9mm. **Barrel:** 3.89 inches, 4.67 inches. **Weight:** 33.4-34.9 ounces. **Grips:** Composite. **Sights:** Three-dot fixed or adjustable. **Features:** Double-action/single-action, manganese phosphate, heat-cured epoxy finish, 10/13/15-shot mag capacity. **MSRP:** \$550-631.



BERETTA 84FS/85FS CHEETAH

Caliber: .380 ACP. **Barrel:** 3.8 inches. **Weight:** 23.3 ounces. **Grips:** Polymer. **Sights:** Fixed blade front, dovetailed rear. **Features:** Double-action/single-action, black, nickel finish, 8/10/13-shot mag capacity. **MSRP:** \$770-830.



AUTO ORDNANCE 1911

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 39 ounces. **Grips:** Polymer, wood. **Sights:** Blade front, drift-adjustable rear. **Features:** Single-action, blued finish 7-shot mag capacity. **MSRP:** \$637-662. From Kahr Arms.



BERETTA 87 TARGET

Caliber: .22 LR. **Barrel:** 5.9 inches. **Weight:** 40.9 ounces. **Grips:** Polymer, walnut. **Sights:** Adjustable target. **Features:** Single-action, blued finish, 10-shot mag capacity. **MSRP:** \$880.



BERETTA 21 BOBCAT

Caliber: .22 LR, .25 ACP. **Barrel:** 2.4 inches. **Weight:** 11.5 ounces. **Grips:** Polymer. **Sights:** Fixed blade front. **Features:** Double-action/single-action, black, Inox finish, 7/8-shot mag capacity. **MSRP:** \$310-350.



BERETTA M9/92FS/96A1

Caliber: 9mm, .40. **Barrel:** 4.9 inches. **Weight:** 32.5-34.4 ounces. **Grips:** Polymer, Technopolymer. **Sights:** Three-dot. **Features:** Double-action/single-action, Brunton finish, 10/15/17-shot mag capacity. **MSRP:** \$650-795.

EA000259



BERETTA NANO

Caliber: 9mm. **Barrel:** 3.07 inches. **Weight:** 17.67 ounces. **Grips:** Technopolymer. **Sights:** Three-dot, low-profile. **Features:** Double-action-only, black nitride finish, 6-shot mag capacity. **MSRP:** \$475.



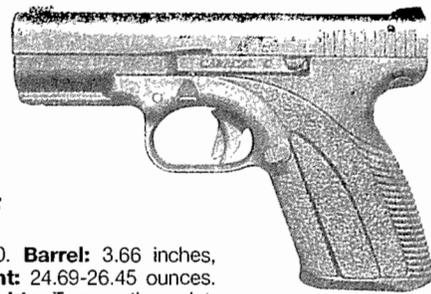
BERSA THUNDER

Caliber: .22 LR, .380 ACP, 9mm, .40, .45 ACP. **Barrel:** 3.25 inches, 3.5 inches, 4.25 inches. **Weight:** 16.4-30.7 ounces. **Grips:** Polymer, rubber wraparound. **Sights:** Fixed. **Features:** Double-action/single-action, matte, satin nickel or duo-tone finish, 7/8/10/13/15-shot mag capacity. **MSRP:** \$335-525.



BERETTA Px4 STORM

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3 inches, 3.2 inches, 4 inches, 4.6 inches. **Weight:** 26.1-28.6 ounces. **Grips:** Polymer. **Sights:** Three-dot. **Features:** Double-action/single-action, black, dark earth finish, 9/10/12/13/14/15/17-shot mag capacity. **MSRP:** \$550-1,035.



CARACAL C/F

Caliber: 9mm, .40. **Barrel:** 3.66 inches, 4.09 inches. **Weight:** 24.69-26.45 ounces. **Grips:** Polymer. **Sights:** Two- or three-dot, low-profile. **Features:** Double-action-only, striker-fired, Plasox, black finish, 15/18-shot mag capacity. **MSRP:** \$499-525.



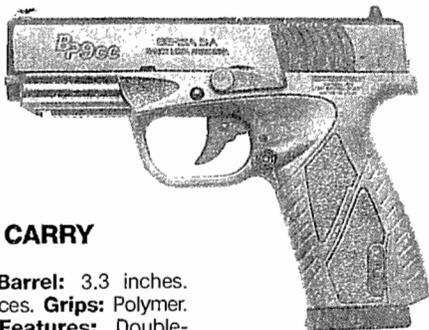
BERETTA U22 NEOS

Caliber: .22 LR. **Barrel:** 4.5 inches, 6 inches. **Weight:** 31.7-36.2 ounces. **Grips:** Polymer. **Sights:** Adjustable target. **Features:** Single-action, black or Inox finish, 10-shot mag capacity. **MSRP:** \$275-375.



CIMARRON M1911

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 40 ounces. **Grips:** Wood. **Sights:** Fixed. **Features:** Single-action, parkerized, blued, nickel finish, 7-shot mag capacity. **MSRP:** \$540-633.



BERSA BP CONCEALED CARRY

Caliber: 9mm. **Barrel:** 3.3 inches. **Weight:** 21.5 ounces. **Grips:** Polymer. **Sights:** Fixed. **Features:** Double-action-only with short reset, matte black, olive drab or duo-tone finish, 8-shot mag capacity. **MSRP:** \$444-455.



COLT 1991

Caliber: .38 Super, .45 ACP. **Barrel:** 4.25 inches, 5 inches. **Weight:** 32-37 ounces. **Grips:** Rubber composite, rosewood. **Sights:** White-dot, high-profile. **Features:** Single-action, stainless, blued finish, 7/8-shot mag capacity. **MSRP:** \$928-1,021.

EA000260

Handguns: Autoloaders



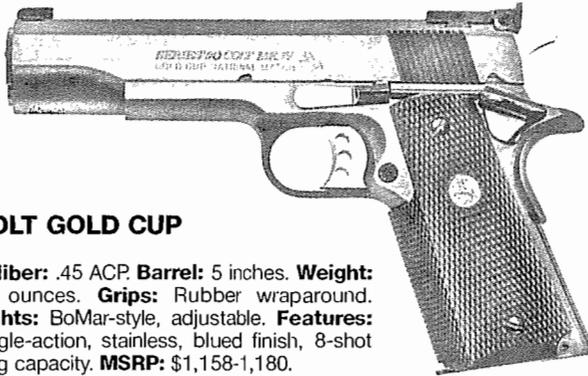
COLT DEFENDER

Caliber: 9mm, .45 ACP. **Barrel:** 3 inches. **Weight:** 24-25 ounces. **Grips:** Hogue wraparound. **Sights:** Novak Low-Mount Carry with dots. **Features:** Single-action, Cerakote, stainless finish, 7/8-shot mag capacity. **MSRP:** \$1,066.



COLT XSE

Caliber: .45 ACP. **Barrel:** 4.25 inches, 5 inches. **Weight:** 27-36 ounces. **Grips:** Rosewood. **Sights:** Novak Low-Mount Carry. **Features:** Single-action, stainless or blued finish, 8-shot mag capacity. **MSRP:** \$1,072-1,223.



COLT GOLD CUP

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 37 ounces. **Grips:** Rubber wraparound. **Sights:** BoMar-style, adjustable. **Features:** Single-action, stainless, blued finish, 8-shot mag capacity. **MSRP:** \$1,158-1,180.



CZ 75

Caliber: 9mm, .40. **Barrel:** 4.6 inches. **Weight:** 35.2 ounces. **Grips:** Plastic, rubber. **Sights:** Fixed. **Features:** Double-action/single-action, black Polycoat, matte stainless, polished stainless finish, 10(.40)/16(9mm)-shot mag capacity. **MSRP:** \$499-711.



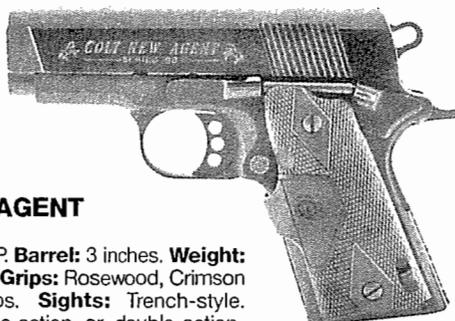
COLT MUSTANG POCKETLITE

Caliber: .380 ACP. **Barrel:** 2.75 inches. **Weight:** 12.5 ounces. **Grips:** Composite. **Sights:** High-profile. **Features:** Single-action, stainless, brushed finish, 6-shot mag capacity. **MSRP:** \$649.



CZ 97

Caliber: .45 ACP. **Barrel:** 4.53 inches. **Weight:** 40.6 ounces. **Grips:** Aluminum. **Sights:** Fixed fiber optic, fixed tritium. **Features:** Double-action/single-action, black Polycoat, glossy blue finish, 10-shot mag capacity. **MSRP:** \$686-792.



COLT NEW AGENT

Caliber: .45 ACP. **Barrel:** 3 inches. **Weight:** 22.5-23 ounces. **Grips:** Rosewood, Crimson Trace Lasergrips. **Sights:** Trench-style. **Features:** Single-action or double-action-only, blued finish, 7-shot mag capacity. **MSRP:** \$1,041-1,326.



CZ 2075 RAMI

Caliber: 9mm, .40. **Barrel:** 2.9 inches. **Weight:** 24.5 ounces. **Grips:** Rubber. **Sights:** Fixed/fixed night sights. **Features:** Double-action/single-action, black Polycoat finish, 14/10(9mm)-shot mag capacity, 9/7(.40)-shot mag capacity. **MSRP:** \$595-660.

EA000261



CZ CZECHMATE

Caliber: 9mm. **Barrel:** 5.4 inches. **Weight:** 48 ounces. **Grips:** Aluminum. **Sights:** C-More Red Dot, fixed target. **Features:** Single-action, black Polycoat finish, 20/26-shot mag capacity. **MSRP:** \$3,220.



CZ SP-01

Caliber: 9mm, .40. **Barrel:** 4.61 inches. **Weight:** 38.4 ounces. **Grips:** Rubber. **Sights:** Fixed, fixed tritium. **Features:** Double-action/single-action, black Polycoat finish, 12(.40)/18(9mm)-shot mag capacity. **MSRP:** \$660-737.



CZ P-01/P-06

Caliber: 9mm, .40. **Barrel:** 3.7 inches. **Weight:** 28-29.1 ounces. **Grips:** Rubber. **Sights:** Fixed. **Features:** Double-action/single-action, black Polycoat finish, 10(.40)/14(9mm)-shot mag capacity. **MSRP:** \$608-660.



CZ TACTICAL SPORT

Caliber: 9mm, .40. **Barrel:** 5.4 inches. **Weight:** 45.3 ounces. **Grips:** Wood. **Sights:** Fixed Target. **Features:** Single-action, dual-tone finish, 17/20-shot mag capacity. **MSRP:** \$1,272.



CZ P-07

Caliber: 9mm, .40. **Barrel:** 3.8 inches, 4.5 inches. **Weight:** 27.2 ounces. **Grips:** Polymer stippling. **Sights:** Fixed/tall adjustable. **Features:** Double-action/single-action, black/OD green frame finish, 12/16-shot mag capacity. **MSRP:** \$483-528.



DAN WESSON 1911

Caliber: 9mm, .45 ACP. **Barrel:** 3.5 inches, 4.25 inches, 5 inches. **Weight:** 24.96-38.7 ounces. **Grips:** Stipple shadow, cocobolo, G10. **Sights:** Novak Low-Mount Night, Heinie Straight Eight, adjustable, fixed. **Features:** Single-action, black "Duty" finish, 7/8/9-shot mag capacity. **MSRP:** CCO \$1,558, ECO \$1,623-1662, Guardian \$1,558-1,619, Pointman 9 \$1,558, V-Bob-\$1,766-2,077. From CZ-USA.



CZ P-09

Caliber: 9mm, .40. **Barrel:** 4.53 inches. **Weight:** 27.2 ounces. **Grips:** Polymer stippling, interchangeable backstraps. **Sights:** Fixed. **Features:** Double-action/single-action, black Polycoat finish, 15/19-shot mag capacity. **MSRP:** \$514-528.



DAN WESSON HAVOC

Caliber: .38 Super, 9mm. **Barrel:** 4.25 inches. **Weight:** 35.2 ounces. **Grips:** G10. **Sights:** C-More. **Features:** Single-action, black finish, 21-shot mag capacity. **MSRP:** \$4,299. From CZ-USA.

EA000262

Handguns: Autoloaders



DAN WESSON MAYHEM/TITAN

Caliber: .40, 10mm. **Barrel:** 5 inches, 6 inches. **Weight:** 51.2-76.8 ounces. **Grips:** G10. **Sights:** Tritium, adjustable, Fiber optic. **Features:** Single-action, black finish, 13/17-shot mag capacity. **MSRP:** \$3,829-3,899. From CZ-USA.



FNH USA FNX-45 TACTICAL

Caliber: .45 ACP. **Barrel:** 5.3 inches. **Weight:** 33.6 ounces. **Grips:** Polymer. **Sights:** Fixed 3-dot, high-profile night sights with optional electronic red-dots. **Features:** Double-action/single-action, black, two-tone or flat dark earth finish, 10/15-shot mag capacity. **MSRP:** \$795, Tactical \$1,399.



FRANKLIN ARMORY XO-26

Caliber: .223/5.56mm, 6.8 SPC, 300 Blackout/.300 Whisper, 7.62x39mm .450 Bushmaster. **Barrel:** 11.5 inches. **Weight:** 6.4 pounds. **Grips:** Magpul MIAD & RVG. **Sights:** Steel YHM Quick Deployment. **Features:** Semi-auto, custom tune trigger, free-float handguard, CA models available, hardcoat Type III anodize, salt bath nitride finish, 9/25/30-shot mag capacity. **MSRP:** \$1,559.99-1,769.99.



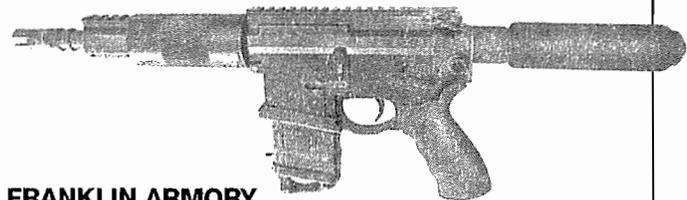
FNH USA FN FIVE-SEVEN

Caliber: 5.7x28mm. **Barrel:** 4.8 inches. **Weight:** 20.8 ounces. **Grips:** Rubber. **Sights:** Adjustable three-dot. **Features:** Single-action, black finish, 10/20-shot mag capacity. **MSRP:** \$1,329.



FNH USA FNS

Caliber: 9mm, .40. **Barrel:** 3.56 inches, 4 inches, 5 inches. **Weight:** 25.2-29.5 ounces. **Grips:** Polymer. **Sights:** Three-dot or three-dot night. **Features:** Double-action-only, black, black or stainless finish, FNS Conversion Kit and Competition models available, 10/12/14/17-shot mag capacity. **MSRP:** \$699-749.



FRANKLIN ARMORY SALUS BILLET PISTOL

Caliber: .223/5.56mm, 7.62x39mm. **Barrel:** 7.5 inches. **Weight:** 5.2 pounds. **Grips:** Ergo. **Sights:** None. **Features:** Semi-auto, custom tune trigger, free-float handguard, CA models available, hardcoat Type III anodize, salt bath nitride finish, 30-shot mag capacity. **MSRP:** \$1,389.99-1,444.99.



FNH USA FNX

Caliber: 9mm, .40, .45 ACP. **Barrel:** 4 inches, 4.5 inches. **Weight:** 21.9-32.2 ounces. **Grips:** Polymer. **Sights:** Fixed three-dot combat with deep-V rear notch. **Features:** Double-action/single-action, black, two-tone finish, 10/14/15/17-shot mag capacity. **MSRP:** \$699-824.



GLOCK 17/22

Caliber: 9mm, .40. **Barrel:** 4.48 inches. **Weight:** 22.05-22.92 ounces. **Grips:** Polymer. **Sights:** Fixed. **Features:** Safe Action, Gen4 option available, black finish, 15/17-shot mag capacity. **MSRP:** \$599-696.

EA000263



GLOCK 19/23

Caliber: 9mm, .40. **Barrel:** 4.01 inches. **Weight:** 20.99-21.31 ounces. **Grips:** Polymer. **Sights:** Fixed. **Features:** Safe Action, Gen4 option available, black finish, 13/15-shot mag capacity. **MSRP:** \$599-696.



GLOCK 29/30/36

Caliber: .45 ACP, 10mm. **Barrel:** 3.77 inches. **Weight:** 20.11-24.69 ounces. **Grips:** Polymer. **Sights:** Fixed. **Features:** Safe Action, black finish, 6/10-shot mag capacity. **MSRP:** \$637-734.



GLOCK 20/21

Caliber: .45 ACP, 10mm. **Barrel:** 4.6 inches. **Weight:** 26.28-27.68 ounces. **Grips:** Polymer. **Sights:** Fixed. **Features:** Safe Action, Gen4 option available, black finish, 13/15-shot mag capacity. **MSRP:** \$637-734.



GLOCK 31/32/33

Caliber: .357 SIG. **Barrel:** 3.42 inches, 4.01 inches, 4.48 inches. **Weight:** 19.75-23.28 ounces. **Grips:** Polymer. **Sights:** Fixed. **Features:** Safe Action, Gen4 option available, black finish, 10/13/15-shot mag capacity. **MSRP:** \$599-696.



GLOCK 17L/24

Caliber: 9mm, .40. **Barrel:** 6.02 inches. **Weight:** 23.63-26.7 ounces. **Grips:** Polymer. **Sights:** Adjustable. **Features:** Safe Action, black finish, 15/17-shot mag capacity. **MSRP:** \$750.



GLOCK 34/35

Caliber: 9mm, .40. **Barrel:** 5.31 inches. **Weight:** 22.92-24.69 ounces. **Grips:** Polymer. **Sights:** Adjustable. **Features:** Safe Action, Gen4 option available, black finish, 15/17-shot mag capacity. **MSRP:** \$679-729.



GLOCK 26/27

Caliber: 9mm, .40. **Barrel:** 3.42 inches. **Weight:** 19.75 ounces. **Grips:** Polymer. **Sights:** Fixed. **Features:** Safe Action, Gen4 option available, black finish, 10/12-shot mag capacity. **MSRP:** \$599-696.



GLOCK 37/38/39

Caliber: .45 GAP. **Barrel:** 3.42 inches, 4.01 inches, 4.48 inches. **Weight:** 19.33-26.1 ounces. **Grips:** Polymer. **Sights:** Fixed. **Features:** Safe Action, Gen4 option available, black finish, 6/8/10-shot mag capacity. **MSRP:** \$614-711.

EA000264

Handguns: Autoloaders



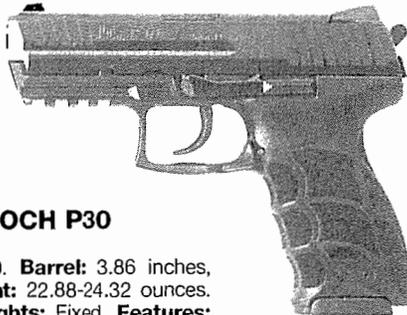
HECKLER & KOCH HK45

Caliber: .45 ACP. **Barrel:** 3.94 inches, 4.53 inches. **Weight:** 24.48-25.28 ounces. **Grips:** Polymer. **Sights:** Fixed. **Features:** Double-action/single-action or double-action-only, black finish, 8/10-shot mag capacity. **MSRP:** \$1,193-1,260.



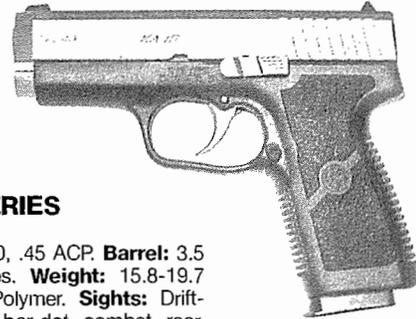
KAHR CM SERIES

Caliber: 9mm, .40. **Barrel:** 3 inches, 3.1 inches. **Weight:** 14-15.8 ounces. **Grips:** Soft polymer, textured. **Sights:** Drift-adjustable, white-bar-dot combat rear. **Features:** Double-action-only, black frame, matte stainless slide finish, 6/7-shot mag capacity. **MSRP:** \$485.



HECKLER & KOCH P30

Caliber: 9mm, .40. **Barrel:** 3.86 inches, 4.44 inches. **Weight:** 22.88-24.32 ounces. **Grips:** Polymer. **Sights:** Fixed. **Features:** Double-action/single-action or double-action-only, black finish, 10/13/15-shot mag capacity. **MSRP:** \$1054-1,108.



KAHR CW SERIES

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3.5 inches, 3.6 inches. **Weight:** 15.8-19.7 ounces. **Grips:** Polymer. **Sights:** Drift-adjustable, white-bar-dot combat rear. **Features:** Double-action-only, black frame, matte stainless slide finish, 6/7-shot mag capacity. **MSRP:** \$485.



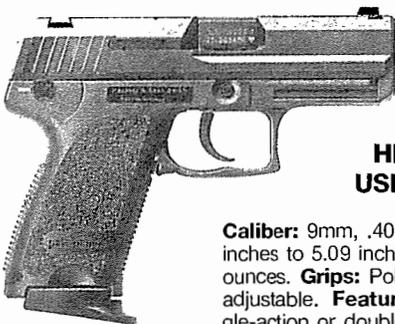
HECKLER & KOCH P2000

Caliber: 9mm, .40. **Barrel:** 3.26 inches, 3.66 inches. **Weight:** 24 ounces. **Grips:** Polymer. **Sights:** Three-dot (optional tritium). **Features:** Double-action/single-action or double-action-only, black finish, 9/10/12/13-shot mag capacity. **MSRP:** \$941-983.



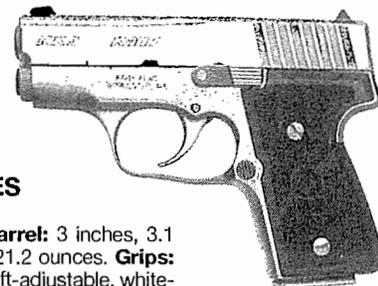
KAHR K SERIES

Caliber: 9mm, .40. **Barrel:** 3 inches, 3.46 inches, 3.5 inches. **Weight:** 20.2-22.2 ounces. **Grips:** Polymer. **Sights:** Drift-adjustable, white-bar-dot combat rear (optional tritium). **Features:** Double-action-only, matte black, matte stainless finish, 6/7-shot mag capacity. **MSRP:** \$855-1,054.



HECKLER & KOCH USP/USP COMPACT

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3.58 inches to 5.09 inches. **Weight:** 23.52-33.6 ounces. **Grips:** Polymer. **Sights:** Fixed or adjustable. **Features:** Double-action/single-action or double-action-only, black finish, 8/10/12/13/15-shot mag capacity. **MSRP:** \$902-1,325.



KAHR MK SERIES

Caliber: 9mm, .40. **Barrel:** 3 inches, 3.1 inches. **Weight:** 20.2-21.2 ounces. **Grips:** Hard nylon. **Sights:** Drift-adjustable, white-bar-dot combat rear (optional tritium). **Features:** Double-action-only, matte stainless finish, 5/6/7-shot mag capacity. **MSRP:** \$855-1,054.

EA000265



KAHR P SERIES

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3.54 inches, 3.56 inches, 3.6 inches. **Weight:** 13.1-16.5 ounces. **Grips:** Polymer. **Sights:** Drift-adjustable, white-bar-dot combat rear (optional tritium). **Features:** Double-action-only, matte black, two-tone finish, 6/7-shot mag capacity. **MSRP:** \$739-973.



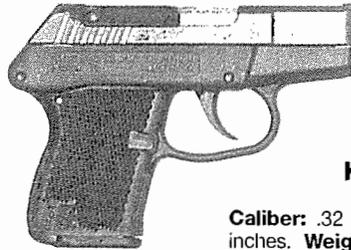
KEL-TEC PF-9/P-11

Caliber: 9mm. **Barrel:** 3.1 inches. **Weight:** 12.7-14 ounces. **Grips:** Polymer. **Sights:** Fixed, high-visibility, tritium. **Features:** Double-action-only, blued, parkerized, hard chrome finish, 7/10-shot mag capacity. **MSRP:** \$333-390.



KAHR P380 SERIES

Caliber: .380 ACP. **Barrel:** 2.53 inches. **Weight:** 9.97 ounces. **Grips:** Polymer. **Sights:** Drift-adjustable, white-bar-dot combat rear (optional tritium). **Features:** Double-action-only, matte black, two-tone finish, 6-shot mag capacity. **MSRP:** \$649-949.



KEL-TEC P-32/P-3AT

Caliber: .32 ACP, .380 ACP. **Barrel:** 2.7 inches. **Weight:** 6.6-8.3 ounces. **Grips:** Polymer. **Sights:** Integrated. **Features:** Double-action-only, blued, parkerized, hard chrome finishes, 6/7-shot mag capacity. **MSRP:** \$318-377.



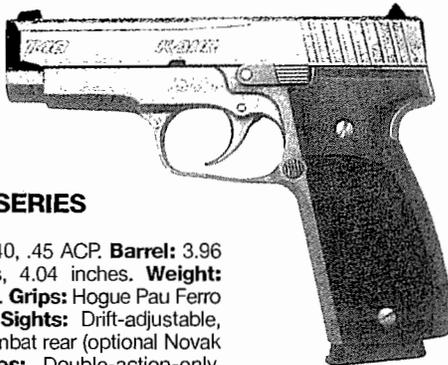
KAHR PM SERIES

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3.1 inches, 3.24 inches. **Weight:** 12.1-15.3 ounces. **Grips:** Polymer. **Sights:** Drift-adjustable, white-bar-dot combat rear (optional tritium or CT laser). **Features:** Double-action-only, matte black, two-tone, 5/6/7-shot mag capacity. **MSRP:** \$786-1,049.



KEL-TEC PLR-16/PLR-22

Caliber: .22 LR, 5.56mm. **Barrel:** 9.2 inches, 10.1 inches. **Weight:** 44.8-54.72 ounces. **Grips:** Glass-fiber-reinforced polymer. **Sights:** Adjustable, AR-15-type front. **Features:** Semi-auto (gas-piston or blowback), blued finish, 10/26-shot mag capacity (compatible with M16 or Atchison mags). **MSRP:** \$390-665.



KAHR T/TP SERIES

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3.96 inches, 4 inches, 4.04 inches. **Weight:** 16.4-24.9 ounces. **Grips:** Hogue Pau Ferro wood, polymer. **Sights:** Drift-adjustable, white-bar-dot combat rear (optional Novak tritium). **Features:** Double-action-only, matte stainless, two-tone finish, 7/8-shot mag capacity. **MSRP:** \$697-968.



KEL-TEC PMR-30

Caliber: .22 Mag. **Barrel:** 4.3 inches. **Weight:** 13.6 ounces. **Grips:** Polymer. **Sights:** Fiber-optic, dovetailed aluminum front. **Features:** Single-action, black finish, 30-shot mag capacity. **MSRP:** \$415.

EA000266

Handguns: Autoloaders



KIMBER AEGIS II

Caliber: 9mm. **Barrel:** 3 inches, 4 inches, 5 inches. **Weight:** 25-31 ounces. **Grips:** Rosewood. **Sights:** Fixed Tactical Wedge tritium. **Features:** Single-action, KimPro II finish, 8/9-shot mag capacity. **MSRP:** \$1,331.



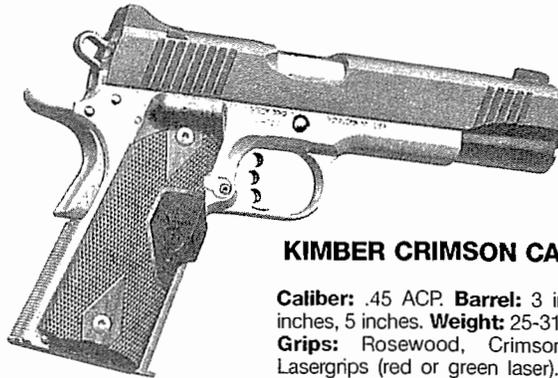
KIMBER COVERT II

Caliber: .45 ACP. **Barrel:** 3 inches, 4 inches, 5 inches. **Weight:** 25-31 ounces. **Grips:** Digital camo, Crimson Trace Lasergrrips. **Sights:** Fixed Tactical Wedge tritium. **Features:** Single-action, dark earth frame, matte black slide finish, 7-shot mag capacity. **MSRP:** \$1,657.



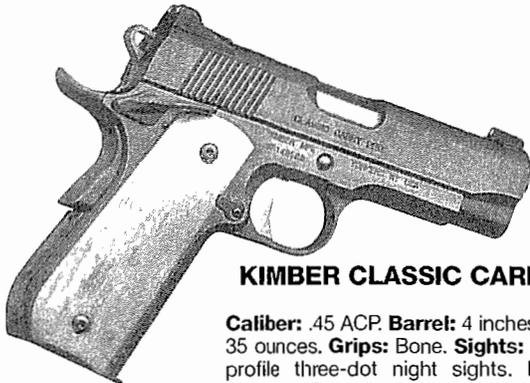
KIMBER CDP II

Caliber: 9mm, .45 ACP. **Barrel:** 3 inches, 4 inches, 5 inches. **Weight:** 25-31 ounces. **Grips:** Rosewood, Crimson Trace Lasergrrips. **Sights:** Fixed Meprolight three-dot tritium. **Features:** Single-action, KimPro II finish, 7-shot mag capacity. **MSRP:** \$1,331-1,631.



KIMBER CRIMSON CARRY II

Caliber: .45 ACP. **Barrel:** 3 inches, 4 inches, 5 inches. **Weight:** 25-31 ounces. **Grips:** Rosewood, Crimson Trace Lasergrrips (red or green laser). **Sights:** Fixed low-profile. **Features:** Single-action, satin silver frame, matte black slide finish, 7/8-shot mag capacity. **MSRP:** \$1,206-1,293.



KIMBER CLASSIC CARRY PRO

Caliber: .45 ACP. **Barrel:** 4 inches. **Weight:** 35 ounces. **Grips:** Bone. **Sights:** Fixed low-profile three-dot night sights. **Features:** Single-action, charcoal blue finish, 8-shot mag capacity. **MSRP:** \$2,056.



KIMBER CUSTOM II

Caliber: .38 Super, 9mm, .45 ACP, 10mm. **Barrel:** 5 inches. **Weight:** 38 ounces. **Grips:** Synthetic, bone. **Sights:** Fixed low-profile, Kimber adjustable. **Features:** Single-action, matte black, charcoal blue, satin silver finish, 7-shot mag capacity. **MSRP:** \$871-2,020.



**KIMBER COMPACT II/
PRO CARRY II**

Caliber: .38 Super, 9mm, .45 ACP. **Barrel:** 4 inches. **Weight:** 27-35 ounces. **Grips:** Synthetic. **Sights:** Fixed low-profile. **Features:** Single-action, satin silver, matte black finish, 7-shot mag capacity. **MSRP:** \$919-1,128.



KIMBER CUSTOM SHOP

Caliber: .45 ACP. **Barrel:** 3 inches, 5 inches. **Weight:** 25-39 ounces. **Grips:** Rosewood or Micarta. **Sights:** Sighting trough, tritium, Kimber adjustable. **Features:** Single-action, KimPro II finish, 7/8-shot mag capacity. **MSRP:** \$1,351-2,405.

EA000267



KIMBER ECLIPSE II

Caliber: .45 ACP, 10mm. **Barrel:** 3 inches, 4 inches, 5 inches. **Weight:** 31-38 ounces. **Grips:** Laminated. **Sights:** Fixed Meprolight three-dot tritium. **Features:** Single-action, stainless finish, 7/8-shot mag capacity. **MSRP:** \$1,289-1,393.



KIMBER SAPPHIRE ULTRA II

Caliber: 9mm. **Barrel:** 3 inches. **Weight:** 25 ounces. **Grips:** Blue/black G10. **Sights:** Fixed Tactical Wedge tritium. **Features:** Single-action, satin silver frame, bright blue PVD slide, 8-shot mag capacity. **MSRP:** \$1,652.



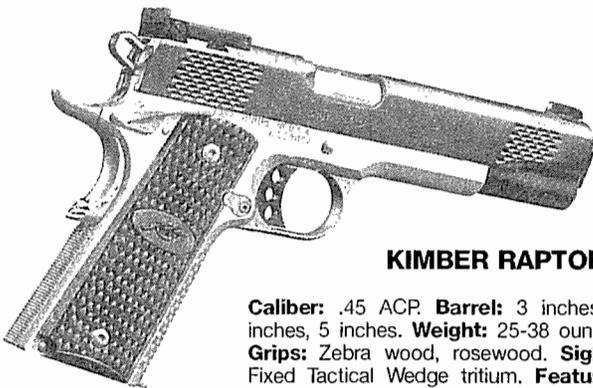
KIMBER GOLD MATCH II

Caliber: 9mm, .45 ACP. **Barrel:** 5 inches. **Weight:** 38 ounces. **Grips:** Rosewood, laminated. **Sights:** Kimber adjustable. **Features:** Single-action, blued, stainless, satin silver finish, 8-shot mag capacity. **MSRP:** \$1,393-1,882.



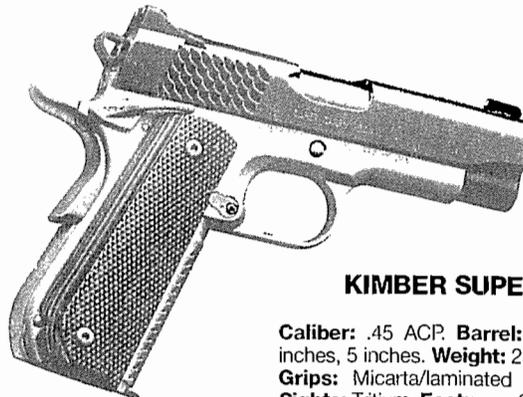
KIMBER SOLO

Caliber: 9mm. **Barrel:** 2.7 inches. **Weight:** 17 ounces. **Grips:** Synthetic, G-10, Rosewood Crimson Trace Lasergrrips. **Sights:** Fixed low-profile, three-dot tritium. **Features:** Single-action, KimPro II finish, 6/8-shot mag capacity. **MSRP:** \$815-1,223.



KIMBER RAPTOR II

Caliber: .45 ACP. **Barrel:** 3 inches, 4 inches, 5 inches. **Weight:** 25-38 ounces. **Grips:** Zebra wood, rosewood. **Sights:** Fixed Tactical Wedge tritium. **Features:** Single-action, KimPro II finish, 7/8-shot mag capacity. **MSRP:** \$1,295-1,657.



KIMBER SUPER CARRY

Caliber: .45 ACP. **Barrel:** 3 inches, 4 inches, 5 inches. **Weight:** 25-38 ounces. **Grips:** Micarta/laminated wood, G10. **Sights:** Tritium. **Features:** Single-action, rounded heel frame, KimPro II finish, 7/8-shot mag capacity. **MSRP:** \$1,596-1,699.



KIMBER RIMFIRE

Caliber: .22 LR. **Barrel:** 5 inches. **Weight:** 23 ounces. **Grips:** Synthetic, rosewood. **Sights:** Kimber adjustable. **Features:** Single-action, KimPro II finish, 10-shot mag capacity. **MSRP:** \$871-1,220.



KIMBER TACTICAL II

Caliber: 9mm, .45 ACP. **Barrel:** 3 inches, 4 inches, 5 inches. **Weight:** 25-40 ounces. **Grips:** Laminated. **Sights:** Fixed Meprolight three-dot tritium. **Features:** Single-action, KimPro II finish, 7-shot mag capacity. **MSRP:** \$1,317-1,499.

Handguns: Autoloaders



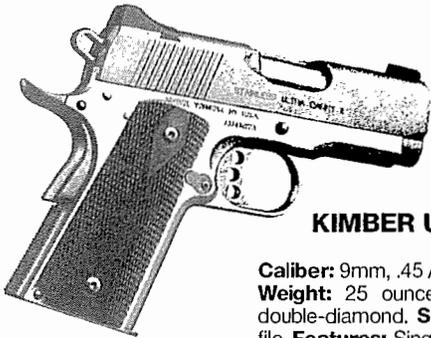
KIMBER TLE II

Caliber: .45 ACP, 10mm. **Barrel:** 3 inches, 4 inches, 5 inches. **Weight:** 25-39 ounces. **Grips:** Synthetic, Crimson Trace Lasergrrips. **Sights:** Fixed Meprolight three-dot tritium. **Features:** Single-action, KimPro II finish, 7/8-shot mag capacity. **MSRP:** \$1,080-1,518.



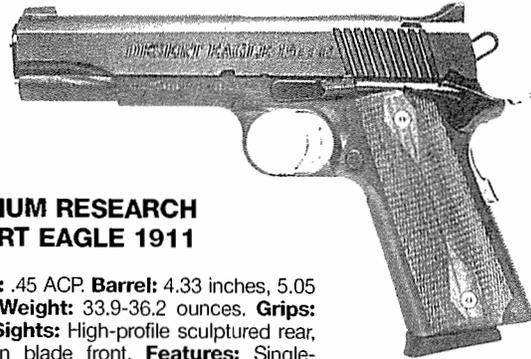
**MAGNUM RESEARCH
DESERT EAGLE MARK XIX**

Caliber: .357 Mag, .44 Mag, .50 AE. **Barrel:** 6 inches, 10 inches. **Weight:** 69.8-72.4 ounces. **Grips:** Polymer. **Sights:** Fixed combat. **Features:** Single-action, matte black, chrome, nickel, 24k gold, titanium gold, tiger stripes finish, 7/8/9-shot mag capacity. **MSRP:** \$1,563-2,153.



KIMBER ULTRA CARRY II

Caliber: 9mm, .45 ACP. **Barrel:** 3 inches. **Weight:** 25 ounces. **Grips:** Synthetic, double-diamond. **Sights:** Fixed low-profile. **Features:** Single-action, matte black or satin silver finish, 7-shot mag capacity. **MSRP:** \$919-1,066.



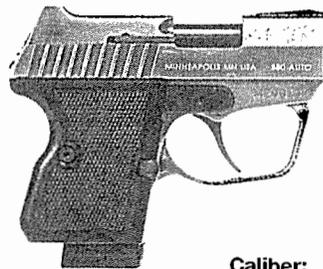
**MAGNUM RESEARCH
DESERT EAGLE 1911**

Caliber: .45 ACP. **Barrel:** 4.33 inches, 5.05 inches. **Weight:** 33.9-36.2 ounces. **Grips:** Wood. **Sights:** High-profile sculptured rear, pinned-in blade front. **Features:** Single-action, matte black finish, 8-shot mag capacity. **MSRP:** \$874.



KIMBER WARRIOR

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 39 ounces. **Grips:** Kimber G10 tactical. **Sights:** Fixed Tactical Wedge tritium. **Features:** Single-action, KimPro II finish, 7-shot mag capacity. **MSRP:** \$1,512-1,665.



**MAGNUM RESEARCH
MICRO DESERT EAGLE**

Caliber: .380 ACP. **Barrel:** 2.22 inches. **Weight:** 14 ounces. **Grips:** Polymer. **Sights:** Fixed. **Features:** Double-action-only, nickel finish, 6-shot mag capacity. **MSRP:** \$467-479.



**MAGNUM RESEARCH
BABY DESERT EAGLE II**

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3.64 inches, 3.93 inches, 4.52 inches. **Weight:** 33.9-38.6 ounces. **Grips:** Polymer. **Sights:** Fixed white three-dot combat. **Features:** Double-action/single-action, matte black finish, 10/12/15-shot mag capacity. **MSRP:** \$616-630.



**MASTERPIECE ARMS
PROTECTOR**

Caliber: .32 ACP, .380 ACP. **Barrel:** 2.25 inches. **Weight:** 10.9-11.3 ounces. **Grips:** Polymer, aluminum. **Sights:** Fixed. **Features:** Double-action-only, matte black finish, 5-shot mag capacity. **MSRP:** \$350.95-375.95.

EA000269



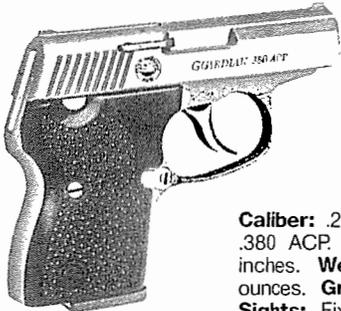
**MASTERPIECE ARMS
DEFENDER**

Caliber: 9mm, 5.7x28mm, .45 ACP. **Barrel:** 3.25 inches, 3.5 inches, 5 inches, 6 inches. **Weight:** 54-87 ounces. **Grips:** Polymer. **Sights:** Fixed, winged front, peep rear. **Features:** Single-action, matte black, grim reaper, camo pattern finish, 20/30-shot mag capacity. **MSRP:** \$488.95-687.95.



**NIGHTHAWK
RICHARD HEINIE**

Caliber: 9mm, .45 ACP. **Barrel:** 4.25 inches, 5 inches. **Weight:** 35-40 ounces. **Grips:** Cocobolo or Alumagrips. **Sights:** Heinie Straight "8" Slant Pro Night or fixed. **Features:** SA, built w/ Richard Heinie, specially selected barrel, finishes in PermaKote or titanium blue, 8-shot mag. **MSRP:** \$2,895-3,395, Signature Series \$3,450-3,550.



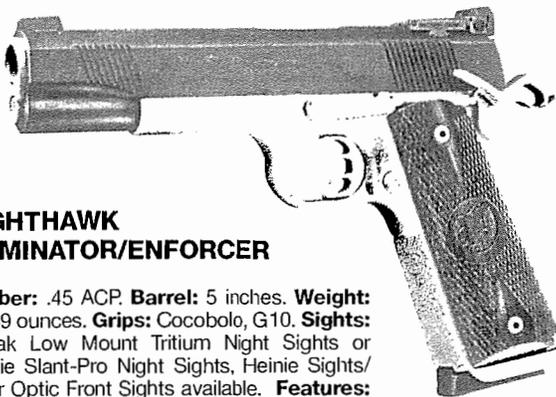
NAA GUARDIAN

Caliber: .25 NAA, .32 ACP, .32 NAA, .380 ACP. **Barrel:** 2.18 inches, 2.49 inches. **Weight:** 13.5 ounces, 18.7 ounces. **Grips:** Pebble finish Hogue. **Sights:** Fixed low-profile. **Features:** Double-action-only, stainless finish, 6-shot mag capacity. **MSRP:** \$402-479.



NIGHTHAWK T3

Caliber: .45 ACP. **Barrel:** 4.25 inches. **Weight:** 32 ounces. **Grips:** Black G10. **Sights:** Heinie Slant-Pro Straight Eight w/ tritium inserts. **Features:** SA, extended mag well, bushing match grade stainless steel barrel that is crowned flush w/ forged slide stop, aluminum trigger, new stainless or Perma Kote finish, 8-shot mag. **MSRP:** \$2,699.



**NIGHTHAWK
DOMINATOR/ENFORCER**

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 38-39 ounces. **Grips:** Cocobolo, G10. **Sights:** Novak Low Mount Tritium Night Sights or Heinie Slant-Pro Night Sights, Heinie Sights/Fiber Optic Front Sights available. **Features:** SA, Perma Kote finish, 8-shot mag capacity. **MSRP:** \$3,250-3,395.



**NIGHTHAWK
TALON/PREDATOR**

Caliber: .45 ACP. **Barrel:** 3.6 inches, 4.25 inches, 5 inches. **Weight:** 31-39 ounces. **Grips:** Rubber, wood (Talon). **Sights:** Novak LoMount night or Heinie Slant Pro Straight Eight. **Features:** SA, Talon: match grade bushing or bull barrel, Predator: identical to Talon plus three different barrel sizes and one-piece stainless steel barrel, 7/8-shot mag. **MSRP:** Talon \$2,420-2,624, Predator \$2,824-2,925.



NIGHTHAWK GRP

Caliber: .45 ACP. **Barrel:** 4.25 inches, 5 inches. **Weight:** 35 ounces. **Grips:** CTC Lasergrips, Gator Back VZ. **Sights:** Novak Extreme Duty adjustable night sights. **Features:** SA, 2 models, GRP (Global Response Pistol) Recon has a light rail frame, lightweight aluminum match trigger, integrated rail, Perma Kote finish, 8-shot mag. **MSRP:** \$2,895-3,099.



PARA USA AGENT/OFFICER

Caliber: 9mm, .45 ACP. **Barrel:** 3 inches. **Weight:** 30 ounces. **Grips:** VZ Gator, cocobolo, G10. **Sights:** Trijicon, fiber optic front and fixed rear. **Features:** Single-action or LDA (double-action), black Ionbond finish, 6/7/8/9-shot mag capacity. **MSRP:** \$949-1,399.

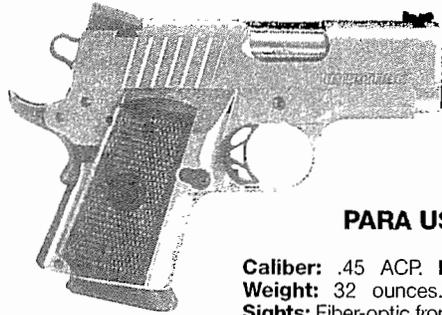
EA000270

Handguns: Autoloaders



PARA USA BLACK OPS

Caliber: .45 ACP. **Barrel:** 4.25 inches, 5 inches, 5.5 inches. **Weight:** 39-40 ounces. **Grips:** VZ G10. **Sights:** Trijicon 3-dot night, XS high-profile. **Features:** Single-action, Picatinny rail, black Ionbond finish, 8/14-shot mag capacity. **MSRP:** \$1,257-1,325.



PARA USA WARTHOG

Caliber: .45 ACP. **Barrel:** 3 inches. **Weight:** 32 ounces. **Grips:** Polymer. **Sights:** Fiber-optic front with two-dot rear. **Features:** Single-action, black nitride or stainless finish, 10-shot mag capacity. **MSRP:** \$884-919.



PARA USA CUSTOM

Caliber: 9mm, .40, .45 ACP. **Barrel:** 5 inches. **Weight:** 35-42 ounces. **Grips:** VZ G10. **Sights:** Fiber optic front, adjustable target rear. **Features:** Single-action, HD extractor, ambi safeties, black Ionbond finish, 10/14/16/18-shot mag capacity. **MSRP:** \$1,299-2,149.



REMINGTON 1911 R1

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 38.5-42 ounces. **Grips:** Walnut, wood laminate. **Sights:** Fixed or adjustable. **Features:** Single-action, satin black oxide, stainless finish, 7/8-shot mag capacity. **MSRP:** \$729-1,299.



PARA USA ELITE

Caliber: 9mm, .45 ACP. **Barrel:** 3.5 inches, 4.25 inches, 5 inches, 6 inches. **Weight:** 32-42 ounces. **Grips:** VZ Operator II, VZ Para G10, cocobolo. **Sights:** Fiber optic front, adjustable target or fixed rear, Trijicon night. **Features:** Single-action, satin stainless, two-tone, black Ionbond finish, 7/8/9-shot mag capacity. **MSRP:** \$949-1,299.



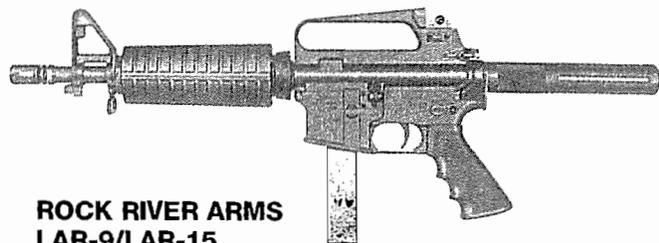
ROCK RIVER ARMS 1911 POLY

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 32.64 ounces. **Grips:** Polymer. **Sights:** Dovetailed. **Features:** Single-action, parkerized black, tan, OD green finish, 7-shot mag capacity. **MSRP:** \$800.



PARA USA EXPERT

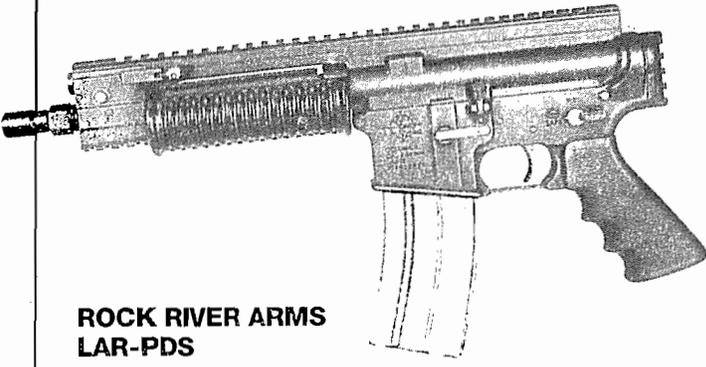
Caliber: .45 ACP. **Barrel:** 3 inches, 5 inches. **Weight:** 32-42 ounces. **Grips:** Polymer. **Sights:** Fiber-optic front with two-dot rear. **Features:** Single-action, black nitride or stainless finish, 7/8/14-shot mag capacity. **MSRP:** \$663-919.



ROCK RIVER ARMS LAR-9/LAR-15

Caliber: 9mm, .223/5.56mm. **Barrel:** 7 inches, 10.5 inches. **Weight:** 75.2-88 ounces. **Grips:** Hogue rubber pistol. **Sights:** A2 front. **Features:** Semi-auto, black finish, 10/20/30-shot mag capacity. **MSRP:** \$945-1,140.

EA000271



**ROCK RIVER ARMS
LAR-PDS**

Caliber: .223/5.56mm. **Barrel:** 9 inches. **Weight:** 80 ounces. **Grips:** Hogue rubber pistol. **Sights:** None. **Features:** Semi-auto, black finish, 30-shot mag capacity. **MSRP:** \$1,185-1,335.



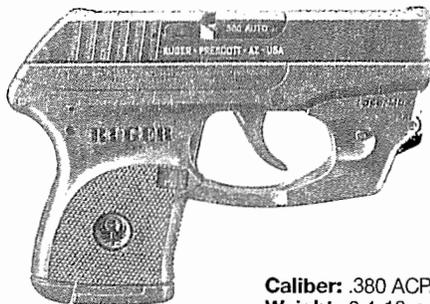
RUGER LC9

Caliber: 9mm. **Barrel:** 3.12 inches. **Weight:** 17.1-17.7 ounces. **Grips:** Glass-filled nylon. **Sights:** Adjustable three-dot (optional Crimson Trace or LaserMax laser). **Features:** Double-action-only, blued finish, 7-shot mag capacity. **MSRP:** \$443-619.



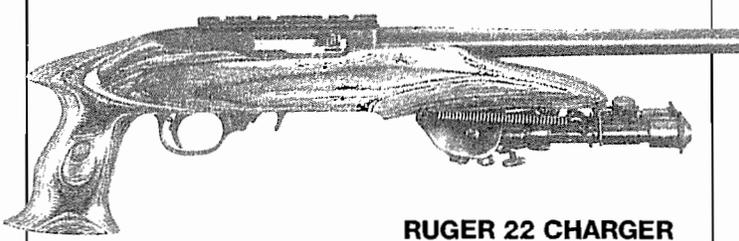
RUGER 22/45

Caliber: .22 LR. **Barrel:** 4 inches, 4.4 inches, 4.5 inches, 5.5 inches. **Weight:** 22.8-33 ounces. **Grips:** Polymer, cocobolo. **Sights:** Fixed front, adjustable or fixed rear. **Features:** Single-action, black, stainless, blued, 10-shot mag capacity. **MSRP:** \$349-469.



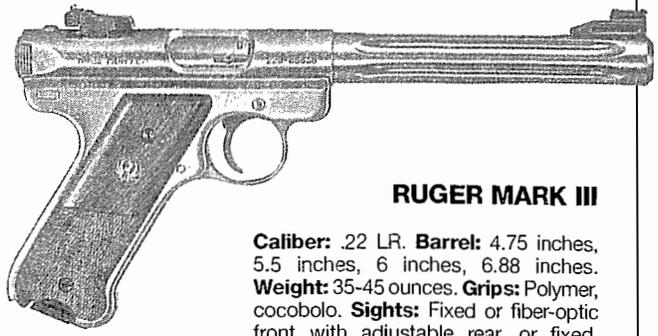
RUGER LCP

Caliber: .380 ACP. **Barrel:** 2.75 inches. **Weight:** 9.4-10 ounces. **Grips:** Glass-filled nylon. **Sights:** Fixed (Crimson Trace or LaserMax laser). **Features:** Double-action-only, blued finish, 6-shot mag capacity. **MSRP:** \$379-549.



RUGER 22 CHARGER

Caliber: .22 LR. **Barrel:** 10 inches. **Weight:** 56 ounces. **Grips:** Laminate. **Sights:** None. **Features:** Single-action, satin black finish, 10-shot mag capacity. **MSRP:** \$389.



RUGER MARK III

Caliber: .22 LR. **Barrel:** 4.75 inches, 5.5 inches, 6 inches, 6.88 inches. **Weight:** 35-45 ounces. **Grips:** Polymer, cocobolo. **Sights:** Fixed or fiber-optic front with adjustable rear, or fixed. **Features:** Single-action, blued, satin stainless finish, 10-shot mag capacity. **MSRP:** \$379-659.



RUGER LC380

Caliber: .380 ACP. **Barrel:** 3.12 inches. **Weight:** 17.2 ounces. **Grips:** Glass-filled nylon. **Sights:** Adjustable three-dot. **Features:** Double-action-only, blued finish, 7-shot mag capacity. **MSRP:** \$449.



RUGER P95

Caliber: 9mm. **Barrel:** 3.9 inches. **Weight:** 27 ounces. **Grips:** Polymer. **Sights:** Fixed three-dot. **Features:** Double-action/single-action, blued, stainless, 10/15-shot mag capacity. **MSRP:** \$399-429.

EA000272

Handguns: Autoloaders



RUGER SR1911

Caliber: .45 ACP. **Barrel:** 4.25 inches, 5 inches. **Weight:** 36.4-39 ounces. **Grips:** Hardwood. **Sights:** Fixed Novak three-dot. **Features:** Single-action, low-glare stainless finish, 7/8-shot mag capacity. **MSRP:** \$829.



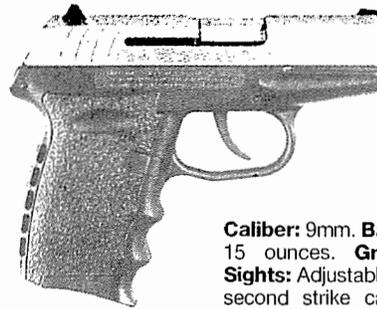
SARSILMAZ K2

Caliber: 9mm, .40, .45 ACP, 10mm. **Barrel:** 4.59 inches. **Weight:** 40.21 ounces. **Grips:** Black polymer. **Sights:** Adjustable three-dot. **Features:** Double-action/single-action, blued finish, 14/19/21-shot mag capacity. **MSRP:** \$660. From EAA.



RUGER SR22

Caliber: .22 LR. **Barrel:** 3.5 inches. **Weight:** 17.5 ounces. **Grips:** Glass-filled nylon. **Sights:** Adjustable three-dot. **Features:** Double-action-only, black or silver anodized finish, 10-shot mag capacity. **MSRP:** \$399-439.



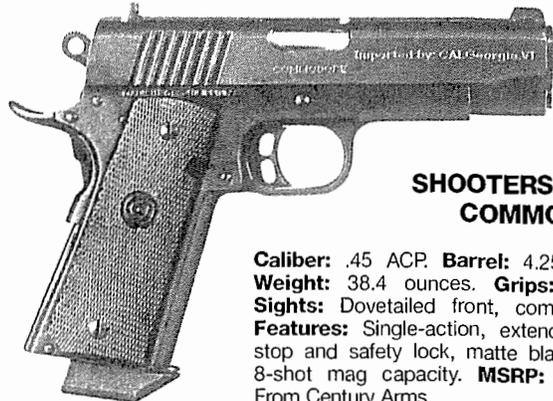
SCCY CPX

Caliber: 9mm. **Barrel:** 3.1 inches. **Weight:** 15 ounces. **Grips:** Textured polymer. **Sights:** Adjustable rear. **Features:** DAO w/ second strike capability, polymer frame, lock breech, stainless steel slide and barrel, ambi safety, internal hammer, mag finger rest, black (CB) or two-tone finish (TT), 9-shot mag capacity. **MSRP:** \$314-334.



RUGER SR9/SR40

Caliber: 9mm, .40. **Barrel:** 3.5 inches, 4.14 inches. **Weight:** 23.4-26.5 ounces. **Grips:** Glass-filled nylon. **Sights:** Adjustable three-dot. **Features:** Double-action-only, black nitride or stainless, 9/10/15/17-shot mag capacity. **MSRP:** \$529.



SHOOTERS ARMS COMMODORE

Caliber: .45 ACP. **Barrel:** 4.25 inches. **Weight:** 38.4 ounces. **Grips:** Plastic. **Sights:** Dovetailed front, combat rear. **Features:** Single-action, extended slide stop and safety lock, matte black finish, 8-shot mag capacity. **MSRP:** \$499.95. From Century Arms.



RUGER SR45

Caliber: .45 ACP. **Barrel:** 4.5 inches. **Weight:** 30.2 ounces. **Grips:** Glass-filled nylon. **Sights:** Adjustable three-dot. **Features:** Double-action-only, black nitride or stainless, 10-shot mag capacity. **MSRP:** \$529.



SIG SAUER 1911

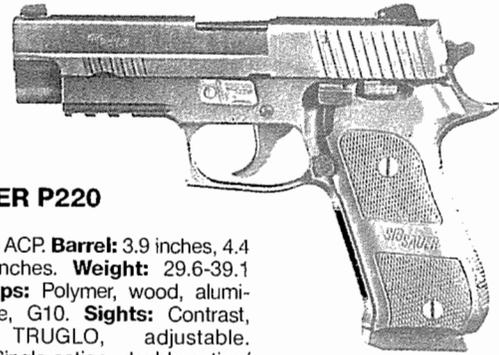
Caliber: .45 ACP. **Barrel:** 4.2 inches, 5 inches. **Weight:** 29.5-41.6 ounces. **Grips:** Wood, Ergo XT, Hogue, G10. **Sights:** Low-profile, SIGLITE night, adjustable. **Features:** Single-action, Nitron finish, 7/8/9-shot mag capacity. **MSRP:** \$1,170-1,456.

EA000273



SIG SAUER 1911 TRADITIONAL

Caliber: 9mm, .40, .45 ACP. **Barrel:** 4.2 inches, 5 inches. **Weight:** 29.5-41.6 ounces. **Grips:** Wood, Ergo XT. **Sights:** Low-profile, SIGLITE night, adjustable. **Features:** Single-action, black Nitron, stainless or two-tone, 7/8-shot mag capacity. **MSRP:** \$1,128-1,213.



SIG SAUER P220

Caliber: .45 ACP. **Barrel:** 3.9 inches, 4.4 inches, 5 inches. **Weight:** 29.6-39.1 ounces. **Grips:** Polymer, wood, aluminum, Hogue, G10. **Sights:** Contrast, SIGLITE, TRUGLO, adjustable. **Features:** Single-action, double-action/single-action or double-action-Kellerman, Nitron finish, 6/8/10-shot mag capacity. **MSRP:** \$626-1,375.



SIG SAUER M11-A1

Caliber: 9mm. **Barrel:** 3.9 inches. **Weight:** 32 ounces. **Grips:** Polymer. **Sights:** SIGLITE. **Features:** Double-action/single-action, black Nitron finish, 15-shot mag capacity. **MSRP:** \$1,125.



SIG SAUER P224

Caliber: 9mm, .357 SIG, .40. **Barrel:** 3.5 inches. **Weight:** 25.4 ounces. **Grips:** Polymer, Hogue G10. **Sights:** SIGLITE night. **Features:** Double-action/single-action or double-action-Kellerman, Nitron finish, 10/12-shot mag capacity. **MSRP:** \$1,125-1,218.



SIG SAUER MOSQUITO

Caliber: .22 LR. **Barrel:** 3.9 inches, 4.9 inches. **Weight:** 24.6-27.8 ounces. **Grips:** Polymer. **Sights:** Adjustable. **Features:** Double-action/single-action, Nitron, various finishes, 10-shot mag capacity. **MSRP:** \$390-502.



SIG SAUER P226

Caliber: 9mm, .357 SIG, .40. **Barrel:** 4.4 inches, 5 inches, 6 inches. **Weight:** 23.7-47.2 ounces. **Grips:** Polymer, wood, Ergo, aluminum, Hogue, G10, Nill. **Sights:** SIGLITE, TruGlo, contrast, adjustable. **Features:** Single-action, double-action/single-action, double-action-Kellerman, Nitron finish, 10/12/14/15/17/19/20-shot mag capacity. **MSRP:** \$656-2,747.



SIG SAUER P210

Caliber: 9mm. **Barrel:** 4.7 inches. **Weight:** 37.4 ounces. **Grips:** Wood. **Sights:** Post and notch, adjustable target. **Features:** Single-action, black Nitron finish, 8-shot mag capacity. **MSRP:** \$2,199-2,399.



SIG SAUER P227

Caliber: .45 ACP. **Barrel:** 3.9 inches, 4.4 inches, 4.9 inches. **Weight:** 30-32.5 ounces. **Grips:** Polymer. **Sights:** Contrast, SIGLITE. **Features:** Double-action/single-action, Nitron finish, 10-shot mag capacity. **MSRP:** \$993-1,228.

EA000274

Handguns: Autoloaders



SIG SAUER P229

Caliber: 9mm, .357 SIG, .40. **Barrel:** 3.9 inches, 4.3 inches, 4.4 inches, 4.5 inches. **Weight:** 23.7-40.2 ounces. **Grips:** Polymer, wood, Ergo, aluminum, Hogue, G10. **Sights:** SIGLITE, TruGlo, contrast, adjustable. **Features:** Single-action, double-action/single-action, double-action-Kellerman, Nitron finish, 10/12/13/15-shot mag capacity. **MSRP:** \$626-1,368.



SIG SAUER P250

Caliber: .380 ACP, 9mm, .357 SIG, .40, .45 ACP. **Barrel:** 3.6 inches, 3.9 inches, 4.7 inches. **Weight:** 19.4-29.4 ounces. **Grips:** Polymer. **Sights:** Contrast, SIGLITE night. **Features:** Double-action/single-action, Nitron finish, 6/9/10/12/13/14/15/17-shot mag capacity. **MSRP:** \$570-813.



SIG SAUER P232

Caliber: .380 ACP. **Barrel:** 3.6 inches. **Weight:** 18.5-23.6 ounces. **Grips:** Hogue rubber. **Sights:** Contrast, SIGLITE night. **Features:** Double-action/single-action, Nitron finish, 7-shot mag capacity. **MSRP:** \$649-799.



SIG SAUER P290

Caliber: 9mm. **Barrel:** 2.9 inches. **Weight:** 20.5 ounces. **Grips:** Polymer. **Sights:** SIGLITE night. **Features:** Double-action-only, Nitron finish, 6-shot mag capacity. **MSRP:** \$570-642.



SIG SAUER P238

Caliber: .380 ACP. **Barrel:** 2.7 inches. **Weight:** 15.2-20.1 ounces. **Grips:** Polymer, wood, aluminum, G10, Hogue rubber. **Sights:** SIGLITE night, TruGlo. **Features:** Single-action, Nitron finish, 6/7-shot mag capacity. **MSRP:** \$679-829.



SIG SAUER P516/ P522/P556

Caliber: .22 LR, 5.56mm. **Barrel:** 7.5 inches, 10 inches, 10.6 inches. **Weight:** 84-107.2 ounces. **Grips:** Magpul MOE, polymer. **Sights:** Flip-up iron, hooded or combat front with mini red-dot. **Features:** Semi-auto (gas-piston or blowback), black hardcoat anodized or Nitron finish, 10/25/30-shot mag capacity. **MSRP:** \$572-1,666.



SIG SAUER P239

Caliber: 9mm, .357 SIG, .40. **Barrel:** 3.6 inches, 4 inches. **Weight:** 29.5 ounces. **Grips:** Polymer. **Sights:** Contrast, SIGLITE. **Features:** Double-action/single-action or double-action-Kellerman, Nitron finish, 7/8-shot mag capacity. **MSRP:** \$858-1,015.



SIG SAUER P938

Caliber: 9mm. **Barrel:** 3 inches. **Weight:** 16 ounces. **Grips:** Wood, Hogue G10. **Sights:** SIGLITE, TruGlo. **Features:** Single-action, nitron finish, 6/7-shot mag capacity. **MSRP:** \$795-823.

EA000275



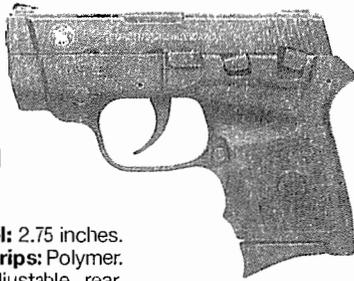
SIG SAUER SP2022

Caliber: 9mm, .357 SIG, .40. **Barrel:** 3.9 inches. **Weight:** 29 ounces. **Grips:** Polymer. **Sights:** Contrast, SIGLITE night. **Features:** Double-action/single-action or double-action-only, black Nitron or two-tone finish, 10/12/15-shot mag capacity. **MSRP:** \$570-710.



SMITH & WESSON PERFORMANCE CENTER

Caliber: .45 ACP. **Barrel:** 4.25 inches, 5 inches. **Weight:** 29.6-40.5 ounces. **Grips:** G10 custom. **Sights:** Post front, adjustable rear. **Features:** Single-action, stainless steel, scandium alloy, round-butt, PC action job, lightening cuts, 8-shot mag capacity. **MSRP:** \$1,539.



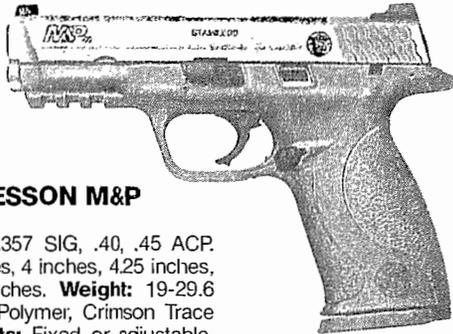
SMITH & WESSON BODYGUARD

Caliber: .380 ACP. **Barrel:** 2.75 inches. **Weight:** 11.85 ounces. **Grips:** Polymer. **Sights:** Fixed front, adjustable rear. **Features:** Double-action-only, matte black finish, 6-shot mag capacity. **MSRP:** \$419.



SMITH & WESSON PRO

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3 inches, 4.25 inches, 5 inches. **Weight:** 24-41 ounces. **Grips:** Polymer, synthetic, wood. **Sights:** Dovetail front, adjustable rear, Novak, white three-dot. **Features:** Single-action or double-action-only, black Melonite, matte silver, two-tone finish, 7/8/10/15/17-shot mag capacity. **MSRP:** \$669-1,519.



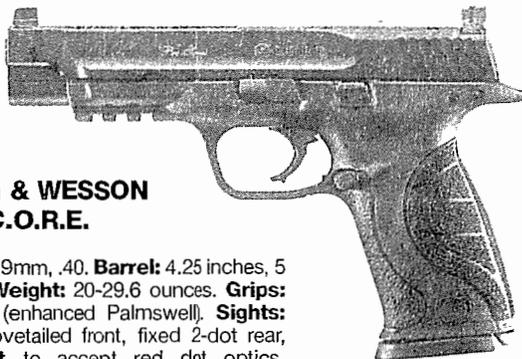
SMITH & WESSON M&P

Caliber: 9mm, .357 SIG, .40, .45 ACP. **Barrel:** 3.5 inches, 4 inches, 4.25 inches, 4.5 inches, 5 inches. **Weight:** 19-29.6 ounces. **Grips:** Polymer, Crimson Trace Lasergrrips. **Sights:** Fixed or adjustable. **Features:** Striker-fired, black Melonite or dark earth brown, 6/7/8/10/12/15/17-shot mag capacity. **MSRP:** \$449-829.



SMITH & WESSON RIMFIRE

Caliber: .22 LR. **Barrel:** 4.1 inches, 5.5 inches, 7 inches. **Weight:** 24-42 ounces. **Grips:** Polymer, Soft Touch, wood. **Sights:** Adjustable, Patridge front. **Features:** Single-action, black, blued, two-tone or real tree APG HD finish, 10/12-shot mag capacity. **MSRP:** \$329-1,369.



SMITH & WESSON M&P C.O.R.E.

Caliber: 9mm, .40. **Barrel:** 4.25 inches, 5 inches. **Weight:** 20-29.6 ounces. **Grips:** Polymer (enhanced Palmswell). **Sights:** White dovetailed front, fixed 2-dot rear, slide cut to accept red dot optics. **Features:** Striker-fired, Melonite finish, 15/17-shot mag capacity. **MSRP:** \$729.



SMITH & WESSON SD VE

Caliber: 9mm, .40. **Barrel:** 4 inches. **Weight:** 22.7 ounces. **Grips:** Polymer. **Sights:** White three-dot. **Features:** Striker-fired, two-tone finish, 10/14/16-shot mag capacity. **MSRP:** \$379.

EA000276

Handguns: Autoloaders



SMITH & WESSON SHIELD

Caliber: 9mm, .40. **Barrel:** 3.1 inches. **Weight:** 19 ounces. **Grips:** Polymer. **Sights:** White three-dot. **Features:** Striker-fired, black Melonite finish, 6/7/8-shot mag capacity. **MSRP:** \$449.



SPRINGFIELD OPERATOR

Caliber: .45 ACP, **Barrel:** 4 inches, 5 inches. **Weight:** 31-42 ounces. **Grips:** Pachmayr wraparound, cocobolo. **Sights:** Low-profile, dovetail front, adjustable rear, tritium inserts. **Features:** Single-action, black, olive drab finish, 7-shot mag capacity. **MSRP:** \$1,387.



SPRINGFIELD EMP

Caliber: 9mm, .40. **Barrel:** 3 inches. **Weight:** 26-33 ounces. **Grips:** Cocobolo, G10. **Sights:** Tritium three-dot. **Features:** Single-action, black frame, stainless slide finish, 8/9-shot mag capacity. **MSRP:** \$1,345.



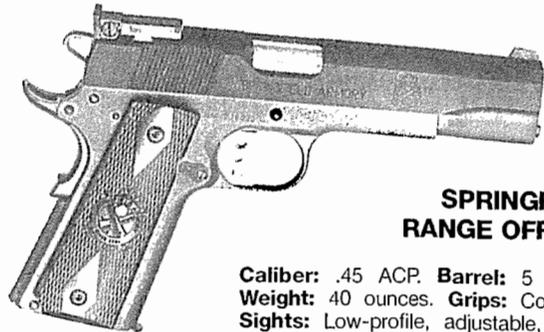
SPRINGFIELD PROFESSIONAL MODEL CUSTOM

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 38 ounces. **Grips:** Cocobolo. **Sights:** Tritium three-dot. **Features:** Single-action, Black T finish, 7-shot mag capacity. **MSRP:** \$2,647.



SPRINGFIELD LOADED

Caliber: 9mm, .45 ACP. **Barrel:** 5 inches. **Weight:** 39-41 ounces. **Grips:** Cocobolo, G10. **Sights:** Low-profile, dovetail front, adjustable rear. **Features:** Single-action, Parkerized, stainless, 7/9-shot mag capacity. **MSRP:** \$1,003-1,387.



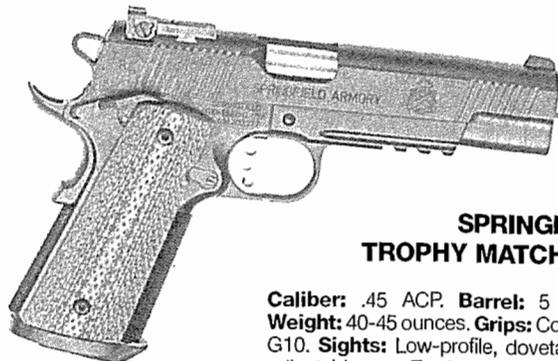
SPRINGFIELD RANGE OFFICER

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 40 ounces. **Grips:** Cocobolo. **Sights:** Low-profile, adjustable, target. **Features:** Single-action, black finish, 7-shot mag capacity. **MSRP:** \$939.



SPRINGFIELD MIL-SPEC

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 39 ounces. **Grips:** Cocobolo. **Sights:** Fixed combat three-dot. **Features:** Single-action, parkerized, stainless finish, 7-shot mag capacity. **MSRP:** \$768-843.



SPRINGFIELD TROPHY MATCH/TRP

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 40-45 ounces. **Grips:** Cocobolo, G10. **Sights:** Low-profile, dovetail front, adjustable rear. **Features:** Single-action, black, stainless finish, 7-shot mag capacity. **MSRP:** \$1,605-1,867.

EA000277



SPRINGFIELD XD

Caliber: 9mm, .357 SIG, .40, .45 ACP. **Barrel:** 3 inches, 4 inches, 5 inches. **Weight:** 26-33 ounces. **Grips:** Polymer. **Sights:** Three-dot, dovetail (optional tritium). **Features:** Ultra Safety Assurance (USA), black, two-tone, dark earth, OD green finish, 9/10/12/13/16-shot mag capacity. **MSRP:** \$549-750.



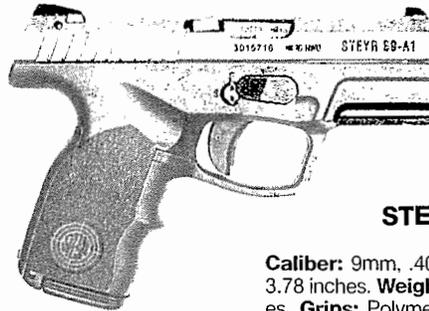
STEYR ARMS M-A1

Caliber: 9mm, .357 Sig, .40. **Barrel:** 4 inches. **Weight:** 27.02 ounces. **Grips:** Polymer. **Sights:** Triangular/trapezoid. **Features:** Double-action-only, Mannox finish, 10/15/17-shot mag capacity. **MSRP:** \$560.



SPRINGFIELD XDM

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3.8 inches, 4.5 inches, 5.25 inches. **Weight:** 27-32 ounces. **Grips:** Polymer. **Sights:** Three-dot, dovetail. **Features:** Ultra Safety Assurance (USA), black, two-tone, OD green finish, 11/13/16/19-shot mag capacity. **MSRP:** \$639-749.



STEYR ARMS S-A1

Caliber: 9mm, .40. **Barrel:** 3.6 inches, 3.78 inches. **Weight:** 26.07-26.57 ounces. **Grips:** Polymer. **Sights:** Triangular/trapezoid. **Features:** Double-action-only, Mannox finish, 10-shot mag capacity. **MSRP:** \$560.



SPRINGFIELD XD-S

Caliber: 9mm, .45 ACP. **Barrel:** 3.3 inches. **Weight:** 21.5-23 ounces. **Grips:** Polymer. **Sights:** Fiber-optic front, dovetail rear. **Features:** Ultra Safety Assurance (USA), black finish, 5/7-shot mag capacity. **MSRP:** \$559-669



STI DOUBLE STACK

Caliber: .38 Super, 9mm, .357 SIG, .40, .45 ACP, 10mm. **Barrel:** 3.9 inches, 4.15 inches, 5 inches, 6 inches. **Weight:** 33.5-44.6 ounces. **Grips:** Polymer. **Sights:** Fixed or adjustable. **Features:** Single-action, black, blued, stainless, hard chrome or two-tone finish. **MSRP:** \$1,649-3,655.



STEYR ARMS C-A1

Caliber: 9mm. **Barrel:** 3.6 inches. **Weight:** 27.02 ounces. **Grips:** Polymer. **Sights:** Triangular/trapezoid or three-dot. **Features:** Double-action-only, Mannox finish, 10/15/17-shot mag capacity. **MSRP:** \$560.



STI LAWMAN

Caliber: 9mm, .45 ACP. **Barrel:** 3.24 inches, 4.26 inches, 5.11 inches. **Weight:** 24.8-38.9 ounces. **Grips:** G10 Micarta. **Sights:** STI ramp front, Tactical adjustable rear. **Features:** Single-action, blued finish, 8/9-shot mag capacity. **MSRP:** \$1,455.

EA000278

Handguns: Autoloaders



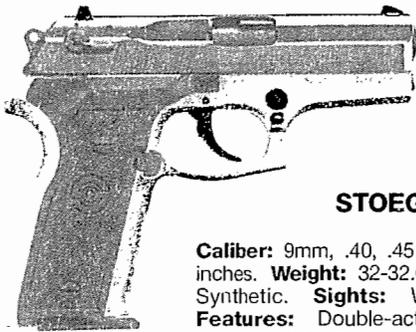
STI SINGLE STACK

Caliber: .38 Super, 9mm, .40, .45 ACP. **Barrel:** 3.4 inches, 3.9 inches, 4.15 inches, 5 inches, 6 inches. **Weight:** 28-40 ounces. **Grips:** Rosewood, G10, STI Alumagrips. **Sights:** Fixed or adjustable. **Features:** Single-action, black, blued, stainless, hard chrome or two-tone finish. **MSRP:** \$699-1,944.



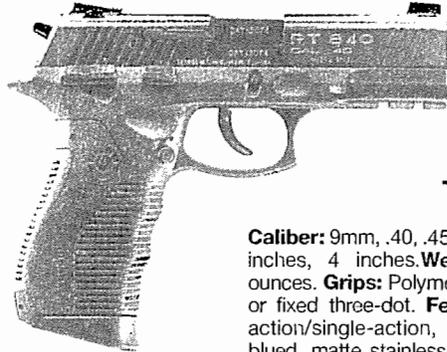
TAURUS 700

Caliber: .380 ACP, 9mm, .40. **Barrel:** 3.2 inches, 3.3 inches. **Weight:** 10.2-19 ounces. **Grips:** Polymer. **Sights:** Fixed or adjustable. **Features:** Double-action/single-action or double-action-only, blued, matte stainless finish, 6/7-shot mag capacity. **MSRP:** \$199-498.



STOEGER COUGAR

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3.6 inches. **Weight:** 32-32.6 ounces. **Grips:** Synthetic. **Sights:** White three-dot. **Features:** Double-action/single-action, black nitride finish, 8/11/15-shot mag capacity. **MSRP:** \$469-509.



TAURUS 800

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3.5 inches, 4 inches. **Weight:** 24.7-30.2 ounces. **Grips:** Polymer. **Sights:** Novak or fixed three-dot. **Features:** Double-action/single-action, black Tenifer, blued, matte stainless finish, 12/15/17-shot mag capacity. **MSRP:** \$623-686.



TAURUS 24/7 G2

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3.5 inches, 4.2 inches. **Weight:** 27-28 ounces. **Grips:** Polymer. **Sights:** Adjustable rear. **Features:** Double-action/single-action, blued or matte stainless finish, 10/12/15/17-shot mag capacity. **MSRP:** \$498-539.



TAURUS 1911

Caliber: 9mm, .45 ACP. **Barrel:** 5 inches. **Weight:** 38-39.4 ounces. **Grips:** Walnut, polymer. **Sights:** Novak. **Features:** Single-action, blued, matte stainless or two-tone finish, 8/9-shot mag capacity. **MSRP:** \$712-947.



TAURUS 609TI-PRO

Caliber: 9mm. **Barrel:** 3.25 inches. **Weight:** 19.7 ounces. **Grips:** Polymer. **Sights:** Heinie Straight Eight. **Features:** Double-action/single-action, Shadow gray, titanium finish, 13-shot mag capacity. **MSRP:** \$608.



TAURUS LARGE FRAME

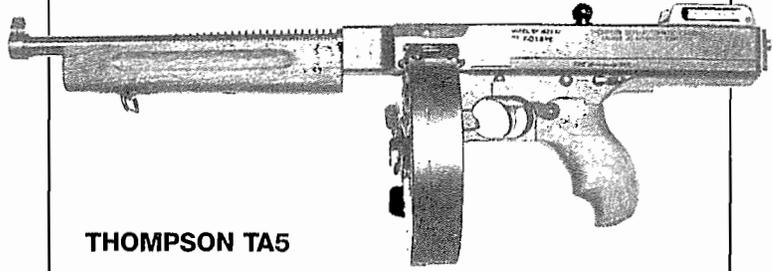
Caliber: 9mm, .40. **Barrel:** 5 inches. **Weight:** 34 ounces. **Grips:** Rubber. **Sights:** Fixed. **Features:** Double-action/single-action, blued or matte stainless finish, 10/11/17-shot mag capacity. **MSRP:** \$483-938.

EA000279



TAURUS MEDIUM FRAME

Caliber: .380 ACP, .38 Super, 9mm, .40, .45 ACP. **Barrel:** 3.25 inches, 3.63 inches, 4 inches, 4.25 inches. **Weight:** 18.7-30 ounces. **Grips:** Mother of pearl, rubber, rosewood. **Sights:** Fixed. **Features:** Double-action/single-action, stainless, blued, gold, blue/gold finish, 8/10/15/17/19-shot mag capacity. **MSRP:** \$633-701.



THOMPSON TA5

Caliber: .45 ACP. **Barrel:** 10.5 inches. **Weight:** 80.9 ounces. **Grips:** Walnut. **Sights:** Blade front, open adjustable rear. **Features:** Semi-auto, blow-back, blued finish, 10/50/100-shot drum or 30-shot stick. **MSRP:** \$1,237. From Kahr Arms.



TAURUS MILLENNIUM PRO

Caliber: 9mm, .40, .45 ACP. **Barrel:** 3.25 inches. **Weight:** 18.7-22.2 ounces. **Grips:** Polymer. **Sights:** Heinie Straight Eight. **Features:** Double-action/single-action, blued, matte stainless finish, 6/10/12-shot mag capacity. **MSRP:** \$467-498.



**USELTON IA
COMMANDER 1911**

Caliber: .38 Super, 9mm, .45 ACP. **Barrel:** 3.5 inches, 4.25 inches, 5 inches. **Weight:** 19-24 ounces. **Grips:** G10 black with Uselton medallion. **Sights:** Fiber optic front, adjustable rear. **Features:** Single-action, Integrated Aluminum, stainless steel or Uselton Ceramic Armor Coat finish, 8-shot mag capacity. **MSRP:** \$3,699-3,899.



TAURUS SMALL FRAME

Caliber: .22 LR, .25 ACP. **Barrel:** 2.75 inches. **Weight:** 12.3 ounces. **Grips:** Synthetic, rosewood, wood. **Sights:** Fixed. **Features:** Double-action-only, blued, matte stainless, nickel or two-tone finish, 8/9-shot mag capacity. **MSRP:** \$266-539.



**WILSON COMBAT
BILL WILSON CARRY**

Caliber: .45 ACP. **Barrel:** 4 inches. **Weight:** 35 ounces. **Grips:** G10 starburst. **Sights:** Fiber-optic front, battle-sight rear. **Features:** Single-action, Armor-Tuff finish, 7-shot mag capacity. **MSRP:** \$3,205.



THOMPSON CUSTOM 1911

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 31.5-39 ounces. **Grips:** Laminate with medallion. **Sights:** Low-profile iron. **Features:** Single-action, stainless finish, 7-shot mag capacity. **MSRP:** \$813. From Kahr Arms.



WILSON COMBAT CLASSIC

Caliber: .38 Super, 9mm, .40, .45 ACP, 10mm. **Barrel:** 5 inches. **Weight:** 38-46.6 ounces. **Grips:** Cocobolo. **Sights:** Ramp front, Lo-Mount adjustable rear. **Features:** Single-action, Armor-Tuff finish, 8-shot mag capacity. **MSRP:** \$3,030.

EA000280

Handguns: Autoloaders



WILSON COMBAT CQB

Caliber: .38 Super, 9mm, .40, .45 ACP, 10mm. **Barrel:** 4 inches, 5 inches. **Weight:** 36.6-40.4 ounces. **Grips:** G10 Starburst or diagonal. **Sights:** Fiber-optic front, battlesight rear. **Features:** Single-action, Armor-Tuff finish, 8-shot mag capacity. **MSRP:** \$2,865.



WILSON COMBAT PROTECTOR

Caliber: .38 Super, 9mm, .40, .45 ACP, 10mm. **Barrel:** 5 inches. **Weight:** 38 ounces. **Grips:** G10 Starburst. **Sights:** Fiber-optic front, battlesight rear. **Features:** Single-action, Armor-Tuff finish, 8-shot mag capacity. **MSRP:** \$2,920.



WILSON COMBAT HUNTER

Caliber: 10mm, .460 Rowland. **Barrel:** 5.5 inches. **Weight:** 39.7 ounces. **Grips:** Crimson Trace Lasergrips. **Sights:** Ramp front, Lo-Mount adjustable rear. **Features:** Single-action, Armor-Tuff finish, 7-shot mag capacity. **MSRP:** \$4,100.



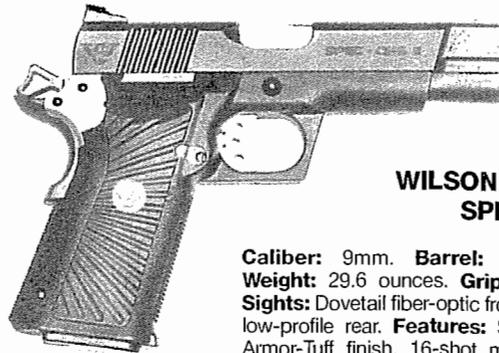
WILSON COMBAT SENTINEL

Caliber: 9mm. **Barrel:** 3.6 inches. **Weight:** 31.7 ounces. **Grips:** G10 slimline or Starburst. **Sights:** Fiber-optic front, battlesight rear. **Features:** Single-action, Armor-Tuff finish, 8-shot mag capacity. **MSRP:** \$3,310.



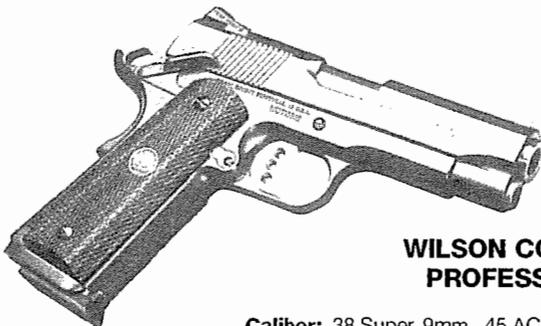
WILSON COMBAT MS. SENTINEL

Caliber: 9mm. **Barrel:** 3.6 inches. **Weight:** 26.8 ounces. **Grips:** Cocobolo. **Sights:** Fiber-optic front, battlesight rear. **Features:** Single-action, Armor-Tuff finish, 8-shot mag capacity. **MSRP:** \$3,875.



WILSON COMBAT SPEC-OPS 9

Caliber: 9mm. **Barrel:** 4.5 inches. **Weight:** 29.6 ounces. **Grips:** Starburst. **Sights:** Dovetail fiber-optic front, spec-ops low-profile rear. **Features:** Single-action, Armor-Tuff finish, 16-shot mag capacity. **MSRP:** \$2,285.



WILSON COMBAT PROFESSIONAL

Caliber: .38 Super, 9mm, .45 ACP. **Barrel:** 4 inches. **Weight:** 36.4-44.8 ounces. **Grips:** G10 Starburst. **Sights:** Fiber-optic or tritium front, battlesight rear. **Features:** Single-action, Armor-Tuff finish, 8-shot mag capacity. **MSRP:** \$2,920.



WILSON COMBAT SUPER SENTINEL

Caliber: .38 Super. **Barrel:** 3.6 inches. **Weight:** 25.2 ounces. **Grips:** G10 Slimline. **Sights:** Fiber-optic battlesights. **Features:** Single-action, Armor-Tuff finish, 8-shot mag capacity. **MSRP:** \$3,875.

EA000281



WILSON COMBAT TACTICAL ELITE

Caliber: .38 Super, 9mm, .40, .45 ACP. **Barrel:** 5 inches. **Weight:** 39.8 ounces. **Grips:** G10 Starburst. **Sights:** Fiber-optic front, battlesight rear. **Features:** Single-action, Armor-Tuff finish, 8-shot mag capacity. **MSRP:** \$3,650.



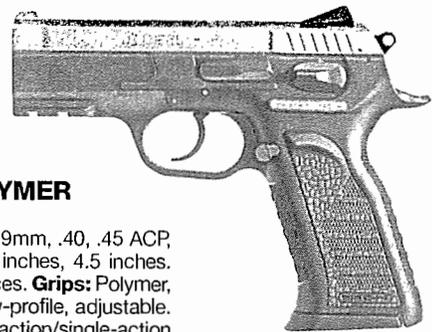
WITNESS ELITE

Caliber: .38 Super, 9mm, .40, .45 ACP, 10mm. **Barrel:** 4.5 inches, 4.75 inches, 5.25 inches. **Weight:** 39-44 ounces. **Grips:** Aluminum, wood, rubber. **Sights:** Interchangeable front with adjustable rear, fully adjustable. **Features:** Single-action, or double-action/single-action, stainless, two-tone finish, 10/15/18-shot mag capacity. **MSRP:** \$640-1,879. From European American Armory.



WILSON COMBAT TACTICAL SUPERGRADE

Caliber: .38 Super, 9mm, .40, .45 ACP, 10mm. **Barrel:** 5 inches. **Weight:** 36.6-45 ounces. **Grips:** G10 Starburst. **Sights:** Tritium front, battlesight rear. **Features:** Single-action, Armor-Tuff finish, 8-shot mag capacity. **MSRP:** \$5,045.



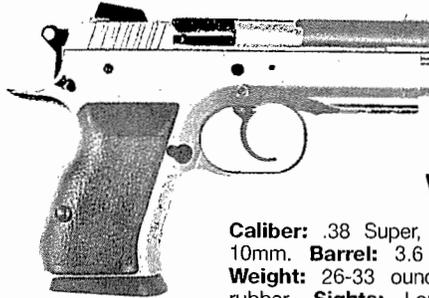
WITNESS POLYMER

Caliber: .38 Super, 9mm, .40, .45 ACP, 10mm. **Barrel:** 3.6 inches, 4.5 inches. **Weight:** 26-33 ounces. **Grips:** Polymer, rubber. **Sights:** Low-profile, adjustable. **Features:** Double-action/single-action blued, Wonder stainless, two-tone finish, 8/10/12/15/18-shot mag capacity. **MSRP:** \$525-635. From European American Armory.



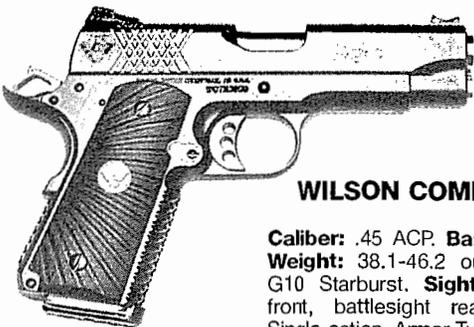
WILSON COMBAT ULTRALIGHT CARRY

Caliber: .38 Super, 9mm, .45 ACP. **Barrel:** 5 inches. **Weight:** 32.8-40.5 ounces. **Grips:** G10 Starburst. **Sights:** Tritium front, battlesight rear. **Features:** Single-action, Armor-Tuff finish, 8-shot mag capacity. **MSRP:** \$3,650.



WITNESS STEEL

Caliber: .38 Super, 9mm, .40, .45 ACP, 10mm. **Barrel:** 3.6 inches, 4.5 inches. **Weight:** 26-33 ounces. **Grips:** Polymer, rubber. **Sights:** Low-profile, adjustable. **Features:** Double-action/single-action blued, Wonder stainless, two-tone finish, 8/10/12/15/18-shot mag capacity. **MSRP:** \$557-691. From European American Armory.



WILSON COMBAT X-TAC

Caliber: .45 ACP. **Barrel:** 5 inches. **Weight:** 38.1-46.2 ounces. **Grips:** G10 Starburst. **Sights:** Fiber-optic front, battlesight rear. **Features:** Single-action, Armor-Tuff finish, 8-shot mag capacity. **MSRP:** \$2,760.



WITNESS HUNTER

Caliber: .45 ACP, 10mm. **Barrel:** 6 inches. **Weight:** 41 ounces. **Grips:** Polymer. **Sights:** Dovetail front, low-profile heavy-duty adjustable rear. **Features:** Single-action, blued finish, 10/15-shot mag capacity. **MSRP:** \$1,007. From European American Armory.

EA000282

EXHIBIT B

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11 GRGURINA, in his official capacity

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

14 LEONARD FYOCK,
15 SCOTT HOCHSTETLER,
16 WILLIAM DOUGLAS, DAVID
17 PEARSON, BRAD SEIFERS, and
18 ROD SWANSON,

17 Plaintiffs,

18 v.

19 THE CITY OF SUNNYVALE, THE
20 MAYOR OF SUNNYVALE,
21 ANTHONY SPITALERI, in his official
22 capacity, THE CHIEF OF THE
23 SUNNYVALE DEPARTMENT OF
24 PUBLIC SAFETY, FRANK GRGURINA,
25 in his official capacity, and DOES 1-10,

23 Defendants.

Case No. 13-cv-05807 RMW

**SUNNYVALE’S OPPOSITION TO
PLAINTIFFS’ MOTION FOR
PRELIMINARY INJUNCTION**

Date: February 21, 2014
Time: 9:00 a.m.
Location: San Jose Courthouse
Courtroom 6 – 4th Floor
280 South 1st Street
San Jose, CA 95113

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INTRODUCTION

In the wake of recent tragic mass shootings in Newtown and other American cities and towns, where the shooters achieved their carnage by using firearms equipped with detachable large-capacity ammunition magazines (“LCMs”), the citizens of the City of Sunnyvale (the “City”) took action. They overwhelmingly voted to pass a city ordinance, which includes a ban on the possession of LCMs within the City (with exceptions, *e.g.*, for law enforcement personnel). The ordinance, Measure C, closes a loophole in California state law, which has banned the manufacture, sale, importation, and transfer of LCMs — but not their possession — for over a decade. Cal. Penal Code § 32310. Indeed, LCMs have been denominated a “nuisance” under California state law because the legislature found them to be a significant threat to public safety. Cal. Penal Code §32390.

The plaintiffs in this case — six individuals located by the National Rifle Association (“NRA”) — seek to enjoin enforcement of Measure C, asserting that the ordinance violates their Second Amendment right to bear arms. But, as the Court noted, Plaintiffs do not, and could not, argue that Measure C somehow “deprives them of the ability to keep a firearm for self-defense [sic].” Dkt. 28 at 5. Plaintiffs have access to a plethora of fully adequate alternative firearms not equipped with LCMs. Plaintiffs also concede that to comply with Measure C they need simply to “purchase new compliant magazines,” which are readily available in California, to replace their LCMs. Dkt. 31 at 4. Plaintiffs’ (and the NRA’s) arguments that Measure C violates the Second Amendment fail as a matter of law.

I. STATEMENT OF THE ISSUE TO BE DECIDED

The issue to be decided is whether that portion of Measure C, a voter-approved ordinance which bans possession of LCMs within the City, is unconstitutional under *Heller v. District of Columbia*, 554 U.S. 570 (2008) and its progeny. The D.C. Circuit Court of Appeals in *Heller v. District of Columbia* (“*Heller II*”), 670 F.3d 1244 (D.C. Cir. 2011) addressed this issue and upheld the D.C. assault weapons and LCM bans against a Second Amendment challenge.

This question first requires assessing whether the ordinance burdens conduct protected by the Second Amendment. That is, whether LCMs—a container for ammunition—qualify as

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1 “arms” within the meaning of the Second Amendment, and, if so, whether LCMs, which have
 2 frequently been used in mass shootings and the shootings of law enforcement personnel, are
 3 “dangerous and unusual” weapons that are not protected by the Second Amendment. Second,
 4 even assuming there is a burden on such conduct, whether the ordinance is nevertheless
 5 constitutional because there is a reasonable fit between the prohibition and the important
 6 governmental objectives of preserving public safety and preventing crimes.

7 **II. STATEMENT OF FACTS**

8 **A. Large-Capacity Magazines Are Frequently Used In Mass Shootings And The**
 9 **Murders of Law Enforcement Officers Nationwide.**

10 Large-capacity magazines are detachable ammunition feeding devices that can hold more
 11 than ten rounds of ammunition—in fact, some can hold up to 100 rounds of ammunition—and
 12 can be used with semiautomatic weapons. Declaration of Anthony Spitaleri (“Spitaleri Decl.”) at
 13 ¶ 8, Ex. 1 (Measure C); Declaration of Christopher S. Koper (“Koper Decl.”) at ¶ 5. A
 14 semiautomatic firearm fires one bullet for each pull of the trigger and, after each round of
 15 ammunition is fired, automatically loads the next round and cocks itself for the next shot, thereby
 16 permitting a faster rate of fire. Koper Decl. at ¶ 5 n. 5. LCMs allow semiautomatic weapons to
 17 fire many rounds without the need for the shooter to reload the weapon. *Id.* at ¶ 5. Because
 18 LCMs enable the shooter to fire repeatedly without needing to reload, they significantly increase
 19 a shooter’s ability to injure and kill large numbers of people quickly. *Id.* at ¶ 7; *see also* Ayoob
 20 Decl. (Dkt. 11) ¶ 28 (“[S]imply pulling the trigger again on a pistol that still has more
 21 ammunition in it can be accomplished in a fraction of a second.”).

22 Semiautomatic firearms equipped with LCMs have frequently been employed in mass
 23 shootings over the past three decades. In instances of mass shootings where the magazine
 24 capacity used by a killer could be determined, researchers found that 86% of them involved an
 25 LCM. Koper Decl. ¶ 14; *see also* Declaration of Lucy P. Allen (“Allen Decl.”) at ¶ 17 (85%
 26 correlation). Some of the more notorious of these mass shootings include:

- 27 • On July 18, 1984, James Huberty killed 21 persons and wounded 19 others in a San
 28 Ysidro, California McDonald’s restaurant, using an Uzi carbine, a shotgun, and another
 semiautomatic handgun, and equipped with a 25-round LCM;

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- 1 • On January 17, 1989, Patrick Purdy used a civilian version of the AK-47 military rifle and
2 a 75-round LCM to open fire in a Stockton, California schoolyard, killing five children and
wounding 29 other persons;
- 3 • On October 16, 1991, George Hennard, armed with two semiautomatic handguns with
4 LCMs (and reportedly a supply of extra LCMs), killed 22 people and wounded another 23
in Killeen, Texas;
- 5 • On July 1, 1993, Gian Luigi Ferri, armed with two Intratec TEC-DC9 assault pistols and 40
6 to 50 round magazines killed nine and wounded six at the law offices of Pettit & Martin in
San Francisco, California;
- 7 • On December 7, 1993, Colin Ferguson, armed with a handgun and multiple LCMs, opened
8 fire on commuters on a Long Island Rail Road train, killing 6 and wounding 19;
- 9 • Blacksburg, Virginia, April 16, 2007: Seung-Hui Cho killed 33 (including himself) and
wounded 17 on the campus of Virginia Tech, armed with a handgun and multiple LCMs;
- 10 • Tucson, Arizona, January 8, 2011: Jared Loughner, armed with a handgun and multiple
11 LCMs, killed 6 and wounded 13, including Congresswoman Gabrielle Giffords;
- 12 • Aurora, Colorado, July 20, 2012: James Holmes killed 12 and wounded 58 in a movie
theater, armed with a Smith & Wesson M&P1 5 assault rifle, 100-round LCMs, and other
13 firearms; and
- 14 • Newtown, Connecticut, December 14, 2012: Adam Lanza killed 26 (twenty of whom were
15 young children) and wounded two at Sandy Hook Elementary School, armed with a
Bushmaster AR-15-style assault rifle, two handguns, and multiple LCMs.

16 Koper Decl. at ¶¶ 9-10; *see also* Declaration of Roderick M. Thompson (“Thompson Decl.”), Ex.
17 2, Violence Policy Center, “Mass Shootings in the United States Involving High-Capacity
18 Ammunition Magazines.” And the frequency of these shootings has shown no signs of
19 decreasing. Thompson Decl., Ex. 3, Blair *et al.*, “Active Shooter Events from 2000 to 2012,” *FBI*
20 *Law Enforcement Bulletin*, Jan. 2014.

21 Mass shootings involving LCMs injure and kill more people than other mass shootings. A
22 recent study found that use of LCMs and assault weapons in recent mass shootings was associated
23 with a 151% increase in number of people shot and a 63% increase in deaths. Thompson Decl.,
24 Ex. 4, Mayors Against Illegal Guns, *Analysis of Recent Mass Shootings*, Sept. 2013, at 3; *see also*
25 Koper Decl. ¶ 19 (where an LCM was used, an average of about four more people were killed in
26 each shooting and an average of about nine more people were wounded, compared to shootings
27 using standard-capacity magazines). Another recent study found an average of 22 fatalities or
28 injuries per mass shooting with an LCM compared to only nine without. Allen Decl. at ¶ 14.

EB000009

1 Across all kinds of gun attacks, those committed with semiautomatic weapons, including
2 LCMs, tend to result in more shots fired, more people wounded, and more wounds per victim
3 than attacks with other weapons. Koper Decl. ¶¶ 20-25. These results have been confirmed in
4 multiple studies. *Id.*

5 LCMs are also disproportionately used in the murders of law enforcement officers. Prior
6 to the federal ban in 2004, LCMs were used in somewhere between 31% to 41% of gun murders
7 of police. Koper Decl. ¶ 18 & Ex. D at 160, 162. Facing an offender equipped with an LCM is a
8 particularly dangerous event for a police officer. When a shooter pauses, even briefly, to reload a
9 weapon, police officers or bystanders have the chance to take tactical action, such as by
10 advancing or taking cover. A shooter who does not have to reload does not give police that
11 opportunity. Thompson Decl., Ex. 5 (media accounts where shooters were subdued by police or
12 bystanders during reloading).

13 In addition to the immense human toll of gun murders committed using LCMs, every act
14 of gun violence results in high social costs. The lifetime medical costs per gunshot injury are
15 nearly \$30,000, and studies estimate the full societal costs from gun violence to be \$1 million per
16 shooting. Koper Decl. ¶¶ 52-53. If these estimates are correct, then even a 1% reduction in
17 shootings nationally could result in hundreds of millions of dollars in savings. *Id.* ¶ 53.

18 **B. The Law In California With Respect To LCMs.**

19 Because of this devastating role that LCMs have repeatedly played in mass shootings and
20 the shootings of law enforcement personnel, LCMs have been extensively regulated in the United
21 States for decades. In 1989, the U.S. Department of Treasury, charged with developing
22 guidelines for which firearms could be imported into the United States, determined that the ability
23 to accept an LCM was a signature characteristic of military firearms, and that detachable LCMs
24 did not serve any sporting purpose. Thompson Decl., Ex. 6, U.S. Dep’t of Treasury, *1989 Report
25 and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic
26 Rifles*, July 6, 1989, at 6; *id.*, Ex. 7, U.S. Dep’t of Treasury, *Study on the Sporting Suitability of
27 Modified Semiautomatic Assault Rifles*, Apr. 1998.

28 In 1994, in the wake of the 101 California Street massacre at the law firm of Petit &

EB000010

1 Martin and numerous other mass shootings during the 1980s and early 1990s, Congress passed
2 the Violent Crime Control and Law Enforcement Act (the federal assault weapons ban).
3 Thompson Decl., Ex. 8, H.R. Rep. 103-489, at 32-33 (1994). The ban prohibited the possession
4 or transfer of all “large-capacity ammunition feeding devices,” defined as those with the capacity
5 to accept more than ten rounds, except those lawfully possessed at the time of the bill’s
6 enactment. See Pub. L. 103-322, Sept. 13, 1994, 108 Stat. 1796, 1998-2000 (formerly codified at
7 18 U.S.C. § 922(w)). The law, which also prohibited the possession or transfer of assault
8 weapons (except those manufactured before 1994) expired by its own terms in 2004.¹ *Id.*, 108
9 Stat. at 2000.

10 But in 2000, before the federal ban expired, California adopted its own legislation
11 prohibiting the manufacture, import, keeping or offering for sale, giving, or lending of LCMs.
12 Thompson Decl., Ex. 1, Cal. Stats. 1999, ch. 129, §§ 3, 3.5, presently codified at Cal. Penal Code
13 § 32310. And more recently, California also enacted a ban on the purchase or receipt of LCMs.
14 See Cal. Penal Code § 32310(a). California has also declared LCMs to be a “nuisance.” Cal.
15 Penal Code § 32390. Thus, though the federal assault weapons ban expired in 2004, LCMs have
16 remained illegal to buy, sell, or import in California. Taken together, LCMs have been
17 unavailable to the vast majority of Californians for the past twenty years.²

18 ¹ Professor Koper, a renowned expert on the federal assault weapons ban, explains that the ban
19 contained several important exemptions which blunted its full potential impact, especially in the
20 short term. Koper Decl. at ¶ 35. Assault weapons and LCMs manufactured on or before the
21 effective date of the ban were “grandfathered” in and thus remained legal to own and transfer. *Id.*
22 at ¶ 36. In addition, the ban did not apply to a semiautomatic weapon possessing only one
23 military-style feature listed in the ban’s features test provision. *Id.* at ¶ 37. Thus, many civilian
rifles patterned after military weapons were legal under the ban with only slight modifications.
Id. Professor Koper opines that it is likely that the ban may have had a stronger impact on the
supply of LCMs to criminal users had it remained in effect. *Id.* at ¶ 50.

24 ² Prior to 2013, at least eight other jurisdictions restricted the possession or sale of ammunition
25 magazines on the basis of capacity. See Haw. Rev. Stat. § 134-8(c) (prohibiting possession of
26 LCMs capable of use with pistols); Mass. Gen. Laws Ann. ch. 140, §§ 121, 131M (enacted as
27 1998 Mass. Stats. ch. 180, § 8) (prohibiting sale or possession of LCMs); Thompson Decl., Ex.
28 24, 2002 Md. Sess. Laws ch. 26, § 2 (prohibiting sale of magazine with capacity of more than 20
rounds); N.J. Stat. Ann. §§ 2C:39-1(y), 39-3(j) (prohibiting possession of magazines with
capacity of more than 15 rounds except magazines grandfathered under 1990 law); Thompson
Decl., Ex. 25, 2000 N.Y. Sess. Laws ch. 189, § 11 (prohibiting LCMs except those manufactured

EB000011

1 **C. Voter-Approved Measure C.**

2 In early 2013, in the wake of another series of mass shootings and violence caused by
3 persons armed with LCMs—including the unspeakably horrific shooting deaths of twenty
4 schoolchildren and six adults in Newtown and a shooting rampage using firearms equipped with
5 LCMs that ended in Sunnyvale³—defendant Mayor Spitaleri (now the former mayor) and the
6 other members of Sunnyvale’s City Council proposed a ballot initiative, Measure C, in an effort
7 to establish safety regulations related to guns and ammunition that would help stop preventable
8 deaths caused by gun violence. Spitaleri Decl., Ex. 1. The citizens of Sunnyvale recognized that
9 the “violence and harm caused by and resulting from both the intentional and accidental misuse of
10 guns constitutes a clear and present danger to the populace,” and found that “sensible gun safety
11 measures” would “provide some relief from that danger and are of benefit to the entire
12 community.” *Id.* To meet those goals, Measure C implemented, among other requirements, a
13 prohibition on “the possession of ammunition magazines capable of holding more than 10 rounds,
14 with certain exceptions.” *Id.*; Sunnyvale Municipal Code, § 9.44.050.⁴ On November 5, 2013,
15 the citizens of Sunnyvale overwhelmingly voted to pass Measure C.⁵

16 For the reasons explained below, Measure C’s LCM ban readily passes constitutional
17 muster, and Plaintiffs are not likely to succeed on the merits of their Second Amendment
18 challenge. The motion should be denied.

19 _____
20 before September 13, 1994); *id.*, Ex. 26, City of Rochester, N.Y., City Code No. 47-5 (prohibiting
21 possession of pistol magazines containing more than 17 rounds or rifle magazines containing
22 more than five rounds); D.C. Code § 7-2506.01 (prohibiting possession of LCMs); *id.*, Ex. 18,
Chicago, Ill. Muni. Code §§ 8-20-010, 8-20-075 (prohibiting possession of magazines with
capacity greater than 15 rounds).

23 ³ In 2011, Shareef Allman killed three co-workers and seriously injured several others in a
24 shooting rampage that began in Cupertino and ended in Sunnyvale, where Allman was confronted
25 by police, in an incident that resulted in an exchange of gunfire. Declaration of Frank Grgurina
26 (“Grgurina Decl.”) at ¶ 4. Allman had several weapons that included LCMs. *Id.*

27 ⁴ Contrary to Plaintiffs’ assertions (Dkt. 10 (“Pl. Br.”) at 3), active-duty police officers need not
28 discontinue possession of their non-duty magazines capable of holding more than ten rounds.
Grgurina Decl., ¶ 6 & Ex. A.

⁵ 66.55% of voters supported Measure C. Thompson Decl., Ex. 9, at 3.

EB000012

1 **III. ARGUMENT**

2 **A. Legal Standards**

3 “The grant of a preliminary injunction is the exercise of a very far reaching power never
4 to be indulged in except in a case clearly warranting it.” *Dymo Indus., Inc. v. Tapeprinter, Inc.*,
5 326 F.2d 141, 143 (9th Cir. 1964). A plaintiff seeking a preliminary injunction must establish
6 that: (1) plaintiff is likely to succeed on the merits; (2) plaintiff is likely to suffer irreparable harm
7 in the absence of preliminary relief; (3) the balance of equities tips in plaintiff’s favor; and (4) an
8 injunction is in the public interest. *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008). A
9 plaintiff who has proved likely irreparable harm and raised serious questions going to the merits
10 may obtain an injunction only if the balance of hardships tips *sharply* in his favor. *Alliance for
11 the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011) (emphasis added).

12 The Ninth Circuit has adopted a two-step inquiry previously outlined by other Circuit
13 Courts, including the Third and Fourth Circuits, to determine whether a statute is constitutional
14 under the Second Amendment. *U.S. v. Chovan*, 735 F.3d 1127, 1136-7 (9th Cir. 2013). The
15 inquiry first asks whether the challenged law is protected at all—*i.e.*, whether the law burdens
16 conduct protected by the Second Amendment. *Id.*, citing *U.S. v. Chester*, 628 F.3d 673, 680 (4th
17 Cir. 2010); *U.S. v. Marzarella*, 614 F.3d 85, 89 (3rd Cir. 2010)).⁶ Only if the challenged law in
18 fact burdens conduct protected by the Second Amendment does the court then select an
19 appropriate level of scrutiny, which “depend[s] on ‘the nature of the conduct being regulated and
20 the degree to which the challenged law burdens the right.’” *Id.* at 1138 (*quoting Chester*, 628

21 _____
22 ⁶ *Chovan* evaluated the constitutionality of a ban on firearms possession for domestic violence
23 misdemeanants, 18 U.S.C. § 922(g). It is difficult to imagine a more complete abrogation of the
24 right to bear arms for those affected by § 922(g), and *Chovan* made clear that domestic violence
25 misdemeanants were not completely excluded from claiming Second Amendment protection. 735
26 F.3d at 1137. Because they were not law-abiding citizens, however, their rights were outside the
27 core of that protection, and *Chovan* applied only intermediate scrutiny to the law disarming them,
28 notwithstanding the “quite substantial” degree of the burden they bore. *Id.* at 1137-38. By
articulating a two-part test—looking both to the degree of the burden, and the burden’s proximity
to the core of the right—*Chovan* teaches that only where a law **significantly** burdens the Second
Amendment right to keep and bear arms in the home for self-defense will strict scrutiny apply.
Id. at 1138. Otherwise, *Chovan* would have had no reason to articulate a two-part test, and could
have rested on the fact that domestic violence misdemeanants were not law-abiding citizens.

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1 F.3d at 682). The closer the law comes to the core of the Second Amendment right—“the right of
2 law-abiding, responsible citizens to use arms in defense of hearth and home,” *Heller*, 554 U.S. at
3 635—and the greater the severity of the law’s burden, the greater scrutiny it should draw.
4 *Chovan*, 735 F.3d at 1138. A law that permits armed self-defense in the home and merely
5 regulates some types of arms, leaving a person “free to possess any otherwise lawful firearm,”
6 only operates like a “regulation of the manner” in which persons may lawfully exercise their
7 Second Amendment rights, and is therefore subject only to intermediate scrutiny. *Marzarella*,
8 614 F.3d at 97 (cited with approval in *Chovan*, 735 F.3d at 1138); see also *Nat’l Rifle Ass’n v.*
9 *Bureau of Alcohol, Tobacco & Firearms*, 700 F.3d 185, 205-7 (5th Cir. 2012) (applying
10 intermediate scrutiny to ban on some handgun sales to young adults); *U.S. v. Skoien*, 614 F.3d
11 638, 641-2 (7th Cir. 2010) (*en banc*).

12 **B. Measure C Does Not Burden Conduct Protected By The Second Amendment.**

13 The Second Amendment right is not “a right to keep and carry any weapon whatsoever in
14 any manner whatsoever and for whatever purpose.” *Heller*, 554 U.S. at 626. Instead, “[s]tate
15 regulation under the Second Amendment has always been more robust than of other enumerated
16 rights.” *Kachalsky v. Cnty. of Westchester*, 701 F.3d 81, 100 (2d Cir. 2012). “[W]hen the
17 fledgling republic adopted the Second Amendment, an expectation of sensible gun safety
18 regulation was woven into the tapestry of the guarantee.” *Nat’l Rifle Ass’n*, 700 F.3d at 200. The
19 Supreme Court has emphasized that “incorporation [of the Second Amendment into the Due
20 Process Clause of the Fourteenth Amendment] does not imperil every law regulating firearms,”
21 and agreed that “reasonable firearms regulation will continue under the Second Amendment.”
22 *McDonald v. City of Chicago*, 130 S. Ct. 3020, 3046-7 (2010) (internal citations omitted).

23 As set forth above, the threshold inquiry at the outset of the two-step analysis set forth by
24 *Chovan* is whether Measure C burdens conduct protected by the Second Amendment. 735 F.3d at
25 1136. A recent New York federal court decision, addressing a state assault weapons ban that
26 includes an LCM ban similar to Measure C, found that the “burden” placed upon Second
27 Amendment rights by such a ban must be measured by its burden on the right to bear arms
28 generally—*i.e.*, “any burden upon the possession of an ‘assault weapon’ is relevant only insofar

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1 as it generally impacts one’s ability to possess arms.” *Kampfer v. Cuomo*, No. 6:13-cv-82
2 (GLS/ATB), 2014 WL 49961, at *6 n. 10 (N.D.N.Y. Jan. 7, 2014); *see also* Thompson Decl., Ex.
3 19, Statement of Professors of Constitutional Law: The Second Amendment and the
4 Constitutionality of the Proposed Gun Violence Prevention Legislation (Jan. 30, 2013) (submitted
5 to Congress re: 2013 proposal to prohibit LCMs & assault weapons). The *Kampfer* court went on
6 to hold that the ban did not substantially burden an individual’s Second Amendment rights in
7 light of the number of alternative firearms available to an individual to use for self-defense, and
8 thus warranted no heightened scrutiny at all. *Id.* at **5-6.

9 Similarly, California courts have held that the state ban on assault rifles does not implicate
10 the Second Amendment. *See People v. Zondorak*, 220 Cal. App. 4th 829, 836 (2013) (“the ban
11 on AK series rifles does not impinge on rights protected by the Second Amendment because
12 assault weapons are at least as dangerous and unusual as the short-barreled shotgun . . . an
13 evaluation of the validity of the law under either strict scrutiny or intermediate scrutiny is
14 unnecessary”) (internal quotations omitted); *People v. James*, 174 Cal. App. 4th 662, 676 (2009)
15 (holding that ban on semi-automatic assault weapons does not implicate Second Amendment, and
16 noting that an “assault weapon has such a high rate of fire and capacity for firepower that its
17 function as a legitimate sports or recreational firearm is substantially outweighed by the danger
18 that it can be used to kill and injure human beings.”) (internal citations omitted).

19 Measure C’s LCM ban imposes no burden on Plaintiffs’ right to keep and bear arms.

20 **1. Large-Capacity Magazines Are Not “Arms.”**

21 First, only the right to keep and bear “arms” is protected by the Second Amendment, and
22 LCMs by definition do not qualify as “arms.” In answering what types of “arms” are protected
23 by the Second Amendment in *Heller*, the Supreme Court observed that the “18th-century
24 meaning” of “arms” “is no different from the meaning today”: “weapons of offence, or armour of
25 defence.” 554 U.S. at 581 (*quoting* 1 Dictionary of the English Language 106 (4th ed.) (reprinted
26 1978)). Another late 18th-century legal dictionary relied upon by the Court defined arms as “any
27 thing that a man wears for his defence, or takes into his hands, or useth in wrath to cast at or strike
28 another.” *Id.* (*quoting* 1 A New and Complete Law Dictionary). The *Heller* majority opinion

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1 does not mention magazines or devices to hold ammunition at all. Contemporary sources make
2 clear that accoutrements and ammunition often used with firearms are something different from
3 the “arms” themselves: “The Virginia military law, for example, ordered that ‘every one of the
4 said officers . . . shall constantly keep the aforesaid arms, accoutrements, and ammunition, ready
5 to be produced whenever called for’” 554 U.S. at 650 (Stevens, J., dissenting) (*quoting* Act
6 for Regulating and Disciplining the Militia, 1785 Va. Acts ch. 1, § 3, p. 2) (emphasis omitted).

7 Large-capacity magazines are not “arms” at all. Magazines are containers. They are not
8 “weapons of offence,” or things worn for defense or taken “to cast at or strike another.” Rather,
9 they are merely devices used for feeding ammunition into firearms. LCMs are not necessary
10 components of firearms, but, by definition, are detachable, allowing them to be easily switched
11 out with other detachable magazines of lower capacity but that can still feed ammunition into a
12 firearm. Although the Plaintiffs state a preference for the use of LCMs, they do not and cannot
13 allege that firearms are rendered inoperable with lower-capacity magazines.⁷ Accordingly,
14 because LCMs are neither “arms” nor are they required to operate arms, they fall outside the
15 scope of the Second Amendment’s protection.

16 2. LCMs Are Dangerous And Unusual.

17 Even if LCMs could be construed to be “arms,” the Second Amendment would still not
18 protect a right to possess them. The Supreme Court held in *Heller* that “dangerous and unusual
19 weapons” are excluded from the scope of the Second Amendment. 544 U.S. at 627, *aff’g U.S. v.*
20 *Miller*, 307 U.S. 174, 178 (1939) (holding that short-barreled shotguns are not protected by the
21 Second Amendment, because they are dangerous and unusual).⁸ And courts have upheld

22
23 ⁷ Most firearms that are capable of accepting LCMs are also capable of accepting magazines with
24 a maximum capacity of ten rounds. Declaration of James E. Yurgealitis (“Yurgealitis Decl.”) ¶ 5.

25 ⁸ The Supreme Court also identified a non-exhaustive list of “presumptively lawful regulatory
26 measures” (*Heller*, 544 U.S. at 626-7 & n.26), including “longstanding prohibitions” on firearm
27 possession by felons and the mentally ill, as well as laws forbidding firearm possession in
28 sensitive places such as schools and government buildings, and imposing conditions on the
commercial sale of firearms. *Id.* at 626-27. In addition, the Court declared that its analysis
should not be read to suggest “the invalidity of laws regulating the storage of firearms to prevent
accidents.” *Id.* at 632.

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1 prohibitions restricting the possession of “dangerous and unusual” weapons after *Heller*. *See*,
2 *e.g.*, *Heller II*, 670 F.3d at 1263-64 (acknowledging *Heller*’s exception for “dangerous and
3 unusual” weapons, and upholding the D.C. assault weapons and LCM bans against a Second
4 Amendment challenge); *U.S. v. Fincher*, 538 F.3d 868, 874 (8th Cir. 2008) (defendant’s
5 possession of machine gun not protected by Second Amendment as those firearms fall “within the
6 category of dangerous and unusual weapons”); *James*, 174 Cal. App. 4th at 676 (upholding
7 California’s assault weapon prohibition because assault weapons fall within category of
8 “dangerous and unusual” weapons); *U.S. v. Decastro*, 682 F.3d 160, 165 n. 4 (2d Cir. 2012)
9 (“[T]he Second Amendment right does not encompass all weapons, but only those ‘typically
10 possessed by law-abiding citizens for lawful purposes’ and thus does not include the right to
11 possess ‘dangerous and unusual weapons.’”) (*quoting Heller*, 544 U.S. at 625, 627).

12 **a. LCMs Are Not In Common Use For Self-Defense.**

13 Plaintiffs’ primary argument in support of its request for an injunction appears to be that
14 Measure C is invalid because LCMs are in “common use” and therefore may not be prohibited.
15 Pl. Br. at 4, 6-15. This relies on a misreading of *Heller*. *Heller*’s “common use” test is merely a
16 test for whether a firearm (not an ammunition container) is subject to *any* Second Amendment
17 scrutiny. 554 U.S. at 627. *Heller* does not, as Plaintiffs contend, say that all “common use”
18 firearms are immune from regulation or that any regulation on such firearms is subject to strict
19 scrutiny. *Heller* explains that “the right secured by the Second Amendment is not unlimited,”
20 noting that “nothing in our opinion should be taken to cast doubt on” a host of “presumptively
21 lawful regulatory measures,” *id.* at 626-27 & n.26, and that the Second Amendment does not
22 protect all arms. The Court declared, for example, that the Second Amendment extends no
23 protection at all to arms that are not “in common use at the time.” *Id.* at 627 (*quoting Miller*,
24 307 U.S. at 179). Such arms can be entirely prohibited without further judicial inquiry. *Heller*,
25 554 U.S. at 625. When *Heller* applies these principles to the District of Columbia’s handgun ban,
26 it does not say the converse, *i.e.*, that arms in common use cannot be prohibited. Instead, in
27 striking down the handgun ban “[u]nder any of the standards of scrutiny that [the Court has]
28 applied to enumerated constitutional rights,” *Heller* emphasizes both the breadth of D.C.’s ban—

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1 “a prohibition of an entire class of ‘arms’”—and how singularly well-suited handguns are for
2 self-defense purposes. 554 U.S. at 628-29.

3 Indeed, if the standard advocated by Plaintiffs were the rule, as long as the ownership
4 numbers of a particular firearm (or a firearm accessory, as here) were sufficiently high, the
5 government either could never prohibit the sale of that firearm, no matter what dire harm it is
6 proven to cause, or the government could only prohibit its sale if that prohibition withstands strict
7 scrutiny. That is not the law and would be a perverse test indeed. Such a test would incentivize
8 the government to prohibit any new firearms technology as soon as it is developed, lest it become
9 popular and thus no longer subject to regulation. And it would incentivize firearms
10 manufacturers to boost the sales of new products at any cost—including the militarized novelty
11 products that the industry has focused on selling to committed gun owners as the number of gun-
12 owning households in America has dropped, *see* Thompson Decl., Ex. 10, Violence Policy
13 Center, *The Militarization of the U.S. Civilian Firearms Market*, June 2011, at 1, 15, 40; *id.*, Ex.
14 11, Testimony of Laurence H. Tribe before Senate Judiciary Committee, Feb. 12, 2013, at 14.
15 Such a test would place the constitutionality of firearms prohibitions in the hands of gun
16 manufacturers and firearms enthusiasts who could determine the scope of constitutional
17 protections simply by making more firearms and stockpiling new items.

18 Moreover, Plaintiffs’ contentions that LCMs are popular and widespread are unsupported
19 by empirical evidence. Plaintiffs’ “evidence” appears to rely solely on two sources: First, they
20 point to handguns and long guns that are sold standard with LCMs, Monfort Decl. (Dkt. 20) Exs.
21 B-D; and second, they offer the declaration of James Curcuruto, a gun industry trade association
22 representative. This evidence does not establish their point.

23 Mr. Curcuruto estimates that there are 75 million LCMs in private hands in America.
24 Curcuruto Decl. (Dkt. 13) ¶ 8. But Mr. Curcuruto’s estimate draws from an incomplete dataset.
25 While federal data provides an aggregate number of long guns and handguns sold, it does not
26 disaggregate the numbers of each make or model sold, nor does Mr. Curcuruto explain how
27 “[f]irearms industry professionals” then attributed numbers of each magazine to the firearms sold.
28

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1 *Id.* at ¶¶ 11-12.⁹ This self-serving estimate deserves little weight. Nor is it probative that
2 Plaintiffs attach advertisements for guns that are sold standard with LCMs in firearms catalogs to
3 their attorney declaration. Monfort Decl., Exs. B-D. None of that establishes the actual number
4 of those guns that are sold, let alone those guns that are sold with LCMs in California, where such
5 sales have been illegal for nearly 15 years. *See* Cal. Penal Code § 32310.

6 Second, it is highly likely that LCM ownership is not widespread, but instead very
7 concentrated. Gun ownership in America has been dropping as a percentage of households for
8 decades. Declaration of John J. Donohue III (“Donohue Decl.”) ¶¶ 3-5. Yet gun sales have risen
9 at the same time. *Id.* ¶ 7. One trend driving these sales is the sale of more weapons, and more
10 powerful weapons, to a smaller and smaller group of gun enthusiasts. *See generally* Thompson
11 Decl., Ex. 10; Donohue Decl. ¶¶ 6-8. And studies directly show that gun ownership itself is very
12 concentrated: 20% of gun owners possess 65% of the nation’s guns. Donohue Decl. ¶ 6. Thus, it
13 is likely that LCMs are similarly collected by a small number of enthusiasts; there is no evidence
14 to indicate that they are widely popular—especially in a small city like Sunnyvale. *Id.* ¶¶ 9-10.

15 Even if such magazines are arguably in “common use” nationally, plaintiffs have not even
16 attempted to show that this is the case in California. Even before the passage of Measure C,
17 federal law in conjunction with California law has banned the sale, purchase, and transfer of such
18 LCMs in this State since 1994. *See supra* at II(B). As a result, with few statutory exceptions, no
19 individuals have legally transferred or sold LCMs in California for nearly twenty years. Since the
20 state ban on the sale and manufacture of LCMs was enacted in 1999, gun manufacturers have
21 been producing and promoting specific models of firearms with lower-capacity magazines that
22 comply with California law. Yurgealitis Decl. ¶ 6. Presumably only a small number of
23 individuals legally acquired their LCMs before 2000 (when the state ban went into effect), have
24 possessed those LCMs during the last 14 years, and continue to possess them in California, let
25 alone Sunnyvale. There is no evidence of “common use” in California.

26 In any event, regardless of whether LCMs are in widespread use in California or

27 _____
28 ⁹ Mr. Curcuruto also excludes the iconic revolver from his “survey” – revolvers do not use
magazines and typically hold fewer bullets than LCMs. Curcuruto Decl., Ex. A.

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1 nationally, that still would not establish that LCMs are widely used for *self-defense* in the home,
 2 the purpose of the Second Amendment right. *See Heller*, 554 U.S. at 599; *see also* Thompson
 3 Decl., Ex. 11, 2013 Tribe Testimony, at 14 (noting that, “in the case of high-capacity magazines,
 4 significant market presence does not necessarily translate into heavy reliance by American gun
 5 owners on those magazines for self-defense”). Plaintiffs offer no evidence directly establishing
 6 that LCMs are used for self-defense, and Plaintiffs’ indirect evidence about the utility of LCMs
 7 for self-defense is dubious. An analysis of the NRA’s own reports “over a five-year period” of
 8 firearm use in self-defense, both within the home and elsewhere, “demonstrated that in 50% of all
 9 cases, two or fewer shots were fired, and the average number of shots fired across the entire data
 10 sample was also about two.” Thompson Decl., Ex. 11 at 16-17.¹⁰ And although Plaintiffs posit
 11 fantastical scenarios involving multiple home invaders who can be stopped only by a
 12 homeowner’s immediate access to firearms containing more than ten rounds of ammunition (*see*
 13 Pl. Br. at 10-11; Ayoob Decl.), the evidence does not provide any reasonable grounds for these
 14 sorts of speculative fears. Similarly, the “overwhelming” “evidence” that Plaintiffs point to
 15 regarding the suitability of firearms with LCMs for home defense merely consists of a few

16 _____
 17 ¹⁰ Even Dr. Kleck has admitted elsewhere that most criminal uses of guns, and most defensive
 18 uses of guns, result in few if any shots fired. Thompson Decl., Ex. 12, Kleck, *Point Blank: Guns*
 19 *& Violence in America* (1991) (2d ed. 2009), at 111 (“Only a tiny fraction of criminal gun
 20 assaults involves anyone actually being wounded, even nonfatally, and one would expect the
 21 same to be true of defensive gun uses”). Gun-rights supporters maintain databases of “self-
 22 defense stories” to illustrate the need for firearms in the home, but these stories only illustrate that
 23 rarely are more than a few shots fired. Allen Decl. ¶ 7. Dr. Allen’s analysis of this database for
 24 the last three years showed an average of 2.1 bullets fired by defenders, and there were no
 25 incidents where the defender reporting firing more than 10 bullets. *Id.* ¶ 9. And an analysis of
 26 earlier “self-defense stories” printed on a pro-gun website reported that “the average and median
 27 number of shots fired was 2,” and that “[r]eloading was required in only 3 incidents,” one of
 28 which involved an escaped lion. Thompson Decl., Ex. 13, Werner, *The Armed Citizen: A Five-
 Year Analysis*, at 3-4. Even where a defender faced multiple offenders, only a few shots were
 needed. In fact, “[t]he most common responses of criminals upon being shot were to flee
 immediately or expire. With few exceptions, criminals ceased their advances immediately upon
 being shot. Even small caliber handguns displayed a significant degree of instant lethality (30 per
 cent immediate one shot kills) when employed at close range.” *Id.* at 4. Plaintiffs’ witness
 Massad Ayoob has said much the same thing. Although the declaration he filed in this case
 insists that LCMs are needed for self-defense, in his 2012 book, the *Gun Digest Book of
 Concealed Carry*, Ayoob writes, “The bottom line is, it’s not about ‘what gun you have,’ so much
 as it’s about ‘did you have a gun?’” Thompson Decl., Ex. 14, at 64.

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1 anecdotal, unverified stories—some of which are decades-old, and most of which involve law
2 enforcement officers or business owners, not private citizens defending their homes. Pl. Br. at 4,
3 10.¹¹ For example, Plaintiffs’ sole citations in support of its sweeping statement that firearms
4 with LCMs “are highly effective for in-home self-defense” are to several third-hand accounts that
5 do not relate to in-home self-defense at all. Pl. Br. at 4, *citing* Ayoob Decl. ¶¶ 11, 14, 25, 27.

6 Measure C neither creates new standards for prohibited LCMs in California, nor creates
7 new restrictions on citizens’ ability to obtain them. Rather, Measure C merely closes one modest
8 loophole in California law by bringing to an end the special dispensation of LCMs owned prior to
9 the effective date of the 10-round statewide standard in January, 2000.

10 **b. LCMs Are Dangerous And Unsuitable For Responsible Self-
11 Defense In The Home.**

12 Regardless of their claimed popularity, LCMs are an inappropriate choice for responsible
13 self-defense in the home. *See, e.g., Hightower v. City of Boston*, 693 F.3d 61, 66, 71 & n.7 (1st
14 Cir. 2012) (noting that “large capacity weapons” – in that case, those able to carry “more than ten
15 rounds” – are not “of the type characteristically used to protect the home”); Thompson Decl., Ex.
16 15, 2011 ATF Study, at 10-11 (determining that “magazines capable of holding large amounts of
17 ammunition, regardless of type, are particularly designed and most suitable for *military and law*
18 *enforcement applications*”) (emphasis added); *id.* at Ex. 16, 1998 ATF report, at 3, 37 (“firearms
19 with the ability to expel large amounts of ammunition quickly. . . . have *military purposes* and are
20 a crime problem”) (emphasis added).

21 For example, a former Baltimore Police Colonel testified before Congress that “[t]he
22 typical self-defense scenario in a home does not require more ammunition than is available in a
23 standard 6-shot revolver or 6-10 round semiautomatic pistol. In fact, because of potential harm to

24 ¹¹ The City objects to the “self-defense” stories presented in Mr. Ayoob’s declaration (¶¶ 5-16)
25 because Mr. Ayoob lacks personal knowledge regarding any of the stories. Fed .R. Evid. 602.
26 The City further objects to the remainder of Mr. Ayoob’s declaration (¶¶ 17-34) as speculative
27 and lacking foundation. For example, Mr. Ayoob does not even attempt to cite to any evidence to
28 support of his conclusory statements (*e.g.*, “[Mass shooters] simply could have drawn a second
(or third) gun that they had on their persons and shot whoever attempted to grab the empty one”
(¶ 22); “The loss of time for a magazine change is generally of little consequence for the attacker”
(¶ 28)).

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1 others in the household, passersby, and bystanders, too much firepower is a hazard.” Thompson
2 Decl., Ex. 17, Brian J. Siebel, Brady Center to Prevent Gun Violence, *Assault Weapons: Mass*
3 *Produced Mayhem*, at 16 (2008). Furthermore, LCMs exacerbate concerns about stray bullets,
4 because “the tendency for defenders [is] to keep firing until all bullets have been expended.” *Id.*
5 As discussed above, California state law has long recognized these dangers of LCMs, declaring
6 them to be a “nuisance.” Cal. Penal Code §32390.

7 Plaintiffs themselves confirm the additional danger that LCMs create, and their
8 inappropriateness for responsible self-defense in the home, by acknowledging that many of the
9 shots fired do not actually hit their intended targets. Pl. Br. at 11-12 (*e.g.*, “[T]he stress of a
10 criminal attack greatly reduces the likelihood that shots fired will actually hit” their intended
11 target); *see also* Helsley Decl. (Dkt. 12) ¶ 11 (“Gunfights frequently involve a lot of ‘missing.’
12 This can be the result of improper aim . . .”). Responsible self-defense does not mean the
13 capacity to spray dozens of additional bullets in the home when the first ten have not been fired
14 accurately. *See, e.g., Heller II*, 670 F.3d at 1263-64 (“[H]igh-capacity magazines are dangerous
15 in self-defense situations because ‘the tendency is for defenders to keep firing until all bullets
16 have been expended, which poses grave risks to others in the household, passersby, and
17 bystanders.’”).

18 Plaintiffs simplistically assert that LCMs should be protected essentially because more
19 bullets equal more effective self-defense in the home. *See, e.g.*, Pl. Br. at 10 (“A firearm’s
20 ammunition capacity is thus directly related to its suitability for self-defense”). Under that
21 reasoning, fully automatic machine guns—which could be for obvious reasons quite effective at
22 repelling and disabling attackers—should also be protected. *Cf. New York State Rifle and Pistol*
23 *Ass’n, Inc. v. Cuomo*, No. 13-cv-291S, 2013 WL 6909955, at **14 (W.D.N.Y. Dec. 31, 2013)
24 (“There . . . can be no serious dispute that the very features that increase a weapon’s utility for
25 self-defense also increase its dangerousness to the public at large.”). It is precisely because
26 LCMs are so effective at inflicting great damage in a short time that they should be banned.

27
28

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c. LCMs Are Used Overwhelmingly In Crimes With Multiple Victims And Assaults On Law Enforcement.

Criminals disproportionately use LCMs in two categories of crimes: those with multiple victims and those that target law enforcement. As described in detail above, *see supra* at II(A), LCMs have played a devastating role in numerous mass shootings nationwide. As the D.C. Circuit has noted, “studies . . . suggest that attacks with semiautomatics –including [assault weapons] or other semiautomatics with [magazines holding more than ten rounds] – result in more shots fired, persons wounded, and wounds per victim than do other gun attacks.” *Heller II*, 670 F.3d at 1263 (internal quotations omitted); *see* Koper Decl. ¶¶ 8-10, 19, 21, Ex. C at 97, Ex. D at 166-67. And LCMs are also disproportionately used in the murders of law enforcement officers. *See supra* at II(A); *see also Heller II*, 670 F.3d at 1263-64 (concluding that “the evidence demonstrates that large-capacity magazines tend to pose a danger to innocent people and particularly to police officers”); Koper Decl. ¶¶ 11-12, 18.

Because shooters limited to ten-round magazines must reload more frequently, the prohibition on LCMs will protect both ordinary people and law enforcement officers. In dangerous shootout situations, the “2 or 3 second pause during which a criminal reloads his firearm can be of critical benefit to law enforcement.” *Heller II*, 670 F.3d at 1264 (internal quotations omitted). For example, the shooter who wounded Gabrielle Giffords and killed six others, including a federal judge, was tackled by bystanders while he was reloading, according to first-hand accounts of the incident. Thompson Decl., Ex. 20, Dolak & Weaver, “Woman Wrestled Fresh Ammo Clip from Tucson Shooter as He Tried to Reload,” *ABC News*, Jan. 9, 2011. In addition to the 1998 Oregon mass shooting where Plaintiff’s expert Dr. Kleck acknowledges the shooter was subdued while reloading, Kleck Decl. (Dkt. 19) ¶ 15, the 1993 Long Island Railroad commuter train shooter was tackled as he attempted to load a fresh 15-round LCM in his pistol. *See* H.R. Rep. No. 103-322, *supra*, at 5; Thompson Decl., Ex. 27, Clines, “Death on the L.I.R.R.,” *New York Times*, Dec. 9, 1993. And law enforcement sources have stated that a half-dozen children may have been able to escape from Sandy Hook Elementary School while the shooter was switching magazines. Thompson Decl., Ex. 21.

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1 Mahoney *et al.*, “Sandy Hook Shooter’s Pause May Have Aided Students’ Escape,” *Hartford*
2 *Courant*, Decl. 23, 2012, at 1, 9; *see also* Donohue Decl. ¶ 11 & n. 4 (families estimate 11
3 children saved during shooter’s reloading). Imagine how many more children could have escaped
4 from Sandy Hook alive if the shooter had been limited to ten round magazines and forced to
5 spend more time reloading.

6 In an attempt to distract from the fact that LCMs are more dangerous than standard-
7 capacity magazines, Plaintiffs offer the declaration of criminologist Dr. Gary Kleck. As
8 discussed in detail in the brief filed by San Francisco in a suit challenging a similar ordinance,
9 where Dr. Kleck filed a substantively identical declaration, Dr. Kleck’s claims regarding the
10 frequency of use of LCMs in mass shootings, as well as the impact of LCMs on the rate-of-fire
11 and lethality in mass shootings, are flawed and misleading. *See* Thompson Decl., Ex. 22, San
12 Francisco’s Opposition to Plaintiffs’ Motion for Preliminary Injunction, Case No. 5:13-cv-05351-
13 WHA, Dkt. 34, at 5-9 (Jan. 16, 2014). For example, Kleck states that, of the 57 mass shootings
14 between 1994 and July 2014 that he studied, “no LCM was used in . . . 35 incidents (or about
15 61%).” Kleck Decl. ¶ 14. The appendix to Dr. Kleck’s declaration reveals that his dataset of
16 mass shootings included only *three* incidents where a standard-capacity magazine was used, 30
17 incidents where magazine capacity was *unknown*, and 22 incident where an LCM was known to
18 be used, *id.* at 18-46. When Dr. Kleck tells the Court that LCMs were not used in 35 incidents, he
19 actually means that *either* LCMs were not used *or* (in many more cases) magazine capacity was
20 not reported (in 30 incidents). It is not surprising that Dr. Kleck’s work on guns and gun violence
21 has been widely discredited. *See* Thompson Decl., Ex. 22, at 5-9.

22 For all these reasons, Measure C’s LCM ban regulates conduct that is not within the scope
23 of the Second Amendment right. Thus, Plaintiffs’ challenge of the ban fails as a matter of law.

24 **C. Even If Large-Capacity Magazines Do Implicate The Second Amendment,**
25 **Sunnyvale’s Statute Banning These Weapons Would Remain Constitutional.**

26 Plaintiffs’ failure to establish a Second Amendment right to possess LCMs should end this
27 Court’s inquiry. But even if this Court were to expansively read the limited holdings of *Heller*
28 and *McDonald* and conclude that Measure C implicates the Second Amendment right to possess a

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1 handgun in the home for self-defense, Measure C would still pass constitutional muster.

2 **1. If Heightened Scrutiny Applies, Intermediate Scrutiny Is The**
3 **Appropriate Level of Review.**

4 **a. Every Court Applying Any Heightened Scrutiny To An LCM**
5 **Ban Has Applied Intermediate Scrutiny.**

6 Plaintiffs argue that Measure C must be subject to either no means-end scrutiny, or at least
7 a strict scrutiny standard, because the enumerated right the Second Amendment protects is
8 “fundamental.” Pl. Br. at 13-18. Plaintiffs’ argument is without merit. Contrary to Plaintiffs’
9 assertions (*id.* at 17), every court that has addressed the constitutionality of an LCM possession
10 ban that has not concluded that LCMs are completely outside the scope of the Second
11 Amendment has applied an intermediate scrutiny standard. *See, e.g., Cuomo*, 2013 WL 6909955,
12 at **17-18; *Heller II*, 670 F.3d at 1262. And with good reason. Protecting public safety is the
13 bedrock function of government, and guns have an obvious and “unique potential to facilitate
14 death and destruction and thereby to destabilize ordered liberty.” *McDonald*, 130 S. Ct. at 3108
15 (Stevens, J., dissenting). Accordingly, state and local governments have a profound interest in
16 safeguarding the public and law enforcement personnel from gun violence. *See Kelley v.*
17 *Johnson*, 425 U.S. 238, 247 (1976) (“promotion of safety of persons and property is
18 unquestionably at the core of the State’s police power”); *Osterweil v. Bartlett*, 706 F.3d 139, 143
19 (2d Cir. 2013), *certified question accepted*, 20 N.Y.3d 1058 (2013) (O’Connor, Sup. Ct. Justice
20 (Ret.) sitting by designation) (“[t]he regulation of firearms is a paramount issue of public safety,
21 and recent events in this circuit are a sad reminder that firearms are dangerous in the wrong
22 hands”); *Kachalsky*, 701 F.3d at 96 (“As Plaintiffs admitted at oral argument, ‘the state enjoys a
23 fair degree of latitude’ to regulate the use and possession of firearms in public.”). The level of
24 scrutiny applied to firearms regulations must not deprive legislatures of the flexibility to
25 safeguard the populace. *See Heller*, 554 U.S. at 636 (Constitution permits legislatures “a variety
26 of tools for combating that problem”).

27 Most courts throughout the country have applied some form of intermediate scrutiny in
28 the Second Amendment context generally. *See, e.g., Woollard v. Gallagher*, 712 F.3d 865, 876
(4th Cir. 2013); *U.S. v. Masciandaro*, 638 F.3d 458, 474 (4th Cir. 2011); *Marzzarella*, 614 F.3d at

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1 96; *U.S. v. Williams*, 616 F.3d 685, 692 (7th Cir. 2010); *U.S. v. Reese*, 627 F.3d 792, 802-3 (10th
 2 Cir. 2010); *Kachalsky*, 701 F.3d at 96; *Skoien*, 614 F.3d at 641-2; *U.S. v. Walker*, 709 F. Supp. 2d
 3 460, 466 (E.D. Va. 2010); *U.S. v. Lahey*, No. 10-CR-765 KMK, 2013 WL 4792852, at *15
 4 (S.D.N.Y. Aug. 8, 2013).¹²

5 In the leading case on LCM laws, the D.C. Circuit applied intermediate scrutiny to uphold
 6 the constitutionality of the District of Columbia’s ban on assault weapons and LCMs substantially
 7 similar to Measure C. *Heller II*, 670 F.3d at 1261-2. “[R]estrictions that impose severe burdens
 8 (because they don’t leave open ample alternative channels) must be judged under strict scrutiny,
 9 but restrictions that impose only modest burdens (because they do leave open ample alternative
 10 channels) are judged under a mild form of intermediate scrutiny.” *Id.* at 1262 quoting Eugene
 11 Volokh, “Implementing the Right to Keep and Bear Arms for Self-Defense: An Analytical
 12 Framework and a Research Agenda,” 56 UCLA L. Rev. 1443, 1471 (2009). The Court stated that
 13 the prohibition of assault weapons and LCMs was “more accurately characterized as a regulation
 14 of the *manner* in which persons may lawfully exercise their Second Amendment rights,” since
 15 the prohibition did not “prevent a person from keeping a suitable and commonly used weapon for
 16 protection in the home.” *Id.* at 1262, quoting *Marzzarella*, 614 F.3d at 97 (emphasis added). The
 17 Court also highlighted a fundamental distinction between the absolute handgun ban in *Heller* and
 18 bans on assault weapons and LCMs: “Unlike the law held unconstitutional in *Heller*, [bans on
 19 assault weapons and LCMs] do not prohibit the possession of ‘the quintessential self-defense
 20 weapon,’ to wit, the handgun.” *Id.* at 1261-62, quoting *Heller*, 544 U.S. at 629.

21 Similarly, in *Cuomo*, the Western District of New York granted summary judgment in

22 ¹² Likewise, nearly all courts that have chosen a level of scrutiny for evaluating Second
 23 Amendment claims have rejected strict scrutiny. *See, e.g., Kachalsky*, 701 F.3d at 96; *Heller II*,
 24 670 F.3d at 1257; *Masciandaro*, 638 F.3d at 471; *Reese*, 627 F.3d at 802; *Williams*, 616 F.3d at
 25 691-93; *Marzzarella*, 614 F.3d at 96-97; *Walker*, 709 F. Supp. 2d at 466. And although *Heller*
 26 did not articulate a level of review, the decision implicitly rejected the use of strict scrutiny in the
 27 Second Amendment context. *See also U.S. v. Marzzarella*, 595 F. Supp. 2d 596, 604 (W.D. Pa.
 28 2009) (observing that “the Court’s willingness to presume the validity of several types of gun
 regulations is arguably inconsistent with the adoption of a strict scrutiny standard of review”);
 Thompson Decl., Ex. 28, Dennis A. Henigan, *The Heller Paradox*, 56 UCLA L. Rev. 1171, 1197-
 98 (2009) (stating “the *Heller* majority. . . implicitly rejected strict scrutiny”).

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1 favor of the state on its LCM and assault weapons ban. 2013 WL 6909955, at *17-18. It held
 2 that intermediate scrutiny should apply to the ban because prohibiting assault weapons and LCMs
 3 was akin to a time, place and manner restriction on the use of firearms, leaving open ample
 4 alternative channels for self defense. *Id.* at *13. And it concluded that the assault weapon and
 5 LCM ban was ultimately constitutional under intermediate scrutiny. *Id.* at **14-19.¹³

6 In addition, many state courts have held that assault weapons bans and LCM bans are
 7 consistent with state constitutional guarantees (similar to the Second Amendment) of an
 8 individual right to keep and bear arms. *See Robertson v. City & Cnty. of Denver*, 874 P.2d 325,
 9 332-33 & n.16 (Colo. 1994) (local assault weapons ban was a reasonable safety regulation in part
 10 in light of “the ability [of assault weapons] to fire many rounds without reloading”); *Benjamin v.*
 11 *Bailey*, 662 A.2d 1226, 1232-35 (Conn. 1995) (state assault weapons ban was “reasonable
 12 regulation” of right to bear arms); *Arnold v. Cleveland*, 616 N.E.2d 163, 164 n.1, 171-73 (Ohio
 13 1993) (local assault weapons ban, where assault weapons were defined in terms of their ability to
 14 accept 20+ round magazines, was constitutional); *Beaver v. City of Dayton*, No. 13871, 1993 WL
 15 333641 (Ohio Ct. App. Aug. 30, 1993) (upholding municipal assault weapons regulation against
 16 state constitutional challenge); *Cincinnati v. Langan*, 640 N.E.2d 200, 206 (Ohio Ct. App. 1994)
 17 (upholding local ban on LCMs and semiautomatic weapons); *Oregon State Shooting Ass’n v.*
 18 *Multnomah Cnty.*, 858 P.2d 1315, 1324 (Or. Ct. App. 1993) (rejecting state constitutional
 19 challenge to regulation on sale of assault weapons). *Cf. Olympic Arms v. Buckles*, 301 F.3d 384,
 20 390 (6th Cir. 2002) (on equal protection challenge, finding federal assault weapons ban to serve
 21 rational basis; noting that ability to accept LCMs “makes a weapon potentially more dangerous”);
 22 *Kasler v. Lockyer*, 23 Cal. 4th 472, 490-91 (2000) (rejecting equal protection challenge to
 23 California’s assault weapons ban in light of dangerousness of assault weapons).¹⁴

24 _____
 25 ¹³ The court did strike down a separate part of the law—unique to New York—that limited the
 amount of bullets that could be loaded into a magazine to seven at a time. *Id.*

26 ¹⁴ Long before the current controversy over LCM and assault weapons restrictions, states
 27 frequently prohibited entire classes of weapons, such as pistols or other concealable firearms, on
 28 the basis of their particular dangerousness. These regulations were upheld as reasonable even
 under state constitutional guarantees of an individual right to bear arms. *See generally* Thompson

1 Plaintiffs have cited no precedent (and the City is aware of none) where a court has
2 applied any standard stricter than intermediate scrutiny to an LCM possession ban. If this Court
3 decides to apply some form of heightened scrutiny, it should similarly apply intermediate scrutiny
4 to the City’s ban on LCMs.

5 **b. The LCM Ban Does Not Burden Plaintiffs’ Ability to Defend**
6 **Themselves In The Home.**

7 The degree of burden, if any, that the LCM ban imposes on Plaintiffs’ ability to defend
8 themselves in the home with firearms is so modest that intermediate scrutiny must apply here.
9 Although Plaintiffs claim that the City’s ban is “at the extreme end of the gun control
10 continuum,” a footnote on the next page of their brief acknowledges the reality that California —
11 like many other states (*see supra* at 6 n. 4)— has prohibited the manufacture or sale of LCMs for
12 nearly fifteen years. Pl. Br. at 2-3 & n.1. Far from being an extreme example of gun control, the
13 City’s ordinance merely closes a loophole in, and compliments, a longstanding state law.

14 In *Marzzarella*, 614 F.3d 85 (which was cited extensively by *Chovan*, 735 F.3d at 1136-
15 38), the Court held that the federal law criminalizing possession of firearms with obliterated serial
16 numbers did not “severely limit the possession of firearms” and left the defendant free to possess
17 any otherwise lawful firearm for self-defense. 614 F.3d at 97. It was subject only to intermediate
18 scrutiny because it was not a prohibition on the exercise of Second Amendment rights but instead
19 regulated merely “the form in which that conduct occurs.” *Id.* Here, too, the City’s LCM ban
20 does not prohibit the use of any class of firearm but only limits the kind of magazine, and thus the
21 number of bullets, that may be loaded in any otherwise lawful firearm at one time. It is a
22 regulation that controls not whether someone can use a firearm in self-defense or not but instead
23 how he may equip it. Under this reasoning, it is subject only to intermediate scrutiny.

24 Measure C has no impact on the citizens of Sunnyvale’s abilities to defend themselves in
25 their homes with any gun of their choosing. *See, in contrast, Heller*, 554 U.S. at 635 (addressing
26 ban on all handgun possession in the home). Plaintiffs concede that they “do not assert that the

27 Decl., Ex. 23, Brief for Professional Historians and Law Professors as Amici Curiae, *Heller v.*
28 *District of Columbia*, D.C. Cir. No. 10-7036, at 18-24. EB000028

1 Ordinance deprives them of the ability to keep a firearm for self-[defense].” Dkt. 28 at 5; *see also*
2 Monfort Decl., Dkt. 20, Ex. B (gun catalog containing numerous handgun and rifle models with
3 magazines capable of holding ten or fewer rounds of ammunition). Rather, Measure C only limits
4 the type of magazine that can be used with these guns. Most firearms that accept a detachable
5 magazine can be equipped either an LCM or with a standard-capacity magazine containing ten
6 rounds or fewer (Yurgealitis Decl. ¶ 5)—Measure C prohibits only the possession of the former.
7 Individuals are free to possess numerous magazines that can hold up to ten rounds of ammunition.

8 Even though the vast majority of Californians have not had ready access to LCMs for self-
9 defense purposes since the implementation of the federal ban in 1994, Plaintiffs do not contend,
10 and have presented no evidence, that Californians have been unable to effectively defend
11 themselves using guns without LCMs. Indeed, Sunnyvale’s Police Chief is unaware of any
12 instance where a citizen in Sunnyvale was unable to defend himself or herself as a result of not
13 having an LCM. Grgurina Decl. ¶ 3. Accordingly, because the prohibition on LCMs does not
14 affect an individual’s ability to possess an operable handgun for in-home self-defense, Measure C
15 imposes no burden on an individual’s ability to exercise his Second Amendment right.

16 Moreover, as previously discussed (*see supra* at III(B)(2)(a)-(b)), there is no credible
17 evidence whatsoever that having a magazine with more than 10 rounds makes a home defender
18 any safer. To the contrary, oversized magazines can make home defense less safe by increasing
19 the likelihood that a defender will discharge more errant rounds and harm the innocent. Simply
20 because Plaintiffs can imagine a hyperbolic, Hollywood film-type scenario where they may need
21 LCMs to defend themselves does not mean that these magazines are useful or necessary for self-
22 defense. Because all empirical evidence indicates that Plaintiffs can fully vindicate their right to
23 self-defense in the home using standard-capacity magazines in the vast array of circumstances
24 they may encounter, any burden here is so minor that only intermediate scrutiny is warranted,
25 assuming any heightened scrutiny is required at all.

26 **2. The LCM Ban Satisfies Intermediate Scrutiny.**

27 Intermediate scrutiny requires a showing that the asserted governmental end is
28 “significant,” “substantial,” or “important.” *See, e.g., Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S.

1 622, 662 (1994); *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989); *Skoien*, 614 F.3d at
2 641-42. In addition, it requires that the “fit” between the challenged regulation and the stated
3 objective be “reasonable”—not perfect—and does not require that the regulation be the least
4 restrictive means of serving the interest. *Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 556
5 (2001); *Marzzarella*, 614 F.3d at 98.

6 Measure C easily satisfies this standard. In enacting Measure C, the Sunnyvale City
7 Council was concerned by the threat to public safety posed by LCMs. *See Spitaleri Decl.* ¶¶ 4,
8 10-11, 13. It is beyond dispute that public safety and the prevention of crime are substantial and
9 compelling governmental interests. *See, e.g., U.S. v. Salerno*, 481 U.S. 739, 748-50 (1987)
10 (noting that “the Government’s regulatory interest in community safety can, in appropriate
11 circumstances, outweigh an individual’s liberty interest” and holding that the government’s
12 interest in preventing crime is compelling); *Schall v. Martin*, 467 U.S. 253, 264 (1984) (“The
13 ‘legitimate and compelling state interest’ in protecting the community from crime cannot be
14 doubted”); *Kelley*, 425 U.S. at 247 (“promotion of safety of persons and property is
15 unquestionably at the core of the State’s police power”); *see also Gonzales v. Oregon*, 546 U.S.
16 243, 270 (2006) (states are generally afforded “great latitude” in exercising “police powers to
17 legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons. . . .”
18 (internal quotations and citation omitted)); *see also Cuomo*, 2013 WL 6909955, at **17-18
19 (“Evidence also suggests that, quite simply, more people die when a shooter has a large-capacity
20 magazine. . . . [I]n passing these provisions New York has made a public policy judgment that
21 draws reasonable inferences from substantial evidence. . .”).

22 Given the real and immediate threats to the safety of the public and law enforcement
23 personnel caused by LCMs, the City has made the reasonable choice to reduce these threats by
24 prohibiting access to these dangerous instruments of mass mayhem, while preserving access to
25 handguns and other firearms. Since the most effective way to eliminate the threat of death,
26 injury, and destruction caused by LCMs is to prohibit their use and possession, a substantial
27 relationship clearly exists between Measure C and the government’s significant interests.

28 Professor Koper, author of a seminal report on the federal assault weapons ban, has

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1 opined that the LCM possession ban has the potential to (1) reduce the number of crimes
2 committed with LCMs; (2) reduce the number of shots fired in gun crimes; (3) reduce the number
3 of gunshot victims in such crimes; (4) reduce the number of wounds per gunshot victim; (5)
4 reduce the lethality of gunshot injuries when they do occur; and (6) reduce the substantial societal
5 costs that flow from shootings. Koper Decl. ¶ 57. Professor Koper further opines that Measure C
6 “has the potential to help prevent the use and spread of particularly dangerous magazines, and is a
7 reasonable and well-constructed measure that is likely to advance Sunnyvale’s interest in
8 protecting its citizens and its police force.” *Id.* at ¶ 58.

9 Measure C is a sufficiently narrowly-tailored means of serving vital government interests
10 that is neither overly broad nor arbitrary. *See, e.g., Turner Broad. Sys.*, 512 U.S. at 662; *Heller II*,
11 670 F.3d at 1262; *Marzzarella*, 614 F.3d at 98. It should be upheld as constitutional.

12 **D. The Remaining Preliminary Injunction Factors Favor The City.**

13 Plaintiffs contend that irreparable injury flows from the denial of their Second
14 Amendment rights. But in view of the speculative nature of their claims that LCMs are necessary
15 for self-defense, they cannot show that they are likely to suffer irreparable harm if they must
16 surrender their LCMs or store them outside of Sunnyvale while this lawsuit is pending. Indeed,
17 Plaintiffs concede that Measure C does not “deprive[] them of the ability to keep a firearm for
18 self-dense [sic],” Dkt. 30 at 2, and that they can merely “purchase new compliant magazines” to
19 replace their LCMs, Dkt. 31 at 4. Such a speculative showing of harm is insufficient to obtain
20 injunctive relief. *Winter*, 555 U.S. at 20.

21 For the same reasons, Plaintiffs have failed to establish that “the balance of equities tips in
22 [their] favor, and that an injunction is in the public interest.” *Id.* Like a host of other
23 jurisdictions, including the State of California, Sunnyvale restricts the possession of LCMs in
24 order to prevent their criminal use. The compelling public safety interest underlying Measure
25 C—which was approved of by two-thirds of Sunnyvale citizens—tips the equities decisively
26 away from Plaintiffs. This Court should deny Plaintiffs’ motion.

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Dated: January 29, 2014

Farella Braun + Martel LLP

By: /s/ Roderick M. Thompson
Roderick M. Thompson

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SUNNYVALE, ANTHONY SPITALERI, in
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10 capacity

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION
14

15 LEONARD FYOCK,
SCOTT HOCHSTETLER,
16 WILLIAM DOUGLAS,
DAVID PEARSON, BRAD SEIFERS, and
17 ROD SWANSON,

18 Plaintiffs,

19 v.

20 THE CITY OF SUNNYVALE, THE
MAYOR OF SUNNYVALE,
21 ANTHONY SPITALERI in his official
capacity, THE CHIEF OF THE
22 SUNNYVALE DEPARTMENT OF
PUBLIC SAFETY, FRANK GRGURINA,
23 in his official capacity, and DOES 1-10

24 Defendants.
25

Case No. 13-cv-05807 RMW

**DECLARATION OF LUCY P. ALLEN IN
SUPPORT OF SUNNYVALE’S OPPOSITION
TO PLAINTIFFS’ MOTION FOR
PRELIMINARY INJUNCTION**

Date: February 21, 2014
Time: 9:00 a.m.
Location: San Jose Courthouse
Courtroom 6 – 4th Floor
280 South 1st Street
San Jose, CA 95113

26 I, Lucy P. Allen, declare as follows:

27 1. I am a Senior Vice President of NERA Economic Consulting (“NERA”), a
28 member of NERA’s Securities and Finance Practice and Chair of NERA’s Mass Torts and

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Product Liability Practice. NERA provides practical economic advice related to highly complex business and legal issues arising from competition, regulation, public policy, strategy, finance, and litigation. NERA was established in 1961 and now employs approximately 500 people in more than 20 offices worldwide.

2. In my 19 years at NERA, I have been engaged as an economic consultant or expert witness in numerous projects involving economic and statistical analysis. I have been qualified as an expert and testified in court on various economic and statistical issues relating to the flow of guns into the criminal market. I have testified at trials in Federal District Court, before the New York City Council Public Safety Committee, the American Arbitration Association and the Judicial Arbitration Mediation Service, as well as in depositions.

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

4. This declaration addresses the results of analyses that I and others under my direction at NERA conducted with respect to the following issues: (a) the number of rounds of ammunition fired by individuals using a gun in self-defense; and (b) magazines used in mass shootings.

A. Number of rounds fired by individuals in self-defense

5. Plaintiffs claim the banned “large-capacity magazines” are commonly used in Sunnyvale in the home for self-defense. The Complaint alleges that the “magazines prohibited by the Ordinance are in widespread, common use throughout the United States” and that these magazines, which are “capable of holding more than ten rounds [...] are currently possessed by law-abiding citizens for the core lawful purpose of self-defense, including in-home self-defense.”¹

¹ Complaint, ¶2 and ¶42. The complaint also alleges that “the use of standard-capacity firearms and magazines with capacities of more than ten rounds increase the likelihood that a law-abiding citizen will survive a criminal attack.” ¶49.

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

7. The NRA-ILA maintains a database of “armed citizen” stories describing private citizens who have successfully defended themselves, or others, using a firearm. A study of all incidents in this database over a 5-year period from 1997 through 2001 found that it is rare for individuals to defend themselves using more than ten rounds. Specifically, this study found that, on average, 2.2 shots were fired by defenders and that in 28% of incidents of armed citizens defending themselves the individuals fired no shots at all.²

8. We performed a similar analysis of NRA-ILA stories for the 3-year period January 2011 through December 2013. For each incident, the number of offenders, defenders, and shots fired were tabulated, along with the location, nature and outcome of the crime. The information was gathered for each incident from both the NRA-ILA synopsis and, where available, one additional news story.³

9. According to this analysis, defenders fired on average 2.1 bullets. Out of 279 incidents, there were no incidents in which the defender was reported to have fired more than 10 bullets. In 16% of incidents, the defender did not fire any shots, and simply threatened the offender with a gun. For incidents occurring in the home (53% of total), defenders fired an average of 2.1 bullets, and fired no bullets in 12% of incidents in the home. The table below summarizes some of these findings.

² Claude Werner, “The Armed Citizen – A Five Year Analysis.”

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

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Rounds Fired in Self-Defense Based on NRA-ILA Armed Citizen Stories January 2011 - December 2013		
	<u>Rounds Fired by Individual in Self-Defense</u>	
	<u>Overall</u>	<u>Incidents In Home</u>
Average Shots Fired	2.1	2.1
Number of Incidents with No Shots Fired	44	17
Percent of Incidents with No Shots Fired	15.8%	11.5%
Number of Incidents with >10 Shots Fired	0	0
Percent of Incidents with >10 Shots Fired	0.0%	0.0%
Notes and Sources:		
Events from NRA-ILA Armed Citizen database covering 279 incidents from January 1, 2011 through December 31, 2013. Excludes repeat stories, wild animal attacks, and one incident where the supposed victim later pleaded guilty to covering up a murder.		

B. Mass shootings

1. Use of large-capacity magazines in mass shootings

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

11. The definition of mass shooting and the period covered differed somewhat for each of the sources. Mother Jones covers 67 mass shootings from 1982 to 2013. Mother Jones includes mass shootings in which a shooter killed four or more people in one incident in a public place and excludes crimes involving armed robbery or gang violence.⁴ Citizens Crime Commission covers 30 mass shootings from 1984 to 2012. Citizens Crime Commission includes mass shootings in which a shooter killed four or more people and the gun used by the shooter had

⁴ “What Exactly is a Mass Shooting,” Mother Jones, August 24, 2012. <http://www.motherjones.com/mojo/2012/08/what-is-a-mass-shooting>. Two incidents included in the Mother Jones data (Columbine High School and Westside Middle School) involved two shooters. “A Guide to Mass Shootings in America,” Mother Jones, February 27, 2013.

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a magazine with capacity greater than ten.⁵ We updated the data on shots fired for mass shootings in 2013 where available.

12. Based on the combined data we found that large-capacity magazines (those with a capacity to hold more than 10 rounds of ammunition) are often used in mass shootings. Such large-capacity magazines were used in the majority of the mass shootings with known magazine capacity since 1982 (34 out of 40 mass shootings).⁶ In the past two years, large-capacity magazines were used in five of the seven mass shootings with known magazine capacity.⁷

13. The data indicates that it is common for offenders to fire more than ten rounds when using a gun with a large-capacity magazine in mass shootings. In particular, in mass shootings that involved use of large-capacity magazine guns, the average number of shots fired was 75.⁸

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

14. Based on our analysis of the combined mass shootings data in the past 30 years, casualties were higher in the mass shootings that involved large-capacity magazine guns than in other mass shootings. In particular, we found an average number of fatalities or injuries of 22 per mass shooting with a large-capacity magazine versus 9 for those without.⁹

⁵ “Mass Shooting Incidents in America (1984-2012),” Citizens Crime Commission of New York City. <http://www.nycrimecommission.org/mass-shooting-incidents-america.php>

⁶ For many of the mass shootings, the data does not indicate whether a large-capacity magazine is used. Based only on Mother Jones data, large capacity magazines were used in 32 out of 38 mass shootings with known magazine capacity.

⁷ There were five additional mass shootings in which the magazine capacity was unknown.

⁸ There were 27 mass shootings, in which the magazine capacity and the number of shots fired were known.

⁹ A 2013 study by Mayors Against Illegal Guns similarly found that when mass shootings involved assault weapons or high capacity magazine, the number of deaths was higher. The study was based on data from the FBI and media reports covering the period January 2009 through January 2013. The study found that mass shootings where assault weapons or high-capacity magazines were used resulted in an average of 14.4 people shot and 7.8 deaths versus other mass shootings that resulted in 5.7 people shot and 4.8 deaths. *Analysis of Recent Mass Shootings*, Mayors Against Illegal Guns, September, 2013.

EB000037

3. Mass shootings with only one gun and large capacity magazines

15. In his declaration filed in this matter, plaintiffs’ expert Dr. Gary Kleck implies that killers in mass shootings are unlikely to have only one gun with a large-capacity magazine, and that thus, the ban would not prevent mass shootings because shooters could use multiple guns.¹⁰

16. Dr. Kleck states that there has not been “a single mass shooting in which the offender used a LCM [large capacity magazine], and was known to have possessed just one gun and just one magazine in his immediate possession.”¹¹ Dr. Kleck’s statement is misleading because his list of mass shootings includes a number of incidents with missing data. There are 11 mass shootings in Dr. Kleck’s data, or 20% of the incidents, for which there is not enough data to make such a conclusion. In other words, according to Dr. Kleck’s data in 20% of these incidents it is possible that a large capacity magazine, one gun, and one magazine was used.

17. Moreover, based on our analysis of the combined mass shootings data in the past 30 years, there have been 34 incidents (85% of the 40 mass shootings with known magazine capacity) in which the shooter used a large capacity magazine. There have been 28 incidents (41% of the 69 mass shootings) in which the shooter had only one gun. There were 14 incidents (35% of the 40 mass shootings with known magazine capacity) where the shooter had only one gun and used a large capacity magazine. An average of 14 people were killed or injured in each of these 14 mass shootings.¹²

4. Percent of mass shooters’ guns legally obtained

18. The combined data on mass shootings indicates that the majority of guns used in mass shootings were obtained legally. Shooters in almost 78% of mass shootings in the past 30

¹⁰ Declaration of Gary Kleck, December 23, 2013, ¶14.

¹¹ Declaration of Gary Kleck, December 23, 2013, ¶14.

¹² An analysis of only the mass shootings identified by Mother Jones yielded similar results: 1) Large capacity magazines were used in 32 out of the 38 mass shootings with known magazine capacity; 2) The shooter had only one gun in 26 out of the 67 mass shootings; 3) The shooter had only one gun and used a large capacity magazine in 12 of the 38 shootings with known magazine capacity. An average of 15 people were killed or injured during these 12 mass shootings.

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years obtained their guns legally (at least 54 of the 69 mass shootings) and 75% of the guns used in these 69 mass shootings were obtained legally (at least 115 of the 153 guns).¹³

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge. Executed this 29th day of January, 2014, in New York, NY.



Lucy P. Allen

¹³ Based on data from "US Mass Shootings, 1982-2012: Data from Mother Jones' Investigation" published by Mother Jones. <http://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data>

EB000039

**Table 1: Combined Mass Shootings Data
1982 - 2013**

Case	Location	Date	Source	Large-Capacity Magazine ¹		Fatalities ²		Injuries ²		Shots Fired	Obtained Legally?	Offenders' Number of Guns
				MJ/NE	CC	MJ	CC	MJ	CC	CC	MJ	MJ
1 Washington Navy Yard	Washington D.C.	9/16/2013	MJ	-	-	13	-	8	-	-	Yes	2
2 Hialeah	Hialeah, Florida	7/26/2013	MJ	-	-	7	-	0	-	10 ³	Yes	1
3 Santa Monica	Santa Monica, California	6/7/2013	MJ	Yes	-	6	-	3	-	70 ⁴	Yes	2
4 Federal Way	Federal Way, Washington	4/21/2013	MJ	-	-	5	-	0	-	-	Yes	2
5 Upstate New York	Herkimer, New York	3/13/2013	MJ	No	-	5	-	2	-	-	Yes	1
6 Newtown school	Newtown, Connecticut	12/14/2012	MJ/CC	Yes	Yes	28	28	2	-	154	Stolen	4
7 Accent Signage Systems	Minneapolis, Minnesota	9/27/2012	MJ	Yes	-	7	-	1	-	-	Yes	1
8 Sikh temple	Oak Creek, Wisconsin	8/5/2012	MJ/CC	Yes	Yes	7	7	3	3	-	Yes	1
9 Aurora theater	Aurora, Colorado	7/20/2012	MJ/CC	Yes	Yes	12	12	58	58	70	Yes	4
10 Seattle cafe	Seattle, Washington	5/30/2012	MJ	-	-	6	-	1	-	-	Yes	2
11 Oikos University	Oakland, California	4/2/2012	MJ	No	-	7	-	3	-	-	Yes	1
12 Su Jung Health Sauna	Norcross, Georgia	2/22/2012	MJ	-	-	5	-	0	-	-	Yes	1
13 Seal Beach	Seal Beach, California	10/14/2011	MJ	-	-	8	-	1	-	-	Yes	3
14 IHOP	Carson City, Nevada	9/6/2011	MJ/CC	Yes	Yes	5	5	7	7	-	Yes	3
15 Grand Rapids Shooting	Grand Rapids, Michigan	7/7/2011	CC	-	Yes	-	8	-	2	10	No	1
16 Tucson	Tucson, Arizona	1/8/2011	MJ/CC	Yes	Yes	6	6	13	13	33	Yes	1
17 Hartford Beer Distributor	Manchester, Connecticut	8/3/2010	MJ/CC	Yes	Yes	9	9	2	2	11	Yes	2
18 Coffee shop police killings	Parkland, Washington	11/29/2009	MJ	-	-	4	-	1	-	-	Stolen	2
19 Fort Hood	Fort Hood, Texas	11/5/2009	MJ/CC	Yes	Yes	13	13	30	30	214	Yes	1
20 Binghamton	Binghamton, New York	4/3/2009	MJ/CC	Yes	Yes	14	14	4	4	99	Yes	2
21 Carthage nursing home	Carthage, North Carolina	3/29/2009	MJ	No	-	8	-	3	-	-	Yes	2
22 Atlantis Plastics	Henderson, Kentucky	6/25/2008	MJ	-	-	6	-	1	-	-	Yes	1
23 Northern Illinois University	DeKalb, Illinois	2/14/2008	MJ/CC	Yes	Yes	6	6	21	21	54	Yes	4
24 Kirkwood City Council	Kirkwood, Missouri	2/7/2008	MJ	-	-	6	-	2	-	-	Stolen	2
25 Westroads Mall	Omaha, Nebraska	12/5/2007	MJ/CC	Yes	Yes	9	9	4	5	14	Stolen	1
26 Crandon	Crandon, Wisconsin	10/7/2007	MJ	-	-	6	-	1	-	-	Yes	1
27 Virginia Tech	Blacksburg, Virginia	4/16/2007	MJ/CC	Yes	Yes	33	33	23	17	176	Yes	2
28 Trolley Square	Salt Lake City, Utah	2/12/2007	MJ	No	-	6	-	4	-	-	No	2
29 Amish school	Lancaster County, Pennsylvania	10/2/2006	MJ	-	-	6	-	5	-	-	Yes	3
30 Capitol Hill	Seattle, Washington	3/25/2006	MJ	-	-	7	-	2	-	-	Yes	4
31 Goleta postal	Goleta, California	1/30/2006	MJ	Yes	-	8	-	0	-	-	Yes	1
32 Red Lake	Red Lake, Minnesota	3/21/2005	MJ	-	-	10	-	5	-	-	Stolen	3
33 Living Church of God	Brookfield, Wisconsin	3/12/2005	MJ	-	-	7	-	4	-	-	Yes	1
34 Damageplan show	Columbus, Ohio	12/8/2004	MJ	-	-	5	-	7	-	-	Yes	1
35 Hunting Camp	Meteor, Wisconsin	11/21/2004	CC	-	Yes	-	6	-	3	20	-	1
36 Lockheed Martin	Meridian, Mississippi	7/8/2003	MJ	-	-	7	-	8	-	-	Yes	4

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**Table 1: Combined Mass Shootings Data
1982 - 2013**

Case	Location	Date	Source	Large-Capacity Magazine ¹		Fatalities ²		Injuries ²		Shots Fired	Obtained Legally?	Offenders' Number of Guns
				MJ/NE	CC	MJ	CC	MJ	CC	CC	MJ	MJ
37 Navistar	Melrose Park, Illinois	2/5/2001	MJ	-	-	5	-	4	-	-	Yes	4
38 Wakefield	Wakefield, Massachusetts	12/26/2000	MJ/CC	Yes	Yes	7	7	0	0	37	Yes	3
39 Hotel	Tampa, Florida	12/30/1999	MJ	-	-	5	-	3	-	-	Yes	2
40 Xerox	Honolulu, Hawaii	11/2/1999	MJ/CC	Yes	Yes	7	7	0	0	28	Yes	1
41 Wedgwood Baptist Church	Fort Worth, Texas	9/15/1999	MJ/CC	Yes	Yes	8	8	7	7	30	Yes	2
42 Atlanta day trading spree	Atlanta, Georgia	7/29/1999	MJ	-	-	9	-	13	-	-	Yes	4
43 Columbine High School	Littleton, Colorado	4/20/1999	MJ/CC	Yes	Yes	15	15	24	23	188	No	4
44 Thurston High School	Springfield, Oregon	5/21/1998	MJ/CC	Yes	Yes	4	4	25	25	50	No	3
45 Westside Middle School	Jonesboro, Arkansas	3/24/1998	MJ/CC	Yes	Yes	5	5	10	10	26	Stolen	9
46 Connecticut Lottery	Newington, Connecticut	3/6/1998	MJ/CC	Yes	Yes	5	5	1	0	5	Yes	1
47 Caltrans maintenance yard	Orange, California	12/18/1997	MJ/CC	Yes	Yes	5	5	2	2	144	Yes	1
48 R.E. Phelon Company	Aiken, South Carolina	9/15/1997	MJ	-	-	4	-	3	-	-	No	1
49 Fort Lauderdale revenge	Fort Lauderdale, Florida	2/9/1996	MJ	-	-	6	-	1	-	-	Yes	2
50 Walter Rossler Company	Corpus Christi, Texas	4/3/1995	MJ	-	-	6	-	0	-	-	Yes	2
51 Air Force base	Fairchild Air Force Base, Washington	6/20/1994	MJ/CC	Yes	Yes	5	6	23	23	-	Yes	1
52 Chuck E. Cheese	Aurora, Colorado	12/14/1993	MJ	-	-	4	-	1	-	-	-	1
53 Long Island Rail Road	Garden City, New York	12/7/1993	MJ/CC	Yes	Yes	6	6	19	19	30	Yes	1
54 Luigi's	Fayetteville, North Carolina	8/6/1993	MJ	-	-	4	-	8	-	-	Yes	3
55 101 California Street	San Francisco, California	7/1/1993	MJ/CC	Yes	Yes	9	9	6	6	75	No	3
56 Watkins Glen	Watkins Glen, New York	10/15/1992	MJ	-	-	5	-	0	-	-	Yes	1
57 Lindhurst High School	Olivehurst, California	5/1/1992	MJ	-	-	4	-	10	-	-	Yes	2
58 Royal Oak postal	Royal Oak, Michigan	11/14/1991	MJ	-	-	5	-	5	-	-	Yes	1
59 University of Iowa	Iowa City, Iowa	11/1/1991	MJ	No	-	6	-	1	-	-	Yes	1
60 Luby's	Killeen, Texas	10/16/1991	MJ/CC	Yes	Yes	24	24	20	20	100	Yes	2
61 GMAC	Jacksonville, Florida	6/18/1990	MJ/CC	Yes	Yes	10	10	4	4	14	Yes	2
62 Standard Gravure	Louisville, Kentucky	9/14/1989	MJ/CC	Yes	Yes	9	9	12	12	21	Yes	5
63 Stockton schoolyard	Stockton, California	1/17/1989	MJ/CC	Yes	Yes	6	6	29	30	106	Yes	2
64 ESL	Sunnyvale, California	2/16/1988	MJ	-	-	7	-	4	-	-	Yes	7
65 Shopping centers	Palm Bay, Florida	4/23/1987	MJ	Yes	-	6	-	14	-	-	Yes	3
66 United States Postal Service	Edmond, Oklahoma	8/20/1986	MJ	-	-	15	-	6	-	-	Yes	3
67 San Ysidro McDonald's	San Ysidro, California	7/18/1984	MJ/CC	Yes	Yes	22	22	19	19	257	Yes	3
68 Dallas nightclub	Dallas, Texas	6/29/1984	MJ/CC	Yes	Yes	6	6	1	1	-	No	1
69 Welding shop	Miami, Florida	8/20/1982	MJ	No	-	8	-	3	-	-	Yes	1
Average:						8.2	10.3	7.6	12.6	73.1		
Large-Capacity Magazine Average:						10.1	10.3	12.1	12.6	75.4		
Non Large-Capacity Magazine Average:						6.7	-	2.7	-	-		

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**Table 1: Combined Mass Shootings Data
1982 - 2013**

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

Notes and Sources:

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

Mother Jones mass shootings data: "US Mass Shootings, 1982, 2012: Data from Mother Jones' Investigation," Mother Jones, December 28, 2012.

Mother Jones high capacity magazine data: "More Than Half of Mass Shooters Used Assault Weapons and High-Capacity Magazines," Mother Jones, February 27, 2013.

Citizens Crime Commission data from: "Citizens Crime Commission of New York City, Mass Shooting Incidents in America (1984-2012).

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

² Offender included in counts of fatalities and injuries.

³ Shots fired: "Shooter Set \$10,000 on Fire in Hialeah Shooting Rampage," NBC News, July 28, 2013.

⁴ Shots fired: "Santa Monica shooter was 'ready for battle'; At least 70 rounds fired at students," The Malibu Times, June 8, 2013.

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9 SUNNYVALE DEPARTMENT OF PUBLIC
SAFETY, FRANK GRGURINA, in his official
10 capacity

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION
14

15 LEONARD FYOCK,
SCOTT HOCHSTETLER,
16 WILLIAM DOUGLAS,
DAVID PEARSON, BRAD SEIFERS, and
17 ROD SWANSON,
18 Plaintiffs,

19 v.

20 THE CITY OF SUNNYVALE, THE
MAYOR OF SUNNYVALE,
21 ANTHONY SPITALERI in his official
capacity, THE CHIEF OF THE
22 SUNNYVALE DEPARTMENT OF
PUBLIC SAFETY, FRANK GRGURINA,
23 in his official capacity, and DOES 1-10
24 Defendants.

Case No. 13-cv-05807 RMW

**DECLARATION OF JOHN J. DONOHUE III
IN SUPPORT OF SUNNYVALE'S
OPPOSITION TO PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

Action Filed: Dec. 16, 2013

25
26 I, John J. Donohue III, declare as follows:

27 1. I am the C. Wendell and Edith M. Carlsmith Professor of Law at Stanford Law
28 School. After earning a law degree from Harvard and a Ph.D in economics from Yale, I have

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1 been a member of the legal academy since 1986, previously holding tenured positions at both
2 Yale Law School and Northwestern Law School. My research and writing uses empirical
3 analysis to determine the impact of law and public policy in a wide range of areas, including civil
4 rights and antidiscrimination law, employment discrimination, crime and criminal justice, and
5 school funding. I have written extensively about the relationship between rates of violent crime
6 and gun control. My complete credentials, experience, and background are stated in my
7 curriculum vitae, a true and correct copy of which is attached as Exhibit A.

8 2. I am familiar with the social science literature concerning gun ownership rates.
9 The General Social Science Survey (GSS) is an annual survey conducted by the National Opinion
10 Research Center, which is headquartered at the University of Chicago. The GSS is widely
11 regarded by social science researchers as the most reliable indicator of national social trends, in
12 part because of its professional implementation of face-to-face interviews using a very large
13 sample size (the latest GSS data comes from 57,061 respondents versus roughly 1000 in a typical
14 telephone survey) with a high response rate (always in excess of 70 percent versus telephone
15 survey responses which have fallen below 10 percent in recent surveys). See Pew Research
16 Center, "Assessing the Representativeness of Public Opinion Surveys," (May 15, 2012);
17 [http://www.people-press.org/2012/05/15/assessing-the-representativeness-of-public-opinion-](http://www.people-press.org/2012/05/15/assessing-the-representativeness-of-public-opinion-surveys/)
18 [surveys/](http://www.people-press.org/2012/05/15/assessing-the-representativeness-of-public-opinion-surveys/).

19 3. GSS data from 2012, the most recent year that data is available, states that 34% of
20 American households have at least one gun. In 2010, GSS data showed that 33% of American
21 households had at least one gun. See Miller *et al.*, "Firearms and Violent Death in the United
22 States," in Reducing Gun Violence in America, Webster and Vernick, eds. (Johns Hopkins
23 University Press 2013) (attached as Exhibit B). A 1994 national survey showed that 35% of
24 households owned guns. Cook & Ludwig, Guns in America: National Survey on Private
25 Ownership and Use of Firearms, National Institute of Justice: Research in Brief (May 1997)
26 (reporting that 35% of households own guns, according to 1994 survey, and that ownership of
27 private firearms is highly concentrated among a small percentage of gun owners) (attached as
28 Exhibit C).

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1 4. This is a considerable drop from the approximately 50% of United States
2 households with one or more guns in the late 1970s, as reflected in GSS surveys. *See Miller et al.*
3 Other national surveys show similar results, such as research by the Pew Research Center and the
4 National Behavioral Risk Factor Surveillance System. These studies consistently find a persistent
5 decline in household gun ownership over the past several decades. A recent report from the Pew
6 Research Center states:

7 The Pew Research Center has tracked gun ownership since 1993,
8 and our surveys largely confirm the General Social Survey trend.
9 In our December 1993 survey, 45% reported having a gun in their
10 household; in early 1994, the GSS found 44% saying they had a
11 gun in their home. A January 2013 Pew Research Center survey
found 33% saying they had a gun, rifle or pistol in their home, as
did 34% in the 2012 wave of the General Social Survey.
[[http://www.people-press.org/2013/03/12/section-3-gun-ownership-trends-and-demographics.](http://www.people-press.org/2013/03/12/section-3-gun-ownership-trends-and-demographics)]

12 5. Other surveys have differed from the GSS’s conclusion that 34% of American
13 households had guns in 2012. The most recent Gallup survey found that 43% of American
14 households have at least one gun, as do 29% of American adults. There is no consensus about
15 why these estimates differ, although it should be noted that the Gallup polls are far smaller
16 surveys based on less reliable telephone interviews with dramatically lower response rates than
17 the GSS. Nonetheless, every survey of gun ownership conducted over time – including Gallup
18 polls – show that the percentage of household with guns today is lower than it was two decades
19 ago.

20 6. There is strong evidence that gun ownership is concentrated. Researchers
21 analyzing the results of a 2004 national survey found that 48% of individual gun owners,
22 corresponding to 13% of the US adult population, reported owning four or more firearms, and the
23 20% of gun owners who owned the most guns possessed about 65% of the nation’s guns. *See*
24 *Hepburn et al., “The US Gun Stock: Results from the 2004 National Firearms Survey,” Injury*
25 *Prevention* 2007;13:15-19 (attached as Exhibit D); *see also* *Cook & Ludwig, supra* (reporting
26 based on 1994 survey that 74% of gun owners possessed two or more guns and that the top 20%
27 of firearms owners possessed 55% of all firearms).

28 7. The FBI publishes records of the number of background checks requested, and

1 such background checks are often initiated pursuant to a desired purchase of firearms. With only
2 a couple of exceptions, the trend has been for the number of background checks conducted each
3 year to grow every year. See National Instant Criminal Background Check System (NICS)
4 Operations 2012, available at [http://www.fbi.gov/about-us/cjis/nics/reports/2012-operations-](http://www.fbi.gov/about-us/cjis/nics/reports/2012-operations-report)
5 report. Gun industry trade groups also cite increased background checks and an increase in
6 collections of the federal excise taxes collected on the sale of firearms and ammunition as
7 reflecting strong demand for firearms. See, e.g., National Shooting Sports Foundation, "NSSF
8 Says 2012 Firearms Sales Outlook Promising After Record-Setting Year," (Jan. 18, 2012),
9 available at <http://nssf.org/newsroom/releases/show.cfm?PR=011812.cfm&path=2012>.

10 8. Because reliable social science data shows that the number of households that own
11 guns has likely dropped in recent decades, and certainly has not grown, it seems most likely that
12 robust gun sales can be attributed not to increasingly broad gun ownership but instead largely to
13 purchases of guns by members of households that previously owned guns, as well as to those who
14 are purchasing guns in anticipation that certain gun bans will be enacted with grandfather clauses
15 that will allow them to profit from the higher prices that follow when the supply of certain
16 weapons or LCMs is restricted.

17 9. I am not aware of any current social science research providing an estimate for the
18 number of American households that own large-capacity magazines or LCMs (defined as an
19 ammunition feeding device with the capacity to hold more than 10 rounds of ammunition) or for
20 the number of LCMs in private hands in America.

21 10. It is reasonable to assume that consumer demand for large-capacity magazines is
22 similar to demand for firearms generally. If that is the case, then LCM ownership by household is
23 also likely to be concentrated, with increased numbers of LCMs held by a declining share of
24 households. This would be consistent with a January 2013 New York Times/CBS News poll of
25 1,110 adults nationwide showing that nearly two-thirds of Americans favored a ban on high-
26 capacity magazines. [[http://www.nytimes.com/2013/02/19/us/politics/lawmakers-look-at-ban-on-](http://www.nytimes.com/2013/02/19/us/politics/lawmakers-look-at-ban-on-high-capacity-gun-magazines.html?_r=1&.)
27 high-capacity-gun-magazines.html?_r=1&.]

28 11. A review of the resolution of mass shootings in the U.S. suggests that bans on

1 large capacity magazines can be crucial to saving lives by forcing mass shooters to pause and
2 reload ammunition. Citizens have frequently taken advantage of a perpetrator stopping to reload
3 his weapon to tackle him or otherwise subdue him in at least 20 separate shootings in the United
4 States since 1991, notably including the December 7th, 1993 shooting of passengers on a Long
5 Island Railroad car,¹ the October 29th, 1994 shooting near the grounds of the White House,² and
6 the January 8th, 2011 shooting in Tucson, AZ that targeted U.S. Congresswoman Gabby
7 Giffords.³ In many other incidents, targeted victims were able to escape while a shooter reloaded.
8 Perhaps the most vivid illustration of this benefit was seen when 11 children at Sandy Hook
9 Elementary School were able to escape while Adam Lanza reloaded his 30 round LCM.⁴

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct. Executed this 28 day of January, 2014, in Stanford, California.

12
13 
14 _____
15 John J. Donohue III

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21 ¹ "DEATH ON THE L.I.R.R.: The Rampage; Gunman in a Train Aisle Passes Out Death," *The*
22 *New York Times*, December 9, 1993 - [http://www.nytimes.com/1993/12/09/nyregion/death-on-](http://www.nytimes.com/1993/12/09/nyregion/death-on-the-lirr-the-rampage-gunman-in-a-train-aisle-passes-out-death.html)
23 [the-lirr-the-rampage-gunman-in-a-train-aisle-passes-out-death.html](http://www.nytimes.com/1993/12/09/nyregion/death-on-the-lirr-the-rampage-gunman-in-a-train-aisle-passes-out-death.html) (9-millimeter pistol, 15 round
24 magazine).
25 ² "Public Report of the White House Security Review," Department of the Treasury, 1995 -
26 <http://www.fas.org/firp/agency/ustreas/ussst1pubrpt.html> (Chinese-made SKS semiautomatic
27 rifle, 30 round magazine).
28 ³ "Crowd members took gunman down," *Los Angeles Times*, January 9, 2011 -
<http://articles.latimes.com/2011/jan/09/nation/la-na-arizona-shooting-heroes-20110110> (9mm
Glock handgun, 30 round extended magazine).
⁴ "Legislative Leaders Say Bipartisan Agreement Could Yield Nation's Strongest Gun-Control
Bill," *The Hartford Courant*, April 1, 2013. - [http://articles.courant.com/2013-04-01/news/hc-](http://articles.courant.com/2013-04-01/news/hc-gun-deal-newtown-0413-20130401_1_adam-lanza-gun-owners-assault-rifle)
gun-deal-newtown-0413-20130401_1_adam-lanza-gun-owners-assault-rifle (Bushmaster .223
caliber rifle, high capacity 30 round magazine).

EB000047

EXHIBIT A

To

**Declaration of John J. Donohue III in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction**

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Web pages:

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<http://www.law.stanford.edu/directory/profile/528/John%20J.%20Donohue%20III/>

EMPLOYMENT

Full-time Positions

- Stanford Law School, C. Wendell and Edith M. Carlsmith Professor of Law, September 2010 to the present.
- Yale Law School, Leighton Homer Surbeck Professor of Law, July 2004 to August 2010.
- Stanford Law School, Professor of Law, September 1995 to June 2004.
 - William H. Neukom Professor of Law, February 2002 – June 2004.
 - John A. Wilson Distinguished Faculty Scholar, March 1997 – January 2002.
 - Academic Associate Dean for Research, since July 2001 – July 2003.
 - Stanford University Fellow, September 2001 – May 2003.
- Northwestern University School of Law:
 - Class of 1967 James B. Haddad Professor of Law, September 1994-August 1995
 - Harry B. Reese Teaching Professor, 1994-1995
 - Professor of Law, May 1991-September 1994
 - Associate Professor, May 1989-May 1991
 - Assistant Professor, September 1986-May 1989.
- Research Fellow, American Bar Foundation, September 1986-August 1995.
- Associate Attorney, Covington & Burling, Washington, D.C., October 1978-July 1981 (including last six months as Attorney, Neighborhood Legal Services)
- Law Clerk to Chief Justice T. Emmet Clarie, U.S. District Court, Hartford, Connecticut, September 1977-August 1978.

Temporary Appointments

- Visiting Professor, Bocconi University, Milan, Italy, October- November 2012.
- 2011 Faculty Scholar in Residence, University of Denver Sturm College of Law, April 21-22, 2011.
- Visiting Fellow, The Milton Friedman Institute for Research in Economics, University of Chicago, October 2009
- Schmidheiny Visiting Professor of Law and Economics, St. Gallen University, November – December, 2007.
- Visiting Lecturer in Law and Economics, Gerzensee Study Center, Switzerland, June 2007.
- Visiting Professor, Tel Aviv University School of Law, May 2007.
- Herbert Smith Visitor to the Law Faculty, University of Cambridge, England, February 2006.
- Visiting Professor, Harvard Law School, January 2003.

- Fellow, Center for Advanced Studies in the Behavioral Sciences, Stanford, California, Academic year 2000-01.
- Visiting Professor, Yale Law School, Fall, 1999.
- Professor, Center for the Study of American Law in China, Renmin University Law School, Beijing, July 1998.
- Visiting Professor of Law and Economics, University of Virginia, January 1997.
- Lecturer, Toin University School of Law, Yokohama, Japan, May-June 1996.
- Cornell Law School, Distinguished Visiting Fellow in Law and Economics, April 8-12, 1996 and September 25-29, 2000
- Visiting Professor, University of Chicago Law School, January 1992-June 1992.
- Visiting Professor of Law and Economics, University of Virginia Law School, January 1990-May 1990.
- Fellow, Yale Law School Program in Civil Liability, July 1985-August 1986.
- Private Practice (part-time), New Haven, Connecticut, September 1981-August 1986.
- Instructor in Economics, Yale College, September 1983-August 1985.
- Summer Associate, Donovan Leisure Newton & Irvine, New York, Summer 1982.
- Summer Associate, Perkins, Coie, Stone, Olsen & Williams, Seattle, Washington, Summer 1976.
- Research Assistant, Prof. Laurence Lynn, Kennedy School of Government, Harvard University, Summer 1975.
- LSAT Tutor, Stanley Kaplan Education Center, Boston, Massachusetts; Research Assistant, Prof. Philip Heymann, Harvard Law School; Research Assistant, Prof. Gordon Chase, Harvard School of Public Health. (During Law School).

EDUCATION

Yale University, 1981-1986

- University Fellow in Economics; M.A. 1982, M. Phil. 1984, Ph.D. 1986.
 - Dissertation: "A Continuous-Time Stochastic Model of Job Mobility: A Comparison of Male-Female Hazard Rates of Young Workers." Awarded with Distinction by Yale.
 - Winner of the Michael E. Borus Award for best social science dissertation in the last three years making substantial use of the National Longitudinal Surveys--awarded by the Center for Human Research at Ohio State University on October 24, 1988.
- National Research Service Award, National Institute of Health.
- Member, Graduate Executive Committee; Graduate Affiliate, Jonathan Edwards College.

Harvard Law School, 1974-1977 (J.D.)

- Graduated Cum Laude.
- Activities: Law Clerk (Volunteer) for Judge John Forte, Appellate Division of the District Court of Central Middlesex; Civil Rights, Civil Liberties Law Review; Intra-mural Athletics; Clinical Placement (Third Year): (a) First Semester: Massachusetts Advocacy Center; (b) Second Semester: Massachusetts Attorney General's Office--Civil Rights and Consumer Protection Divisions. Drafted comments for the Massachusetts Attorney General on the proposed U.S. Department of Justice settlement of its case against Bechtel Corporation's adherence to the Arab Boycott of Israeli companies.

Hamilton College, 1970-1974 (B.A.)

- Departmental Honors in both Economics and Mathematics
 - Phi Beta Kappa (Junior Year)
- Graduated fourth in class with the following academic awards:
 - Brockway Prize
 - Edwin Huntington Memorial Mathematical Scholarship
 - Fayerweather Prize Scholarship
 - Oren Root Prize Scholarship in Mathematics
- President, Root-Jessup Public Affairs Council.

PUBLICATIONS

Books and Edited Volumes:

- Law and Economics of Discrimination, Edward Elgar Publishing, 2013.
- Employment Discrimination: Law and Theory, Foundation Press, 2005, 2009 (2d edition) (with George Rutherglen).
- Economics of Labor and Employment Law: Volumes I and II, Edward Elgar Publishing, 2007. http://www.elgar.co.uk/bookentry_main.lasso?id=4070
- Foundations of Employment Discrimination Law, Foundation Press, 2003 (2d edition).
- Foundations of Employment Discrimination Law, Oxford University Press, 1997 (Initial edition).

Book Chapters:

- "Drug Prohibitions and Its Alternatives." Chapter 2 in Cook, Philip J., Stephen Machin, Olivier Marie, and Giovanni Mastrobuoni, eds, *Lessons from the Economics of Crime: What Reduces Offending?* MIT Press. 45-66 (2013).
- "The Death Penalty," Chapter in Encyclopedia of Law and Economics, Spring (2013).
- "Rethinking America's Illegal Drug Policy," in Philip J. Cook, Jens Ludwig, and Justin McCrary, eds, Controlling Crime: Strategies and Tradeoffs (2011), pp.215-289 (with Benjamin Ewing and David Peloquin).

Articles:

- "The Impact of Right to Carry Laws and the NRC Report: The Latest Lessons for the Empirical Evaluation of Law and Policy" NBER Working Paper. Revised January 2014 (with Abhay Aneja and Alexandria Zhang).
- "Reflections on the Newtown Shooting One Year Later," Stanford Lawyer, December 5, 2013. <http://stanfordlawyer.law.stanford.edu/2013/12/reflections-on-the-newtown-shooting-one-year-later/>
- "Gun lunacy rides high in America," Special to CNN, September 13, 2013. <http://www.cnn.com/2013/09/13/opinion/donohue-gun-control/index.html?iref=allsearch>

- "Why the NRA fights background checks," Special to CNN, Wed April 10, 2013. <http://www.cnn.com/2013/04/10/opinion/donohue-background-checks/index.html>
- "Substance vs. Sideshows in the More Guns, Less Crime Debate: A Comment on Moody, Lott, and Marvell" (with Abhay Aneja, and Alexandria Zhang) ECON JOURNAL WATCH 10(1) January 2013: 32-39
- "Do Police Reduce Crime? A Reexamination of a Natural Experiment," in Empirical Legal Studies of Judicial Systems (Yun-chien Chang ed., forthcoming, 2013) (with Daniel E. Ho & Patrick Leahy).
- "Jury Nullification in Modified Comparative Negligence Regimes," 79 The University of Chicago Law Review 945 (2012)(with Eli K. Best).
- "What Can Be Done to Stem Gun Violence?" San Francisco Chronicle, December 21, 2012. <http://www.sfgate.com/opinion/article/What-can-be-done-to-stem-gun-violence-4139575.php#ixzz2G4qlkJJ2>
- "When Will America Wake Up to Gun Violence?" CNN opinion, July 21, 2012. Posted to: <http://www.cnn.com/2012/07/20/opinion/donohue-gun-control/>.
- "Time To Kill The Death Penalty?" The California Progress Report, June 28, 2012.
- "Assessing Post-ADA Employment: Some Econometric Evidence and Policy Considerations." Journal of Empirical Legal Studies Vol. 8: No. 3, September 2011, pp. 477-503 (with Michael Ashley Stein, Christopher L. Griffin, Jr. and Sascha Becker).
- "The Impact of Right-to-Carry Laws and the NRC Report: Lessons for the Empirical Evaluation of Law and Policy", Am Law Econ Rev (Fall 2011) 13 (2): 565-631 (with Abhay Aneja and Alex Zhang). Revised in Donohue, John J., Aneja, Abhay and Zhang, Alexandria, "The Impact of Right to Carry Laws and the NRC Report: The Latest Lessons for the Empirical Evaluation of Law and Policy" (July 27, 2012). Available at SSRN: <http://ssrn.com/abstract=2118893>.
- "Punishment is a Cost, Not a Benefit," Review of Mark A. R. Kleiman's "When Brute Force Fails: How to Have Less Crime and Less Punishment," XLVII Journal of Economic Literature (March 2010), 168-172.
- "The Politics of Judicial Opposition: Comment," Journal of Institutional and Theoretical Economics, 166(1), 108—114 (2010).
- "Introduction to the Death Penalty Symposium," 11 American Law and Economics Review. v (Fall 2009) (with Steve Shavell).
- "Estimating the Impact of the Death Penalty on Murder," 11 American Law and Economics Review 249 (Fall 2009) (with Justin Wolfers).
- "The Impact of the Death Penalty on Murder," Criminology & Public Policy (November 2009, Volume 8, Issue 4) at pp. 795-801.
- "The Impact of Legalized Abortion on Teen Childbearing," 11 American Law and Economics Review 24 (2009) (with Jeff Grogger and Steven Levitt).

- “Assessing the Relative Benefits of Incarceration: The Overall Change Over the Previous Decades and the Benefits on the Margin,” in Steven Raphael and Michael Stoll, eds., “Do Prisons Make Us Safer? The Benefits and Costs of the Prison Boom,” pp. 269-341 (2009).
- “More Guns, Less Crime Fails Again: The Latest Evidence from 1977-2006,” 6 Econ Journal Watch 218-233 (May 2009)(with Ian Ayres).
- “Yet Another Refutation of the More Guns, Less Crime Hypothesis – With Some Help From Moody and Marvell,” 6 Econ Journal Watch 35-59 (January 2009)(with Ian Ayres).
- “AntiDiscrimination Law,” in Steven Durlauf and Lawrence Bloom, eds., The New Palgrave Dictionary of Economics, 2d Edition, 2008.
- “Murder in Decline in the 1990s: Why the U.S. and N.Y.C. Were Not That Special,” Punishment and Society 10: 333 (2008) at <http://pun.sagepub.com>
- “Understanding the 1990s Crime Drops in the U.S. and Canada,” Canadian Journal of Criminology and Criminal Justice, Vol 49, No. 4, p. 552 (October 2007) at <http://www.ccia-acjp.ca/en/cjcr200/cjcr278.html>
- “The Law and Economics of Antidiscrimination Law,” A. M. Polinsky and Steven Shavell, eds., Handbook of Law and Economics, Volume 2 (2007), Pages 1387-1472.
- “Economic Models of Crime and Punishment,” Social Research, Vol. 74: No. 2, Summer 2007, pp. 379-412.
- “Rethink the War on Drugs,” Yale Law Reports, Summer 2007, pp. 46-47.
- “More Cops,” Brookings Policy Brief #158, March 2007 (with Jens Ludwig), http://www.brookings.edu/papers/2007/03crime_john-j--donohue-iii.aspx.
- “Studying Labor Market Institutions in the Lab: Minimum Wages, Employment Protection, and Workfare: Comment,” Journal of Theoretical and Institutional Economics, 163(1), 46—51 (March 2007).
- “The Impact of Damage Caps on Malpractice Claims: Randomization Inference with Difference-in-Differences,” (with Daniel Ho), 4 Journal of Empirical Legal Studies 69 (2007).
- “The Discretion of Judges and Corporate Executives: An Insider’s View of the Disney Case,” The Economists’ Voice: Vol. 3: No. 8, Article 4. Available at: <http://www.bepress.com/ev/vol3/iss8/art4>
- “The Knicks Boldly Go Where Companies Have Not,” The New York Times, July 2, 2006 Sunday (with Ian Ayres).
- “The Death Penalty: No Evidence of Deterrence,” The Economists’ Voice, (with Justin Wolfers) (April 2006), [http://bpp.wharton.upenn.edu/jwolfers/Press/DeathPenalty\(BEPress\).pdf](http://bpp.wharton.upenn.edu/jwolfers/Press/DeathPenalty(BEPress).pdf).
- Reprinted in Stiglitz, Edlin, and DeLong (eds), The Economists’ Voice: Top Economists Take on Today’s Problems (2008).
- “The Costs of Wrongful-Discharge Laws,” 88 Review of Economics and Statistics (with David Autor and Stewart Schwab)(2006), pp. 211-31.
- “Security, Democracy, and Restraint,” 1 Opening Argument 4 (February 2006).
- Reprinted in Loch Johnson and James Wirtz, Intelligence and National Security: An Anthology 406-407 (2d ed. 2008).

- “Uses and Abuses of Empirical Evidence in the Death Penalty Debate,” 58 Stanford Law Review 791 (2005) (with Justin Wolfers).
 - Reprinted in Steven Levitt and Thomas Miles, eds., The Economics of Criminal Law, Edward Elgar Publishing (2008).
 - Reprinted in Robert Cooter and Francesco Parisi, eds., Foundations of Law and Economics, Edward Elgar Publishing (2010)
- “Does Terrorism Increase Crime? A Cautionary Tale,” (with Daniel Ho), 2005.
- “The Evolution of Employment Discrimination Law in the 1990s: A Preliminary Empirical Evaluation” (with Peter Siegelman), in Laura Beth Nielsen and Robert L. Nelson, eds., Handbook of Employment Discrimination Research (2005).
- “Fighting Crime: An Economist’s View,” 7 The Milken Institute Review 46 (2005).
 - Reprinted in Kurt Finsterbusch, ed., Social Problems (McGraw-Hill, 2006).
- “Does Greater Managerial Freedom to Sacrifice Profits Lead to Higher Social Welfare?” In Bruce Hay, Robert Stavins, and Richard Vietor, eds., Environmental Protection and the Social Responsibility of Firms: Perspectives from Law, Economics, and Business (2005).
- “Guns, Crime, and the Impact of State Right-to-Carry Laws,” 73 Fordham Law Review 623 (2004).
- “Clinton and Bush’s Report Cards on Crime Reduction: The Data Show Bush Policies Are Undermining Clinton Gains”, The Economists’ Voice: Vol. 1: No. 1, Article 4. 2004, <http://www.bepress.com/ev/vol1/iss1/art4>
- “The Employment Consequences of Wrongful-Discharge Laws: Large, Small, or None at All?” American Economic Review: Papers and Proceedings May, 2004 (with David Autor and Stewart Schwab).
- “Further Evidence that Legalized Abortion Lowered Crime: A Reply To Joyce,” 39 Journal of Human Resources 29 (Winter 2004)(with Steven Levitt).
- “The Final Bullet in the Body of the More Guns, Less Crime Hypothesis,” Criminology & Public Policy (July 2003, Volume 2, Issue 3) at pp. 397-410.
- “Shooting Down the ‘More Guns, Less Crime’ Hypothesis,” 55 Stanford Law Review 1193 (2003)(with Ian Ayres).
- “The Latest Misfires in Support of the ‘More Guns, Less Crime’ Hypothesis,” 55 Stanford Law Review 1371 (2003)(with Ian Ayres).
- “Can Guns, Or Gun Violence, Be Controlled?” (Reviewing James Jacobs, Can Gun Control Work?), The American Prospect (December 16, 2002), p. 35.
- “Divining the Impact of Concealed Carry Laws,” in Jens Ludwig and Philip Cook, Evaluating Gun Policy: Effects on Crime and Violence (Washington D.C.: Brookings, 2003).
- “The Search for Truth: In Appreciation of James J. Heckman,” 27 Law and Social Inquiry 23 (2002).
- “The Schooling of Southern Blacks: The Roles of Social Activism and Private Philanthropy, 1910-1960,” Quarterly Journal of Economics (Feb. 2002), (with James Heckman and Petra Todd), pp. 225 – 268.
 - Reprinted in Legal Decisionmaking section of the American Bar Foundation Anthology, ABF Press (2007).

- Reprinted in American Bar Foundation, Analyzing Law's Reach: Empirical Research on Law and Society (2008)
- "The Impact of Race on Policing and Arrests," Journal of Law and Economics, vol. XLIV October 2001)(with Steven Levitt), pp. 367 – 394.
- "The Impact of Legalized Abortion on Crime," Quarterly Journal of Economics (Vol. CXVI, Issue 2, May 2001)(with Steven Levitt) pp. 379-420.
 - Reprinted in Steven Levitt and Thomas Miles, eds., The Economics of Criminal Law, Edward Elgar Publishing (2008).
 - Reprinted in Robert Cooter and Francesco Parisi, eds., Recent Developments In Law And Economics, Edward Elgar Publishing (2010).
- "Understanding the Reasons for and Impact of Legislatively Mandated Benefits for Selected Workers," 53 Stanford Law Review 897 (2001).
 - Reprinted in Michael Zimmer, Charles Sullivan et al, Cases and Materials on Employment Discrimination (6th edition)(2003).
- "Nondiscretionary Concealed Weapons Law: A Case Study of Statistics, Standards of Proof, and Public Policy," American Law and Economics Review 436 (1999)(with Ian Ayres).
 - Reprinted in Steven Levitt and Thomas Miles, eds., The Economics of Criminal Law, Edward Elgar Publishing (2008).
- "Why We Should Discount the Views of Those Who Discount Discounting," 108 Yale Law Journal 1901 (1999).
- "Understanding The Time Path of Crime," 88 Journal of Criminal Law and Criminology 1423 (1998).
- "Discrimination in Employment," The New Palgrave Dictionary of Law and Economics (1998).
 - Excerpted in Lynne Dallas, Law and Public Policy: A Socio-Economic Approach (2003).
- "The Legal Response to Discrimination: Does Law Matter?" in Bryant Garth, Austin Sarat, eds., How Does Law Matter? Pp. 45 – 75 (Northwestern University Press, 1998).
- "Some Thoughts on Law and Economics and the Theory of the Second Best," 73 Chicago-Kent Law Review 257 (1998).
- "Allocating Resources Among Prisons and Social Programs In the Battle Against Crime," 27 Journal of Legal Studies 1 (1998) (with Peter Siegelman).
 - Excerpted in Sanford Kadish & Stephen Schulhofer, Criminal Law and Its Processes (8th ed. 2007),
- "Guns, Violence, and the Efficiency of Illegal Markets," 88 American Economic Review 463 (May 1998)(with Steve Levitt).
- "Did *Miranda* Diminish Police Effectiveness?" 50 Stanford Law Review 1147 (1998).
- "Some Thoughts on Affirmative Action," 75 Washington University Law Quarterly 1590 (1997).
- "Executive Compensation," 3 Stanford Journal of Law, Business & Finance 1 (1997).
- "Some Perspective on Crime and Criminal Justice Policy," Lawrence Friedman and George Fisher, eds., The Crime Conundrum: Essays on Criminal Justice 45 (1997).
- "The Selection of Employment Discrimination Disputes for Litigation: Using Business Cycle Effects to Test the Priest/Klein Hypothesis," 24 Journal of Legal Studies 427 (1995) (with Peter Siegelman).

- "Employment Discrimination Law in Perspective: Three Concepts of Equality," 92 Michigan Law Review 2583 (1994).
- Reprinted in Frank Ravitch, Janis McDonald, and Pamela Sumners, Employment Discrimination Law (2004).
- Translated into Chinese and published in Peking University Law Review (2007).
- "The Effects of Joint and Several Liability on Settlement Rates: Mathematical Symmetries and Meta-Issues in the Analysis of Rational Litigant Behavior," 23 Journal of Legal Studies 543 (1994).
- "Liberal Law and Economics," (reviewing Rethinking the Progressive Agenda by Susan Rose-Ackerman), 13 Journal of Policy Analysis and Management 192 (1994).
- Review of Richard Epstein's Forbidden Grounds: The Case Against Employment Discrimination Laws, 31 Journal of Economic Literature 1477 (1994).
- "Law and Macroeconomics: Employment Discrimination Over the Business Cycle," 66 University of S. Calif. L. Rev. 709 (1993) (with Peter Siegelman).
- "Advocacy Versus Analysis In Assessing Employment Discrimination Law," 44 Stanford Law Review 1583 (1992).
- Reprinted in Christopher McCrudden, Anti-Discrimination Law (2003).
- Excerpted in Professors Michael J. Zimmer, Charles A. Sullivan, & Rebecca Hanner White, Cases and Materials on Employment Discrimination (Seventh Edition 2008).
- "The Changing Nature of Employment Discrimination Litigation," 43 Stanford Law Review 983 (1991) (with Peter Siegelman).
- "The Effects of Fee Shifting on the Settlement Rate: Theoretical Observations on Costs, Conflicts, and Contingency Fees," 54 Law and Contemporary Problems 195 (1991).
- "Re-Evaluating Federal Civil Rights Policy," 79 Georgetown Law Journal 1713 (1991) (with James Heckman).
- "Opting for the British Rule; Or, If Posner and Shavell Can't Remember the Coase Theorem, Who Will?" 104 Harvard Law Review 1093 (1991).
- Reprinted in Saul Levmore, Foundations of Tort Law 160 (1994).
- "Continuous versus Episodic Change: The Impact of Civil Rights Policy on the Economic Status of Blacks," 29 Journal of Economic Literature 1603 (December 1991) (with James Heckman).
- Reprinted in Paul Burstein, ed., Equal Employment Opportunity, Aldine De Gruyter, New York (1994).
- "The Impact of Federal Civil Rights Policy on the Economic Status of Blacks," 14 Harvard Journal of Law and Public Policy 41 (1991).
- "Studying the Iceberg From Its Tip: A Comparison of Published and Unpublished Employment Discrimination Cases," 24 Law and Society Review 1133 (1990) (with Peter Siegelman).
- "Prohibiting Sex Discrimination in the Workplace: An Economic Perspective," 56 University of Chicago Law Review 1337 (1989).
- "The Law & Economics of Tort Law: The Profound Revolution," 102 Harvard Law Review 1047 (1989).
- "Using Market Incentives to Promote Auto Occupant Safety," 7 Yale Law and Policy Review 449 (1989).

- "Diverting the Coasean River: Incentive Schemes to Reduce Unemployment Spells," 99 Yale Law Journal 549 (1989).
- Winner of the 1989 Scholarly Paper Competition, Association of American Law Schools.
- "Reply to Professors Ellickson and Stigler," 99 Yale Law Journal 635 (1989).
- "Law and Economics: The Road Not Taken," 22 Law and Society Review 903 (1988).
- "Further Thoughts on Employment Discrimination Legislation: A Reply to Judge Posner," 136 U. Pa. L. Rev. 523 (1987).
- "Judge Bork, Anti-Trust Law, and the Bending of 'Original Intent'," Chicago Tribune, sec.1, pg. 15, July 22, 1987.
- "Posner's Third Symphony: Thinking about the Unthinkable," 39 Stanford Law Review 791 (1987)(with Ian Ayres).
- "Determinants of Job Turnover of Young Men and Women in the U.S.--A Hazard Rate Analysis," in Schultz, T.P., ed., Research in Population Economics, vol.6, Greenwich, Conn.: JAI Press (1987).
- "A Comparison of Male-Female Hazard Rates of Young Workers, 1968-1971," Working Paper #48, Center for Studies in Law, Economics and Public Policy; Yale Law School (1986).
- "Hazard Rates of Young Male and Female Workers--Recent Developments," Working Paper #51, Center for Studies in Law, Economics and Public Policy; Yale Law School (1986).
- "Is Title VII Efficient?" 134 U. Pa. L. Rev. 1411 (1986).
- Reprinted in Paul Burstein, ed., Equal Employment Opportunity, Aldine De Gruyter, New York (1994).
- "Section I Cases," Sherman's Summations, Vol.3, No.2, Sherman Act Committee of the A.B.A. Antitrust Section, Fall, 1982, at 49.
- "An Evaluation of the Constitutionality of S. 114, The Proposed Federal Death Penalty Statute," Hearings before the U.S. Senate Judiciary Committee, April 27, 1981, at 151.
- "Godfrey v. Georgia: Creative Federalism, the Eighth Amendment, and the Evolving Law of Death," 30 Catholic University Law Review 13 (1980).
- "Criminal Code Revision--Contempt of Court and Related Offenses," Hearings before the Subcommittee on Criminal Justice of the House Judiciary Committee, July 18, 1979, at 1087.

Blog Posts:

- "When will America wake up to gun violence?" CNN.com, July 20, 2012, <http://www.cnn.com/2012/07/20/opinion/donohue-gun-control/index.html>
- "It Takes Laws to Control the Bad Guys," The New York Times -- Room For Debate: <http://www.nytimes.com/roomfordebate/2011/01/11/more-guns-less-crime> (January 11, 2011).
- "Have 'Woman-Protective' Studies Resolved the Abortion Debate? Don't Bet on It," <http://balkin.blogspot.com/2008/09/have-woman-protective-studies-resolved.html> (September 2008).
- "Dodging the Death Penalty Bullet On Child Rape," <http://balkin.blogspot.com/2008/07/dodging-death-penalty-bullet-on-child.html> (July 2008).

- “Why I'd Stick With Yale Clerks-- Some Econometric Ruminations,” <http://balkin.blogspot.com/2008/04/why-id-stick-with-yale-clerks-some.html> (April 2008).

WORKSHOPS AND ADDRESSES

- “Trial and Decision in the Connecticut Death Penalty Litigation,” Faculty Workshop, **Stanford Law School**, November 20, 2013.
- “Rethinking America’s Illegal Drug Policy,” Law and Economics Workshop, **Harvard Law School**, April 20, 2010; NBER Conference, “Economical Crime Control,” **Boalt Hall**, Berkeley, CA, January 16, 2010; **NBER Summer Institute** Pre-Conference “Economical Crime Control,” July 23, 2009; **Whitney Center** Lecture Series, Hamden, CT, October 5, 2009; Law and Economics Workshop, **University of Chicago Law School**, October 13, 2009; Seminar for Spanish Law Professors, **Harvard Law School**, October 23, 2009; The Criminal Law Society, **Stanford Law School**, March 31, 2011, **University of Denver Sturm College of Law**, April 21, 2011; Law and Economics Workshop, **Boalt Hall**, Berkeley, CA, October 17, 2011; Shaking the Foundations Conference, **Stanford Law School**, November 2, 2013.
- “The Challenge to the Connecticut Death Penalty,” **Yale Law School**, Death Penalty Clinic, November 5, 2007; Graduate Student Seminar, November 11, 2009; Stanford Program in International Legal Studies Seminar, **Stanford Law School**, Nov. 11, 2010; Faculty Workshop, **Stanford Law School**, June 8, 2011; Faculty workshop, **Duke Law School**, April 13, 2012; Program on Public Policy, **Stanford University**, May 2, 2012; Annual Meeting of the American Law and Economics Association, **Vanderbilt Law School**, Nashville, TN, May 18, 2013; Faculty Workshop, **University of Arizona Law School**, October 17, 2013; 8th Annual Conference on Empirical Legal Studies, **University of Pennsylvania Law School**, October 26, 2013.
- Commentator: “How to Lie with Rape Statistics” by Corey Rayburn Yung, 8th Annual Conference on Empirical Legal Studies, **University of Pennsylvania Law School**, October 2013.
- “An Empirical Look at Gun Violence in the U.S.” **University of Arizona Law School**, October 17, 2013
- Discussant, “Sex Offender Registration and Plea Bargaining,” **NBER Labor Summer Institute**, Cambridge, MA, July 25, 2013.
- “What Works in the War Against Crime?” **Renaissance Weekend**, Jackson Hole, Wyoming, July 5, 2013.
- Seminar Presentation, “Statistics and the Streets – Curbing Crime, Realities of the Death Penalty, and Successes in Public Safety,” **Renaissance Weekend**, Jackson Hole, Wyoming, July 5, 2013.
- Flashes of Genius (Glimpses of Extra-ordinarily Novel Thinking) -- “Stemming Gun Violence,” **Renaissance Weekend**, Jackson Hole, Wyoming, July 5, 2013.
- “Can Laws Reduce Crime?” Safe Oakland Speakers Series, Holy Names University, Oakland, CA, May 1, 2013, <http://www.ustream.tv/channel/safe-oakland-speaker-series>
- Presentation on “The Death Penalty in America” on a panel on “human rights and criminal justice systems in the world,” Science for Peace conference at Bocconi University in Milan, Italy, November 15, 2012. <http://www.fondazioneveronesi.it/scienceforpeace2012/>

- Seminar Presentation, "America's Criminal Justice System," **Renaissance Weekend**, Santa Monica, CA., Feb. 19, 2012.
- "Statistical Inference, Regression Analysis and Common Mistakes in Empirical Research," SPILLS Fellow's Workshop, **Stanford Law School**, February 2, 2012.
- "New Evidence in the 'More Guns, Less Crime' Debate: A Synthetic Controls Approach," Conference on Empirical Legal Studies, **Northwestern Law School**, November 4, 2011.
- "Drug Legalization and its Alternatives," *Lessons from the Economics of Crime: What Works in Reducing Offending?* **CEsifo Venice Summer Institute Workshop**, July 22, 2011.
- "Incapacitating Addictions: Drug Policy and American Criminal Justice," in Rethinking the War on Drugs through the US-Mexico Prism," **Yale Center for the Study of Globalization**, May 12, 2011.
- Plenary Session: Flashes of Genius (Glimpses of Extra-ordinarily Novel Thinking) -- "Has Legalized Abortion Reduced Crime?" **Renaissance Weekend**, Liguna Niguel, CA., Feb. 18, 2011.
- "An Evidence-Based Look at the More Guns, Less Crime Theory (after Tucson)" The American Constitution Society for Law and Policy (ACS), **Stanford Law School**, January 25, 2011; **Renaissance Weekend**, Liguna Niguel, CA., Feb. 19, 2011; "Faculty Forum" at the External Relations Office, **Stanford Law School**, April 5, 2011.
- "Empirical Evaluation of Law: The Dream and the Nightmare," Legal Studies Workshop, **Stanford Law School**, Feb. 7, 2011; **Renaissance Weekend**, Liguna Niguel, CA., Feb. 20, 2011; **University of Denver Sturm College of Law**, April 22, 2011; Presidential Address, Annual Meeting of the American Law and Economics Association, **Columbia University**, May 20, 2011.
- Death Sentencing in Connecticut," **American Society of Criminology Annual Meeting**, San Francisco, Nov. 17, 2010.
- "The Impact of Right to Carry Laws and the NRC Report: Lessons for the Empirical Evaluation of Law and Policy," Conference on Empirical Legal Studies, **Yale Law School**, Nov. 6, 2010.
- Comment on Bushway and Gelbach, "Testing for Racial Discrimination in Bail Setting Using Nonparametric Estimation of a Parametric Model," Conference on Empirical Legal Studies, **Yale Law School**, Nov. 6, 2010.
- Commentator, "A Test of Racial Bias in Capital Sentencing," **NBER Political Economy Program Meeting**, April 23, 2010.
- "The (Lack of a) Deterrent Effect of Capital Punishment," Faculty Workshop, **University of Chicago Economics Department**, October 21, 2009.
- Keynote Address, "The Evolution of Econometric Evaluation of Crime and Deterrence," 1st Paris& Bonn Workshop on Law and Economics: The Empirics of Crime and Deterrence, **University of Paris Ouest Nanterre**, September 24, 2009.
- Comment on Cook, Ludwig, and Samaha, "Gun Control after *Heller*: Litigating Against Regulation," NBER Regulation and Litigation Conference, **The Boulders**, Carefree, Arizona, September 11, 2009.
- "Impact of the Death Penalty on Murder in the US," Faculty Workshop, Law School, **Universitat Pompeu Fabra (Barcelona)**, June 18, 2009.

- Comment on Joanna Shepherd’s “The Politics of Judicial Opposition,” Journal of Institutional and Theoretical Economics Conference, **Kloster Eberbach, Germany**, June 12, 2009.
- “The Great American Crime Drop of the ‘90s: Some Thoughts on Abortion Legalization, Guns, Prisons, and the Death Penalty,” **Hamilton College**, Clinton, NY, June 5, 2009.
- “The Impact of the ADA on the Employment and Earnings of the Disabled,” **American Law and Economics Association Meetings**, University of San Diego, May 15, 2009.
- “Crime and Punishment in the United States,” **Eastern State Penitentiary, Yale Alumni Event**, Philadelphia, PA, April 26, 2009.
- “Measuring Culpability in Death Penalty Cases,” Conference on Applications of Economic Analysis in Law, **Fuqua School of Business, Duke University**, April 18, 2009.
- “Autopsy of a Financial Crisis,” Workshop on New International Rules and Bodies for Regulating Financial Markets, **State University of Milan**, March 23, 2009.
- “Yet Another Refutation of the More Guns, Less Crime Hypothesis – With Some Help From Moody and Marvell, Law and Economics Workshop, **NYU Law School**, March 10, 2009.
- Intelligence-Squared Debate: “Guns Reduce Crime,” **Rockefeller University**, New York, October 28, 2008.
- “The D.C. Handgun Controls: Did the Supreme Court’s Decision Make the City Safer?” Debate, **The Contemporary Club of Albemarle**, Charlottesville, VA, October 23, 2008.
- “Evaluating the Empirical Claims of the Woman-Protective Anti-Abortion Movement,” Panel on The Facts of the Matter: Science, Public Health, and Counseling, Yale Conference on the Future of Sexual and Reproductive Rights, **Yale Law School**, October 11, 2008.
- “Can You Believe Econometric Evaluations of Law, Policy, and Medicine?” **Stanford Law School**, Legal Theory Workshop, March 1, 2007; Faculty Workshop, **Tel Aviv University School of Law**, May 14, 2007; Faculty Workshop, **University of Haifa Law School**, May 16, 2007; Law and Economics Workshop, **Georgetown Law School**, September 19, 2007; Law and Economics Workshop, **St. Gallen Law School**, Switzerland, November 29, 2007; and Yale Law School, February 25, 2008; Law and Economics Workshop, **Swiss Institute of Technology**, Zurich, Switzerland, May 21, 2008; Faculty Workshop, **University of Virginia Law School**, October 24, 2008; Plenary Session, Latin American and Caribbean Law and Economics Association, **Universitat Pompeu Fabra (Barcelona)**, June 15, 2009.
- “Empirical Evaluation of Gun Policy,” **Harvard Law School**, October 9, 2008.
- “Assessing the Relative Benefits of Incarceration: The Overall Change Over the Previous Decades and the Benefits on the Margin,” **Russell Sage Foundation**, New York, May 3, 2007; Law and Economics Workshop, **Tel Aviv University School of Law**, May 28, 2008.
- Death Penalty Debate with Orin Kerr, Bloggingheads, April 11, 2008.
- “Evaluating Connecticut’s Death Penalty Regime,” Faculty Public Interest Conversation, **Yale Law School**, April 9, 2008.
- “The Death Penalty in Connecticut and the United States,” **The Whitney Center**, Hamden, CT, November 5, 2007; Seminar on Advanced Criminal Law: Criminal Sentencing and the Death Penalty, **Fordham Law School**, April 8, 2008; Law and Economics Workshop, **Swiss Institute of Technology**, Zurich, Switzerland, May 20, 2008.

- Radio Interview, “The Death of Capital Punishment?” Morning Edition: Where We Live. WNPR. Connecticut, March 10, 2008.
- Comment on Thomas Dee’s “Born to Be Mild: Motorcycle Helmets and Traffic Safety,” **American Economics Association Meetings**, New Orleans, Louisiana, January 4, 2008.
- “The Empirical Revolution in Law and Policy: Jubilation and Tribulation,” **Keynote Address, Conference on Empirical Legal Studies, NYU Law School**, November 9, 2007.
- “The Optimal Rate of Incarceration,” **Harvard Law School**, October 26, 2007.
- “Empirical Evaluation of Law: The Impact on U.S Crime Rates of Incarceration, the Death Penalty, Guns, and Abortion,” Law and Economics Workshop, **St. Gallen Law School, Switzerland**, June 25, 2007.
- Comment on Eric Baumer’s “A Comprehensive Assessment of the Contemporary Crime Trends Puzzle,” Committee on Law and Justice Workshop on Understanding Crime Trends, **National Academy of Sciences**, Washington, D.C., April 25, 2007.
- Comment on Bernard Harcourt, Third Annual Criminal Justice Roundtable Conference, **Yale Law School**, “Rethinking the Incarceration Revolution Part II: State Level Analysis,” April 14, 2006.
- “Corporate Governance in America: The Disney Case,” **Catholic University Law School**, Milan, Italy, March 19, 2007.
- “The U.S Tort System,” (Latin American) Linkages Program, **Yale Law School**, February 13, 2007.
- Panel Member, “Guns and Violence in the U.S.,” **Yale University, International Center**, January 24, 2007.
- “Economic Models of Crime and Punishment,” Punishment: The U.S. Record: A Social Research Conference at **The New School**, New York City, Nov. 30, 2006
- Comment on Baldus et al, “Equal Justice and the Death Penalty: The Experience fo the United States Armed Forces, Conference on Empirical Legal Studies, **University of Texas Law, School**, Austin, Texas, October 27, 2006.
- “Empirical Evaluation of Law: The Promise and the Peril,” **Harvard Law School**, October 26, 2006.
- “Estimating the Impact of the Death Penalty on Murder,” Law and Economics Workshop, **Harvard Law School**, September 12, 2006; Conference on Empirical Legal Studies, **University of Texas Law School**, October 28, 2006; Joint Workshop, Maryland Population Research Center and School of Public Policy, **University of Maryland**, March 9, 2007.
- “Why Are Auto Fatalities Dropping so Sharply?” **Faculty Workshop, Wharton**, Philadelphia, PA, April 19, 2006.
- “The Law of Racial Profiling,” Law and Economic Perspectives on Profiling Workshop, **Northwestern University Department of Economics**, April 7, 2006.
- “Landmines and Goldmines: Why It’s Hard to Find Truth and Easy To Peddle Falsehood in Empirical Evaluation of Law and Policy,” **Rosenthal Lectures, Northwestern University School of Law**, April 4-6, 2006.
- “The Impact of Legalized Abortion on Crime,” **American Enterprise Institute**, March 28, 2006.
- “The Impact of Damage Caps on Malpractice Claims: Randomization Inference with Difference-in-Differences,” **Conference on Medical Malpractice, The Rand Corporation**, March 11, 2006.

- “Powerful Evidence the Death Penalty Deters?” **Leighton Homer Surbeck Chair Lecture, Yale Law School**, March 7, 2006.
- “Uses and Abuses of Empirical Evidence in the Death Penalty Debate,” Faculty Workshop, **University of Connecticut Law School**, October 18, 2005; Faculty Workshop, **UCLA Law School**, February 3, 2006; Law and Economics Workshop, **Stanford Law School**, February 16, 2006; ; Law Faculty, **University of Cambridge, Cambridge, England**, February 28, 2006; **University of Illinois College of Law**, Law and Economics Workshop, March 2, 2006; Faculty Workshop, **Florida State University Law School**, March 30, 2006; **ALEA**, Berkeley, CA May 6, 2006; **University of Chicago Law School**, Law and Economics Workshop, May 9, 2006.
- “Is Gun Control Illiberal?” Federalist Society Debate with Dan Kahan at Yale Law School, January 31, 2006.
- “Witness to Deception: An Insider’s Look at the Disney Trial,” **2005-2006 Distinguished Lecture, Boston University School of Law**, November 10, 2005; Center for the Study of Corporate Law, **Yale Law School**, November 3, 2005; **Law Offices of Herbert Smith, London, England**, February 23, 2006; Law Faculty, **University of Cambridge, Cambridge, England**, February 27, 2006.
- “Understanding the Surprising Fall in Crime in the 1990s,” **Rotary Club**, Orange, CT, August 5, 2005; Faculty Workshop, **Yale School of Management**, September 21, 2005.
- Panel Member, “The Board's Role in Corporate Strategy,” The Yale Global Governance Forum, **Yale School of Management**, September 8, 2005.
- “Crime and Abortion,” **Museo de la Ciudad de Mexico**, Mexico City, October 20, 2003.
- “Allocating Resources towards Social Problems and Away From Incarceration as a Means of Reducing Crime,” **MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice**, San Francisco, CA, February 28, 2003.
- “Shooting Down the More Guns, Less Crime Hypothesis,” **Stanford Law School**, Law and Economics Seminar, January 28, 2003; Faculty Workshop, Center for the Study of Law and Society, **Boalt Hall**, University of California, Berkeley, Feb. 24, 2003; Development Workshop, **Stanford Law School**, April 25, 2003; Faculty Workshop, **Stanford Law School**, July 2, 2003; Law and Public Affairs Program Workshop, **Princeton University**, September 29, 2003; Stanford Alumni Weekend, **Stanford University**, October 17, 2003; Faculty Workshop, **CIDE**, Mexico City, October 20, 2003.
- “The Impact of Legalized Abortion on Teen Childbearing,” **NBER Labor Summer Institute**, Cambridge, MA, July 30, 2002.
- “Do Concealed Handgun Laws Reduce Crime?” Faculty Workshop, **Stanford Law School**, October 4, 2000; First-Year Orientation, **Stanford Law School**, September 5, 2001; Faculty Workshop, **Harvard Law School**, April 26, 2002; Faculty Workshop, **Columbia Law School**, April 29, 2002.
- “The Evolution of Employment Discrimination Law in the 1990s: An Empirical Investigation,” Fellows Workshop, American Bar Foundation, February 11, 2002.
- “The Role of Discounting in Evaluating Social Programs Impacting on Future Generations: Comment on Arrow and Revesz,” Colloquium on Distributive Justice, **Stanford Law School**, Oct. 18, 2001.
- “The Impact of Wrongful Discharge Laws,” **NBER Labor Summer Institute**, Cambridge, MA, July 30, 2001; Labor and Employment Seminar, **NYU Law School**, October 16, 2001; Faculty Workshop, **Stanford Law School**, September 18, 2002; **Yale Law School**, January, 2004.

- “Racial Profiling: Defining the Problem, Understanding the Cause, Finding the Solution,” **American Society of Criminology Conference**, San Francisco, CA, November 15, 2000.
- "Institutional Architecture for Building Private Markets," Conference on "Latin America and The New Economy" at **Diego Portales University** in Santiago, Chile, October 26, 2000.
- “The History and Current Status of Employment Discrimination Law in the United States,” Unicapital School of Law, (Centro Universitario Capital), Sao Paulo, Brazil, March 10, 2000.
- “Corporate Governance in Developing Countries: Opportunities and Dangers,” Conference on Neoliberal Policies for Development: Analysis and Criticism,” University of Sao Paulo Law School, March 13, 2000
- “Legalized Abortion and Crime,” Law and Economics Workshop, **University of Pennsylvania Law School**, September 21, 1999; Faculty Workshop, **Yale Law School**, September 27, 1999; **John Jay College of Criminal Justice**, October 7, 1999; Faculty Workshop, **Quinnipiac Law School**, October 13, 1999; Faculty Workshop, **University of Connecticut Law School**, October 19, 1999; **University of Virginia Law School**, October 25, 1999; Faculty Workshop, **Baruch College**, November 9, 1999; MacArthur Foundation Social Interactions and Economic Inequality Network Meeting, **Brookings Institution**, December 4, 1999; Faculty Workshop, **NYU Law School**, January 21, 2000; Faculty Workshop, **University of San Diego Law School**, February 18, 2000; Public Economics Workshop, Department of Economics, **Stanford University**, April 28, 2000; Law and Economics Workshop, **University of California at Berkeley Law School**, September 18, 2000; Faculty Workshop, **Cornell Law School**, September 26, 2000; OB-GYN Grand Rounds, **Stanford Medical School**, October 2, 2000; **Center for Advanced Studies in the Behavioral Sciences**, October 11, 2000; Faculty Workshop, **Graduate School of Business**, February 5, 2002.
- Panel member, Session on Executive Compensation, Director's College, **Stanford Law School**, March 23, 1999.
- “Exploring the Link Between Legalization of Abortion in the 1970s and Falling Crime in the 1990s,” Law and Economics Workshop, **Harvard Law School**, March 16, 1999; Law and Economics Workshop, **University of Chicago Law School**, April 27, 1999; Faculty Workshop, **Stanford Law School**, June 30, 1999.
- “Is the Increasing Reliance on Incarceration a Cost-Effective Strategy of Fighting Crime?” Faculty Workshop, **University of Wisconsin School of Social Science**, February 19, 1999.
- “What Do We Know About Options Compensation?” Institutional Investors Forum, **Stanford Law School**, May 29, 1998.
- Commentator on Orlando Patterson’s presentation on “The Ordeal of Integration,” **Stanford Economics Department**, May 20, 1998.
- “Understanding The Time Path of Crime,” Presentation at Conference on Why is Crime Decreasing? **Northwestern University School of Law**, March 28, 1998; Faculty Workshop, **Stanford Law School**, September 16, 1998; Faculty Workshop, **University of Michigan Law School**, February 18, 1999.
- Commentator, Conference on Public and Private Penalties, the **University of Chicago Law School**, Dec. 13-14, 1997.
- “Some Thoughts on Affirmative Action,” Presentation at a conference on Rethinking Equality in the Global Society, **Washington University School of Law**, November 10, 1997.
- Commentator on Chris Jencks’ Presentation on Welfare Policy, **Stanford Economics Department**, October 8, 1997.

- “The Impact of Race on Policing, Arrest Patterns, and Crime,” Faculty Workshop, **Stanford Law School**, September 10, 1997; Law and Economics Workshop, **University of Southern California Law School**, October 23, 1997; Law and Economics Workshop, **Columbia University Law School**, November 24, 1997; Law and Economics Workshop, Haas School of Business, **University of California at Berkeley**, February 19, 1998; Annual Meeting of the American Law and Economics Association, **University of California at Berkeley**, May 8, 1998; Conference on the Economics of Law Enforcement, **Harvard Law School**, October 17, 1998.
- “Crime in America: Understanding Trends, Evaluating Policy,” **Stanford Sierra Camp**, August 1997.
- “Executive Compensation: What Do We Know?” TIAA-CREF Committees on Corporate Governance and Social Responsibility, Center for Economic Policy Research, **Stanford University**, June 27, 1997; NASDAQ Director’s Day, **Stanford University**, June 30, 1997.
- Panel Chair, Criminal Law (Theory), Criminal Law (Empirical), and Labor/Discrimination/Family Law, American Law and Economics Association, **University of Toronto Law School**, May 9-10, 1997.
- Commentator, “Diversity in Law School Hiring,” **Stanford Law School**, February 25, 1997.
- Keynote Speaker, “The Optimal Rate of Crime,” 11th Annual Conference, **The Oklahoma Academy for State Goals**, Tulsa, Oklahoma, May 7, 1996.
- Panel member, Session on Executive Compensation, Director's College, **Stanford Law School**, March 28-29, 1996.
- “The Power of Law: Can Law Make a Difference in Improving the Position of Women and Minorities in the Labor Market?” The Fellows of the **American Bar Foundation**, Baltimore, Maryland, February 3, 1996.
- “Public Action, Private Choice and Philanthropy: Understanding the Sources of Improvement in Black Schooling Quality in Georgia, 1911-1960,” **Stanford Faculty Workshop**, January 24, 1996; Faculty Workshop, **University of Virginia Law School**, January 22, 1997; **National Bureau of Economic Research**, Cambridge, Massachusetts, Labor Studies Conference, April 3, 1998.
- Commentator, “The Effect of Increased Incarceration on Crime,” Meetings of the **American Economics Association**, San Francisco, January 6, 1996.
- Commentator, Symposium on Labor Law, **University of Texas Law School**, November 10-11, 1995.
- Panel Member, Symposium on Criminal Justice, **Stanford Law School**, October 6-7, 1995.
- Commentator, “The Litigious Plaintiff Hypothesis,” Industrial and Labor Relations Conference, **Cornell University**, May 19, 1995.
- Commentator on Keith Hylton's, “Fee Shifting and Predictability of Law,” Faculty Workshop, **Northwestern University School of Law**, February 27, 1995.
- “The Selection of Employment Discrimination Disputes for Litigation: Using Business Cycle Effects to Test the Priest/Klein Hypothesis,” **Stanford University**, Law and Economics Seminars, October 31, 1994.
- “Is the United States at the Optimal Rate of Crime?” Faculty Workshop, **Indiana University School of Law**, Indianapolis, November 18, 1993; Faculty Workshop, **Northwestern University School of Law**, April 18, 1994; Law and Economics Workshop, **Stanford Law School**, April 28, 1994; Meetings of the American Law and Economics Association, **Stanford Law School**, May 13, 1994; **American Bar Foundation**, September 7, 1994; Faculty Workshop, **DePaul Law School**, September 21, 1994; Law and Economics Workshop, **University of**

Chicago Law School, October 11, 1994; Faculty Seminar, **Stanford Law School**, October 31, 1994; Law and Economics Luncheon, **Stanford Law School**, November 1, 1994; Faculty Seminar Workshop, **University of Illinois College of Law**, Champaign, November 22, 1994; Law and Economics Workshop, **Harvard Law School**, November 29, 1994; School Alumni Luncheon, Chicago Club, December 13, 1994; **Northwestern Law School**; Law and Economics Workshop, **Yale Law School**, February 1, 1996; Faculty Workshop, **Cornell Law School**, April 10, 1996; Faculty Workshop, **Tokyo University Law School**, June 4, 1996; Panel on "The Economics of Crime," **Western Economics Association Meeting**, San Francisco, July 1, 1996.

- "The Broad Path of Law and Economics," Chair Ceremony, **Northwestern University School of Law**, September 30, 1994.
- Commentator on Paul Robinson's "A Failure of Moral Conviction," **Northwestern University School of Law**, September 20, 1994.
- "The Do's of Diversity, The Don'ts of Discrimination," Kellogg School of Business, **Northwestern University**, May 17, 1994.
- "Does Law Matter in the Realm of Discrimination?" **Law and Society Summer Institute**, Pala Mesa Lodge, Fallbrook, California, June 25, 1993.
- Commentator, "The Double Minority: Race and Sex Interactions in the Job Market," Society for the Advancement of Socio-Economics, **New School for Social Research**, March 28, 1993.
- "The Effects of Joint and Several Liability on Settlement Rates: Mathematical Symmetries and Meta-Issues in the Analysis of Rational Litigant Behavior," Economic Analysis of Civil Procedure, **University of Virginia School of Law**, March 26, 1993.
- Debate with Richard Epstein on Employment Discrimination Law, **Chicago Federalist Society**, February 23, 1993.
- Panel Chair, "Optimal Sanctions and Legal Rules in Tort and Criminal Law," Meetings of Annual Association of Law and Economics, **Yale Law School**, May 15, 1992.
- Panel Member, "The Law and Economics of Employment at Will," **The Institute For Humane Studies**, Fairfax, Virginia, March 27, 1992.
- "The Efficacy of Title VII," Debate with Professor Richard Epstein, **University of Chicago Law School**, February 26, 1992.
- Moderator, "Using Testers to Demonstrate Racial Discrimination," **University of Chicago Law School**, February 13, 1992.
- "Law & Macroeconomics: The Effect of the Business Cycle on Employment Discrimination Litigation," Law and Society Workshop, **Indiana University**, November 6, 1991; Faculty Workshop, **University of North Carolina Law School**, Chapel Hill, November 8, 1991; Faculty Workshop, **Northwestern University School of Law**, December 11, 1991; Law and
- Economics Conference, **Duquesne Law School**, March 14, 1992; **University of Chicago Law School**, April 2, 1992.
- Panel Chair and Commentator, "New Perspectives on Law and Economics," **Society for the Advancement of Socioeconomics**, Stockholm, June 17, 1991; **Law and Society Meetings**, Amsterdam, June 29, 1991.

- Panel Chair, "Regulation of International Capital Markets," **Law and Society Meetings**, Amsterdam, June 27, 1991.
- Panel Chair, "The Law and Economics of Discrimination," American Association of Law and Economics, **University of Illinois Law School**, May 24, 1991.
- "The Economics of Employment Discrimination Law," **Industrial Relations Research Association**, Chicago, Illinois, March 4, 1991.
- "Does Current Employment Discrimination Law Help or Hinder Minority Economic Empowerment?" Debate with Professor Richard Epstein, The Federalist Society, **Northwestern Law School**, February 26, 1991.
- Panel Member, "The Law and Economics of Employment Discrimination," **AALS Annual Meeting**, Washington, D.C., January 6, 1991.
- "Re-Evaluating Federal Civil Rights Policy," Conference on the Law and Economics of Racial Discrimination in Employment, **Georgetown University Law Center**, November 30, 1990.
- "Opting for the British Rule," Faculty Seminar, **Northwestern Law School**, September 11, 1990; Faculty Seminar, **University of Virginia Law School**, September 14, 1990; Law and Economics Seminar, **University of Michigan Law School**, October 18, 1990; Faculty Workshop, **NYU Law School**, November 14, 1990; Faculty Workshop, **University of Florida Law School**, March 18, 1991.
- "The Effects of Fee Shifting on the Settlement Rate: Theoretical Observations on Costs, Conflicts, and Contingency Fees," at the **Yale Law School Conference "Modern Civil Procedure: Issues in Controversy,"** June 16, 1990.
- "Studying the Iceberg From Its Tip?: An Analysis of the Differences Between Published and Unpublished Employment Discrimination Cases," **Law and Society Meetings**, Berkeley, California, May 31, 1990.
- Panel Discussion on Tort Reform, **University of Pennsylvania Law School**, April 27, 1990.
- Panel Discussion of "The Role of Government in Closing the Socio-Economic Gap for Minorities," at the Federalist Society National Symposium on "The Future of Civil Rights Law," **Stanford Law School**, March 16, 1990.
- "Continuous versus Episodic Change: The Impact of Affirmative Action and Civil Rights Policy on the Economic Status of Blacks," **University of Virginia Economics Department**, February 15, 1990; **Princeton University Department of Economics**, February 21, 1990 (with James Heckman); Law & Economics Workshop, **University of Toronto Law School**, October 8, 1991.
- "Sex Discrimination in the Workplace: An Economic Perspective," Fellows Seminar, **American Bar Foundation**, October 16, 1989.
- "The Changing Nature of Employment Discrimination Litigation," Law and Economics Workshop, **Columbia Law School**, March 23, 1989; Faculty Seminar, **University of Virginia Law School**, March 24, 1989; Law and Economics Workshop, **University of Chicago**, April 25, 1989; **Law & Society Meeting**; Madison, Wisconsin, June 8, 1989; Labor Economics Workshop, **University of Illinois**, Chicago, November 1, 1989; Law & Economics Workshop, **University of Pennsylvania Law School**, November 9, 1989; Law and Economics Seminar, **University of California at Berkeley**, October 4, 1990; Law and Social Science Workshop, **Northwestern University**, February 3, 1991; Law and Economics Seminar, **Stanford Law School**, March 21, 1991; Faculty Workshop, **Cornell Law School**, April 3, 1991; Visiting Committee, **Northwestern Law School**, April 5, 1991.

- "Law & Economics: The Third Phase," The Association of General Counsel, **Northwestern University School of Law**, October 14, 1988.
- "Employment Discrimination Litigation," **Northwestern Law School** Alumni Monthly Loop Luncheon. **Chicago Bar Association**, May 31, 1988.
- "The Morality of the Death Penalty." A debate with Ernest Van Den Haag. **Northwestern University School of Law**, April 19, 1988.
- "Models of Deregulation of International Capital Markets." A presentation with David Van Zandt, Faculty Seminar, **Northwestern University School of Law**, April 1, 1988; Visiting Committee, May 5, 1988.
- "Is Title VII Efficient?" A debate with Judge Richard Posner, Faculty Seminar, **Northwestern University School of Law**, November 20, 1987.
- "The Senate's Role in Confirming Supreme Court Nominees: The Historical Record," **Northwestern University School of Law**, September 22, 1987.
- "Diverting the Coasean River: Incentive Schemes to Reduce Unemployment Spells," **Yale Law School** Civil Liability Workshop, March 30, 1987; Faculty Seminar, **Northwestern University School of Law**, March 18, 1987; **University of Southern California Law Center**, May 1, 1987; and Seminar in Law and Politics, Department of Political Science, **Northwestern University**, May 8, 1987; Labor Workshop, Department of Economics, **Northwestern University**, October 27, 1987; **AALS Annual Meeting**, New Orleans, January 7, 1989.
- "Women in the Labor Market--Are Things Getting Better or Worse?" **Hamilton College**, February 23, 1987.
- "The Changing Relative Quit Rates of Young Male and Female Workers," **Hamilton-Colgate Joint Faculty Economics Seminar**, February 23, 1987.
- "Living on Borrowed Money and Time--U.S. Fiscal Policy and the Prospect of Explosive Public Debt," **Orange Rotary Club**, February 22, 1985.
- "Capital Punishment in the Eighties," **Hamilton College**, April 6, 1981.
- "Terms and Conditions of Sale Under the Uniform Commercial Code," Executive Sales Conference, **National Machine Tool Builders' Association**, May 12, 1980.

PROFESSIONAL ACTIVITIES

- Co-Editor (with Steven Shavell), [American Law and Economics Review](#), May 2006 – August 2012.
- President, American Law and Economics Association, May 2011 – May 2012.
- Co-President, Society for Empirical Legal Studies, November 2011 - August 2012. Member, Board of Directors from November 2011 - November 2014.
- Member, Committee on Law and Justice, National Research Council, October 2011 – present.
- Testified before the Connecticut Legislature in Support of Senate Bill 1035 and House Bill 6425 (A Bill to Eliminate the Death Penalty)., March 7, 2011; Testified again before the Connecticut Judiciary Committee on March 14, 2012.
- Member of the Special Committee on ALI Young Scholars Medal, October 2009 – February 2011.

- Vice-President/President Elect, American Law and Economics Association, June 2010 – May 2011.
- Secretary-Treasurer, American Law and Economics Association, June 2009 – May 2010.
- Board of Advisors, Yale Law School Center for the Study of Corporate Law, July 2004 – August 2010.
- Evaluated the Connecticut death penalty system: “Capitol Punishment in Connecticut, 1973-2007: A Comprehensive Evaluation from 4600 murders to One Execution,” http://works.bepress.com/john_donohue/55/
- Member, Panel on Methods for Assessing Discrimination, National Academy of Sciences, September 2001 – June 2004. Resulting Publication: National Research Council, Measuring Racial Discrimination (2004), <http://www.nap.edu/catalog/10887.html>
- Member, National Science Foundation Review Panel, Law and Social Sciences, September, 1999 – April 2001.
- Editorial Board, Journal of Empirical Legal Studies, July 2003 – present.
- Editorial Board, International Review of Law and Economics, October 1999 – present.
- Editorial Board, Law and Social Inquiry, February 2000 – present.
- Board of Editors, American Law and Economics Review, August 1998 – April 2013.
- Consultant, Planning Meeting on Measuring the Crime Control Effectiveness of Criminal Justice Sanctions, National Academy of Sciences, Washington, D.C., June 11, 1998
- Member, Board of Directors, American Law and Economics Association, June 1994-May 1997. Member, ALEA Nominating Committee, July 1995-May 1996. Member, Program Committee, July 1996-May 1998 and July 2000 – May 2002.
- Statistical Consultant, 7th Circuit Court of Appeals Settlement Conference Project (December, 1994).
- Testified before U.S. Senate Labor Committee on evaluating the Job Corps, October 4, 1994.
- Assisted the American Bar Association Standing Committee on the Federal Judiciary in evaluating the qualifications of Ruth Bader Ginsburg (June 1993) and David Souter (June, 1990).
- Chair, AALS Section on Law and Economics, January 1990-January 1991.
- Economic Consultant to Federal Courts Study Committee. Analyzing the role of the federal courts and projected caseload for Judge Richard Posner's subcommittee. February 1989-March 1990.
- Member, 1990 AALS Scholarly Papers Committee.
- Member, Advisory Board, Corporate Counsel Center, Northwestern University School of Law. Since December 1987.
- Associate Editor, Law and Social Inquiry. Summer 1987-December 1989.
- Interviewed Administrative Law Judge candidates for U.S. Office of Personnel Management. Chicago, Illinois. May 23, 1988.
- Member, Congressman Bruce Morrison's Military Academy Selection Committee. Fall 1983.

- 1982 Candidate for Democratic Nomination, Connecticut State Senate, 14th District (Milford, Orange, West Haven).

PRO BONO LEGAL WORK

- Death Penalty case: Heath v. Alabama. Fall 1986-Fall 1989.
- Wrote brief opposing death sentence in Navy spy case. Court ruled in favor of defendant on September 13, 1985.
- Staff Attorney, Neighborhood Legal Services, January-July 1981.
- Appealed sentence of death for Georgia defendant to the United States Supreme Court. Sentence vacated on May 27, 1980. Baker v. Georgia.
- Court-appointed representation of indigent criminal defendant in District of Columbia Superior Court, February-July 1980.

RESEARCH GRANTS

- Stanford University Research Fund, January 1997 and January 1998.
- The National Science Foundation (project with James Heckman), December 1992; (project with Steve Levitt), July 1997.
- Fund for Labor Relations Studies, University of Michigan Law School, March 1988.

BAR ADMISSIONS

- Connecticut - October 1977; District of Columbia - March 1978 (Currently Inactive Status); United States Supreme Court - November 1980; U.S. District Court for the District of Connecticut – February 14, 1978.

PROFESSIONAL and HONORARY ASSOCIATIONS

- American Academy of Arts and Sciences (since April 2009).
- Research Associate, National Bureau of Economic Research (since October 1996) – in Law and Economics and Labor Studies.
- American Law Institute (since September 29, 2010).
- American Bar Association
- American Economic Association
- American Law and Economics Association

PERSONAL

- Born: January 30, 1953.

EXHIBIT B

To

**Declaration of John J. Donohue III in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction**

Reducing Gun Violence in America

Informing Policy with Evidence and Analysis

EDITED BY

Daniel W. Webster, ScD, MPH,

and Jon S. Vernick, JD, MPH

Center for Gun Policy and Research

Johns Hopkins Bloomberg School of Public Health

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1

Firearms and Violent Death in the United States

Matthew Miller, Deborah Azrael,
and David Hemenway

Firearm-Related Deaths in the United States

In 2010, there were more than 31,000 firearm deaths in the United States: 62% were suicides, 36% were homicides, and 2% were unintentional (2%) (CDC 2012a). Almost as many Americans die from gunfire as die from motor vehicle crashes (almost 34,000 in 2010). Americans under age 40 are more likely to die from gunfire than from any specific disease (CDC 2012a).

Homicide

The United States is not a more violent country than other high-income nations. Our rates of car theft, burglary, robbery, sexual assault, and aggravated assault are similar to those of other high-income countries (van Kesteren, Mayhew, and Nieuwbeerta 2001); our adolescent fighting rates are also similar (Pickett

Matthew Miller, MD, ScD, MPH, is deputy director of the Harvard Injury Control Research Center and associate professor of Injury Prevention and Health Policy at the Harvard School of Public Health. Deborah Azrael, PhD, has been a member of the firearms research group at the Harvard School of Public Health for more than 20 years. David Hemenway, PhD, is an economist and professor at the Harvard School of Public Health and director of the Harvard Injury Control Research Center.

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4 Matthew Miller, Deborah Azrael, and David Hemenway

Table 1.1 Homicide, suicide, and unintentional gun deaths among 5-14 year olds: The United States versus 25 other high-income populous countries (early 2003)

	Mortality rate ratio
Homicides	13.2
Gun homicides	1.7
Non-gun homicides	3.4
Total	
Suicides	7.8
Gun suicides	1.3
Non-gun suicides	1.7
Total	
Unintentional firearm deaths	10.3

Source: Richardson and Hemenway 2011

et al. 2013). However, when Americans are violent, the injuries that result are more likely to prove fatal. For example, the U.S. rate of firearm homicide for children 5 to 14 years of age is thirteen times higher than the firearms homicide rate of other developed nations, and the rate of homicide overall is more than three times higher (Table 1.1).

U.S. homicide rates vary cyclically over time. Current rates are at a 30-year low, but as recently as 1991 rates were nearly twice as high (CDC 2012a). Changes in homicide rates over the past several decades are largely attributable to changes in firearm homicide rates, mostly driven by changes in firearm homicide rates among adolescent and young men in large cities (Hepburn and Hemenway 2004, Blumstein and Wallman 2000, Cork 1999, Cook and John 2002).¹

The U.S. homicide rate is much higher in urban than in rural areas, as are rates of all violent crime. Nine out of ten homicide offenders are male, and 75% of victims are male. African Americans are disproportionately represented among both perpetrators and victims.²

Suicide

Compared with other high-income countries, the U.S. adult suicide rate falls roughly in the middle. Among younger persons, however, our suicide mortality is relatively high: for children under 15 years of age, the overall suicide

rate in the United States is 1.6 times that of the average of other high-income countries, largely accounted for by a firearm suicide rate eight times that of the average of these countries (Richardson and Hemenway 2011).

Over the past several decades, suicide rates have been more stable than have rates of homicide (Miller, Azrael, and Barber 2012). Nevertheless, after declining from a peak of 12.9/100,000 in 1986 to 10.4 in 2000, driven largely by a decline in the rate of firearm suicide, the suicide rate has increased over the past decade to 12.4/100,000 in 2010, mostly due to an increase in suicide by hanging (Miller, Azrael, and Barber 2012, CDC 2012a).

Age, sex, race, and other demographic characteristics—including marital status, income, educational attainment, and employment status—all influence suicide mortality (Nock et al. 2008). Suicide rates are higher, for example, for white and Native Americans than for black, Hispanic, and Asian Americans (CDC 2007). A consistent finding across numerous studies is that the strongest individual-level risk factor for a fatal suicidal act is having previously attempted suicide; other strong risk factors include psychiatric and substance abuse disorders (Shaffer et al. 1996).

In contrast to homicide rates, suicide rates are higher in rural than in urban areas almost entirely due to higher rates of firearm suicide in rural areas.

Unintentional Firearm Deaths

Approximately 675 Americans per year were killed unintentionally with firearms between 2001 and 2010 (CDC 2007). Data from the National Violent Death Reporting System show that two-thirds of the accidental shooting deaths occurred in someone's home, about half of the victims were younger than 25 years, and half of all deaths were other-inflicted. In other-inflicted shootings, the victim was typically shot accidentally by a friend or family member—often an older brother (Hemenway, Barber, and Miller 2010).

Firearm Ownership in the United States

The United States has more private guns per capita (particularly more handguns) and higher levels of household gun ownership than other developed countries (Killias 1993, SAS 2007).

Most of what we know about gun ownership levels in the United States over the past several decades comes from the General Social Survey (GSS 2010),

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a relatively small biannual survey of U.S. adults. Data from the GSS show that the percentage of households with firearms has fallen from approximately 50% in the late 1970s to 33% today. Changing household demographics are believed to explain the decline in the household ownership of guns chiefly due to a fall in the number of households with an adult male (Smith 2000). Notably, however, the percentage of individuals owning firearms has remained relatively constant over the past several decades (GSS 2010).

The GSS does not speak to the number of guns in civilian hands or the distribution of guns within households. For this information, researchers have turned to data from two medium-sized national surveys conducted a decade apart. These surveys suggest that the number of guns in civilian hands grew from approximately 200 million in 1994 to 300 million in 2004—and that the average gun owner now owns more guns than previously (Hepburn et al. 2007, Cook and Ludwig 1997).

Compared with other Americans, gun owners are disproportionately male, married, older than 40, and more likely to live in nonurban areas. Their long guns (rifles, shotguns) are owned mainly for sport (hunting and target shooting). People who own only handguns typically own the guns for protection against crime (Hepburn et al. 2007, Cook 1979).

In 2001, 2002, and 2004, but not before or since, information on household gun ownership from the General Social Survey was supplemented by information from the National Behavioral Risk Factor Surveillance System (CDC 1997). The BRFSS is of sufficient size (more than 200,000 respondents annually) that household gun ownership could, for the first time, be determined at the state level for all 50 states and for some Metropolitan Statistical Areas.

Prior to these three iterations of the BRFSS, researchers generally used proxies to measure firearm ownership rates at the state and sub-state level. A validation study by Azrael, Philip, and Miller (2004) found that from among all proxies, the fraction of suicides that are committed with firearms (FS/S) correlates most strongly and consistently with cross-sectional survey-based measures of household firearm ownership at the county, state, and regional levels.

Household firearm ownership is probably a good measure of the accessibility of guns used in suicides, since most suicides involving firearms occur in the home (Kellermann et al. 1992, CDC 2012b) and involve a firearm owned by a member of the household (Kellermann et al. 1992). Household gun owner-

ship levels seem also to be the key exposure variable for firearm homicides that take place in the home, where women, children and older adults are particularly likely to be killed. The most common perpetrator in such instances is a family member (CDC 2012b). By contrast, older adolescent and young adult males are more often killed outside the home by guns owned by a non-family member.³

In this essay, we focus on studies that assess the relationship between gun prevalence and violent death. As such, the essay does not examine studies of gun carrying nor any literature on illegal gun markets. It also does not address research that investigates the relationship between firearm regulations and violent death. Note, however, that firearm prevalence and firearm regulation are highly collinear. Strong regulations may limit firearm ownership, and low levels of firearm ownership make it easier to pass stronger regulations.

This essay is also not an exhaustive review of the literature examining the association of firearm availability and violent death. (For more comprehensive reviews, see Hepburn and Hemenway 2004, Miller and Hemenway 1999, and Brent 2001.) Rather, it briefly summarizes (a) international ecologic studies comparing the United States to other countries, (b) ecologic studies of U.S. regions, states, and metropolitan areas, and (c) individual case-control and cohort studies.

Studies included in this brief review met a minimal threshold of attempting to control for important confounders: studies had to compare likes to likes. For case-control studies of homicide, that means—at a minimum—controlling for age, gender, and neighborhood; in suicide studies, for age, sex, and psychiatric risk factors for suicidal behavior. For international studies of homicide, it means comparing high-income countries to high-income countries. International comparisons of adult suicide rates are confounded by large differences in religion, culture and recording practices (i.e., the social meaning and cultural acceptance of adult suicide), as evidenced by tenfold differences in suicide rates across high-income nations. Thus, the only international studies of suicide included focus on the suicides of children—which all countries hold to be tragedies. For ecologic studies in the United States, making “like to like” comparisons means comparing states to states with similar levels of urbanization (or, for homicide, similar crime rates), cities to cities, and rural areas to rural areas.⁴

Firearms and Homicide

Ecologic Studies

Killias (1993) evaluated rates of violence in 14 developed countries: 11 in Europe, along with the United States, Canada, and Australia. He used data from the 1989 International Crime Survey, a telephone survey of 14 countries and 28,000 respondents, to measure firearm prevalence. Respondents were asked whether there were any firearms in their household and, if so, whether any were a handgun or a long gun. Military firearms were excluded. In this study, which did not include control variables, rates of firearm ownership and homicide were positively correlated, while rates of firearm ownership and non-firearm homicide were not.

A study by Hemenway and Miller (2000) included 26 high-income nations with populations greater than one million. To measure gun availability, the authors used two proxies, including FS/S. No control variables were included in the analysis. Firearm availability was strongly and significantly associated with homicide across the 26 countries.

A follow-up study (Hemenway, Shinoda-Tagawa, and Miller 2002) examined homicide rates among women across high-income countries. The validated proxy (FS/S, or the percentage of suicides committed with a firearm) was used to estimate firearm ownership in each country. Urbanization and income inequality were included as control variables. The United States accounted for 70% of all female homicide victims in the study and had the highest firearm ownership rates. The U.S. homicide rate for women was five times higher than that of all of the other countries combined; its female firearm homicide rate was eleven times higher.

U.S. Studies

Cook (1979) conducted a cross-sectional analysis of 50 large cities in the United States to explore the relationship between gun availability and robbery, including robbery-murder. Using data on the number of robberies in 1975, Cook examined how firearm availability (as proxied by Cook's index) was related to robbery and robbery-murder rates, controlling for measures of the effectiveness of the criminal justice system, population density, and other regional and state differences. Increased gun availability was not associated with overall robbery rates, but it was positively associated with the proportion of robber-

ies that involved a gun—and with the per capita robbery-murder rate, through an increased rate of gun robbery.

Miller et al. (2002) evaluated the relationship between levels of firearm ownership at the state and regional level and the incidence of homicide from 1988 to 1997 for 50 states and 9 regions. At the state level, they used the percentage of suicides with a firearm as a proxy for ownership and they measured gun availability at the regional level with data from the GSS. Five potential confounders were included: poverty, urbanization, unemployment, alcohol consumption, and (non-homicide) violent crime rates. In the multivariate analyses, a positive and significant association between gun ownership and homicide rates was found for the entire population and for every age group (except ages 0–4), primarily due to higher firearm homicide rates.

A similar study (Miller et al. 2007) used survey estimates of household gun ownership for each state from the Behavioral Risk Factor Surveillance System. It examined data from 2001 to 2003 and controlled for state-level rates of aggravated assault, robbery, unemployment, urbanization, alcohol consumption, poverty, income inequality, the percentage of the population that was black, and the percentage of families headed by a single female parent. Again, states with higher rates of household firearm ownership had significantly higher homicide victimization rates for men, for women, and for children. The association was driven by gun-related homicide victimization rates; non-gun-related victimization rates were not significantly associated with rates of firearm ownership.

Individual Level Studies

Ecologic studies provide evidence about whether more guns in the community are associated with more homicides in the community. Case-control and cohort studies provide data more germane to the question of whether a gun in the home increases or reduces the risk of homicide victimization for members of the household.

Kellermann et al. examined approximately 400 homicide victims from three metropolitan areas who were killed in their homes (Kellermann et al. 1993). All died from gunshot wounds. In 83% of the homicides, the perpetrator was identified; among these cases, 95% of the time, the perpetrator was not a stranger. In only 14% of all the cases was there evidence of forced entry. After controlling for illicit drug use, fights, arrests, living alone, and whether the home was rented,

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Table 1.2 NVDRS 2005–2010

	Firearm			Non-firearm		
	N	Occurred in a house/apt	Occurred at victim's residence	N	Occurred in a house/apt	Occurred at victim's residence
Homicides by age group						
0–4 yrs	81	75%	67%	1,025	90%	77%
5–14 yrs	257	72%	51%	205	78%	67%
15–24 yrs	5,679	37%	16%	1,385	47%	27%
25–34 yrs	4,906	44%	24%	1,479	56%	39%
35–64 yrs	5,003	56%	41%	3,716	62%	50%
65+ yrs	470	74%	69%	719	79%	76%
Suicides by age group						
0–4 yrs	—	—	—	—	—	—
5–14 yrs	105	97%	88%	301	91%	88%
15–24 yrs	3,332	75%	64%	3,769	69%	65%
25–34 yrs	4,034	76%	67%	4,743	70%	65%
35–64 yrs	15,634	78%	74%	16,568	72%	70%
65+ yrs	6,019	89%	88%	2,168	80%	83%

Note: Unknowns for age (0.7%), house/apt (1.4%), home (3.6%) were set aside.

the presence of a gun in the home remained strongly associated with an increased risk for homicide in the home. Gun ownership was most strongly associated with an increased risk of homicide by a family member or intimate acquaintance.⁵

Whereas most men are murdered away from home, most children, older adults, and women are murdered at home (Table 1.2). A gun in the home is a particularly strong risk factor for female homicide victimization—with the greatest danger for women coming from their intimate partners.

The heightened risk of femicide is illustrated in a subgroup analysis of female homicide victimization from Kellermann's 1993 case-control study of homicide in the home. A spouse, a lover, or a close relative murdered most of the women decedents, and the increased risk for homicide from having a gun in the home was attributable to these homicides (Bailey, Flewelling, and Rosenbaum 1997). A case-control study by Wiebe et al. (2003) also found that the risk of homicide associated with living in a home with guns was particularly high for women (who were almost three times more likely to become homicide victims compared with women living in homes without guns). Here too, a gun in the home was a risk factor for homicide by firearm but not for homicide by other means.

Other case-control studies have also found that a gun in the home is a risk for homicide in the home, with especially heightened risk for women (Cummings et al. 1997, Dahlberg, Ikeda, and Kresnow 2004). Results from perpetrator-based case-control homicide studies also find that gun ownership is a risk for homicide perpetration. For example, a study of women murdered by intimate partners found that compared with a control group of living battered women, a gun in the house was present for 65% of perpetrators of murder versus 24% of perpetrators of nonfatal abuse. Access to a firearm by the battered woman had no protective effect (Campbell et al. 2003).

Cohort Studies

There are no studies that follow a large cohort of individuals with known characteristics, comparing homicide victimization rates of those with a gun in the home and those without.

Firearm Prevalence and Suicide

Firearm suicide rates and overall suicide rates in the United States are higher where guns are more prevalent (Miller, Hemenway, and Azrael 2007, Kubrin and Wadsworth 2009). By contrast, rates of suicide by methods other than firearms are not significantly correlated with rates of household firearm ownership (Miller, Hemenway, and Azrael 2007). This pattern has been reported in ecologic studies that have adjusted for several potential confounders, including measures of psychological distress, alcohol and illicit drug use and abuse, poverty, education, and unemployment (Miller, Azrael, and Barber 2012, Miller, Hemenway, and Azrael 2007).

Household firearm ownership has also been consistently found to be a strong predictor of suicide risk in studies that examined individual-level data. U.S. case-control studies find that the presence of a gun in the home or purchase from a licensed dealer is a risk factor for suicide (Bailey et al. 1997, Brent et al. 1993, Brent et al. 1994, Brent et al. 1991, Brent et al. 1988, Conwell et al. 2002, Cummings et al. 1997, Kellermann et al. 1992, Grassel et al. 2003, Kung, Pearson, and Lui 2003, Wiebe 2003). The relative risk is large (two- to tenfold), depending on the age group and, for younger persons, how firearms in the home are stored (Miller and Hemenway 1999, Brent et al. 1991, Kellermann et al. 1992).

The only large U.S. cohort study to examine the firearm–suicide connection found that suicide rates among California residents who purchased handguns

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from licensed dealers were more than twice as likely to die by suicide as were age/sex matched members of the general population, not only immediately after the purchase but throughout the six-year study period (Wintemute et al. 1999). Here, too, the increase in suicide risk was attributable entirely to an excess risk of suicide with a firearm (Wintemute et al. 1999).

Drawing causal inferences about the relation between firearm availability and the risk of suicide from existing case-control and ecologic studies has been questioned on the grounds that these studies may not adequately control for the possibility that members of households with firearms are inherently more suicidal than members of households without firearms (NRC 2005). Additional cited limitations include the possibility of differential recall (by cases compared with controls) of firearm ownership and comorbid conditions, and reverse causation (whereby suicidal persons purchase firearms with the idea of committing suicide).

It is very unlikely, however, that the strong association between firearms and suicide reported consistently in U.S. studies is either spurious or substantially overstated. First, individual-level studies have often controlled for measures of psychopathology (Bailey et al. 1997, Brent et al. 1994, Brent et al. 1993, Brent et al. 1988, Conwell et al. 2002, Cummings et al. 1997, Kellermann et al. 1992, Wiebe 2003).

Second, directly answering the reverse causation critique, the risk of suicide associated with a household firearm pertains not only to gun owners but to *all* household members (Cummings et al. 1997, Kellermann et al. 1992, Wintemute et al. 1999); the relative risk is larger for adolescents than for the gun owner; and for the gun owner the risk persists for years after firearms are purchased (Cummings et al. 1997, Kellermann et al. 1992, Wintemute et al. 1999).

Third, studies that have examined whether people who live in homes with guns have higher rates of psychiatric illness, substance abuse, or other known suicide risk factors generally fail to find any indication of heightened risk (Oslin et al. 2004, Kolla, O' Connor, and Lineberry 2011). For example, four case-control studies found comparable rates of psychiatric illness and psychosocial distress among households with versus without firearms (Kellermann et al. 1992, Ilgen et al. 2008, Miller et al. 2009, Sorenson and Vitti 2008, Betz, Barber, and Miller 2011).

Fourth, there appears to be a hierarchy of suicide risk among children and young adults, depending on how securely household firearms are stored, suggesting a dose-response relationship (Grossman et al. 2005).

Finally, the consistency in magnitude, direction, and specificity of method-related risk observed in both the many individual-level and ecologic studies (the latter not being subject to recall bias or the reverse causation criticism) leads to only one conclusion: a gun in the home increases the likelihood that a family member will die from suicide.

Unintentional Firearm Deaths

Not surprisingly, ecologic and case-control studies find that where there are more guns and more guns poorly stored, there are more unintentional firearm deaths (Miller, Azrael, and Hemenway 2001, Wiebe 2003, Grossman et al. 2005). U.S. children aged 5 to 14 have eleven times the likelihood of being killed accidentally with a gun compared with similarly aged children in other developed countries (Table 1.2) (Richardson and Hemenway 2011).

Conclusion

The United States, with its many guns and highly permissive gun laws, faces a far more serious problem of lethal firearms violence than other high-income nations. The relative magnitude of our problem is illustrated in Table 1.1. This table, which compares U.S. children aged 5–14 with children of other developed countries, illustrates the stark fact that U.S. children are *thirteen* times more likely to die from a firearm homicide and *eight* times more likely to die of a firearm suicide than children in comparable developed nations. There is no evidence that U.S. children are more careless, suicidal, or violent than children in other high-income nations. Rather, what distinguishes children in the United States from children in the rest of the developed world is the simple, devastating fact that they die—mostly by firearms—at far higher rates.

Within the United States itself, the evidence is similarly compelling: where there are more guns, there are more violent deaths—indeed, many more. The magnitude of this relationship is illustrated in Table 1.3, which compares the number of lives lost between 2001 and 2007 to homicide, suicide, and unintentional firearm accidents by sex and age groups in states with the highest compared with the lowest gun ownership rates. The consistency of findings across different populations, using different study designs, and by different researchers is striking. No credible evidence suggests otherwise.

Table 13 Violent deaths in states with the highest versus lowest gun ownership levels
(BRFSS 2004); Mortality Data WISQARS 1999-2007

	High-gun states ^a	Low-gun states ^b	Ratio
Aggregate population of adults, 2001-2007	356 million	358 million	1.0
Proportion of households with firearms	50%	15%	3.3
Percentage of adult population reporting depression, past 12 months (NSDUH 2008-2009)	3.7%	3.7%	1.0
Percentage of adult population reporting suicidal ideation, past 12 months (NSDUH 2008-2009)	6.6%	6.5%	1.0
Number of nonlethal violent crimes in 2010 (UCR 2010)	165,739	148,287	1.1
Suicide			
Women			
Firearm suicide	4,148	563	7.4
Non-firearm suicide	4,633	4,575	1.0
Total suicide	8,781	5,138	1.7
Men			
Firearm suicide	26,314	7,163	3.7
Non-firearm suicide	11,592	12,377	0.9
Total suicide	37,906	19,540	1.9
Men ages 15-29			
Firearm suicide	5,803	1,308	4.4
Non-firearm suicide	3,192	2,671	1.2
Total suicide	8,995	3,979	2.2
5-14 year olds			
Firearm suicide	166	15	11.1
Non-firearm suicide	225	154	1.5
Total suicide	391	169	2.3
Adults 65+ years old			
Firearm suicide	6,374	1,714	3.7
Non-firearm suicide	1,182	2,270	0.5
Total suicide	7,556	3,984	1.9
Homicide			
Men			
Firearm homicide	13,755	7,799	1.8
Non-firearm homicide	5,031	3,963	1.3
Total homicide	18,786	11,762	1.6
Women			
Firearm homicide	3,165	998	3.2
Non-firearm homicide	2,855	2,132	1.3
Total homicide	6,020	3,130	1.9

Table 1.3 (Continued)

	High-gun states ^a	Low-gun states ^b	Ratio
5–14 year olds			
Firearm homicide	259	100	2.6
Non-firearm homicide	212	169	1.3
Total homicide	471	269	1.8
Men 15–29			
Firearm homicide	6,971	4,900	1.4
Non-firearm homicide	1,187	1,334	0.9
Total homicide	8,158	6,234	1.3
Adults 65+ years old			
Firearm homicide	620	139	4.5
Non-firearm homicide	794	534	1.5
Total homicide	1,414	673	2.1
Unintentional firearm deaths	109	677	6.2

Note: All data are from 1999–2007 because cell counts were suppressed beginning in 2008; terrorism-related homicides are not counted.

^aLouisiana, Utah, Oklahoma, Iowa, Tennessee, Kentucky, Alabama, Mississippi, Idaho, North Dakota, West Virginia, Arkansas, Alaska, South Dakota, Montana, Wyoming

^bHawaii, New Jersey, Massachusetts, Rhode Island, Connecticut, New York

Firearm policy is often focused on guns used in crime. What is notable about the studies reviewed here, however, is the consistency of the story they tell about *all* firearms—not just those used in crime. In the United States, there are more firearm suicides than firearm homicides, and women, children, and older adults are more likely to die by gunfire from a household gun (typically, legally acquired and possessed) than from illegal guns.

The first step in ameliorating a public health problem is to identify what the problem is. For the purposes of this essay, the problem is that, year after year, many more Americans are dying by gunfire than people in any other high-income nation. Good firearm policy has the potential to reduce the toll of lethal firearm violence in the United States. Efforts to reduce this uniquely American problem will, however, be less effective than they could be if good policy is not accompanied by a shift in the kind of discussions politicians, academicians, and citizens engage in about firearms. Science can provide the content—and better science based on better data, better content. The best chance for durable and large-scale reductions in lethal violence in the United States is for all of us to commit to keeping the conversation about the costs and benefits of guns in American society civil, ongoing, and factually grounded.

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NOTES

1. Researchers attribute the decline in the 1990s to different causes, including reduced unemployment, increased policing, and a decline in and stabilization of illegal drug markets (Wintemute 2000). Declines in the last decade have not yet been well explained.
2. Homicide rates have been consistently higher in the southern and western regions of the United States. This is especially true for firearm homicides (CDC 2012a).
3. Measuring the availability of guns in the context of these homicides is more problematic, not least because researchers (Webster, Vernick, and Hepburn 2001, MAIG 2008) have shown that guns involved in these deaths often move across state lines from states with permissive gun laws to states with fewer guns and stronger laws.
4. Studies included in this review were those previously included in review articles by two of the authors, updated to include new articles meeting the criteria specified in these reviews which have appeared in the research literature since the time those review papers were published.
5. The study did not provide evidence about whether a gun from the home was used in any of the homicides. However, the idea that a gun in the home increased the risk of death was supported by several observations. First, the link between gun ownership and homicide was due entirely to a strong association between gun ownership and homicide by firearm; homicide by other means was not significantly linked to having a gun in the home. Second, gun ownership was most strongly associated with homicide at the hands of a family member or intimate acquaintance (i.e., guns were not significantly linked to an increased risk of homicide by non-intimate friends, unidentified persons, or strangers). Third, there was no evidence of a protective effect of keeping a gun in the home—even in the small subgroup of cases that involved forced entry.

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EXHIBIT C
To
Declaration of John J. Donohue III in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction



National Institute of Justice

Research in Brief

Jeremy Travis, Director

May 1997

Issues and Findings

Discussed in this Brief: Results of a nationally representative telephone survey (1994) on private ownership and use of firearms by American adults. The survey provides the most complete data available on the private stock of firearms in the United States.

Key issues: With nearly 200 million guns in private hands, firearms have an important impact on the quality of life in America. What is the size and composition of the Nation's private gun inventory? What are the methods of, and reasons for, acquiring firearms? How are firearms stored? How frequently are guns used against criminal attackers?

Key findings: The survey data and analysis yielded the following results:

- In 1994, 44 million Americans owned 192 million firearms, 65 million of which were handguns. Although there were enough guns to have provided every U.S. adult with one, only 25 percent of adults actually owned firearms; 74 percent of gun owners possessed two or more.
- The proportion of American households that keep firearms appears to be declining.
- Sixty-eight percent of handgun owners also possessed at least one rifle or shotgun.

continued...

Guns in America: National Survey on Private Ownership and Use of Firearms

by Philip J. Cook and Jens Ludwig

The United States is unique among wealthy nations in its vast private inventory of firearms. The nearly 200 million guns in private hands are used in part for recreation, mostly hunting and target shooting. But what engenders the most public controversy over firearms is their use against people during either the commission of or defense against crime.

Gun advocates regard firearms as an important crime deterrent and source of protection, while control advocates denounce guns for the damage they do in the hands of criminals. What both groups can agree on is that widespread ownership of firearms has an important impact on the quality of life in America.

To learn more about the role of firearms, the National Institute of Justice (NIJ) sponsored—through a grant to the Police Foundation—a nationally representative telephone survey in 1994 on private ownership and use of firearms by American adults (see "Firearms Survey Methodology"). This Research in Brief reports some of the survey's more important findings, including the following:

- Size, composition, and ownership of the Nation's private gun inventory.

- Methods of, and reasons for, firearms acquisition.
- Storage and carrying of guns.
- Defensive use of firearms against criminal attackers.

Gun ownership

Prevalence. According to conventional wisdom, about half of American households own guns, a belief affirmed by a long series of national polls dating back to 1959.¹ Yet data from the 1994 telephone survey (National Survey of Private Ownership of Firearms—NSPOF) indicate that just 35 percent (plus or minus 1.3 percent) of households own guns. This estimate may be somewhat off the mark but not by much. Conventional wisdom appears out of date.

The best available survey series on gun ownership is the General Social Survey (GSS), conducted by the National Opinion Research Center. Its estimates have been lower than some others, in the range of 40 to 43 percent during the 1990s. In particular, the GSS estimate for 1994 was just 41 percent. Another telephone survey in 1994 produced a still lower estimate for gun ownership, 38 percent of households.²

Issues and Findings

continued...

- Gun ownership was highest among middle-aged, college-educated people of rural small-town America. Whites were substantially more likely to own guns than blacks, and blacks more likely than Hispanics.
- The most common motivation for owning firearms was recreation. Forty-six percent possessed a gun primarily for protection against crime.
- There were 13.7 million firearm transactions in 1993–1994, including 6.5 million handguns. About 60 percent of gun acquisitions involved federally licensed dealers.
- About 211,000 handguns and 382,000 long guns were stolen in noncommercial thefts in 1994.
- Slightly more than half of all privately owned firearms were stored unlocked; 16 percent of firearms were stored unlocked and loaded.
- In 1994, about 14 million adults (approximately one-third of gun owners) at least once carried a firearm in their vehicles or on their person for protection.
- Evidence suggests that this survey and others like it overestimate the frequency with which firearms were used by private citizens to defend against criminal attack.

Target audience: Criminal justice and public health researchers and practitioners. Legislators and policymakers at all levels of government.

Concentration. Despite enough guns in private hands to provide every adult in America with one, only one-quarter of adults actually own firearms. Those who have one gun usually have several: 74 percent possessed two or more in 1994.

Gun ownership is quite concentrated but not more so than for other durable goods. In marketing circles, the "80/20 rule" suggests that the top fifth of all consumers of a product typically account for four-fifths of all purchases by value. NSPOF data indicate that the top 20 percent of firearm owners possessed 55 percent of privately owned firearms.³ Of gun owners in 1994, 10 million individuals owned 105 million guns, while the remaining 87 million guns were dispersed among 34 million other owners.

Persons owning several guns tended to have varied collections, including rifles, shotguns, and handguns.⁴ We find that 68 percent of handgun owners also owned at least one rifle or shotgun, suggesting some experience and interest in the sporting uses of guns. Exhibit 1 provides additional data on the composition of private gun collections.

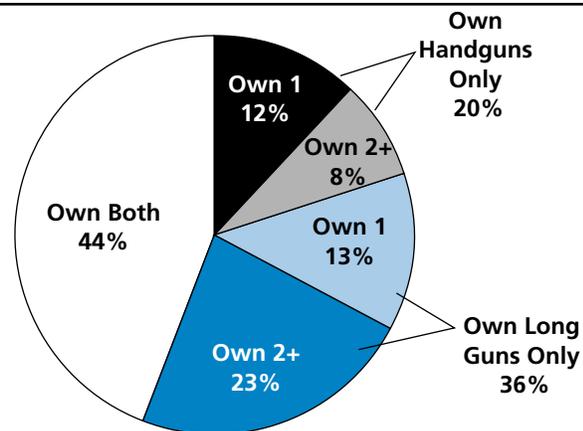
Demographic patterns. In 1994 gun ownership was far from uniformly distrib-

uted across the population, as is evident from exhibit 2. Most striking is the gender gap: 42 percent of men but just 9 percent of women owned guns at the time of NSPOF. (The gap is even wider when the focus is on whether the respondent ever owned a gun.) With respect to race, whites were substantially more likely to own guns than blacks (27 versus 16 percent), and blacks more likely than Hispanics (16 versus 11 percent). But for handguns alone, the ownership rates among blacks and whites were nearly equal (13.1 versus 16.5 percent).

Gun ownership (and handgun ownership) was highest among middle-aged,⁵ college-educated people of rural and small-town America. But one of the best predictors of gun ownership was the presence of firearms in the respondent's childhood home. People whose parents possessed guns were three times as likely as others to own one themselves. In fact, 80 percent of all current gun owners reported that their parents kept a firearm in the home.

Motivations. The most common motivation for owning firearms was recreation. As shown in exhibit 3, about 35 percent of gun owners (15 million people, 8 percent of the adult public) hunted in 1994, and about an equal percentage engaged

Exhibit 1. Composition of Gun Ownership (1994)^a

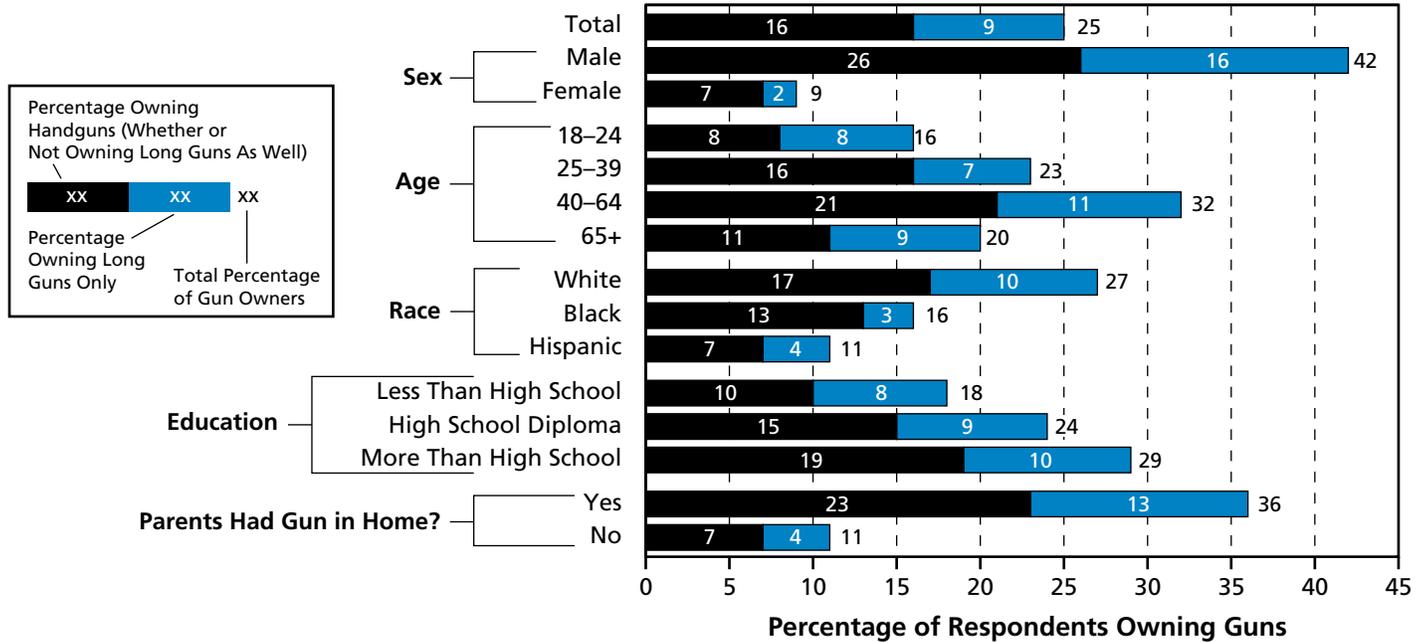


a. There were 44 million gun owners in 1994.

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Research in Brief

Exhibit 2. Gun Ownership Patterns (NSPOF Estimates, 1994)



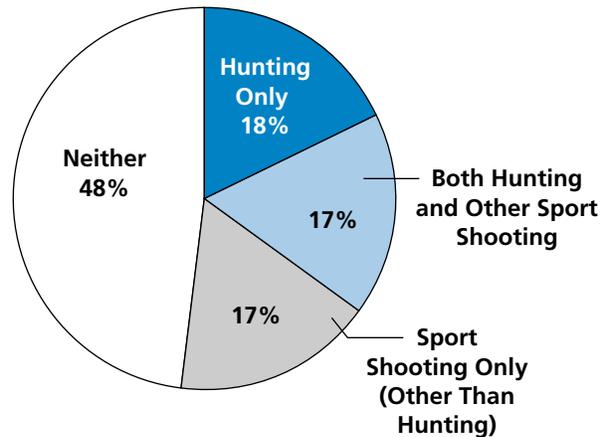
in sport shooting other than hunting. Given the substantial overlap between the two groups, about half (23 million) of the Nation's 44 million gun owners participated in a gun sport during 1994. Of those who owned only handguns in 1994, 40 percent used them recreationally, almost entirely for sport shooting other than hunting.

Another reason cited for firearm ownership was self-protection. Overall, 46 percent of gun owners possessed firearms (usually handguns) primarily for protection against crime (41 percent for males; 67 percent for females). Almost three-quarters of those who owned only handguns kept them primarily for self-protection. Of course, some people seek the protection of a gun because they may be disproportionately likely to lead risky lives or associate with violent people.⁶ Those who had been arrested for nontraffic offenses were more likely to own firearms (37 percent compared to 25 percent in the general population).

But most persons do not own guns, and the NSPOF included several items to find out why. In 1994, about two-thirds of gunless adults were actively opposed to having guns in their homes because they viewed guns as dangerous, "im-

moral," or otherwise objectionable. The remaining one-third were at least open to the possibility of obtaining firearms and might do so if their financial condition or motivation became stronger. For many, the needed moti-

Exhibit 3. Recreational Use of Firearms—Percentage of Gun Owners Who Hunt, Do Other Sport Shooting, Do Neither



Note: The average number of days hunters said they spent hunting in 1994 was 16.4 days. The average number of days sport shooters said they spent sport shooting in 1994 was 18.6 days.

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T Firearms Survey Methodology

The NIJ-sponsored National Survey of Private Ownership of Firearms (NSPOF) was conducted by Chilton Research Services of Drexel Hill, Pennsylvania, during November and December 1994. Data collected by the survey were analyzed by the authors of this Research in Brief.

The telephone survey employed a list-assisted random-digit-dial sampling method, in which every residential telephone number had the same likelihood of being selected. Each household selected in this fashion was scheduled for as many calls as needed (up to a maximum of six) to make contact with the appropriate person and complete the interview. When a household was first contacted, the interviewer asked to speak with the adult in the household who had the most recent birthday. Because this method randomizes the selection of respondents from among the adults living in the household, the NSPOF was a probability sample of adults in the United States.*

Minimums were established for the number of completed interviews with racial minorities and gun-owning households. Such households were more likely than others to be included in the final sample. Sampling weights were calculated to adjust for this design feature and for other sociodemographic differences between the sample and the U.S. adult population.

Although these adjustments improved the quality of population estimates based on the NSPOF, some types of estimates may still be biased. As in every survey, some sample members refused to cooperate and others were never home when the interviewer called. The concern is that these nonrespondents may tend to differ from the general population (and the completed sample) in relevant ways. The scope of that potential problem is usually indicated by the response rate.

In the absence of a single accepted definition of "response rate," two reasonable

definitions yield figures of 44 and 59 percent for the NSPOF. Thus, nonresponse bias in our estimates is a real possibility. Nonetheless, the response rate for this survey is no lower than for other well-executed telephone surveys, and there is no reason to believe that this survey used a less representative sample than others.**

Most of the estimates contained in this Research in Brief rely on the responses of those who personally owned firearms. The estimates do not rely on the reports of those who did not personally own a gun but lived in a gun-owning household because our analysis of the NSPOF data suggests that the survey respondents were often unwilling or unable to report on guns owned by other adults in the household. For example, we find that in households headed by married couples, women were much less likely to report a gun in the house (which in most cases would belong to their husbands) than were men.

* For details about the GENESYS method employed by Chilton or other survey issues, see Brick, J.M., J. Waksberg, D. Kulp, and A. Starer, "Bias in List-Assisted Telephone Samples," *Public Opinion Quarterly*, 59:218–235. Also: Waksberg, J., "Sampling Methods for Random Digit Dialing," *Journal of the American Statistical Association*, 73:40–46, 1978.

** Kleck, G., and M. Gertz, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense With a Gun," *Journal of Criminal Law and Criminology*, 86(1):150–187, Fall 1995. They reported a response rate of 61 percent for their national telephone survey of gun ownership and defensive gun use. In calculating this response rate, they excluded all sample members whom they were unable to contact. By their definition, the NSPOF response rate would be higher than 61 percent.

1994 National Survey of Private Ownership of Firearms (NSPOF)

Objectives: Provide national estimates for:

- Adult ownership of guns, by gun type.
- Sources and motivations for gun acquisition.
- Firearm safety and storage.
- Defensive use of firearms.
- Attitudes toward gun control.

Sample: Probability sample of 2,568 noninstitutionalized adults aged 18 and over who are fluent in English or Spanish and live in households with a telephone.

Method: Telephone interview with one randomly selected adult from each household.

Population estimates: Weighted averages of relevant responses. Standard errors for estimates of population-prevalence rates range up to 1.4 percentage points, somewhat higher for prevalence estimates within subpopulations.

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vation may have come from an increased concern about crime: nearly 5 percent of respondents reported that they planned to obtain a gun for protection against crime within a year.

The stock of guns in private hands

The NSPOF-based estimate 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 (exhibit 4). Of the handguns, 48 percent were revolvers, 40 percent semiautomatics, and 12 percent were reported as "some other type of handgun" by respondents.

The millions of guns in private hands included everything from cheap .22-caliber "snubbies" to finely made high-powered rifles worth thousands of dollars. The variety of firearm designs reflects the multiplicity of uses for which they are intended and also influences the weapons' capacities for harm. Firearm regulations place special restrictions on commerce in short-barreled guns (because they are easily concealed and disproportionately used in crime) and on large-capacity magazines.

From our analysis, we find that the magazine capacity of one-fifth of all handguns was 10 or more rounds (exhibit 4B). The barrel of about one in six handguns was 3 inches or shorter (exhibit 4C).⁷ Comparing handguns acquired in 1993 or 1994 with those acquired prior to 1993 permitted examination of changes in the demand for different kinds of handguns over time. Handguns acquired more recently were more likely to have large magazine capacities (37.8 versus 14.1 percent held 10 or more rounds) and were less likely to be of small caliber, defined as .32 or under (28.6 versus 38 percent). (See exhibit 4D.)

Transactions

Acquisitions. To date, little information has been available about gun flows in the United States. The potential importance of this information is its use in evaluating regulation of firearms commerce. For example, the Gun Control Act of 1968 restricts interstate shipments to federally licensed firearm dealers (FFLs), who in turn are required to follow laws regulating retail transfers. Transactions not involving FFLs, known as the "secondary market," typically do not require recordkeeping and are exempt from the Federal requirement (for handguns) of a waiting period and criminal record check.⁸ Moreover, secondary market transactions are not subject to regulatory oversight. Thus, knowing the volume of informal transfers that do or do not involve FFLs would be useful.

The average firearm in circulation in 1994 was acquired by its present owner in 1981, with the average handgun having been acquired in 1983. Persons owning handguns in 1994 acquired about 28 percent of them in 1993–1994, compared with 20 percent of long guns. An estimated 13.7 million transactions occurred during 1993–1994, including 6.5 million involving handguns. Sixty percent of long guns and 68 percent of handguns were new at the time of acquisition by their 1994 owners during the 1993–1994 period.

How do people typically acquire firearms? As shown in exhibit 5, almost all guns acquired during 1993 and 1994 were either purchased by the respondent (73 percent) or received as a gift (19 percent). The remaining 8 percent were obtained through inheritance, a swap of some kind, or other means.

Exhibit 4. Gun Stock Characteristics (1994)

4A. Estimates of Number of Guns

	Number in millions
Handguns	
Revolvers	31
Semiautomatics	26
Other	8
Total	65
Rifles	
Semiautomatics	28
Other	42
Total	70
Shotguns	49
Other long guns	8
Total All Guns	192

4B. Magazine Capacity of Handgun Stock^a

Number of Rounds	Percentage of Handgun Stock
1–9 rounds	79%
10 or more rounds	21%

a. The average number of rounds is 8.1.

4C. Length of Barrel

	Percentage of All Handgun Stock	Percentage of Handguns With Caliber .32 or Under ^b
1–3 inches	17%	37% ^c
4–5 inches	38%	31% ^c
6 or more inches	45%	38% ^c

b. The percentage of all handgun stock having a caliber .32 or under is 34 percent.

c. These percentages are not of all guns but only of those identified in the middle column.

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Exhibit 4. Gun Stock Characteristics (1994) (continued)

4D. Magazine Capacity and Barrel Length by Time of Acquisition

Magazine Capacity ^d	Handguns Acquired Prior to 1993 (N=234) Percentage of All Handguns		Handguns Acquired in 1993 or 1994 (N=91) Percentage of All Handguns		
	1-9 rounds	85.9%		62.2%	
10 or more rounds	14.1%		37.8%		
Length of Barrel ^e	Percentage of Handgun Stock	Percentage With Caliber .32 or Under	Percentage of Handgun Stock	Percentage With Caliber .32 or Under	
	1-3 inches	17.6%	40.8%	17.4%	33.7%
	4-5 inches	35.9%	30.5%	41.6%	31.1%
	6 or more inches	46.5%	43.4%	41.0%	22.6%

d. The average number of rounds for guns acquired before 1993 is 7.6. For guns acquired in 1993 or 1994 it is 9.5.

e. The percentage of all handguns acquired prior to 1993 having a caliber .32 or under is 38 percent. The percentage of all handguns acquired in 1993 or 1994 having a caliber .32 or under is 28.6 percent.

The predominant sources of guns, unsurprisingly, were stores (60 percent). Other important sources included family members and acquaintances. The 3 percent of respondents who indicated that they obtained guns "through the mail" (which is illegal for all but FFLs) may have misremembered or may have referred to a mail-order purchase arranged through an FFL.

The average gun obtained in 1993 and 1994 was worth \$392 at the time of transfer, with little difference between handguns and long guns. Fewer than 1 in 20 guns acquired during those 2 years were valued at less than \$100.

Fifty-seven percent of firearms were obtained from stores, pawnshops, or other sources that the respondents were certain to have been federally licensed firearm dealers. Some respondents

were not sure about whether the source was an FFL. Others indicated that the source was an FFL but then reported that the transaction was a trade rather than a cash sale or that the source was an acquaintance or family member. If those cases are included, the proportion increases to 64 percent.

We conclude that approximately 60 percent of gun acquisitions involved an FFL and hence were subject to

Exhibit 5. Methods and Sources for Gun Acquisition in 1993 and 1994 (NSPOF Estimates)

	Percentage for Long Guns (N=121)	Percentage for Handguns (N=128)	Percentage for All Guns (N=251)
What Best Describes How You Obtained Your Gun?			
Bought it	69	77	73
Received it as a gift	22	16	19
Traded something for it	3	2	3
Inherited it	5	4	5
From What Source Did You Obtain This Gun?			
Gun store	33	55	43
Pawnshop	5	8	6
Other store	18	3	11
Gun show or flea market	4	4	4
Through the mail	3	3	3
Member of the family	22	12	17
Friend or acquaintance	12	13	12
Other	5	3	4

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Federal regulations on such matters as out-of-State sales, criminal history checks, and recordkeeping. A somewhat higher percentage of handgun acquisitions than long gun acquisitions involved FFLs. The remaining acquisitions, amounting to about 2 million per year, were off-the-books transfers in the secondary market.

Thefts. A major theme highlighted in a 1986 survey of incarcerated felons was that theft was an important means of obtaining firearms for those with criminal intentions: 32 percent of surveyed felons had stolen their most recently acquired handgun.⁹

Based on the NSPOF, an estimated 0.9 percent of all gun-owning households (269,000) experienced the theft of one or more firearms during 1994. About 211,000 handguns and 382,000 long guns were stolen in noncommercial thefts that year, for a total of 593,000 stolen firearms. Those estimates are subject to considerable sampling error but are consistent with earlier estimates of about half a million guns stolen annually.¹⁰

Gun safety

Gun storage. Of 1,356 accidental deaths by gunshot in 1994, 185 involved children 14 years old and

younger.¹¹ For each such fatality, there are several accidental shootings that cause serious injury. Guns were also the means of destruction in 19,590 suicides, 210 involving children 14 or younger. For these reasons, safe handling and storage of firearms have attracted the attention of the public health community.

We found that 20 percent of all gun-owning households had an unlocked, loaded gun in the home at the time of the survey. This figure was substantially higher among handgun-owning households than among households with long guns only—30 percent versus 7 percent.

Slightly more than half of firearms of either type were stored unlocked, but handguns were much more likely to be loaded. Reflecting their predominant use in self-defense, handguns were likely to be stored in bedrooms or vehicles of owners or even on their person, while most long guns were kept in gun closets or other out-of-the-way places (exhibit 6).

Although training programs usually include suggestions on how to store guns safely, it does not appear that trainees are paying attention. More than half (56 percent) of owners had received some form of "formal" training from the military, law enforcement, National

Rifle Association, National Safety Council, or other source. As a group, owners who received such training were no less likely than others to keep guns loaded and unlocked. This surprising result is consistent with other recent studies.¹²

However, a more detailed analysis of NSPOF data that examined the effects of different formal training programs separately indicated one exception: training programs such as those offered by local affiliates of the National Safety Council were associated with a significant reduction in the likelihood of keeping a gun unlocked and loaded. This result speaks well of that training, the trainees, or both.

Carrying

Carrying a gun outside the home, especially in an urban area, is problematic because the public is at risk if the carrier is reckless or inclined to violence. For that reason, carrying a firearm in a vehicle or on the person is subject to a variety of State and local regulations. In most States, carrying a concealed gun is prohibited or restricted to those who have obtained a special license. At the same time, many States have reacted to public concerns about crime by enacting laws under which most citizens can usually obtain a

Exhibit 6. Storage Method and Location of Firearms (NSPOF Estimates)

	Percentage for Long Guns (N=437)	Percentage for Handguns (N=352)	Percentage for All Guns (N=789)
Storage Method/Location			
Gun loaded	11	55	26
Gun loaded and unlocked	7	34	16
Where Gun Kept			
Bedroom	17	37	24
Gun closet	53	26	44
Other closet	19	11	17
In vehicle or on person	1	16	6
Other	10	8	10

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concealed-carry permit. Currently, 31 States have passed such laws.

About 14 million adults (approximately one-third of gun owners) carried firearms for protection at least once during the 12 months preceding NSPOF. Four million of them indicated that they carried guns for protection "in connection with work." Two-thirds who carried guns kept them in their vehicles, while the others sometimes carried them on their person.

The occupations of respondents who report carrying guns in connection with work are quite diverse. Somewhat surprisingly, only a quarter of this group were employed in the protective service field. The questionnaire does not distinguish between those who are required by their employers to carry firearms as part of their occupational duties and those who do so on their own initiative. In any event, an estimated 3 million adults who were not in law enforcement or security carried firearms for protection on the job in 1994.

The majority (56 percent) of those who carried firearms outside of work did so fewer than 30 days per year, but a substantial minority (22 percent) rarely left home without a gun. On any given day, 1.1 million people were carrying guns on their person outside the workplace, while another 2.1 million stored guns in their cars or trucks.

Some correlates of gun carrying are worth noting. Males who carried guns in 1994 were about 2½ times as likely to have been arrested for a nontraffic offense as other men (15 percent versus 6 percent). And a disproportionate share of gun carriers resided in the South, where the prevalence of carrying guns was almost double that of the rest of the Nation.

Defensive gun uses

NSPOF estimates. Private citizens sometimes use their guns to scare off trespassers and fend off assaults. Such defensive gun uses (DGUs) are sometimes invoked as a measure of the public benefits of private gun ownership. On the basis of National Crime Victimization Survey (NCVS) data, one would conclude that defensive uses are rare indeed, about 108,000 per year. But other surveys yield far higher estimates of the number of DGUs. Most notable has been a much publicized estimate of 2.5 million DGUs, based on data from a 1994 telephone survey conducted by Florida State University professors Gary Kleck and Mark Gertz.¹³ The 2.5 million figure has been picked up by the press and now appears regularly in newspaper articles, letters to the editor, editorials, and even Congressional Research Service briefs for public policymakers.

The NSPOF survey is quite similar to the Kleck and Gertz instrument and provides a basis for replicating their estimate. Each of the respondents in the NSPOF was asked the question, "Within the past 12 months, have you yourself used a gun, even if it was not fired, to protect yourself or someone else, or for the protection of property at

home, work, or elsewhere?" Answers in the affirmative were followed with "How many different times did you use a gun, even if it was not fired, to protect yourself or property in the past 12 months?" Negative answers to the first DGU question were followed by "Have you *ever* used a gun to defend yourself or someone else?" (emphasis in original). Each respondent who answered yes to either of these DGU questions was asked a sequence of 30 additional questions concerning the most recent defensive gun use in which the respondent was involved, including the respondent's actions with the gun, the location and other circumstances of the incident, and the respondent's relationship to the perpetrator.

Forty-five respondents reported a defensive gun use in 1994 against a person (exhibit 7). Given the sampling weights, these respondents constitute 1.6 percent of the sample and represent 3.1 million adults. Almost half of these respondents reported multiple DGUs during 1994, which provides the basis for estimating the 1994 DGU incidence at 23 million. This surprising figure is caused in part by a few respondents reporting large numbers of defensive gun uses during the year; for example, one woman reported 52!

Exhibit 7. Defensive Gun Use (DGU) Estimates for 1-Year Recall Period (1994)—Comparison of NSPOF with Kleck and Gertz Estimates

	NSPOF Estimates		Kleck and Gertz
	All DGUs Against Persons (N=45)	DGUs Meeting Kleck and Gertz Criteria* (N=19)	(N=66)
1 Year			
Estimated number of defenders (in millions)	3.1	1.5	2.5
Estimated number of DGUs (in millions)	23.0	4.7	n/a

* In their 1995 DGU study, Kleck and Gertz presented estimates based on only the DGU reports that met certain criteria (see text).

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A somewhat more conservative NSPOF estimate is shown in the column of exhibit 7 that reflects the application of the criteria used by Kleck and Gertz to identify "genuine" defensive gun uses. Respondents were excluded on the basis of the most recent DGU description for any of the following reasons: the respondent did not see a perpetrator; the respondent could not state a specific crime that was involved in the incident; or the respondent did not actually display the gun or mention it to the perpetrator.

Applying those restrictions leaves 19 NSPOF respondents (0.8 percent of the sample), representing 1.5 million defensive users. This estimate is directly comparable to the well-known estimate of Kleck and Gertz, shown in the last column of exhibit 7. While the NSPOF estimate is smaller, it is statistically plausible that the difference is due to sampling error. Inclusion of multiple DGUs reported by half of the 19 NSPOF respondents increases the estimate to 4.7 million DGUs.

Some troubling comparisons. If the DGU numbers are in the right ballpark, millions of attempted assaults, thefts, and break-ins were foiled by armed citizens during the 12-month period. According to these results, guns are used far more often to defend against crime than to perpetrate crime. (Firearms were used by perpetrators in 1.07 million incidents of violent crime in 1994, according to NCVS data.)

Thus, it is of considerable interest and importance to check the reasonableness of the NSPOF estimates before embracing them. Because respondents were asked to describe only their most recent defensive gun use, our compar-

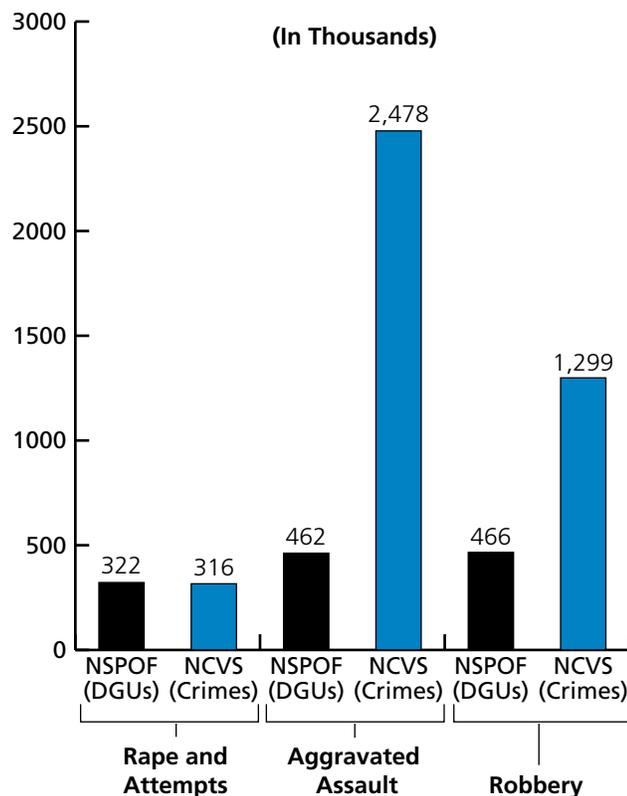
isons are conservative, as they assume only one defensive gun use per defender. The results still suggest that DGU estimates are far too high.

For example, in only a small fraction of rape and robbery attempts do victims use guns in self-defense. It does not make sense, then, that the NSPOF estimate of the number of rapes in which a woman defended herself with a gun was more than the total number of rapes estimated from NCVS (exhibit 8). For other crimes listed in exhibit 8, the results are almost as absurd: the NSPOF estimate of DGU robberies is 36 percent of all NCVS-estimated robberies, while the NSPOF estimate of DGU assaults is 19 percent of all aggravated assaults. If those percentages were close to accurate, crime would be a risky business indeed!

NSPOF estimates also suggest that 130,000 criminals are wounded or killed by civilian gun defenders. That number also appears completely out of line with other, more reliable statistics on the number of gunshot cases.¹⁴

The evidence of bias in the DGU estimates is even stronger when one recalls that the DGU estimates are calculated using only the most recently reported DGU incidents of NSPOF respondents; as noted, about half of the respondents who reported a DGU indicated two or more in the preceding year. Although there are no details on the circumstances of those additional DGUs, presumably they are similar to the most recent case and provide evidence for additional millions of violent crimes foiled and perpetrators shot.

Exhibit 8. Defensive Gun Uses Compared to Total Crime Counts (1994)



R e s e a r c h i n B r i e f

False positives. Regardless of which estimates one believes, only a small fraction of adults have used guns defensively in 1994. The only question is whether that fraction is 1 in 1,800 (as one would conclude from the NCVS) or 1 in 100 (as indicated by the NSPOF estimate based on Kleck and Gertz's criteria).

Any estimate of the incidence of a rare event based on screening the general population is likely to have a positive bias. The reason can best be explained by use of an epidemiological framework.¹⁵ Screening tests are always subject to error, whether the "test" is a medical examination for cancer or an interview question for DGUs. The errors are either "false negatives" or "false positives." If the latter tend to outnumber the former, the population prevalence will be exaggerated.

The reason this sort of bias can be expected in the case of rare events boils down to a matter of arithmetic. Suppose the true prevalence is 1 in 1,000. Then out of every 1,000 respondents, only 1 can possibly supply a "false negative," whereas any of the 999 may provide a "false positive." If even 2 of the 999 provide a false positive, the result will be a positive bias—regardless of whether the one true positive tells the truth.

Respondents might falsely provide a positive response to the DGU question for any of a number of reasons:

- They may want to impress the interviewer by their heroism and hence exaggerate a trivial event.
- They may be genuinely confused due to substance abuse, mental illness, or simply less-than-accurate memories.
- They may actually have used a gun defensively within the last couple of

years but falsely report it as occurring in the previous year—a phenomenon known as "telescoping."

Of course, it is easy to imagine the reasons why that rare respondent who actually did use a gun defensively within the time frame may have decided not to report it to the interviewer. But again, the arithmetic dictates that the false positives will likely predominate.

In line with the theory that many DGU reports are exaggerated or falsified, we note that in some of these reports, the respondents' answers to the followup items are not consistent with respondents' reported DGUs. For example, of the 19 NSPOF respondents meeting the more restrictive Kleck and Gertz DGU criteria (exhibit 7), 6 indicated that the circumstance of the DGU was rape, robbery, or attack—but then responded "no" to a subsequent question: "Did the perpetrator threaten, attack, or injure you?"

The key explanation for the difference between the 108,000 NCVS estimate for the annual number of DGUs and the several million from the surveys discussed earlier is that NCVS avoids the false-positive problem by limiting DGU questions to persons who first reported that they were crime victims. Most NCVS respondents never have a chance to answer the DGU question, falsely or otherwise.

Unclear benefits and costs from gun uses. Even if one were clever enough to design a questionnaire that would weed out error, a problem in interpreting the result would remain. Should the number of DGUs serve as a measure of the public benefit of private gun possession, even in principle? When it comes to DGUs, is

more better? That is doubtful, for two kinds of reasons:

- First, people who draw their guns to defend themselves against perceived threats are not necessarily innocent victims; they may have started fights themselves or they may simply be mistaken about whether the other persons really intended to harm them. Survey interviewers must take the respondent's word for what happened and why; a competent police investigation of the same incident would interview all parties before reaching a conclusion.
- Second and more generally, the number of DGUs tells us little about the most important effects on crime of widespread gun ownership. When a high percentage of homes, vehicles, and even purses contain guns, that presumably has an important effect on the behavior of predatory criminals. Some may be deterred or diverted to other types of crime. Others may change tactics, acquiring a gun themselves or in some other way seeking to preempt gun use by the intended victim.¹⁶ Such consequences presumably have an important effect on criminal victimization rates but are in no way reflected in the DGU count.

Conclusions

The NSPOF provides the most complete data available on the private stock of firearms in the United States, including the kinds of guns owned, by whom they are owned, and for what purpose they were acquired. When asked, handgun owners usually gave self-protection as their primary motive for owning guns, while long-gun owners mentioned hunting or target shooting. Other findings support the conclusion that handguns are much more likely than long guns to be kept

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unlocked and ready for use in the home and to be carried in public; they are much less likely to be used in sporting activities. Despite those differences, demographic and socioeconomic patterns of firearm ownership in 1994 were similar for handguns and long guns; in fact, most handgun owners also owned one or more long guns.

A fair conclusion is that the more fundamental divide is not between handgun and long-gun owners but between those who own guns and those who do not. Those who like guns, have some experience with them, and have the means to obtain them tend to keep several for various purposes. But most of the adult public turns elsewhere for recreation and protection against crime.

Over time, the relative importance of self-protection and sport as motivations for gun acquisition and use has changed. Perhaps as a result of the increasing urbanization of America, the overall prevalence of gun ownership appears to be declining, as is participation in hunting. Proportionately fewer households owned firearms in 1994 than was true in the 1960s and 1970s, and the younger cohorts are entering into gun ownership at slower rates than previous ones. When people do acquire guns now, the motivation is more likely self-defense than in the past: The mix of new firearms sold in 1994 was equally divided between handguns and long guns, whereas 25 years earlier twice as many long guns were sold.¹⁷

The NSPOF does not provide much evidence on whether consumers who buy guns for protection against crime get their money's worth. The NSPOF-based estimate of millions of DGUs each year greatly exaggerates the true number, as do other estimates based

on similar surveys. Much debated is whether the widespread ownership of firearms deters crime or makes it more deadly—or perhaps both—but the DGU estimates are not informative in this regard.

For other purposes, the NSPOF is a reliable reference. Such information is vital to the evaluation of the ongoing debate over government regulation of gun transactions, possession, and use.

Notes

1. For example, the December 1993 Gallup Poll estimated that 49 percent of households possessed a gun.
2. Kleck, G., and M. Gertz, "Armed Resistance to Crime: The Prevalence and Nature of Self-Defense With a Gun," *Journal of Criminal Law and Criminology*, 86(1):150–187, Fall 1995.
3. For a discussion of the "80/20" rule, see Clotfelter, C.T., and P.J. Cook, *Selling Hope: State Lotteries in America*, Cambridge, Massachusetts: Harvard University Press, 1989. It is possible that if one could adjust for the value of guns, the degree of concentration would be still greater and better fit the rule.
4. Fifty-five percent of all individuals who owned four or more guns had at least one in each of these three categories.
5. The NSPOF offers evidence that gun ownership is declining. Not only were middle-aged people more likely to own a gun in 1994 than those under age 40, but they were also more likely to have acquired a gun by age 21.
6. Surveys of juvenile delinquents and adult felons confirm the importance of self-defense as a motive for gun possession by active criminals. For juvenile de-

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linquents, see Sheley, J.F., and J.D. Wright, *Gun Acquisition and Possession in Selected Juvenile Samples*, Research in Brief, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, December 1993. For adult felons, see Wright, J.D., and P. Rossi, *Armed and Considered Dangerous*, Hawthorne, New York: Aldine, 1986.

7. Of some interest, given the controversy over the "Saturday Night Special," is that most short-barreled handguns were not .22 caliber; two-thirds were in excess of .32 caliber, the same as for longer barreled handguns.

8. Cook, P.J., S. Molliconi, and T.B. Cole, "Regulating Gun Markets," *Journal of Criminal Law and Criminology*, 86(1):59–92, Fall 1995.

9. Wright and Rossi, 1986, 183.

10. The standard error for this point estimate is about four-tenths of a percentage point. Thus, the 95-percent confidence interval ranges from around 0.1 percent to 1.7 percent of gun-owning households. Cook,

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Molliconi, and Cole, 1995, use data from the National Crime Victimization Survey for the period 1987–1992 to estimate 511,000 stolen guns per year.

11. Monthly Vital Statistics Report, Department of Health and Human Services, 45(3S), September 30, 1996. Table 16.

12. Hemenway, D., S.J. Solnick, and D. Azrael, "Firearm Training and Storage," *Journal of the American Medical Association*, 273(1):46–50, 1995.

13. Kleck and Gertz, 1995.

14. In 1994 about 17,000 people were shot dead in criminal assaults and justifiable homicides. Given what we know about the case fatality rate, fewer than 100,000 nonfatal gunshot woundings were known to the police. (See Cook, P.J., "The Case of the Missing Victims," *Journal of Quantitative Criminology*, 1985). Presumably, the true number of justifiable shootings was just a fraction of this total.

15. Hemenway, D., "Survey Research and Self-defense Gun Use: An Explanation of Extreme Overestimates," Harvard Injury Control Center Discussion Paper, 1996.

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This Research in Brief is available online at the Justice Information Center home page (<http://www.ncjrs.org>) and available through fax-on-demand (800-851-3420 or 301-251-5518; ask for document number 1026). The full-

length report, as submitted to NIJ by the authors and on which this Research in Brief is based, may be obtained through interlibrary loan or, for a fee, as a photocopy from the National Criminal Justice Reference Service (call 800-851-3420 for cost and other information).

The Police Foundation has published *Guns in America: Results of a Comprehensive National Survey on Firearms Ownership and Use*, which is based on the full-length report submitted to NIJ by the authors. For ordering information, call 202-833-1460 or write to the Police Foundation, Attn: Publications, 1001 22nd Street N.W., Washington, D.C. 20037.

16. Cook, P.J., "The Technology of Personal Violence." In M. Tonry (ed.), *Crime and Justice: A Review of Research* (Vol. 14), Chicago: University of Chicago Press, 1–71, 1991.

17. Cook, P.J., "Notes on the Availability and Prevalence of Firearms," *American Journal of Preventive Medicine*, 9 Supp:33–38, May/June 1993.

Findings and conclusions of the research reported here are those of the authors and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

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EXHIBIT D
To
Declaration of John J. Donohue III in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction

ORIGINAL ARTICLE

The US gun stock: results from the 2004 national firearms survey

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Objectives: To examine the size and composition of the privately held firearm stock in the US; and to describe demographic patterns of firearm ownership and motivations for ownership.

Design, setting and participants: A nationally representative household telephone survey of 2770 adults aged ≥ 18 years living in the US, conducted in the spring of 2004.

Main outcome measure: Responses to questions regarding firearm ownership, the number and types of guns owned, and motivations for ownership.

Results: 38% of households and 26% of individuals reported owning at least one firearm. This corresponds to 42 million US households with firearms, and 57 million adult gun owners. 64% of gun owners or 16% of American adults reported owning at least one handgun. Long guns represent 60% of the privately held gun stock. Almost half (48%) of all individual gun owners reported owning ≥ 4 firearms. Men more often reported firearm ownership, with 45% stating that they personally owned at least one firearm, compared with 11% for women.

Conclusions: The US population continues to contain at least one firearm for every adult, and ownership is becoming increasingly concentrated. Long guns are the most prevalent type of gun in the US but handgun ownership is widespread. Ownership demographic patterns support findings of previous studies.

The General Social Survey, a biannual survey of the US civilian population, has tracked household and personal firearm ownership over the past two and a half decades.¹ This survey reports the percentage of households with firearms and personal firearm ownership for the nation as a whole and for the nine major census regions. Over the past 4 years, information from the General Social Survey has been supplemented by information on household gun ownership at the state level from the National Behavioral Risk Factor Surveillance System.² A clear pattern that has emerged over the past several decades from these surveys is a persistent decline in household gun ownership. Although these surveys describe the demographic patterns of gun ownership in the US, they provide almost no information about the characteristics of or changes in the nation's gun stock.

We conducted a nationally representative household telephone survey in 2004 to explore the characteristics of privately owned firearms in the US. The last study to examine detailed questions like these, such as the types and numbers of working firearms in private homes, was conducted in 1994 by Cook and Ludwig.³ In their comprehensive report, they found that 35% of households and 25% of individuals owned firearms, and estimated that there were 192 million working firearms in the US in private hands. In addition to describing demographic characteristics of firearm owners, they were able to determine that the ownership of private firearms was highly concentrated among a small percentage of owners. They also clearly identified a difference in the number of household firearms reported by married men and women, who, in theory, should report similar rates of household firearm ownership. Their findings, however, that married men reported a rate of 49% household firearm ownership compared with 36% reported by married women suggested that women were either unaware of their spouse's firearm ownership or were reluctant to report it. These results led the authors to believe that more complete survey responses would come from individuals who personally owned a firearm rather than the household responses.

All of these findings helped identify patterns of private firearm ownership in the US and provided health professionals, researchers and policy makers with information about the private gun stock that was previously unknown. Through our survey, we wished to investigate possible changes in the privately owned gun stock between 1994 and 2004 and provide additional information about firearm ownership patterns in the US.

METHODS

The institutional review board at the Harvard School of Public Health approved this study in 2004. The random-digit-dial telephone sample (conducted by the survey research firm Fact Finders, St Louis, Missouri, USA) comprised 2770 randomly selected adults aged ≥ 18 years living in the 50 states and including the District of Columbia. The number of interviews designated for each of the states was proportional to that state's population relative to the total population of the US as given by the 2000 census. The methods used in composing this sample assured that each household with a telephone had an equal probability of being selected for inclusion in the sampling frame. One adult from each household was randomly selected to participate.

Interviews were completed between 17 March and 28 June 2004. Once a telephone number had been randomly selected for inclusion in the survey sample, as many as 10 repeat phone calls were made until a final disposition was assigned. Of the 31 302 telephone numbers called, 13 117 (42%) were non-responses, 11 065 (35%) were not eligible and eligibility was unknown for 4338 (14%). In total, 41% of the numbers were not residential, not in service or were for households in states where the interview quota had been reached. In addition, 39% of interviews could not be completed because the maximum number of calls had been made without an eligible respondent answering the phone. Only 19% (5421) of the non-interviews were refusals. According to calculations based on formulas from the American Association for Public Opinion Research

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our minimum response rate was 14%, assuming that all unknowns were eligible and counting partial interviews as respondents; and our maximum response rate was 18%, assuming that all unknowns were ineligible.

Demographic characteristics including age, sex, education, marital status, race, presence of children in the home, whether the area was urban or rural, and household size of our sample were compared with those from the 2000 census.⁵ Although the demographic characteristics of our sample seemed similar overall to that of the census, our respondents had slightly higher educational levels (92% v total US 85% had at least a high-school diploma) and single-family households were fewer (19% v total US 26%). Our sample also under-represented adult men aged 18–34 years. For that reason, post-stratification weightings were applied to the data to reflect the age and sex distribution of the US population. Adjustments for the likelihood of selection on the basis of the number of adults in the household were also included in the weightings.

Our study included 40 active duty military personnel, who represented 1.4% of the total study population. Eleven reported owning firearms; however, only one reported owning the firearm primarily for work. We therefore chose to keep all of the respondents in the sample.

Respondents were asked several questions regarding firearm ownership and use. In particular, they were asked, “Do you or anyone you live with currently have any guns in your home or motor vehicles? Not including toys, models, air guns or starter pistols.” If the response was affirmative, the respondent was then asked, “In total, how many guns do you and anyone you live with currently have in your home or motor vehicle?” All respondents who replied that there were guns in their household were asked how many of each type of firearm was in their home (ie, revolvers, shotguns) and if they were in working order. To determine the proportion of adults who personally owned firearms, we asked those respondents who had replied that there were guns in their home, “Do any guns in your home belong to you personally?”

Statistical analyses

Descriptive and bivariate analyses were used to explore the relationships between firearm ownership, demographics, concentration and motivations for ownership. As previously mentioned, research suggests that individuals who personally own firearms report firearm ownership more accurately than non-owners who live in households with firearms.^{6–8} All of our reported analyses are therefore based on responses from individual gun owners rather than respondents living in households with guns, unless specifically noted that the calculation was performed using household responses.

To produce national estimates of the number of firearms in the US, we used population figures from the US census⁹ to determine the number of adults aged ≥18 years and the number of households in the US. We then calculated the percentage of respondents in our survey who reported personally owning a firearm. This number was applied to the US population to create national estimates of the number of adults who owned firearms. To estimate the number of firearms in private hands, we multiplied the number of firearm owners by the average number of firearms reported by respondents in our survey. As firearm ownership is not normally distributed and our survey included some extreme outliers in terms of the number of firearms owned, we performed calculations excluding the outliers. As a sensitivity analysis, similar calculations were performed using household reports of firearm ownership. We also conducted comparative analyses among men and women, and among respondents who lived alone and those living in multi-person households.

RESULTS

Firearm owners reported that 60% of the firearms owned in the US in 2004 were long guns, primarily rifles and shotguns (fig 1); the remaining 40% were handguns. Among all firearms, rifles were the most common, representing 33% of the gun stock. Revolvers were the most common type of handgun. A small percentage of respondents (5%) reported owning other handguns, including derringers and antique handguns. Other long guns, which include muzzle loaders and antique long guns, represented 6%.

According to our survey, 38% of households reported at least one firearm in the home and 26% of adults reported owning at least one gun. This corresponds to 42 million households with firearms and 57 million adult gun owners. We found that 64% of gun owners or 16% of adults reported owning at least one handgun; 80% of gun owners or 20% of all adults owned a long gun (results not shown).

Ownership demographics

Firearm ownership was more prevalent among middle-aged and older adults than among young adults aged 18–24 years (table 1). Ownership of any firearm was more common among men, those who were married or living with a partner, and respondents living in rural areas or the South. Ownership was strongly associated with whether the respondent grew up with guns in the home. Among gun-owning households in our survey, 46% had ≥1 adult gun owner.

Reasons for ownership

When respondents were asked, “What is the one most important reason that you own a handgun/long gun?” the most common response among those who owned a handgun was for self-defense (46%), followed by sport shooting (hunting or target shooting) or collecting (25%). Owners of long guns overwhelmingly reported sport shooting as the “most important” reason to own a long gun (77%; data not shown).

Concentration of ownership

Almost half (48%) of all individual gun owners, corresponding to 13% of the US adult population, reported owning ≥4 firearms. Household ownership followed a similar pattern, with 41% of firearm-owning households reporting ownership of ≥4 firearms (table 2). The 20% of gun owners who owned the most guns possessed about 65% of the nation’s guns.

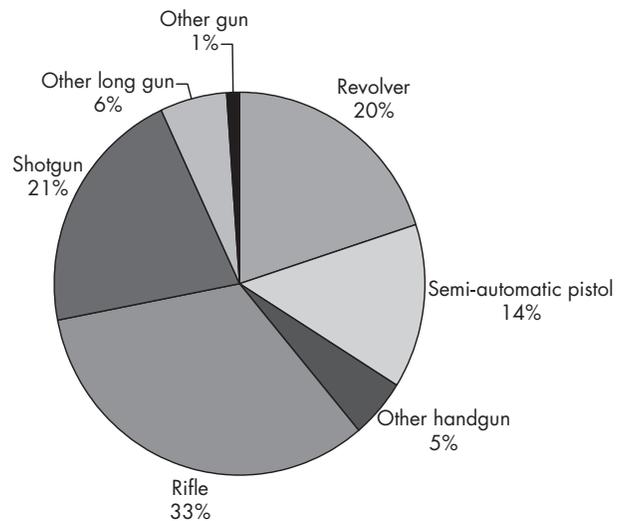


Figure 1 Types of firearms owned in the US.

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Table 1 Demographic characteristics of firearm owners

	n	Owns any firearm, n = 726 (%)	Owns both handguns and long guns, n = 322 (%)	Owns handguns only, n = 127 (%)	Owns long guns only, n = 215 (%)
Total	2770	26	12	5	8
Age (years)					
<25	216	16	6	3	7
25-44	903	26	11	5	8
45-64	1058	30	15	5	8
≥65	545	27	12	5	7
Sex					
Male	1363	42	20	5	13
Female	1407	11	3	4	3
Race					
White	2178	30	14	4	9
Non-white	592	15	5	5	3
Marital status					
Single	953	18	7	4	6
Married or living with partner	1786	30	14	5	8
Community					
Urban	687	18	8	5	5
Suburban	1161	23	10	5	7
Rural	872	37	18	4	11
Education					
High school or less	920	26	10	3	10
Some college/associated degree	930	29	12	6	8
Bachelors or higher	904	23	12	4	5
Annual income					
<US\$40000	1120	21	8	4	8
>US\$40000	1282	30	15	6	8
Military service					
Veteran	404	53	27	8	12
Current military	40	31	14	4	8
No	2316	22	9	4	7
Political views					
Liberal	594	16	7	4	4
Moderate	861	26	11	5	9
Conservative	1019	32	16	6	8
Region					
Northeast	530	17	7	2	7
Midwest	635	27	12	3	10
South	986	32	14	7	8
West	619	24	10	5	6
Child aged <18 years					
Yes	1016	27	12	4	9
No	1749	26	12	5	7
Parents had a gun at home					
Yes	1647	40	18	6	12
No	1103	7	3	2	2

Number of guns

The actual number of guns reported in our survey varied depending on how the question was asked and who answered the question. Individual firearm owners (n = 702) reported owning an average of 6.6 (95% confidence interval (CI) 5.2 to 7.9, median 3) working firearms. On further examination, it seemed that individuals who owned ≥4 firearms (with an average of 12 firearms per person) were greatly affecting the mean. When outliers representing the top 3% of gun owners (those owning >25 guns) were removed, the average number of working firearms per owner was 5.0 (95% CI 4.6 to 5.4). On the basis of estimates of 26% of adults in the US owning at least one firearm, we estimated that 57 million adults owned 283 million firearms (95% CI 260 to 305 million).

Estimates based on the number of household firearms were lower. We estimated that 42 million households in the US possessed at least one firearm in 2004, with an average of 5.2 (95% CI 4.9 to 5.6) guns per household, with outliers of >25 guns removed. The number of privately owned firearms in the US based on these estimates would be 218 million (95% CI 206 to 235 million).

Reporting differences

Overall, men and women reported different rates of household firearm ownership. Among married respondents who lived in two-adult households, married men reported a household firearm ownership rate of 54% and an average of 8 firearms per household compared with a 40% ownership rate and an average of 4.6 guns as reported by married women (table 3).

DISCUSSION

In general, our survey results are consistent with previous reports of firearm ownership demographics.^{1, 3, 10} Firearms are most likely to be owned by white men who live in a rural areas, those who are middle-aged or older, with a middle to higher income, who grew up with guns in the home and who live in the southern or mid-western regions of the country. Long guns continue to be the most prevalent type of gun in the US. Our survey, however, reports a slightly higher percentage of firearms that are handguns than that reported in 1994³ (40% v 34%). This shift to a greater proportion of handguns may be reflective of the decline in hunting and indicate a change in motivations and use of firearm ownership.¹⁰ Similar

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Table 2 Distribution of firearm ownership in the US population

Firearms owned	Percentage of US population	
	Individuals*	Households*
1	6	8
2	4	6
3	3	4
≥4	13	16
Any firearm	26†	39†

*Calculations based on the number of individuals who reported an actual number of firearms; 5% of households that reported owning a firearm did not report the number of firearms present in their home.

†These numbers are calculated using the affirmative response to owning a firearm.

surveys,³⁻¹⁰ handgun owners were most likely to report owning their handguns for self-protection, whereas owners of long guns reported owning their guns for sporting purposes. Individuals who own only handguns are just as likely to live in an urban environment as a rural one and are demographically more diverse compared with owners of only long guns who are more likely to be men and live in a rural area.

Our findings diverge from those of previous studies on firearm ownership regarding the increase in the average number of guns per gun owner. Although the rate of individual (26%) and household (38%) ownership is similar to that in other recent surveys,^{1-3, 11} the number of guns reported per person is higher. When including outliers, gun owners reported an average of 6.9 guns per owner compared with 4.1 reported in 1994 (J Ludwig, personal communication, 12 January 2005). The higher average number of guns in our survey is attributable to the higher number of guns owned by those who owned ≥4 guns, as the percentage of gun owners in each category of gun ownership (those owning 1-3 or ≥4 guns) has stayed almost the same.

Cook and Ludwig³ reported an estimate of 192 million working firearms in circulation in 1994. Although the population increased 11% between 1994 and 2004, population growth alone does not explain the differences in the number of guns reported. A recent report by the National Research Council, using national data on firearms manufactured, imported and exported, estimated that 258 million firearms were available in the US as of 1999.¹² This estimate does not account for firearm loss, breakage or those destroyed. When we calculated the number of guns in the same manner as in the National Research Council report, adding all available years, we calculated that about 275 million guns were manufactured or imported for private sale in the US by the end of 2003. As the US does not require firearms to be registered (although some individual states do), it is impossible to determine the exact number of privately owned firearms in this country.

Our estimates of 283 million firearms in the US may be higher than those that Cook and Ludwig established in 1994, even with the population growth kept in context, for many possible reasons. Our sample may have, by chance, captured more affluent firearm owners who own many guns. We adjusted for age and sex, but were unable to adjust for income because our income-related questions were not comparable with a standard such as the US census. Alternatively, respondents may have overestimated the number of guns they owned. Given that we are extrapolating from a survey of 2770 respondents to millions of Americans, small changes in the number of reported firearms results in a large difference in the national estimates.

Table 3 Rates of household firearm ownership, median and average number of guns per household for men and women

	Ownership rate	Average number of guns	Median
Men	49	7.9	5
Women	30	4.1	3
Married men	54	8.0	4
Married women	40	4.6	3
Men who live alone	39	6.8	3
Women who live alone	12	2.5	2

The General Social Survey indicates that household gun ownership has been declining over time, from about 50% in the early 1970s to current estimates of 34%.¹ Although the exact number of firearms in the US may be debatable as a result of inclusion or exclusion of outliers, or whether individual or household responses are used, it seems that although the proportion of households with firearms is declining, the number of working firearms in the US is increasing, not decreasing, and increasing most among those who already own firearms.

We also found evidence to support earlier research showing that women report lower levels of household firearm ownership, and in particular report fewer guns per household than men.⁶⁻⁸ Married women in our study reported an average of 3.4 fewer household guns than married men and a difference in ownership of 14% (54% in men v 40% in women). These findings reinforce earlier recommendations for surveys of firearm ownership and behavior,⁶ to seek information from individual firearm owners rather than any person living in a household with a firearm.

Limitations

We have considered some of the challenges faced when conducting telephone surveys, in particular those related to asking household members to respond to questions about topics, in this case firearm ownership, which may pertain to other members of the household. This self-reported data may also be subject to potential inaccuracies due to recall bias or the tendency to report socially desirable responses.¹³ For example, when we asked respondents two different questions to determine how many firearms were in their households, one asking for the total number of guns in the home and one asking specifically how many of each type of gun were owned, we often received two different numbers. Given that this was a telephone survey, we were limited to adults with access to a working telephone. If households without telephones were more or less likely to own a firearm, then our findings could be biased in the respective directions. Finally, non-response can

Key points

- Firearm ownership in the US is very common, with about one third of all households owning at least one firearm.
- Long guns are the most prevalent type of gun in the US, but 40% of the gun stock is handguns.
- Firearm ownership is highly concentrated, with a small number of adults owning a large proportion of the nation's firearms.
- Married men and women report different rates of household firearm ownership, supporting the proposal that researchers should seek information about firearm ownership from individual firearm owners.

affect the validity of our findings if those choosing not to answer a question differed systematically from those who did.¹⁴ The low response rate in this survey is similar to other random-digit-dial telephone surveys¹⁵; however, it still allows for potential bias if those who participated in the survey differed in terms of firearm ownership from those who did not.

CONCLUSIONS

Implications for prevention

In the US, about one in four adults owns at least one firearm. Although some other developed countries have similar rates of personal firearm ownership, what is unique in the US is the number of firearms privately owned. Researchers have estimated about 25 guns per 100 people in countries such as Canada, New Zealand, Germany, France and Sweden.¹⁶ On the basis of current estimates from our survey, the US has 93 guns per 100 people.

The National Academy of Sciences recently issued a report on firearms and violence in which they called for improved data on firearm ownership and use to advance the empirical evaluations of programs and policies to reduce gun violence.¹² Our findings describe the current motivations for firearm ownership and also provide information on the similarities and differences among owners of different types of guns. This information can assist in designing a more appropriate firearm injury policy as well as understanding the denominator of exposure when evaluating injury prevention interventions.

ACKNOWLEDGEMENTS

We thank Renee Johnson for her help in determining the response rate for this survey.

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Competing interests: None.

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11 capacity

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION
15

16 LEONARD FYOCK,
SCOTT HOCHSTETLER,
17 WILLIAM DOUGLAS,
DAVID PEARSON, BRAD SEIFERS, and
18 ROD SWANSON,

19 Plaintiffs,

20 v.

21 THE CITY OF SUNNYVALE, THE
MAYOR OF SUNNYVALE,
22 ANTHONY SPITALERI in his official
capacity, THE CHIEF OF THE
23 SUNNYVALE DEPARTMENT OF
PUBLIC SAFETY, FRANK GRGURINA,
24 in his official capacity, and DOES 1-10

25 Defendants.
26
27
28

Case No. 13-cv-05807 RMW

**DECLARATION OF FRANK GRGURINA IN
SUPPORT OF SUNNYVALE'S OPPOSITION
TO PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

Date: February 21, 2014
Time: 9:00 a.m.
Location: San Jose Courthouse
Courtroom 6 – 4th Floor
280 South 1st Street
San Jose, CA 95113

1 I, Frank Grgurina, declare as follows:

2 1. I am the Chief of the Sunnyvale Department of Public Safety and have served in
3 this role since November 2011. Prior to my current position, I was a sworn officer for the
4 Fremont Police Department (“FPD”) for over 22 years. I held a wide variety of assignments
5 throughout my career at FPD including positions as a Field Training Officer, Street Crimes
6 Detective, Narcotics Agent, SWAT Team Member, and as a certified instructor in weaponless
7 defense. My final position at FPD was that of a Police Captain with oversight of all field
8 operations. As a supervisor, manager, and as a second in command, I had the opportunity to
9 oversee almost every work group at the Fremont Police Department.

10 2. The information stated in this declaration is based on my knowledge, training,
11 education and experience.

12 3. I understand that the plaintiffs in this case contend that they need to use large
13 capacity magazines to defend themselves or their homes effectively. I am not personally aware of
14 any specific instance in the Cities of Fremont and Sunnyvale where a citizen was unable to
15 defend him or herself as a result of not having a large capacity magazine.

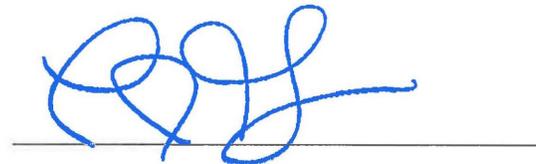
16 4. In my opinion, possession and use of large capacity magazines by those who
17 commit crimes poses a significant threat to public safety personnel and members of the
18 community. I am aware of several incidents in which criminal suspects have used a large
19 capacity magazine to harm and kill others and themselves. As an example, Criminal Suspect
20 Shareef Allman killed three co-workers and seriously injured several others individuals in a
21 shooting rampage which began in the City of Cupertino and ended in the City of Sunnyvale. The
22 incident came to a deadly conclusion in the City of Sunnyvale, when Allman was confronted by
23 Santa Clara County Sheriff’s Deputies resulting in an exchange of gun fire. Allman had been in
24 possession of several weapons, which included high capacity magazines. The incident lasted for
25 approximately 22 hours, placing members of the community in danger for an extended period of
26 time and requiring a massive public safety response.

27 5. I am familiar with the Sunnyvale Department of Public Safety’s (“DPS”)
28 expectations for off duty public safety officers. DPS officers are afforded the opportunity to take

1 enforcement action when confronted with criminal situations and may act as law enforcement
2 officers at any time. This may involve assisting on-duty officers under appropriate circumstances
3 or taking individual action while off-duty. Officers must also have the ability to defend
4 themselves against subjects who may wish to harm them due to their role as a law enforcement
5 officer.

6 6. I have been informed by the Sunnyvale City Attorney, Joan A. Borger, that
7 Section 9.44.050 does not apply to law enforcement personnel. Law enforcement officers are
8 exempt from Section 9.44.050, whether they are in possession of LCMs while on or off-duty.
9 This exemption applies equally to Sunnyvale law enforcement personnel authorized to carry
10 LCMs and to off-duty officers from other jurisdictions. Attached hereto as Exhibit A is a true and
11 correct copy of a memorandum by Joan A. Borger and Rebecca L. Moon regarding exemptions to
12 Section 9.44.050.

13 I declare under penalty of perjury under the laws of the California that the foregoing is
14 true and correct and that this Declaration was executed on January 29, 2014, at Sunnyvale,
15 California.



Frank Grgurina

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EXHIBIT A
To
DECLARATION OF FRANK
GRGURINA IN SUPPORT OF
SUNNYVALE'S OPPOSITION TO
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION



CITY OF SUNNYVALE

OFFICE OF THE CITY ATTORNEY

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INTEROFFICE MEMORANDUM

TO: Frank Grgurina, Chief of Public Safety

FROM: Joan A. Borger, City Attorney *JB*
 Rebecca L. Moon, Assistant City Attorney

DATE: December 13, 2013

RE: Law Enforcement Exemption for Large-Capacity Magazines

As you requested, this memo confirms the informal advice previously given by our office in regard to the interpretation of the law enforcement exemption in Sunnyvale Municipal Code Section 9.44.050(c)(2) (Sunnyvale Measure C).

Section 9.44.050(c)(2) provides that the prohibition on possession of large-capacity magazines does not apply to [1] “[a]ny government officer, agent, or employee, member of the armed forces of the United States, or peace officer, [2] to the extent that such person is otherwise authorized to possess a large-capacity magazine and does so while acting within the course and scope of his or her duties”. The section does not apply to any person who satisfies both conditions.

Questions have been raised concerning the application of this section to:

- (1) Officers who possess large-capacity magazines while off-duty.
- (2) Possession of personal (non-duty) weapons by officers.
- (3) Officers from other jurisdictions who are visiting or traveling through Sunnyvale.

It is our opinion that individuals listed in Section 9.44.050(c)(2), who are authorized as part of their duties to possess and use large-capacity magazines, are exempt under 9.44.050(c)(2) at all times, both while on and off duty. Further, the exemption is not limited to official duty weapons. Finally, the exemption applies to same extent to officers from other jurisdictions while in Sunnyvale.

Please do not hesitate to contact us if you have any additional questions or concerns.

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11 UNITED STATES DISTRICT COURT
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15 LEONARD FYOCK,
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17 DAVID PEARSON, BRAD SEIFERS, and
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18 Plaintiffs,

19 v.

20 THE CITY OF SUNNYVALE, THE
MAYOR OF SUNNYVALE,
21 ANTHONY SPITALERI in his official
capacity, THE CHIEF OF THE
22 SUNNYVALE DEPARTMENT OF
PUBLIC SAFETY, FRANK GRGURINA,
23 in his official capacity, and DOES 1-10

24 Defendants.

Case No. 13-cv-05807 RMW

**DECLARATION OF CHRISTOPHER S.
KOPER IN SUPPORT OF SUNNYVALE'S
OPPOSITION TO PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

Date: February 21, 2014
Time: 9:00 a.m.
Location: San Jose Courthouse
Courtroom 6 – 4th Floor
280 South 1st Street
San Jose, CA 95113

25
26 I, Christopher S. Koper, declare as follows:

27 1. I am an Associate Professor for the Department of Criminology, Law and Society
28 at George Mason University, in Fairfax, Virginia and a senior fellow at George Mason's Center

EB000115

1 for Evidence-Based Crime Policy. My credentials, experience, and background are stated in my
2 curriculum vitae, a true and correct copy of which is attached as Exhibit A.

3 2. In 1997, my colleague Jeffrey Roth and I conducted a study on the impact of Title
4 XI, Subtitle A of the Violent Crime Control and Law Enforcement Act of 1994 (hereinafter the
5 “federal assault weapons ban” or the “federal ban”), for the United States Department of Justice
6 and the United States Congress.¹ I updated the original 1997 study in 2004² and briefly revisited
7 the issue again by re-examining my 2004 report in 2013.³ To my knowledge, these are the only
8 published academic studies to have examined the efficacy of the federal ban on assault weapons
9 and ammunition feeding devices holding more than ten rounds of ammunition (hereinafter
10 referred to as “large-capacity magazines” or “LCMs”).⁴ My 1997 study was based on limited
11 data, especially with regard to the criminal use of large-capacity magazines. As a result, my
12 conclusions on the impact of the federal ban are most accurately and completely set forth in my
13 2004 and 2013 reports.

14 3. This declaration will summarize some of the key findings of those studies
15 regarding the federal ban and its impact on crime prevention and public safety, and, based upon
16 my findings, provide some opinions on the potential impact and efficacy of prohibitions and
17

18 ¹ Jeffrey A. Roth & Christopher S. Koper, *Impact Evaluation of the Public Safety and
19 Recreational Firearms Use Protection Act of 1994: Final Report* (1997), attached hereto as
20 Exhibit B (hereinafter, “*Impact Evaluation*”).

21 ² Christopher S. Koper, *An Updated Assessment of the Federal Assault Weapons Ban: Impacts
22 on Gun Markets and Gun Violence, 1994-2003* (2004), attached hereto as Exhibit C (hereinafter,
23 “*Updated Assessment of the Federal Assault Weapons Ban*”).

24 ³ Christopher S. Koper, *America’s Experience with the Federal Assault Weapons Ban, 1994-
25 2004: Key Findings and Implications*, ch. 12, pp. 157-171 in *Reducing Gun Violence in
26 America: Informing Policy with Evidence* (Daniel S. Webster & Jon S. Vernick eds. 2013),
27 attached hereto as Exhibit D (hereinafter “*America’s Experience with the Federal Assault
28 Weapons Ban*”).

⁴ As discussed below, there have been some additional studies as to the impact and efficacy of the
federal assault weapons ban conducted by non-academic institutions. In 2011, for example, the
Washington Post published the results of its own investigation into the federal ban's impact on the
criminal use of LCMs in Virginia. *See infra* ¶ 50. I am also aware of gun tracing analyses
conducted by ATF (2003 Congressional Q&A memo provided to the author) and the Brady
Center to Prevent Gun Violence (2004), both of which are consistent with the findings of my
studies regarding the decline in assault weapons as a percentage of crime gun traces between the
pre-ban and post-ban periods. *See infra* note 20.

EB000116

1 restrictions on large-capacity magazines, like those contained in Sunnyvale’s recently enacted
2 Sunnyvale Municipal Code, § 9.44.050, which was part of Measure C approved by some 67% of
3 Sunnyvale voters on November 5, 2013.

4 4. As discussed below, it is my considered opinion that Sunnyvale’s LCM ban has
5 the potential to prevent and limit shootings, particularly those involving high numbers of shots
6 and victims—and thus are likely to advance Sunnyvale’s interests in protecting its populace from
7 the dangers of such shootings.

8 **I. CRIMINAL USES AND DANGERS OF LARGE-CAPACITY MAGAZINES**

9 5. Large-capacity magazines allow semiautomatic weapons to fire more than 10
10 rounds without the need for a shooter to reload the weapon.⁵ Large-capacity magazines come in a
11 variety of sizes, including but not limited to 17-round magazines, 25- or 30-round magazines, and
12 drums with the capacity to accept up to 100 rounds.

13 6. The ability to accept a detachable magazine, including a large-capacity magazine,
14 is a common feature of guns typically defined as assault weapons.⁶ In addition, LCMs are
15 frequently used with guns that fall outside of the definition of assault weapon.

16 7. One of the core rationales for legislative attempts to ban, or otherwise limit, the
17 availability of LCMs is that they are particularly dangerous because they facilitate the rapid firing
18 of high numbers of rounds. This increased firing capacity thereby potentially increases injuries
19 and deaths from gun violence. *See Updated Assessment of the Federal Assault Weapons Ban*, p.
20 97 (noting that “studies ... suggest that attacks with semiautomatics—including [assault weapons]
21 and other semiautomatics with LCMs—result in more shots fired, persons wounded, and wounds

22 ⁵ A semiautomatic weapon is a gun that fires one bullet for each pull of the trigger and, after each
23 round of ammunition is fired, automatically loads the next round and cocks itself for the next
24 shot, thereby permitting a faster rate of fire relative to non-automatic firearms. Semiautomatics
25 are not to be confused with fully automatic weapons (*i.e.*, machine guns), which fire continuously
26 so long as the trigger is depressed. Fully automatic weapons have been illegal to own in the
27 United States without a federal permit since 1934. *See Updated Assessment of the Federal
28 Assault Weapons Ban*, p. 4 n.1 .

⁶ Although the precise definition used by various federal, state, and local statutes has varied, the
term “assault weapons” generally includes semiautomatic pistols, rifles, and shotguns with
military features conducive to military and potential criminal applications but unnecessary in
shooting sports or for self-defense.

EB000117

1 per victim than do other gun attacks”).

2 8. As such, semiautomatics equipped with LCMs have frequently been employed in
3 highly publicized mass shootings, and are disproportionately used in the murders of law
4 enforcement officers, crimes for which weapons with greater firepower would seem particularly
5 useful. *See Updated Assessment of the Federal Assault Weapons Ban*, pp. 14-19, 87.

6 9. During the 1980s and early 1990s, semiautomatic firearms equipped with LCMs
7 were involved in a number of highly publicized mass murder incidents that first raised public
8 concerns and fears about the accessibility of high powered, military-style weaponry and other
9 guns capable of discharging high numbers of rounds in a short period of time. For example:

- 10 • On July 18, 1984, James Huberty killed 21 persons and wounded 19 others in a
11 San Ysidro, California McDonald’s restaurant, using an Uzi carbine, a shotgun,
and another semiautomatic handgun, and equipped with a 25-round LCM;
- 12 • On January 17, 1989, Patrick Purdy used a civilian version of the AK-47 military
13 rifle and a 75-round LCM to open fire in a Stockton, California schoolyard, killing
five children and wounding 29 other persons;
- 14 • On September 14, 1989, Joseph Wesbecker, armed with an AK-47 rifle, two
15 MAC-11 handguns, a number of other firearms, and multiple 30-round magazines,
killed seven and wounded 15 people at his former workplace in Louisville,
16 Kentucky;
- 17 • On October 16, 1991, George Hennard, armed with two semiautomatic handguns
18 with LCMs (and reportedly a supply of extra LCMs), killed 22 people and
wounded another 23 in Killeen, Texas;
- 19 • On July 1, 1993, Gian Luigi Ferri, armed with two Intratec TEC-DC9 assault
20 pistols and 40 to 50 round magazines killed nine and wounded six at the law
offices of Pettit & Martin in San Francisco, California; and
- 21 • On December 7, 1993, Colin Ferguson, armed with a handgun and multiple LCMs,
22 opened fire on commuters on a Long Island Rail Road train, killing 6 and
wounding 19.

23 *See Updated Assessment of the Federal Assault Weapons Ban*, p. 14.⁷

24 ⁷ Additional details regarding these incidents were obtained from: Violence Policy Center, *Mass*
25 *Shootings in the United States Involving High-Capacity Ammunition Magazines*, available at
26 http://www.vpc.org/fact_sht/VPCshootinglist.pdf (hereinafter, “Violence Policy Center Report”);
Mark Follman, Gavin Aronsen & Deanna Pan, *US Mass Shootings, 1982-2012: Data from*
27 *Mother Jones’ Investigation* (updated Feb. 27, 2013), available at
<http://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data>
28 (hereinafter, “Follman, Aronsen & Pan 2013”); and Mark Follman, Gavin Aronsen & Jacob Lee,

1 10. More recently, in the years since the expiration of the federal ban in 2004, there
2 have been another well-publicized series of mass shooting incidents involving previously banned
3 assault weapons and/or LCMs. Since 2007, for example, there have been at least fifteen incidents
4 in which offenders using assault-type weapons or other semiautomatics with LCMs have
5 wounded and/or killed eight or more people.⁸ Some of the more notorious of these incidents
6 include:

- 7 • Blacksburg, Virginia, April 16, 2007: Student Seung-Hui Cho killed 33 (including
8 himself) and wounded 17 on the campus of Virginia Tech, armed with a handgun
9 and multiple LCMs;
- 10 • Tucson, Arizona, January 8, 2011: Jared Loughner, armed with a handgun and
11 multiple LCMs, killed 6 and wounded 13, including Congresswoman Gabrielle
12 Giffords;
- 13 • Aurora, Colorado, July 20, 2012: James Holmes killed 12 and wounded 58 in a
14 movie theater, armed with a Smith & Wesson M&P1 5 assault rifle, 100-round
15 LCMs, and other firearms; and
- 16 • Newtown, Connecticut, December 14, 2012: Adam Lanza killed 26 (twenty of
17 whom were young children) and wounded two at Sandy Hook Elementary School,
18 armed with a Bushmaster AR-15-style assault rifle, two handguns, and multiple
19 LCMs.

20 *See America’s Experience with the Federal Assault Weapons Ban*, pp. 157-58.⁹

21 11. There is evidence to suggest that the particularly large ammunition capacities of
22 assault weapons, along with their military-style features, are more attractive to criminals than
23 lawful users. *See Updated Assessment of the Federal Assault Weapons Ban*, pp. 17-18.

24 12. The available evidence also suggests that large-capacity magazines, along with
25 assault weapons, pose particular dangers by their large and disproportionate involvement in two
26 aspects of crime and violence: mass shootings and murders of police. *See Updated Assessment
27 of the Federal Assault Weapons Ban*, pp. 14- 19, 87.

28

More Than Half of Mass Shooters Used Assault Weapons and High-Capacity Magazines (Feb.
27, 2013), available at <http://www.motherjones.com/politics/2013/02/assault-weapons-high-capacity-magazines-mass-shootings-feinstein> (hereinafter, “Pollman, Aronsen & Lee 2013”).

⁸ See Violence Policy Center Report; Follman, Aronsen & Pan 2013; Follman, Aronsen & Lee 2013.

⁹ Additional details regarding these incidents were obtained from: Violence Policy Center Report; Follman, Aronsen & Pan 2013; and Follman, Aronsen & Lee 2013.

1 13. With respect to mass shootings, the available evidence before the federal assault
2 weapons ban was enacted in 1994 and after its expiration in 2004 both support this conclusion.
3 Prior to the federal ban, assault weapons or other semiautomatics with LCMs were involved in 6,
4 or 40%, of 15 mass shooting incidents occurring between 1984 and 1993 in which six or more
5 persons were killed or a total of 12 or more were wounded. See Updated Assessment of the
6 Federal Assault Weapons Ban, p. 14.¹⁰

7 14. More recently, a media investigation and compilation of 62 public mass shooting
8 incidents that involved the death of four or more people, over the period 1982-2012, showed that,
9 of the cases where magazine capacity could be determined, 31 of 36 cases, or 86%, involved a
10 large-capacity magazine. Including all cases, including those where magazine capacity could not
11 be determined, exactly half of the cases (31 of 62) are known to have involved an LCM.¹¹

12 15. LCMs, because they can be and are used both with assault weapons and guns that
13 fall outside the definition of an assault weapon, appear to present even greater dangers to crime
14 and violence than assault weapons alone.

15 16. Prior to the federal assault weapons ban, for example, guns with LCMs were used
16 in roughly 13-26% of most gun crimes (as opposed to somewhere between about 1% and 8% for
17 assault weapons alone). See Updated Assessment of the Federal Assault Weapons Ban, pp. 15,
18 18-19; America's Experience with the Federal Assault Weapons Ban, pp. 161-62.

19 17. And, in New York City, the New York State Division of Criminal Justice Services
20 reported that, in 1993, at least 16%, and as many as 25%, of guns recovered in murder
21 investigations were equipped with LCMs. See Updated Assessment of the Federal Assault
22 Weapons Ban, p. 18.¹²

23 _____
24 ¹⁰ These figures are based on tabulations that I and my research team did using data reported in
Gary Kleck, *Targeting Guns: Firearms and Their Control* (1997), pp. 124-26.

25 ¹¹ This investigation and compilation of data on mass shootings was done by reporters at *Mother*
Jones magazine. See Follman, Aronsen & Pan 2013; Follman Aronsen & Lee 2013; Mark
26 Follman, Gavin Aronsen & Deanna Pan, *A Guide to Mass Shootings in America* (updated Feb.
27 27, 2013), available at <http://www.motherjones.com/politics/2012/07/mass-shootings-map>.

28 ¹² The minimum estimate is based on cases in which discharged firearms were recovered, while
the maximum estimate is based on cases in which recovered firearms were positively linked to the
case with ballistic evidence. See Updated Assessment of the Federal Assault Weapons Ban, p. 18

1 18. It also appears that guns with LCMs have been used disproportionately in murders
2 of police. Specifically, the available data, from prior to the federal ban, indicates that LCMs are
3 used in somewhere between 31% to 41% of gun murders of police. *See Updated Assessment of*
4 *the Federal Assault Weapons Ban*, p. 18; *America’s Experience with the Federal Assault*
5 *Weapons Ban*, p. 162.

6 19. Working under my direction, a graduate student at George Mason University
7 recently analyzed the *Mother Jones* data for his Master’s thesis, and compared the number of
8 deaths and fatalities of the 62 mass shootings identified therein to determine how the presence of
9 assault weapons and LCMs impacted the outcome.¹³ With respect to LCMs, he compared cases
10 where an LCM was known to have been used (or at least possessed by the shooter) against cases
11 where either an LCM was not used or not known to have been used. He found that the LCM
12 cases (which included assault weapons) had significantly higher numbers of fatalities and
13 casualties: an average of 10.19 fatalities in LCM cases compared to 6.35 fatalities in non-
14 LCM/unknown cases. He found an average of 12.39 people were shot but not killed in public
15 mass shootings involving LCMs, compared to just 3.55 people shot in the non-LCM/unknown
16 LCM shootings. These findings reflect a total victim differential of 22.58 killed or wounded in
17 the LCM cases compared to 9.9 in the non-LCM/unknown LCM cases.¹⁴ All of these differences
18 were statistically significant and not a result of mere chance.

19 20. In addition, the available evidence suggests that gun attacks with
20 semiautomatics—including both assault weapons and guns equipped with LCMs—tend to result
21 in more shots fired, more persons wounded, and more wounds inflicted per victim than do attacks
22 with other firearms. *See Updated Assessment of the Federal Assault Weapons Ban*, p. 97;
23 *America’s Experience with the Federal Assault Weapons Ban*, pp. 166-67.

24 21. For example, in mass shooting incidents that resulted in at least 6 deaths or at least
25 n.15.

26 ¹³ See Luke Dillon, *Mass Shootings in the United States: An Exploratory Study of the Trends*
27 *from 1982 to 2012*. 2013. Master’s thesis. Fairfax, VA: Department of Criminology, Law and
28 Society, George Mason University.

¹⁴ The patterns were also very similar when comparing the LCM cases against just those cases in
which it was clear that an LCM was not used (though this was a very small number). EB000121

1 12 total gunshot victims from 1984 through 1993, offenders who clearly possessed assault
2 weapons or other semiautomatics with LCMs wounded or killed an average of 29 victims in
3 comparison to an average of 13 victims wounded or killed by other offenders. *See Updated*
4 *Assessment of the Federal Assault Weapons Ban*, pp. 85-86; *America's Experience with the*
5 *Federal Assault Weapons Ban*, p. 167.

6 22. Similarly, a study of handguns attacks in Jersey City, New Jersey during the 1990s
7 found that the average number of victims wounded in gunfire incidents involving semiautomatic
8 pistols was 15% higher than in those involving revolvers. The study further found that attackers
9 using semiautomatics to fire more than ten shots were responsible for nearly 5% of all gunshot
10 victims and that 100% of these incidents involved injury to at least one victim. *See Updated*
11 *Assessment of the Federal Assault Weapons Ban*, pp. 84-86, 90-91; *America's Experience with*
12 *the Federal Assault Weapons Ban*, p. 167.

13 23. Similar evidence comes from Milwaukee, Wisconsin. Between 1992 and 1995,
14 gun homicide victims in Milwaukee who were killed by guns with LCMs had 55% more gunshot
15 wounds than those victims killed by non-LCM firearms. *See Updated Assessment of the Federal*
16 *Assault Weapons Ban*, p. 86.

17 24. And, in an analysis I conducted of guns recovered by police in Baltimore, I also
18 found LCMs to be associated with gun crimes that resulted in more lethal and injurious outcomes.
19 For instance, I found, among other things, that guns used in shootings that resulted in gunshot
20 victimizations were 17% to 26% more likely to have LCMs than guns used in gunfire cases with
21 no wounded victims, and guns linked to murders were 8% to 17% more likely to have LCMs than
22 guns linked to non-fatal gunshot victimizations. *See Updated Assessment of the Federal Assault*
23 *Weapons Ban*, p. 87.

24 25. In short, while tentative, the available evidence suggests more often than not that
25 attacks with semiautomatics, particularly those equipped with LCMs, result in more shots fired,
26 leading both to more injuries and injuries of greater severity. Such attacks also appear to result in
27 more wounds per victim. This is significant because gunshot victims who are shot more than
28 once are more than 60% more likely to die than victims who receive only one gunshot wound.

1 See *Updated Assessment of the Federal Assault Weapons Ban*, p. 87 (citing studies showing 63%
2 increase and 61% increases, respectively, in fatality rates among gunshot victims suffering more
3 than one wound).

4 26. In addition, diminishing the number of victims of shootings by even a small
5 percentage can result in significant cost savings because of the significant social costs of
6 shootings, as discussed *supra* in ¶¶ 52-53.

7 **II. EFFECTS OF THE 1994 FEDERAL ASSAULT WEAPONS BAN**

8 **A. Provisions of the Federal Assault Weapons Ban**

9 27. Enacted on September 13, 1994—in the wake of many of the mass shootings
10 described above—the federal assault weapons ban imposed prohibitions and restrictions on the
11 manufacture, transfer, and possession of both certain semiautomatic firearms designated as
12 assault weapons and certain LCMs. Pub. L. No. 103-322, tit. XI, subtit. A, 108 Stat. 1796, 1996-
13 2010 (1994).

14 28. The federal assault weapons ban was to expire after ten years, unless renewed by
15 Congress. *Id.* § 110105(2). It was not renewed, and thus, by its own terms, the federal ban
16 expired on September 13, 2004.¹⁵

17 **1. Banned Assault Weapons and Features**

18 29. As noted, the federal assault weapons ban imposed a ten-year ban on the
19 manufacture, transfer, or possession of what the statute defined as “semiautomatic assault
20 weapons.” The federal ban was not a prohibition on all semiautomatic firearms; rather, it was
21 directed against those semiautomatics having features that are useful in military and criminal
22 applications but that are unnecessary in shooting sports or for self-defense.

23 30. Banned firearms were identified under the federal law in two ways: (i) by specific
24 make and model; and (ii) by enumerating certain military-style features and generally prohibiting
25 those semiautomatic firearms having two or more of those features.

26 _____
27 ¹⁵ I understand that California prohibited assault weapons in 1989, before the federal ban, but
28 grandfathered most existing assault weapons; and that California prohibited large-capacity
magazines in 2000 but grandfathered existing LCMs. For further information, *see infra* ¶ 54. I
am not aware of any studies of the effects of these California laws.

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1 31. First, the federal ban specifically prohibited 18 models and variations of
2 semiautomatic guns by name (e.g., the Intratec TEC-9 pistol and the Colt AR-15 rifle), as well as
3 revolving cylinder shotguns. This list also included a number of foreign rifles that the federal
4 government had banned from importation into the country beginning in 1989 (e.g., the Avtomat
5 Kalashnikov models). And, indeed, several of the guns banned by name were civilian copies of
6 military weapons and accepted ammunition magazines made for those military weapons. (A list
7 of the weapons banned by name in the 1994 law is set forth in Table 2-1 of the *Updated*
8 *Assessment of the Federal Assault Weapons Ban*, p. 5.)

9 32. Second, the federal assault weapons ban contained a “features test” provision that
10 generally prohibited other semiautomatic guns having two or more military-style features.
11 Examples of such features include pistol grips on rifles, flash suppressors, folding rifle stocks,
12 threaded barrels for attaching silencers, and the ability to accept detachable magazines. (This
13 “features test” of the federal ban is described more fully in Table 2-2 of the *Updated Assessment*
14 *of the Federal Assault Weapons Ban*, p. 6, and in Table 12-1 of *America’s Experience with the*
15 *Federal Assault Weapons Ban*, p. 160.)

16 **2. Banned Large-Capacity Magazines**

17 33. The federal ban also prohibited most ammunition feeding devices holding more
18 than ten rounds of ammunition (which I have referred to herein as “large-capacity magazines” or
19 “LCMs”).

20 34. The federal ban on LCMs extended to LCMs or similar devices that had the
21 capacity to accept more than ten rounds of ammunition, or that could be “readily restored or
22 converted or to accept” more than ten rounds of ammunition.¹⁶

23 **3. Exemptions and Limitations to the Federal Ban**

24 35. The 1994 federal assault weapons ban contained several important exemptions that
25 limited its potential impact, especially in the short-term. *See Updated Assessment of the Federal*

26 _____
27 ¹⁶ Technically, the ban prohibited any magazine, belt, drum, feed strip, or similar device that had
28 the capacity to accept more than 10 rounds of ammunition, or which could be readily converted or
restored to accept more than 10 rounds of ammunition. The ban exempted attached tubular
devices capable of operating only with 22 caliber rimfire (i.e., low velocity) ammunition.

1 *Assault Weapons Ban*, pp. 10-11.

2 36. First, assault weapons and LCMs manufactured before the effective date of the ban
3 were “grandfathered” in and thus legal to own and transfer. Estimates suggest that there may
4 have been upward of 1.5 million assault weapons and 25-50 million LCMs thus exempted from
5 the federal ban. Moreover, an additional 4.8 million pre-ban LCMs were imported into the
6 country from 1994 through 2000 under the grandfathering exemption. Importers were also
7 authorized to import another 42 million pre-ban LCMs, which may have arrived after 2000. *See*
8 *Updated Assessment of the Federal Assault Weapons Ban*, p. 10; *America’s Experience with the*
9 *Federal Assault Weapons Ban*, pp. 160-61.

10 37. Furthermore, although the 1994 law banned “copies or duplicates” of the named
11 firearms banned by make and model, federal authorities emphasized exact copies in enforcing this
12 provision. Similarly, the federal ban did not apply to a semiautomatic weapon possessing only
13 one military-style feature listed in the ban’s features test provision.¹⁷ Thus, many civilian rifles
14 patterned after military weapons were legal under the ban with only slight modifications. *See*
15 *Updated Assessment of the Federal Assault Weapons Ban*, pp. 10-11.¹⁸

16 **B. Impact of the Federal Assault Weapons Ban**

17 38. This section of my declaration discusses the empirical evidence of the impact of
18 the federal assault weapons ban. I understand that the Plaintiffs in this litigation contend that
19 Sunnyvale’s prohibition on the possession of LCMs will not have an effect on crime or gunshot
20 victimization because criminal users of firearms will not comply with Sunnyvale’s ban. In my

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22 ¹⁷ It should be noted, however, that any firearms imported into the country must still meet the
23 “sporting purposes test” established under the federal Gun Control Act of 1968. In 1989, ATF
24 determined that foreign semiautomatic rifles having any one of a number of named military
25 features (including those listed in the features test of the 1994 federal assault weapons ban) fail
26 the sporting purposes test and cannot be imported into the country. In 1998, the ability to accept
27 an LCM made for a military rifle was added to the list of disqualifying features. Consequently, it
28 was possible for foreign rifles to pass the features test of the federal assault weapons ban but not
meet the sporting purposes test for imports. *See Updated Assessment of the Federal Assault
Weapons Ban*, p. 10 n.7.

¹⁸ Examples of some of these modified, legal versions of banned guns that manufacturers
produced in an effort to evade the ban are listed in Table 2-1 of the *Updated Assessment of the
Federal Assault Weapons Ban*, p. 5.

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1 opinion, that contention misunderstands the effect of possession bans. The issue is not only
 2 whether criminals will be unwilling to comply with such laws, though this could be an important
 3 consideration if the penalties for possession or use are particularly severe. The issue is also how
 4 possession bans affect the availability of weapons for offenders. Examining the effects of the
 5 federal ban on LCMs could cast some light on how a local prohibition on possession of LCMs
 6 may diminish their availability for offenders. It is difficult, however, to assess trends in LCM use
 7 because of limited information. *See infra* ¶¶ 47 *et seq.* For that reason, this section discusses
 8 both the impacts of the federal ban both on LCM use, for which information is limited, and on
 9 ownership and use of assault weapons, for which there is more information.

10 1. Assault Weapons

11 39. Prior to the federal ban, the best estimates are that there were approximately
 12 1.5 million privately owned assault weapons in the United States (less than 1% of the total
 13 civilian gun stock). *See America's Experience with the Federal Assault Weapons Ban*, pp. 160-
 14 61; *Updated Assessment of the Federal Assault Weapons Ban*, p. 10.

15 40. Although there was a surge in production of assault weapon-type firearms as
 16 Congress debated the ban in 1994, the federal ban's restriction of new assault weapon supply
 17 helped drive up the prices for many assault weapons (notably assault pistols) and appeared to
 18 make them less accessible and affordable to criminal users. *See America's Experience with the*
 19 *Federal Assault Weapons Ban*, pp. 162-63; *Updated Assessment of the Federal Assault Weapons*
 20 *Ban*, pp. 25-38.

21 41. Analyses that my research team and I conducted of several national and local
 22 databases on guns recovered by law enforcement indicated that crimes with assault weapons
 23 declined after the federal assault weapons ban was enacted in 1994.

24 42. In particular, across six major cities (Baltimore, Miami, Milwaukee, Boston, St.
 25 Louis, and Anchorage), the share of gun crimes involving assault weapons declined by 17% to
 26 72%, based on data covering all or portions of the 1995-2003 post-ban period. *See Updated*
 27 *Assessment of the Federal Assault Weapons Ban*, pp. 2, 46-60; *America's Experience with the*
 28 *Federal Assault Weapons Ban*, p. 163.

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1 43. This analysis of local data is consistent with patterns found in the national data on
2 guns recovered by law enforcement agencies around the country and reported to the federal
3 Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) for investigative gun tracing.¹⁹
4 Specifically, although the interpretation is complicated by changes in tracing practices that
5 occurred during this time, the national gun tracing data suggests that use of assault weapons in
6 crime declined with the onset of the 1994 federal assault weapons ban, as the percentage of gun
7 traces for assault weapons fell 70% between 1992-93 and 2001-02 (from 5.4% to 1.6%). And,
8 notably, this downward trend did not begin until 1994, the year the federal ban was enacted. *See*
9 *Updated Assessment of the Federal Assault Weapons Ban*, pp. 2, 39-46, 51-52; *America’s*
10 *Experience with the Federal Assault Weapons Ban*, p. 163.²⁰

11 44. In short, the analysis that my research team and I conducted indicates that the
12 criminal use of assault weapons declined after the federal assault weapons ban was enacted in
13 1994, independently of trends in gun crime. *See Updated Assessment of the Federal Assault*
14 *Weapons Ban*, pp. 51-52; *America’s Experience with the Federal Assault Weapons Ban*, p. 163.

15 45. This decline in crimes with assault weapons was due primarily to a reduction in
16 the use of assault pistols. Assessment of trends in the use of assault rifles was complicated by the
17 rarity of crimes with such rifles and by the substitution in some cases of post-ban rifles that were
18 very similar to the banned models. In general, however, the decline in assault weapon use was
19 only partially offset by substitution of post-ban assault weapon-type models. Even counting the
20 post-ban models as assault weapons, the share of crime guns that were assault weapons fell 24%
21 to 60% across most of the local jurisdictions studied. Patterns in the local data sources also
22 suggested that crimes with assault weapons were becoming increasingly rare as the years passed.

23 _____
24 ¹⁹ A gun trace is an investigation that typically tracks a gun from its manufacture to its first point
25 of sale by a licensed dealer. It is undertaken by the ATF, upon request by a law enforcement
26 agency. The trace is generally initiated when the requesting law enforcement agency provides
27 ATF with a trace request including identifying information about the firearm, such as make,
28 model and serial number. For the full discussion of the use of ATF gun tracing data, see section
6.2 of *Updated Assessment of the Federal Assault Weapons Ban*, pp. 40-46.

²⁰ These findings are consistent with other tracing analyses conducted by ATF and the Brady
Center to Prevent Gun Violence. *See Updated Assessment of the Federal Assault Weapons Ban*,
p. 44 n.43.

1 See *Updated Assessment of the Federal Assault Weapons Ban*, pp. 46-52; *America's Experience*
2 *with the Federal Assault Weapons Ban*, pp. 163-64.

3 46. Thus, while developing a national estimate of the number of assault weapons
4 crimes prevented by the federal ban is complicated by the range of estimates of assault weapon
5 use and changes therein derived from different data sources, tentatively, it appears that the federal
6 ban prevented a few thousand crimes with assault weapons annually. For example, using 2% as
7 the best estimate of the share of gun crimes involving assault weapons prior to the ban, and 40%
8 as a reasonable estimate of the post- ban drop in this figure, implies that almost 2,900 murders,
9 robberies, and assaults with assault weapons were prevented in 2002. See *Updated Assessment of*
10 *the Federal Assault Weapons Ban*, p. 52 n.61.²¹ If this tentative conclusion is correct, then
11 contrary to Plaintiffs' contention, prohibitions like the federal ban do have an impact on criminal
12 users of guns.

13 2. Large-Capacity Magazines

14 47. Assessing trends in LCM use is much more difficult because there was, and is, no
15 national data source on crimes with LCMs, and few local jurisdictions maintain this sort of
16 information.

17 48. It was possible, nonetheless, to examine trends in the use of guns with LCMs in
18 four jurisdictions: Baltimore, Milwaukee, Anchorage, and Louisville. In all four jurisdictions,
19 the overall share of crime guns equipped with LCMs rose or remained steady through at least the
20 late 1990s. This failure to reduce overall LCM use for at least several years after the federal ban
21 was likely due to the immense stock of exempted pre-ban magazines, which, as noted, was
22 enhanced by post-ban imports. See *Updated Assessment of the Federal Assault Weapons Ban*, p.
23 68-79; *America's Experience with the Federal Assault Weapons Ban*, p. 164.

24 49. My studies did show that crimes with LCMs may have been decreasing by the
25 early 2000s, but the available data in the four cities I investigated were too limited and

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27 ²¹ While it seems likely that some or all of these crimes happened regardless, as perpetrators
28 merely substituted some other gun for the assault weapon, it also seems likely that the number of
victims per shooting incident, and the number of wounds inflicted per victim, was diminished in
some of those instances.

1 inconsistent to draw any clear overall conclusions in this regard. *See America's Experience with*
 2 *the Federal Assault Weapons Ban*, p. 164; *Updated Assessment of the Federal Assault Weapons*
 3 *Ban*, pp. 68-79.

4 50. However, a later investigation by the Washington Post of LCM use in Virginia,
 5 analyzing data maintained by the Virginia State Police as to guns recovered in crimes by local
 6 law enforcement officers across the state, suggests that the ban may have had a more substantial
 7 impact on the supply of LCMs to criminal users by the time it expired in 2004. In Virginia, the
 8 share of recovered guns with LCMs generally varied between 13% and 16% from 1994 through
 9 2000 but fell to 9% by 2004. Following expiration of the federal ban in 2004, the share of
 10 Virginia crime guns with an LCM rose to 20% by 2010. *See America's Experience with the*
 11 *Federal Assault Weapons Ban*, p. 165.²² These data suggest that the federal ban may have been
 12 reducing the use of LCMs in gun crime by the time it expired in 2004, and that it could have had
 13 a stronger impact had it remained in effect.

14 3. Summary of Results of the Federal Assault Weapons Ban

15 51. The federal ban's exemption of millions of pre-ban assault weapons and LCMs
 16 meant that the effects of the law would occur only gradually—and that those effects were still
 17 unfolding when the ban expired in 2004. Nevertheless, while the ban did not appear to have a
 18 measurable effect on overall gun crime during the limited time it was in effect, as just discussed,
 19 my studies and others do appear to show a significant impact on the number of gun crimes

20 _____
 21 ²² The results of the *Washington Post's* original investigation (which are what are conveyed in
 22 *America's Experience with the Federal Assault Weapons Ban*, p. 165) are reported in David S.
 23 Fallis & James V. Grimaldi, *Va. Data Show Drop in Criminal Firepower During Assault Gun*
 24 *Ban*, Wash. Post, Jan. 23, 2011, available at [http://www.washingtonpost.com/wp-](http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012203452.html)
 25 [dyn/content/article/2011/01/22/AR2011012203452.html](http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012203452.html), and attached as Exhibit E to this
 26 declaration. In early 2013, the Post updated this analysis, and slightly revised the figures it
 27 reported by identifying and excluding from its counts more than 1,000 .22-caliber rifles with
 28 large-capacity tubular magazines, which were not subject to the federal ban (and which are
 similarly not subject to New York's ban on large-capacity magazines). *See* David S. Fallis, *Data*
Indicate Drop in High-Capacity Magazines During Federal Gun Ban, Wash. Post, Jan. 10, 2013,
 available at [http://failover.washingtonpost.com/investigations/data-point-to-drop-in-high-](http://failover.washingtonpost.com/investigations/data-point-to-drop-in-high-capacity-magazines-during-federal-gun-ban/2013/01/10/d56d3bb6-4b91-11e2-a6a6-aabac85e8036_story.html)
[capacity-magazines-during-federal-gun-ban/2013/01/10/d56d3bb6-4b91-11e2-a6a6-](http://failover.washingtonpost.com/investigations/data-point-to-drop-in-high-capacity-magazines-during-federal-gun-ban/2013/01/10/d56d3bb6-4b91-11e2-a6a6-aabac85e8036_story.html)
[aabac85e8036_story.html](http://failover.washingtonpost.com/investigations/data-point-to-drop-in-high-capacity-magazines-during-federal-gun-ban/2013/01/10/d56d3bb6-4b91-11e2-a6a6-aabac85e8036_story.html), and attached as Exhibit F to this declaration. This updated data is
 reported above.

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1 involving assault weapons and a possibly significant impact (based on the *Washington Post's*
2 analysis of Virginia data) on those crimes involving LCMs.²³

3 52. Moreover, as set forth in my 2013 book chapter, there is evidence that, had the
4 federal ban remained in effect longer (or were it renewed), it could conceivably have yielded
5 significant additional societal benefits as well, potentially preventing hundreds of gunshot
6 victimizations annually and producing millions of dollars of cost savings per year in medical care
7 alone. Indeed, reducing shootings by even a very small margin could produce substantial long-
8 term savings for society, especially as the shootings prevented accrue over many years. *See*
9 *America's Experience with the Federal Assault Weapons Ban*, pp. 166-67; *see also Updated*
10 *Assessment of the Federal Assault Weapons Ban*, p. 100 n.118. Some studies have shown that the
11 lifetime medical costs for gunshot injuries are about \$28,894 (adjusted for inflation). Thus, even
12 a 1% reduction in gunshot victimizations at the national level would result in roughly
13 \$18,781,100 in lifetime medical costs savings from the shootings prevented each year. (*See*
14 *America's Experience with the Federal Assault Weapons Ban*, pp. 166-67; *see also Updated*
15 *Assessment of the Federal Assault Weapons Ban*, p. 100 n.18).

16 53. The cost savings potentially could be substantially higher if one looks beyond just
17 medical costs. For example, some estimates suggest that the full societal costs of gun violence --
18 including medical, criminal justice, and other government and private costs (both tangible and
19 intangible) -- could be as high as \$1 million per shooting. Based on those estimates, even a 1%
20 decrease in shootings nationally could result in roughly \$650 million in cost savings to society
21 from shootings prevented each year. (*See America's Experience with the Federal Assault*
22 *Weapons Ban*, pp. 166-67).

23
24 _____
25 ²³ In our initial 1997 study on the impact of the federal assault weapons ban, Jeffrey Roth and I
26 also estimated that gun murders were about 7% lower than expected in 1995 (the first year after
27 the ban), adjusting for pre-existing trends. *See Impact Evaluation*, pp. 6, 79-85. However, the
28 very limited post-ban data available for that study precluded a definitive judgment as to whether
this drop was statistically meaningful. Our later findings on LCM use made it difficult to credit
the ban with this effect, however, and we did not update it for our 2004 report. *See Updated*
Assessment of the Federal Assault Weapons Ban, p. 92 n.109.

1 **III. SUNNYVALE’S LARGE-CAPACITY MAGAZINE PROHIBITION**

2 54. On November 5, 2013, the citizens of the City of Sunnyvale voted to approve
3 Measure C by some 67% of the vote. Measure C contained provisions requiring reporting of lost
4 or stolen firearms, safe storage of firearms, logging of ammunition sales, and a prohibition on
5 possession of LCMs. The LCM possession ban was codified in Sunnyvale Municipal Code §
6 9.44.050, which prohibits the possession of LCMs within Sunnyvale’s borders subject to
7 enumerates exceptions, principally for law enforcement. California law already prohibits the
8 manufacture, import, sale, or transfer of large-capacity magazines but does not directly regulate
9 the possession of magazines. See California Penal Code § 32310. The practical effect of
10 California’s law is to permit people who lawfully owned large-capacity magazines prior to
11 January 1, 2000, the effective date of California’s ban, to retain these grandfathered magazines.
12 Sunnyvale tightens existing restrictions on LCMs by prohibiting the possession of LCMs
13 grandfathered under California law. I examine Sunnyvale’s prohibition on large-capacity
14 magazines, and opine as to its potential impact and likely efficacy in this section of my
15 declaration.

16 55. Sunnyvale’s ordinance was recently enacted and I have not undertaken any study
17 or analysis of its effects. But any law or regulation prohibiting the possession of large-capacity
18 magazines, with no exception for grandfathered LCMs, addresses some weaknesses that were
19 present in the federal ban.

20 56. While the LCM ban was arguably the most important feature of the 1994 federal
21 ban (given that LCMs are the key feature contributing to an assault weapon’s firepower, and that
22 the reach of the LCM was much greater than the assault weapons ban as many semiautomatic
23 guns that were not banned could still accept LCMs), my studies as to the effects of the federal ban
24 indicated that the LCM ban was likely not as efficacious in reducing the use of these magazines in
25 crime as it otherwise might have been because of the large number of pre-ban LCMs which were
26 exempted from the ban. The Washington Post’s investigation of recovered guns with LCMs in
27 Virginia, which showed an increasing decline in the number of recovered guns with LCMs the
28 longer the ban was in effect, similarly suggests that the grandfathering of pre-ban LCMs delayed

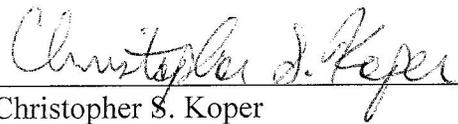
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1 the full impact of the federal ban. In my opinion, eliminating the grandfathering of pre-ban
2 LCMs would have improved the efficacy of the federal ban.

3 57. In my opinion, based on the data and information contained in this declaration and
4 the sources referred to herein, a complete ban on the possession of LCMs has the potential to (1)
5 reduce the number of crimes committed with LCMs; (2) reduce the number of shots fired in gun
6 crimes; (3) reduce the number of gunshot victims in such crimes; (4) reduce the number of
7 wounds per gunshot victim; (5) reduce the lethality of gunshot injuries when they do occur; and
8 (6) reduce the substantial societal costs that flow from shootings.

9 58. Through Sunnyvale Municipal Code, § 9.44.050, Sunnyvale has enacted a ban on
10 the possession of LCMs. I believe this measure has the potential to help prevent the use and
11 spread of particularly dangerous magazines, and is a reasonable and well-constructed measure
12 that is likely to advance Sunnyvale’s interest in protecting its citizens and its police force. I
13 believe that the effects of such a measure will be amplified if similar measures are adopted in
14 other jurisdictions as well.

15 59. I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct. Executed this 28th day of January, 2014, in Ashburn, Virginia.

17 
18 Christopher S. Koper

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EXHIBIT A

To

**Declaration of Christopher S. Koper in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction**

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Education

1995	Ph.D., Criminology and Criminal Justice, University of Maryland
1992	M.A., Criminology and Criminal Justice, University of Maryland
1988	B.A. (Summa cum Laude), Criminal Justice, University of Maryland

Career Brief

Dr. Christopher S. Koper is an Associate Professor in the Department of Criminology, Law and Society at George Mason University and a senior fellow in George Mason’s Center for Evidence-Based Crime Policy. Dr. Koper holds a Ph.D. in criminology and criminal justice from the University of Maryland and has over 20 years of experiencing conducting criminological research at George Mason, the Police Executive Research Forum, the University of Pennsylvania, the Urban Institute, the RAND Corporation, the Police Foundation, and other organizations. He has written and published extensively on issues related to firearms, policing, federal crime prevention efforts, research methods, and other topics. Dr. Koper has served as a lead or senior-level investigator for numerous projects funded by the U.S. Department of Justice, including Congressionally-mandated assessments of the 1994 federal assault weapons ban and the federal Community Oriented Policing Services (COPS) program. He is the co-creator of the [Evidence-Based Policing Matrix](#), a tool used by local and national organizations including the federal Bureau of Justice Assistance and the National Policing Improvement Agency of the United Kingdom to visualize research results on police effectiveness and translate those results for practitioners and policymakers. Dr. Koper’s work on the methods of patrolling crime hot spots (often referred to as the “Koper curve” principal) is also used by numerous police agencies in the United States and abroad.

Professional Background

Associate Professor:	Department of Criminology, Law and Society, George Mason University (Aug. 2011-present)
Director of Research:	Police Executive Research Forum (May 2010-Aug. 2011)
Deputy Director of Research:	Police Executive Research Forum (Dec. 2007 – May 2010)
Behavioral / Social Scientist:	RAND Corporation (2007)

Senior Research Associate: Jerry Lee Center of Criminology, University of Pennsylvania (2001 – 2006)

Research Associate: The Urban Institute (1997 – 2001)

Faculty Research Scientist: Department of Criminology and Criminal Justice, University of Maryland (1997)

Research Scientist: Crime Control Institute (1994-1997)

Graduate Assistant: Department of Criminology and Criminal Justice, University of Maryland: (1989-1994)

Social Science Program Specialist (Graduate Intern): National Institute of Justice, U.S. Department of Justice (1990)

Consultant: Police Foundation (1988-1989)

Peer-Reviewed Publications

- Koper, Christopher S. 2013 (In press). "Assessing the Practice of Hot Spots Policing: Survey Results from a National Convenience Sample of Local Police Agencies." Accepted for publication in the *Journal of Contemporary Criminal Justice*.
- Koper, Christopher S. 2013. "Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use." *Journal of Quantitative Criminology*. Published online July 31, DOI 10.1007/s10940-013-9204-3.
- Koper, Christopher S., Thomas M. Guterbock, Daniel J. Woods, Bruce G. Taylor, and Timothy J. Carter. 2013. "The Effects of Local Immigration Enforcement on Crime and Disorder: A Case Study of Prince William County, Virginia." *Criminology and Public Policy* 12(2): 237-276.
- Koper, Christopher S., Daniel J. Woods, and Bruce E. Kubu. 2013. "Gun Violence Prevention Practices among Local Police in the United States." *Policing: An International Journal of Police Strategies and Management* 36(3): 577-603.
- Koper, Christopher S., Bruce G. Taylor, and Daniel J. Woods. 2013. "A Randomized Test of Initial and Residual Deterrence from Directed Patrol and Use of License Plate Readers at Crime Hot Spots." *Journal of Experimental Criminology* 9(2): 213-244.
- Koper, Christopher S. and Evan Mayo-Wilson. 2012. "Police Strategies to Reduce Illegal Possession and Carrying of Firearms: Effects on Gun Crime." *Campbell Systematic Reviews* 2012:11, DOI: 10.4073/csr.2012.11.
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- Taylor, Bruce, Christopher S. Koper, and Daniel Woods. 2012. "Combating Auto Theft in Arizona: A Randomized Experiment with License Plate Recognition Technology." *Criminal Justice Review* 37(1): 24-50.
- Lum, Cynthia, Julie Hibdon, Breanne Cave, Christopher S. Koper, and Linda Merola. 2011. "License Plate Reader (LPR) Police Patrols in Crime Hot Spots: An Experimental Evaluation in Two Adjacent Jurisdictions." *Journal of Experimental Criminology* 7:321-345.
- Taylor, Bruce, Christopher S. Koper, and Daniel J. Woods. 2011. "A Randomized Control Trial of Different Policing Strategies at Hot Spots of Violent Crime." *Journal of Experimental Criminology* 7:149-181.
- Lum, Cynthia, Christopher S. Koper, and Cody W. Telep. 2011. "The Evidence-Based Policing Matrix." *Journal of Experimental Criminology* 7(1): 3-26.
- Wiebe, Douglas J., Robert T. Krafty, Christopher S. Koper, Michael L. Nance, Michael R. Elliott, and Charles C. Branas. 2009. "Homicide and Geographic Access to Gun Dealers in the United States." *BMC Public Health* 9: 199-208.
- Weiner, Janet, Douglas J. Wiebe, Therese S. Richmond, Kristen Beam, Alan L. Berman, Charles C. Branas, Rose A. Cheney, Tamera Coyne-Beasley, John Firman, Martin Fishbein, Stephen Hargarten, David Hemenway, Robert Jeffcoat, David Kennedy, Christopher S. Koper, and other members of the National Research Collaborative on Firearm Violence. 2007. "Reducing Firearm Violence: A Research Agenda." *Injury Prevention* 13:80-84.
- Koper, Christopher S. and Evan Mayo-Wilson. 2006. "Police Crackdowns on Illegal Gun Carrying: A Systematic Review of Their Impacts on Gun Crime." *Journal of Experimental Criminology* 2(2): 227-261.
- Koper, Christopher S. 2005. "Purchase of Multiple Firearms as a Risk Factor for Criminal Gun Use: Implications for Gun Policy and Enforcement." *Criminology and Public Policy* 4:749-778.
- Pierce, Glenn L., Anthony A. Braga, Raymond R. Hyatt, Jr., and Christopher S. Koper. 2004. "Characteristics and Dynamics of Illegal Firearms Markets: Implications for a Supply-Side Enforcement Strategy." *Justice Quarterly* 21:391-422.
- Reedy, Darin R. and Christopher S. Koper. 2003. "The Impact of Handgun Types on Gun Assault Outcomes: A Comparison of Attacks Involving Semiautomatic Pistols and Revolvers." *Injury Prevention* 9:151-155.
- Koper, Christopher S. 2002. "Federal Legislation and Gun Markets: How Much Have Recent Reforms of the Federal Firearms Licensing System Reduced Criminal Gun Suppliers?" *Criminology and Public Policy* 1:151-178.

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- Koper, Christopher S. and Jeffrey A. Roth. 2001. "The Impact of the 1994 Federal Assault Weapons Ban on Gun Violence Outcomes: An Assessment of Multiple Outcome Measures and Some Lessons for Policy Evaluation." *Journal of Quantitative Criminology* 17:33-74.
- Koper, Christopher S. and Jeffrey A. Roth. 2001. "A Priori Assertions Versus Empirical Inquiry: A Reply to Kleck." *Journal of Quantitative Criminology* 17:81-88.
- Simpson, Sally S. and Christopher S. Koper. 1997. "The Changing of the Guard: Top Management Team Characteristics, Organizational Strain, and Antitrust Offending." *Journal of Quantitative Criminology* 13:373-404.
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- Gottfredson, Denise G. and Christopher S. Koper. 1997. "Race and Sex Differences in the Measurement of Risk for Delinquency and Drug Use." *Journal of Quantitative Criminology* 13:325-347.
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- Gottfredson, Denise G. and Christopher S. Koper. 1996. "Race and Sex Differences in the Prediction of Drug Use." *Journal of Consulting and Clinical Psychology* 64:305-313.
- Koper, Christopher S. 1995. "Just Enough Police Presence: Reducing Crime and Disorderly Behavior by Optimizing Patrol Time in Crime Hot Spots." *Justice Quarterly* 12:649-672.
- Simpson, Sally S. and Christopher S. Koper. 1992. "Deterring Corporate Crime." *Criminology* 30:347-375.
- Uchida, Craig D., Laure W. Brooks, and Christopher S. Koper. 1990. "Danger to Police in Domestic Encounters: Assaults on Baltimore County Police, 1984-1986." *Criminal Justice Policy Review* 2:357-371.

Book Chapters

- Koper, Christopher S. 2013. "America's Experience with the Federal Assault Weapons Ban, 1994-2004: Key Findings and Implications." Pp. 157-171 in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis*, edited by Daniel W. Webster and Jon S. Vernick. Baltimore, MD: Johns Hopkins University Press.

- Lum, Cynthia and Christopher S. Koper. 2013. "Evidence-Based Policing." Pp. 154-158 in the *Encyclopedia of Community Policing and Problem Solving*, edited by Ken Peak. Thousand Oaks, CA: Sage.
- Lum, Cynthia and Christopher S. Koper. 2013. "Evidence-Based Policing." Pp. 1,426-1,437 (Vol. 3) in the *Encyclopedia of Criminology and Criminal Justice*, editors-in-chief Gerben Bruinsma and David Weisburd. New York: Springer-Verlag.
- Lum, Cynthia and Christopher S. Koper. 2011. "Is Crime Prevention Relevant to Counter-Terrorism?" Pp. 129-150 in *Criminologists on Terrorism and Homeland Security*, edited by Brian Forst, Jack R. Greene, and James P. Lynch. Cambridge, United Kingdom: Cambridge University Press.
- Gottfredson, Denise G., Miriam D. Bernstein, and Christopher S. Koper. 1996. "Delinquency." Pp. 259-288 in *Handbook of Adolescent Health Risk Behavior*, edited by Ralph DiClemente, William Hansen, and Lynn Ponton. New York: Plenum Publishing.

Publications and Reports for Government Agencies

- Taylor, Bruce, Christopher S. Koper, and Daniel Woods. 2011. *Combating Auto Theft in Arizona: A Randomized Experiment with License Plate Recognition Technology*. Final report to the National Institute of Justice, U.S. Department of Justice. Washington, D.C.: Police Executive Research Forum. <http://www.policeforum.org/library/technology/FinalreportPERFLPRstudy12-7-11submittedtoNIJ.PDF>.
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- Guterbock, Thomas M., Christopher S. Koper, Milton Vickerman, Bruce Taylor, Karen E. Walker, and Timothy Carter. 2010. *Evaluation Study of Prince William County's Illegal Immigration Enforcement Policy: Final Report 2010*. Report to the Prince William County

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Guterbock, Thomas M., Bruce Taylor, Karen Walker, Christopher S., Koper, Milton Vickerman, Timothy Carter, and Abdoulaye Diop. 2009. *Evaluation Study of Prince William County Police Immigration Enforcement Policy: Interim Report 2009*. Report to the Prince William County (Virginia) Police Department. Charlottesville, Virginia: Center for Survey Research (University of Virginia) in collaboration with the Police Executive Research Forum and James Madison University.

Ridgeway, Greg, Nelson Lim, Brian Gifford, Christopher Koper, Carl Matthies, Sara Hajjamiri, and Alexis Huynh. 2008. *Strategies for Improving Officer Recruitment for the San Diego Police Department*. Research report. Santa Monica: RAND Corporation. http://www.rand.org/pubs/monographs/2008/RAND_MG724.pdf

Koper, Christopher S. 2007. *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Criminal Gun Use and Trafficking*. Report to the National Institute of Justice. Philadelphia: Jerry Lee Center of Criminology, University of Pennsylvania. www.ncjrs.gov/pdffiles1/nij/grants/221074.pdf

Sullivan, Thomas, Michael Scheiern, and Christopher Koper. 2007. *Detainee Threat Assessment*. Briefing document prepared for Task Force 134, Multi-National Force—Iraq. Santa Monica: RAND Corporation.

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- Koper, Christopher S. 2004. *Hiring and Keeping Police Officers*. Research-for-Practice Brief. Washington, D.C.: U.S. Department of Justice. www.ncjrs.gov/pdffiles1/nij/202289.pdf
- Koper, Christopher S. 2004. *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*. Report to the National Institute of Justice. Philadelphia: Jerry Lee Center of Criminology, University of Pennsylvania. www.ncjrs.gov/pdffiles1/nij/grants/204431.pdf
- Koper, Christopher S., Ed Poole, and Lawrence W. Sherman. 2004. *A Randomized Experiment to Reduce Sales Tax Delinquency Among Pennsylvania Businesses: Are Threats Best?* Presentation slides and analysis prepared for the Fair Share Project of the Fels Institute of Government and the Pennsylvania Department of Revenue. Philadelphia: Fels Institute of Government and Jerry Lee Center of Criminology, University of Pennsylvania.
- Pierce, Glenn L., Anthony A. Braga, Christopher Koper, Jack McDevitt, David Carlson, Jeffrey Roth, Alan Saiz, Raymond Hyatt. 2003. *The Characteristics and Dynamics of Crime Gun Markets: Implications for Supply-Side Focused Enforcement Strategies*. Report to the National Institute of Justice. Boston: College of Criminal Justice, Northeastern University. www.ncjrs.gov/pdffiles1/nij/grants/208079.pdf
- Koper, Christopher S., Gretchen E. Moore, and Jeffrey A. Roth. 2002. *Putting 100,000 Officers on the Street: A Survey-Based Assessment of the Federal COPS Program*. Report to the National Institute of Justice. Washington, D.C.: The Urban Institute. www.ncjrs.gov/pdffiles1/nij/grants/200521.pdf
- Koper, Christopher S. and Jeffrey A. Roth. 2002. *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets, 1994-2000*. Interim report to the National Institute of Justice. Washington, D.C.: The Urban Institute.
- Koper, Christopher S., Edward R. Maguire, and Gretchen E. Moore. 2001. *Hiring and Retention Issues in Police Agencies: Readings on the Determinants of Police Strength, Hiring and Retention of Officers, and the Federal COPS Program*. Report to the National Institute of Justice. Washington, D.C.: The Urban Institute. www.urban.org/Uploadedpdf/410380_Hiring-and-Retention.pdf
- Koper, Christopher S. and Jeffrey A. Roth. 2000. "Putting 100,000 Officers on the Street: Progress as of 1998 and Preliminary Projections Through 2003." Pp. 149-178 in Roth, Jeffrey A., Joseph F. Ryan, and others. *National Evaluation of the COPS Program -- Title I of the 1994 Crime Act*. Research Report. Washington, D.C.: U.S. Department of Justice. www.ncjrs.gov/pdffiles1/nij/183643.pdf
- Roth, Jeffrey A., Christopher S. Koper, Ruth White, and Elizabeth A. Langston. 2000. "Using COPS Resources," Pp. 101-148 in Roth, Jeffrey A., Joseph F. Ryan, and others. *National Evaluation of the COPS Program -- Title I of the 1994 Crime Act*. Research Report. Washington, D.C.: U.S. Department of Justice. www.ncjrs.gov/pdffiles1/nij/183643.pdf

Roth, Jeffrey A. and Christopher S. Koper. 1999. *Impacts of the 1994 Assault Weapons Ban: 1994-1996*. Research-in-Brief. Washington, D.C.: U.S. Department of Justice.
www.ncjrs.gov/pdffiles1/173405.pdf

Koper, Christopher S., Jeffrey A. Roth, and Edward Maguire. 1998. "New Officers in Communities: From Expenditure to Deployment." Pp. 5-2 to 5-24 in Roth, Jeffrey A., Joseph F. Ryan and others. *National Evaluation of Title I of the 1994 Crime Act (COPS)*. Interim report to the National Institute of Justice. Washington, D.C.: The Urban Institute.

Langston, Elizabeth A., Christopher S. Koper, and Jeffrey A. Roth. 1998. "Using COPS Resources." Pp. 4-1 to 4-46 in Roth, Jeffrey A., Joseph F. Ryan, and others. *National Evaluation of Title I of the 1994 Crime Act (COPS)*. Interim report to the National Institute of Justice. Washington, D.C.: The Urban Institute.

Koper, Christopher S. 1997. *Gun Density Versus Gun Type: Did the Availability of More, or More Lethal, Guns Drive Up the Dallas Homicide Rate, 1980-1992?* Report to the National Institute of Justice. Washington, D.C.: Crime Control Institute. www.ncjrs.gov/pdffiles1/nij/grants/187106.pdf

Roth, Jeffrey A. and Christopher S. Koper. 1997. *Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994*. Report to the National Institute of Justice. Washington, D.C.: The Urban Institute. http://www.urban.org/UploadedPDF/aw_final.pdf

Harrell, Adele V., Shannon E. Cavanagh, Michele A. Harmon, Christopher S. Koper, and Sanjeev Sridharan. 1997. *Impact of the Children at Risk Program* (Volumes 1 and 2). Report to the National Institute of Justice. Washington, D.C.: The Urban Institute.

Koper, Christopher S. 1995. "Reducing Gun Violence: A Research Program in Progress." Presentation summarized in *What To Do About Crime: The Annual Conference on Criminal Justice Research and Evaluation – Conference Proceedings*, pp. 58-60. Washington, D.C.: U.S. Department of Justice.

Koper, Christopher S. 1993. *The Maryland Project: Community-Oriented Policing and Drug Prevention in Edgewood, Maryland*. Report to the Maryland Governor's Drug and Alcohol Abuse Commission. Special Topics on Substance Abuse, Report 93-3. College Park, MD: Center for Substance Abuse Research.

Translational Publications and Tools

(Additional publications and works for practitioner, policymaker, and general audiences)

Lum, Cynthia, Christopher S. Koper, and Cody W. Telep. *The Evidence-Based Policing Matrix*. Online interactive tool available at: <http://cebcp.org/evidence-based-policing/the-matrix/>. Fairfax, VA: Center for Evidence-Based Crime Policy, George Mason University. Updated annually.

Koper, Christopher S., Bruce Taylor, and Jamie Roush. 2013. "What Works Best at Violent Crime Hot Spots? A Test of Directed Patrol and Problem-Solving Approaches in Jacksonville, Florida."

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Tate, Renee, Thomas Neale, Cynthia Lum, and Christopher Koper. 2013. "Case of Places." *Translational Criminology: The Magazine of the Center for Evidence-Based Crime Policy* (George Mason University) Fall 2013: 18-21. <http://cebcp.org/wp-content/TCmagazine/TC5-Fall2013>

Lum, Cynthia and Christopher S. Koper. 2013. "Evidence-based policing in smaller agencies: Challenges, prospects, and opportunities." *The Police Chief* 80 (April):42-47. http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display&article_id=2907&issue_id=42013

Lum, Cynthia and Christopher S. Koper. 2012. "Incorporating Research into Daily Police Practice: The Matrix Demonstration Project." *Translational Criminology: The Magazine of the Center for Evidence-Based Crime Policy* (George Mason University). Fall 2012:16-17. <http://cebcp.org/wp-content/TCmagazine/TC3-Fall2012>.

Roush, Jamie and Christopher Koper. 2012. "From Research to Practice: How the Jacksonville, Florida Sheriff's Office Institutionalized Results from a Problem-Oriented, Hot Spots Experiment." *Translational Criminology: The Magazine of the Center for Evidence-Based Crime Policy* (George Mason University). Winter 2012: 10-11. <http://cebcp.org/wp-content/TCmagazine/TC2-Winter2012>.

Koper, Christopher S. 2012. "A Study Conducted by PERF and Mesa Police Shows that LPRs Result in More Arrests." Presentation summarized in *How Are Innovations in Technology Transforming Policing?* Pp. 28-31. Washington, DC: Police Executive Research Forum. http://policeforum.org/library/critical-issues-in-policing-series/Technology_web2.pdf.

Aden, Hassan with Christopher Koper. 2011. "The Challenges of Hot Spots Policing." *Translational Criminology: The Magazine of the Center for Evidence-Based Crime Policy* (George Mason University). Summer 2011: 6-7. <http://cebcp.org/wp-content/TCmagazine/TC1-Summer2011>.

Police Executive Research Forum. 2010. *Guns and Crime: Breaking New Ground by Focusing on the Local Impact*. Washington, DC. (Contributor). <http://policeforum.org/library/critical-issues-in-policing-series/GunsandCrime.pdf>.

Koper, Christopher S., Bruce G. Taylor, and Bruce E. Kubu. 2009. *Law Enforcement Technology Needs Assessment: Future Technologies to Address the Operational Needs of Law Enforcement*. Washington, D.C.: Police Executive Research Forum in partnership with the Lockheed Martin Corporation. http://www.policeforum.org/upload/Lockheed%20Martin%20Report%20Final%203-16-2009_483310947_612009144154.pdf.

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Forum and the Lockheed Martin Corporation), Suffolk (Virginia), November.

Police Executive Research Forum. 2008. *Violent Crime in America: What We Know About Hot Spots Enforcement*. Washington, DC. (Contributor). http://policeforum.org/library/critical-issues-in-policing-series/HotSpots_v4.pdf.

Also includes Koper, Christopher S. 2008. "PERF's Homicide Gunshot Survey." Presentation summarized in *Violent Crime in America: What We Know About Hot Spots Enforcement*, pp. 25-27. Washington, DC: Police Executive Research Forum. http://policeforum.org/library/critical-issues-in-policing-series/HotSpots_v4.pdf.

Koper, Christopher S. 2004. "Disassembling the Assault-Gun Ban." Editorial. *The Baltimore Sun*: September 13.

Other Publications, Reports, and Working Papers

Koper, Christopher S., Daniel J. Woods, and Bruce E. Kubu. 2012. *Gun Enforcement and Gun Violence Prevention Practices among Local Law Enforcement Agencies: A Research and Policy Brief*. Washington, DC: Police Executive Research Forum.

Koper, Christopher S. 2008. *Policing Gun Violence: A Brief Overview*. Discussion paper prepared for the Police Executive Research Forum and the St. Louis Metropolitan Police Department.

Appears in Koper, Christopher, et al. 2010. *Developing a St. Louis Model for Reducing Gun Violence: A Report from the Police Executive Research Forum to the St. Louis Metropolitan Police Department*. Washington, D.C.: Police Executive Research Forum.

Koper, Christopher S. 2007. *Assessments of Corporate Culture and Prosecutorial Decisions by U.S. Attorneys: A Draft Research Proposal*. Concept paper prepared for the LRN-RAND Corporation Center for Corporate Ethics, Law, and Governance.

Koper, Christopher S. 2003. *Police Strategies for Reducing Illegal Possession and Carrying of Firearms: A Systematic Review Protocol Prepared for the Campbell Collaboration*. Published by the Campbell Collaboration Crime and Justice Group. <http://campbellcollaboration.org/lib>.

Koper, Christopher S. 2002. *Testing the Generalizability of the Concealed Carry Hypothesis: Did Liberalized Gun Carrying Laws Reduce Urban Violence, 1986-1998?* Working Paper. Philadelphia: Jerry Lee Center of Criminology, University of Pennsylvania.

Koper, Christopher S. 2002. *Gun Types Used in Crime and Trends in the Lethality of Gun Violence: Evidence from Two Cities*. Working Paper. Philadelphia: Jerry Lee Center of Criminology, University of Pennsylvania.

Koper, Christopher S. 1995. *Gun Lethality and Homicide: Gun Types Used By Criminals and the Lethality of Gun Violence in Kansas City, Missouri, 1985-1993*. Ph.D. Dissertation. College Park, MD: Department of Criminal Justice and Criminology, University of Maryland. (Published by University Microfilms, Inc.: Ann Arbor, Michigan.)

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Koper, Christopher S. 1995. Review essay on *The Politics of Gun Control* by Robert J. Spitzer. *The Criminologist* 20:32-33.

Koper, Christopher S. 1992. *The Deterrent Effects of Police Patrol Presence Upon Criminal and Disorderly Behavior at Hot Spots of Crime*. M.A. Thesis. College Park, MD: Department of Criminology and Criminal Justice, University of Maryland.

Koper, Christopher S. 1989. *Quality Leadership and Community-Oriented Policing in Madison: A Progress Report on the EPD (Experimental Police District)*. Report prepared for the Police Foundation (Washington, D.C.).

Portions reprinted in *Community Policing in Madison: Quality from the Inside Out* (1993). Report to the National Institute of Justice, U.S. Department of Justice by Mary Ann Wycoff and Wesley G. Skogan. Washington, D.C.: Police Foundation.

Koper, Christopher S. 1989. *The Creation of Neighborhood-Oriented Policing in Houston: A Progress Report*. Report prepared for the Police Foundation (Washington, D.C.).

Koper, Christopher S. 1989. *External Resources for Police*. Report prepared for the Police Foundation (Washington, D.C.).

Funded Research

Selected projects as a principal or senior-level investigator

Principal investigator (with Cynthia Lum, PI): "Evaluating the Crime Control and Cost-Benefit Effectiveness of License Plate Recognition (LPR) Technology in Patrol and Investigations." \$553,713 grant from the National Institute of Justice (U.S. Department of Justice) to George Mason University. Awarded 2013.

Principal investigator (with Cynthia Lum, PI). "Violent Gun and Gang Crime Reduction Program (Project Safe Neighborhoods), Fiscal Year 2013." \$29,997 research partner subcontract from the U.S. Attorney's Office (District of Columbia) funded through the Bureau of Justice Assistance (U.S. Department of Justice). Awarded 2013.

Co-Principal Investigator: "The Evidence-Based Policing Matrix Demonstration Project." \$749,237 grant from the Bureau of Justice Assistance (U.S. Department of Justice) to George Mason University. Awarded 2011.

Principal Investigator: "Realizing the Potential of Technology for Policing: A Multi-Site Study of the Social, Organizational, and Behavioral Aspects of Implementing Policing Technologies." \$592,151 grant from the National Institute of Justice (U.S. Department of Justice) to the Police Executive Research Forum and George Mason University (subcontractor). Awarded 2010.

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Principal Investigator (Jan. 2011-Aug. 2011): "Community Policing Self-Assessment Tool Short Form, COPS Hiring Recovery Program Administration." \$85,444 subcontract from ICF International and the Office of Community Oriented Policing Services (U.S. Department of Justice) to the Police Executive Research Forum. Awarded 2011.

Principal Investigator: "National Study of Gun Enforcement and Gun Violence Prevention Practices Among Local Law Enforcement Agencies." \$70,400 grant from the Joyce Foundation to the Police Executive Research Forum. Awarded 2010.

Principal Investigator: "Development of the Community Policing Self-Assessment Tool Short Form." \$53,907 subcontract from ICF International and the Office of Community Oriented Policing Services (U.S. Department of Justice) to the Police Executive Research Forum. Awarded 2010.

Principal Investigator: "A Systematic Review of Research on Police Strategies to Reduce Illegal Gun Carrying." \$15,600 subcontract from George Mason University and the National Policing Improvement Agency of the United Kingdom to the Police Executive Research Forum. Awarded 2010.

Principal Investigator (2009-Aug. 2011) and consultant (Aug. 2011-present): "Hiring of Civilian Staff in Policing: An Assessment of the 2009 Byrne Program." \$549,878 grant from the National Institute of Justice (U.S. Department of Justice) to the Police Executive Research Forum. Awarded 2009.

Co-Principal Investigator (2005-2010): "Understanding and Monitoring the 'Whys' Behind Juvenile Crime Trends." \$2,249,290 grant from the Office of Juvenile Justice and Delinquency Prevention (U.S. Department of Justice) to the University of Pennsylvania (with subcontracts to the Police Executive Research Forum, 2009-2010). Initial and continuation awards, 2001-2005.

Principal Investigator: "Police Interventions to Reduce Gun Violence: A National Examination." Supported through \$200,000 in funding from the Motorola Foundation to the Police Executive Research Forum. Awarded 2009.

Principal Investigator: "The Varieties and Effectiveness of Hot Spots Policing: Results from a National Survey of Police Agencies and a Re-Assessment of Prior Research." Supported through \$80,000 in funding from the Motorola Foundation to the Police Executive Research Forum. Awarded 2008.

Co-Principal Investigator: "Assessment of Technology Needs in Law Enforcement." \$185,866 contract from the Lockheed Martin Corporation to the Police Executive Research Forum. Awarded 2008.

Co-Principal Investigator (for research partner subcontract): "An Evaluation of the Jacksonville Data Driven Reduction of Street Violence Project." \$650,008 grant from the Bureau of Justice Assistance (U.S. Department of Justice) to the Jacksonville, FL Sheriff's Office and the Police Executive Research Forum (subcontractor). Awarded 2007.

Co-Principal Investigator: "A Randomized Experiment Assessing License Plate Recognition Technology in Mesa, Arizona." \$474,765 grant from the National Institute of Justice (U.S. Department of Justice) to the Police Executive Research Forum. Awarded 2007.

Evaluation Director (for research partner subcontract): "Developing a St. Louis Model for Reducing Gun Violence." \$500,000 grant from the Bureau of Justice Assistance (U.S. Department of Justice) to the St.

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Louis Metropolitan Police Department and the Police Executive Research Forum (subcontractor). Awarded 2007.

Co-Principal Investigator: "Evaluation Study of the Prince William County Police Immigration Enforcement Policy." \$282,129 contract from the Prince William County Police Department to the University of Virginia and the Police Executive Research Forum (subcontractor). Awarded 2008.

Principal Investigator: "Crime Gun Risk Factors: The Impact of Dealer, Firearm, Transaction, and Buyer Characteristics on the Likelihood of Gun Use in Crime." \$103,514 grant from the U.S. Department of Justice to the University of Pennsylvania. Awarded 2004.

Principal Investigator: "A Reassessment of the Federal Assault Weapons Ban." \$38,915 grant from the U.S. Department of Justice to the University of Pennsylvania. Awarded 2003.

Co-Principal Investigator: "Pennsylvania Fair Share Tax Project." \$100,000 grant from the Jerry Lee Foundation to the University of Pennsylvania. Awarded 2003.

Principal Investigator: "The Impact of Dealer and Firearm Characteristics on the Likelihood of Gun Use in Crime." \$60,000 grant from the Smith Richardson Foundation to the University of Pennsylvania. Awarded 2001.

Principal Investigator: "Police Hiring and Retention Study." \$250,000 grant from the U.S. Department of Justice to the Urban Institute. Awarded 1999.

Co-Principal Investigator: "Analysis of Title XI Effects." \$301,826 grant from the U.S. Department of Justice to the Urban Institute. Awarded 1998.

Co-Principal Investigator: "Illegal Firearms Markets." \$499,990 grant from the U.S. Department of Justice to Northeastern University and the Urban Institute (subcontractor). Awarded 1997.

Co-Principal Investigator (director of national survey and evaluation task leader), 1997-2001: "Evaluation of Title I of the 1994 Crime Act." \$3,356,156 grant from the U.S. Department of Justice to the Urban Institute.

Co-Principal Investigator: "Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994." \$150,000 grant from the U.S. Department of Justice to the Urban Institute (subcontract later awarded to the Crime Control Institute). Awarded 1995.

Principal Investigator: "Gun Density versus Gun Type: Did More, or More Lethal, Guns Drive Up the Dallas Homicide Rate, 1978-1992?" \$49,714 grant from the U.S. Department of Justice to the Crime Control Institute. Awarded 1994.

Other successful proposals written or co-authored

Co-author and proposed research director: "Research and Policy Initiatives to Help Police Leaders Speak Out on Gun Violence in America." \$375,000 grant from the Joyce Foundation to the Police Executive Research Forum. Awarded 2011.

EB000146

Co-author and proposed evaluation director: "Demonstrating Innovation in Policing: Using Evidence-Based Strategies to Build Police Legitimacy and Reduce Violent Crime." \$599,896 grant from the Bureau of Justice Assistance to the Police Executive Research Forum. Awarded 2011.

Co-author and proposed co-principal investigator: "Recruitment and Hiring Clearinghouse." \$499,763 grant from the Office of Community Oriented Policing Services, U.S. Department of Justice to the RAND Corporation. Awarded 2007.

Selected Presentations

Invited presentations, lectures, and policy briefings

"Evidence Based Policing Strategies." Missouri Attorney General's Urban Crime Summit. University of Missouri, Kansas City, 2013.

"Putting Hot Spots Research into Practice." 6th International Conference on Evidence-Based Policing. Cambridge University, United Kingdom, 2013. Video: <http://www.crim.cam.ac.uk/events/conferences/ebp/2013/>.

"America's Experience with the Federal Assault Weapons Ban, 1994-2004: Key Findings and Implications." Summit on Reducing Gun Violence in America: Informing Policy with Evidence and Analysis. Johns Hopkins University, January 2013. Video: C-SPAN (<http://www.c-spanvideo.org/clip/4304369>) and the Johns Hopkins University Bloomberg School of Public Health (<http://www.jhsph.edu/events/gun-policy-summit/video-archive>).

"Assessing Police Efforts to Reduce Gun Crime: Results from a National Survey."

- Federal Government Accountability Office's Homeland Security and Justice speaker series. Washington, D.C., 2013.
- Firearms Committee of the International Association of Chiefs of Police, 2012

"Police Strategies for Reducing Gun Violence." 2013 Summit to Combat Gun Violence hosted by the City of Minneapolis and the City of Milwaukee. Minneapolis, 2013.

"A Randomized Trial Comparing Directed Patrol and Problem-Solving at Violent Crime Hot Spots"

- 4th International Conference on Evidence-Based Policing. Cambridge University, United Kingdom, 2011
- 12th Annual Jerry Lee Symposium on Criminology and Public Policy. Washington, D.C. (held in the U.S. Senate Russell Office Building), 2011
- Annual Symposium of the Center for Evidence-Based Crime Policy, George Mason University. Fairfax, VA, 2010

"Evaluation Study of Prince William County's Illegal Immigration Enforcement Policy"

- Prince William County, Virginia Board of County Supervisors, November 16, 2010 (co-presented with Thomas Guterbock)
- Briefings for senior staff of the Prince William County Police Department and Prince William County Government, October-November 2010 (co-presented with Thomas Guterbock)

EB000147

“Police Strategies for Reducing Gun Violence.” Congressional briefing on “Evidence-Based Policy: What We Know, What We Need to Know,” organized by the Center for Evidence-Based Crime Policy, George Mason University. Washington, D.C. (U.S. Capitol Visitors’ Center), 2009. Video: <http://cebcp.org/outreach-symposia-and-briefings/evidence-based-crime-policy/>

“Hot Spots Policing: A Review of the Evidence.” 2nd International Conference on Evidence-Based Policing (sponsored by the National Policing Improvement Agency of the United Kingdom and Cambridge University). Cambridge University, United Kingdom, 2009.

“Assessments of Corporate Culture and Prosecutorial Decisions by U.S. Attorneys.” Presentation to the advisory board of the LRN-RAND Center for Corporate Ethics, Law, and Governance. New York, 2007.

“Risk Factors for Crime Involvement of Guns Sold in Maryland.” Center for Injury Research and Policy, Johns Hopkins School of Public Health. Baltimore, 2007

“Police Strategies for Reducing Illegal Possession and Carrying of Firearms”

- Annual Jerry Lee Crime Prevention Symposium. Washington, D.C. (U.S. Senate Dirksen Office Building), 2005
- Firearm and Injury Center at Penn (FICAP) Forum Series. University of Pennsylvania, Philadelphia, 2005

“The Impacts of the 1994 Federal Assault Weapons Ban on Gun Markets and Gun Violence”

- Briefings for the Associate Attorney General of the United States and other staff of the U.S. Department of Justice and the U.S. Department of the Treasury. Washington, D.C., 1997
- National Research Council, Committee to Improve Research Information and Data on Firearms. Washington, D.C., 2002
- Firearm and Injury Center at Penn (FICAP) Forum Series. Philadelphia, 2003
- Jerry Lee Center of Criminology (University of Pennsylvania) Colloquium. Philadelphia, 2001

“Federal Legislation and Gun Markets: An Assessment of Recent Initiatives Affecting Licensed Firearms Dealers.” Jerry Lee Center of Criminology (University of Pennsylvania) Colloquium. Philadelphia, 2003.

“Juvenile Gun Acquisition.” Philadelphia Interdisciplinary Youth Fatality Review Team (A Project of the Philadelphia Departments of Public Health and Human Services). Philadelphia, 2002.

“A National Study of Hiring and Retention Issues in Police Agencies.” Briefing for staff of the Office of Community Oriented Policing Services (U.S. Department of Justice) and the National Institute of Justice (U.S. Department of Justice). Washington, D.C., 2001.

“COPS and the Level, Style, and Organization of American Policing: Findings of the National Evaluation”

- Press briefing sponsored by the Urban Institute. Washington, D.C., September 2000
- Briefings for staff of the Office of Community Oriented Policing Services (U.S. Department of Justice) and the National Institute of Justice (U.S. Department of Justice). Washington, D.C., 1998 and 1999

Other conference presentations

(Summary list)

- Annual meeting of the American Society of Criminology (1991-2001, 2003-2006, 2008-2013)
- Annual Stockholm Criminology Symposium (2006, 2010)
- Annual meeting of the Police Executive Research Forum (2008-2009)
- 14th World Congress of Criminology (2005)
- Annual meeting of the Academy of Criminal Justice Sciences (1995, 1997, 1999-2001, 2012)
- U.S. Department of Justice Annual Conference on Criminal Justice Research and Evaluation (1995-1997, 1999, 2002)
- U.S. Department of Justice National Conference on Community Policing (1998)
- National Institute of Justice (U.S. Department of Justice) Firearms Cluster Conference (1996)

Workshops and other events

Co-organizer, speaker, and session leader: Center for Evidence-Based Crime Policy's Evidence-Based Policing Workshop. George Mason University, Fairfax, VA, 2012. Presentation materials:

<http://cebcp.org/cebcp-symposium-2012/>. Video:

<http://www.youtube.com/playlist?list=PL4E509820FD3010E9&feature=plcp>

Organizer and speaker: Congressional briefing on "Reducing Gun Violence: Lessons from Research and Practice." Sponsored by the Center for Evidence-Based Crime Policy, George Mason University.

Washington, D.C. (Rayburn Building of the U.S. House of Representatives), 2012. Video:

<http://cebcp.org/outreach-symposia-and-briefings/reducing-gun-violence/>

Speaker and session leader: Center for Evidence-Based Crime Policy's Evidence-Based Policing Workshop. George Mason University, Fairfax, VA, 2011. Presentation slides and video:

<http://cebcp.org/evidence-based-policing/evidence-based-policing-workshop/>

Speaker: Police Executive Research Forum symposium, "How are Innovations in Technology Transforming Policing?" (Critical Issues in Policing Series). Washington, D.C., 2011

Co-organizer, speaker, and session leader: Police Executive Research Forum and Lockheed Martin Law Enforcement Future Technologies Workshop. Suffolk, Virginia, 2008.

Speaker: Police Executive Research Forum symposium on "Hot Spots" (2008 Critical Issues in Policing Series). Washington, D.C., 2008.

Speaker and participant: Firearm Injury Center at Penn (FICAP, University of Pennsylvania) Workshop on Existing and Innovative Methods in the Study of Gun Violence. Bryn Mawr, Pennsylvania, 2003

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Professional Service

Editorships

- Area editor for police strategies and practices, *Encyclopedia of Criminology and Criminal Justice* (in press for Springer Verlag, Gerben Bruinsma and David Weisburd, editors in chief)
- Co-editor of *Translational Criminology* briefs series (in progress for Springer-Verlag)

Reviews of manuscripts, reports, and proposals

- *Journal of Quantitative Criminology* (2001-2005, 2009, 2011, 2013)
- *Criminology and Public Policy* (2005, 2013)
- *Australian and New Zealand Journal of Criminology* (2013)
- *Policing: A Journal of Policy and Practice* (2013)
- *Policing: An International Journal of Police Strategies and Management* (2013)
- *Police Practice and Research* (2013)
- *Journal of Experimental Criminology* (2004, 2009, 2011, 2012)
- National Institute of Justice (U.S. Department of Justice) (2001, 2013)
- *Justice Research and Policy* (2012)
- *Sociological Quarterly* (2012)
- Oxford University Publishing (2011, 2013)
- *Police Quarterly* (2002-2004, 2011)
- *Criminology* (2006, 2010)
- *Justice Quarterly* (2008)
- *Homicide Studies* (2008)
- *Injury Prevention* (2004-2005)
- Population Reference Bureau (1994)

Other professional affiliations, service, and consulting

- Member, American Society of Criminology (ASC)
- Member and Executive Counselor, ASC Division of Experimental Criminology
- Delphi process participant to develop international reporting guidelines for randomized trials for the CONSORT Statement for Social and Psychological Interventions
- Member of the Research Advisory Board of the Police Foundation
- Consultant to the New York State Office of the Attorney General
- Consultant to the Connecticut Office of the Attorney General
- Consultant to the Office of the City Attorney of the City of San Francisco (California)
- Contributor to the Crime and Justice Group of the Campbell Collaboration
- Former Associate of the Jerry Lee Center of Criminology, University of Pennsylvania
- Former Associate of the Firearm and Injury Center at Penn, University of Pennsylvania Health System
- Participant in the National Research Collaborative on Firearm Violence convened by the Firearm and Injury Center at Penn (2005)
- Participant in National Institute of Justice (U.S. Department of Justice) focus group on identity theft research (2005)
- Participant in annual fellowship fundraiser for the American Society of Criminology (1993-2006, 2012-2013)

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- Member of award selection committee for the American Society of Criminology (2002)
- Member of the Advisory Committee for the National Criminal History Improvement Program State Firearms Research Project of the Justice Research and Statistics Association (1996)

Selected Honors and Awards

Fellow of the Academy of Experimental Criminology (2013)

Excellence in Law Enforcement Research Bronze Award from the International Association of Chiefs of Police, 2012 (for co-authorship of *Evaluation Study of Prince William County's Illegal Immigration Enforcement Policy*)

Scholar-in-Residence of the Firearm and Injury Center at Penn (University of Pennsylvania Health System), 2004 – 2006

Smith Richardson Foundation Public Policy Research Fellowship, 2001

Graduate Assistant Award, Department of Criminology and Criminal Justice, University of Maryland, 1989-1994

Honors, Ph.D. Theory Comprehensive Examination, Department of Criminology and Criminal Justice, University of Maryland, 1993

Summa cum Laude, University of Maryland, 1988

Peter P. Lejins Award for Top Graduate in Criminal Justice, Department of Criminology and Criminal Justice, University of Maryland, 1988

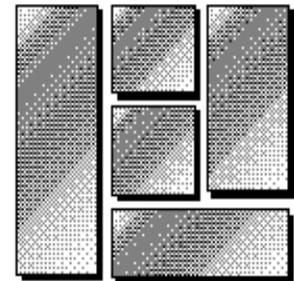
EXHIBIT B

To

**Declaration of Christopher S. Koper in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction**

IMPACT EVALUATION OF THE PUBLIC SAFETY AND RECREATIONAL FIREARMS USE PROTECTION ACT OF 1994

Final Report



THE URBAN INSTITUTE
2100 M STREET, N.W.
WASHINGTON, DC 20037

March 13, 1997

Jeffrey A. Roth and
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with William Adams, Sonja
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Wissoker

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We also received substantial help from staff at the Bureau of Alcohol, Tobacco and Firearms. Ed Owen continued our education about firearms in the late stages of the project. He, Joe Vince, and Jerry Nunziato provided technical information and critically reviewed an early draft of this report. Willie Brownlee, Gerry Crispino, Jeff Heckel, David Kriegbaum, Tristan Moreland, Valerie Parks, and Lia Vannett all shared data and insights.

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Any remaining errors or omissions are the responsibility of the authors. **Opinions expressed herein are those of the authors and not necessarily those of The Urban Institute, its trustees, or its sponsors.**

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1. OVERVIEW

Title XI of the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Control Act) took effect on September 13, 1994. Subtitle A banned the manufacture, transfer, and possession of designated semiautomatic assault weapons. It also banned “large-capacity” magazines, which were defined as ammunition feeding devices designed to hold more than 10 rounds. Finally, it required a study of the effects of these bans, with particular emphasis on violent and drug trafficking crime, to be conducted within 30 months following the effective date of the bans. To satisfy the study requirement, the National Institute of Justice (NIJ) awarded a grant to The Urban Institute for an impact evaluation of Subtitle A. This report contains the study findings.

In defining assault weapons, Subtitle A banned 8 named categories of rifles and handguns. It also banned *exact copies* of the named guns, revolving cylinder shotguns, and guns with detachable magazines that were manufactured with certain features such as flash suppressors and folding rifle stocks. The ban specifically exempted *grandfathered* assault weapons and magazines that had been manufactured before the ban took effect. Implicitly, the ban exempts all other guns; several of these, which we treated as *legal substitutes*, closely resemble the banned guns but are not classified as exact copies.

Among other characteristics, ban proponents cited the capacity of these weapons, most of which had been originally designed for military use, to fire many bullets rapidly. While this capacity had been demonstrated in several highly publicized mass murders in the decade before 1994, ban supporters argued that it was largely irrelevant for hunting, competitive shooting, and self-defense. Therefore, it was argued, the ban could prevent violent crimes with only a small burden on law-abiding gun owners. Some of our own analyses added evidence that assault weapons are disproportionately involved in murders with multiple victims, multiple wounds per victim, and police officers as victims.

To reduce levels of these crimes, the law must increase the scarcity of the banned weapons. Scarcity would be reflected in higher prices not only in the *primary markets* where licensed dealers create records of sales to legally eligible purchasers, but also in *secondary markets* that lack such records. Although most secondary-market transfers are legal, minors, convicted felons, and other ineligible purchasers may purchase guns in them (usually at highly inflated prices) without creating records. In theory, higher prices in secondary markets would discourage criminal use of assault weapons, thereby reducing levels of the violent crimes in which assault weapons are disproportionately used.

For these reasons, our analysis considered potential ban effects on gun markets, on assault weapon use in crime, and on lethal consequences of assault weapon use. However, the statutory schedule for this study constrained our findings to short-run effects, which are not necessarily a reliable guide to long-term effects. The timing also limited the power of our statistical analyses to detect worthwhile ban effects that may have occurred. Most fundamentally, because the banned guns and magazines were never used in more than a fraction of all gun murders, even the maximum theoretically achievable preventive effect of the ban on gun murders is almost certainly too small to detect statistically with only one year of post-ban crime data.

With these cautions in mind, our analysis suggests that the primary-market prices of the banned guns and magazines rose by upwards of 50 percent during 1993 and 1994, while the ban was being debated, as gun distributors, dealers, and collectors speculated that the banned weapons would become expensive collectors’ items. However, production of the banned guns also surged, so that more than an extra year’s normal supply of assault weapons and legal substitutes was manufactured during 1994. After the ban took effect, primary-market prices of the banned guns and most large-capacity magazines fell to nearly pre-ban levels and remained there at

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least through mid-1996, reflecting both the oversupply of grandfathered guns and the variety of legal substitutes that emerged around the time of the ban.

Even though the expected quick profits failed to materialize, we found no strong evidence to date that licensed dealers have increased “off the books” sales of assault weapons in secondary markets and concealed them with false stolen gun reports. Stolen gun reports for assault weapons did increase slightly after the ban took effect, but by less than reported thefts of unbanned large-capacity semiautomatic handguns, which began rising well before the ban.

The lack of an increase in stolen gun reports suggests that so far, the large stock of grandfathered assault weapons has remained largely in dealers’ and collectors’ inventories instead of leaking into the secondary markets through which criminals tend to obtain guns. In turn, this speculative stockpiling of assault weapons by law-abiding dealers and owners apparently reduced the flow of assault weapons to criminals, at least temporarily. Between 1994 and 1995, the criminal use of assault weapons, as measured by law enforcement agency requests for BATF traces of guns associated with crimes, fell by 20 percent, compared to an 11 percent decrease for all guns. BATF trace requests are an imperfect measure because they reflect only a small percentage of guns used in crime. However, we found similar trends in data on all guns recovered in crime in two cities. We also found similar decreases in trace requests concerning guns associated with violent and drug crimes.

At best, the assault weapons ban can have only a limited effect on total gun murders, because the banned weapons and magazines were never involved in more than a modest fraction of all gun murders. Our best estimate is that the ban contributed to a 6.7 percent decrease in total gun murders between 1994 and 1995, beyond what would have been expected in view of ongoing crime, demographic, and economic trends. However, with only one year of post-ban data, we cannot rule out the possibility that this decrease reflects chance year-to-year variation rather than a true effect of the ban. Nor can we rule out effects of other features of the 1994 Crime Act or a host of state and local initiatives that took place simultaneously. Further, any short-run preventive effect observable at this time may ebb in the near future as the stock of grandfathered assault weapons and legal substitute guns leaks to secondary markets, then increase as the stock of large-capacity magazines gradually dwindles.

We were unable to detect any reduction to date in two types of gun murders that are thought to be closely associated with assault weapons, those with multiple victims in a single incident and those producing multiple bullet wounds per victim. We did find a reduction in killings of police officers since mid-1995. However, the available data are partial and preliminary, and the trends may have been influenced by law enforcement agency policies regarding bullet-proof vests.

The following pages explain these findings in more detail, and recommend future research to update and refine our results at this early post-ban stage.

1.1. PRIMARY-MARKET EFFECTS

1.1.1. Prices and Production

1.1.1.1. Findings

We found clear peaks in legal-market prices of the banned weapons and magazines around the effective date of the ban, based on display ads in the nationally distributed periodical Shotgun News between 1992 and mid-1996. For example, a price index of banned SWD semiautomatic pistols rose by about 47 percent during the year preceding the ban, then fell by about 20 percent the following year, to a level where it remains. Meanwhile, the

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prices of non-banned Davis and Lorcin semiautomatic pistols remained virtually constant over the entire period. Similarly, a price index for banned AR-15 rifles, exact copies, and legal substitutes at least doubled in the year preceding the ban, then fell after the ban nearly to 1992 levels, where they have remained. Prices of unbanned semiautomatic rifles (e.g., the Ruger Mini-14, Maadi, and SKS) behaved similarly to AR-15 prices, presumably due to pre-ban speculation that these guns would be included in the final version of the Crime Act.

Like assault weapon prices, large-capacity magazine prices generally doubled within the year preceding the ban. However, trends diverged after the ban depending on what gun the magazine was made for. For example, magazines for non-banned Glock handguns held their new high levels, while magazines for banned Uzi and unbanned Mini-14 weapons fell substantially from their peaks. AR-15 large-capacity magazine prices also fell to 1993 levels shortly after the ban took effect, but returned to their 1994 peak in mid-1996. We believe that demand for grandfathered Glock and AR-15 magazines was sustained or revived by continuing sales of legal guns that accept them.

Production of the banned assault weapons surged in the months leading up to the ban. Data limitations preclude precise and comprehensive counts. However, we estimate that the annual production of five categories of assault weapons (AR-15s and models by Intratec, SWD, AA Arms, and Calico) and legal substitutes rose by more than 120 percent, from an estimated 1989–93 annual average of 91,000 guns to about 204,000 in 1994 — more than an extra year’s supply. In contrast, production of non-banned Lorcin and Davis pistols, which are among the guns most frequently seized by police, fell by about 35 percent, from a 1989–93 annual average of 283,000 to 184,000 in 1994.

Our interpretation of these trends is that the pre-ban price and production increases reflected speculation that grandfathered weapons and magazines in the banned categories would become profitable collectors’ items after the ban took effect. Instead, however, assault weapon prices fell sharply within months after the ban took effect, apparently under the combined weight of the extra year’s supply of grandfathered guns, along with legal substitute guns that entered the distribution chain around the time of the ban. While large-capacity magazine prices for several banned assault weapons followed similar trends, those for unbanned Glock pistols sustained their peaks, and those for the widely-copied AR-15 rifle rebounded at least temporarily to peak levels in 1996, after an immediate post-ban fall.

1.1.1.2. Recommendations

To establish our findings about legal-market effects more definitively, we have short-term (i.e., 12-month) and long-term research recommendations for consideration by NIJ. In the short term, we recommend entering and analyzing large-capacity magazine price data that we have already coded but not entered, in order to study how the prices and legal status of guns affect the prices of large-capacity magazines as economic complements. We also recommend updating our price and production analyses for both the banned firearms and large-capacity magazines, to learn about retention of the apparent ban effects we identified. For the long term, we recommend that NIJ and BATF cooperate in establishing and maintaining time-series data on prices and production of assault weapons, legal substitutes, other guns commonly used in crime, and the respective large and small capacity magazines; like similar statistical series currently maintained for illegal drugs, we believe such a price and production series would be a valuable instrument for monitoring effects of policy changes and other influences on markets for weapons that are commonly used in violent and drug trafficking crime.

1.2. SECONDARY-MARKET EFFECTS

1.2.1. Findings

In addition to the retail markets discussed above, there are secondary gun markets in which gun transfers are made without formal record keeping requirements. Secondary market transfers are by and large legal transactions. However, prohibited gun purchasers such as minors, felons, and fugitives tend to acquire most of their guns through secondary markets and pay premiums of 3 to 5 times the legal-market prices in order to avoid eligibility checks, sales records, and the 5-day waiting period required by the Brady Act. We were unable to observe secondary-market prices and quantities directly. Anecdotally, however, the channels through which guns “leak” from legal to secondary markets include gun thieves, unscrupulous licensed dealers who sell guns on the streets and in gun shows more or less exclusively to prohibited purchasers (who may resell the guns), as well as “storefront” dealers who sell occasionally in secondary markets, reporting the missing inventories to BATF inspectors as “stolen or lost.” Since two of these channels may lead to theft reports to the FBI’s National Crime Information Center (NCIC), we tested for an increase in reported assault weapon thefts after the ban.

To this point, there has been only a slight increase in assault weapon thefts as a share of all stolen semiautomatic weapons. Thus, there does not appear to have been much leakage of assault weapons from legal to secondary markets.

In order to assess the effects of the large-capacity magazine ban on secondary markets, we examined thefts of Glock and Ruger handgun models that accept these magazines. Theft of these guns continued to increase after the ban, despite the magazine ban, which presumably made the guns less attractive. Yet we also did not find strong evidence of an increase in thefts of these guns relative to what would have been predicted based on pre-ban trends. This implies that dealers have not been leaking the guns to illegitimate users on a large scale.

1.2.2. Recommendations

To monitor possible future leakage of the large existing stock of assault weapons into secondary markets, we recommend updating our analyses of trends in stolen gun reports. We also recommend that BATF and NCIC encourage reporting agencies to ascertain and record the magazines with which guns were stolen. Also, because stolen gun reports are deleted from NCIC files when the guns are recovered, we recommend that analyses be conducted on periodic downloads of the database in order to analyze time from theft to recovery. For strategic purposes, it would also be useful to compare dealer patterns of assault weapon theft reports with patterns of occurrence in BATF traces of guns recovered in crime.

1.3. EFFECTS ON ASSAULT WEAPON USE IN CRIME

1.3.1. Findings

Requests for BATF traces of assault weapons recovered in crime by law enforcement agencies throughout the country declined 20 percent in 1995, the first calendar year after the ban took effect. Some of this decrease may reflect an overall decrease in gun crimes; total trace requests dropped 11 percent in 1995 and gun murders dropped 12 percent. Nevertheless, these trends suggest an 8–9 percent additional decrease due to substitution of other guns for the banned assault weapons in 1995 gun crimes. We were unable to find similar assault pistol reductions in states with pre-existing assault pistol bans. Nationwide decreases related to violent and drug crimes were at least as great as that in total trace requests in percentage terms, although these categories were quite small

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in number. The decrease we observed was evidently not a spurious result of a spurt of assault-weapon tracing around the effective date of the ban, because there were fewer assault weapon traces in 1995 than in 1993.

Trace requests for assault weapons rose by 7 percent in the first half of 1996, suggesting that the 1995 effect we observed may be temporary. However, data limitations have prevented us from attributing this rebound to changes in overall crime patterns, leakage of grandfathered assault weapons to secondary markets, changes in trace request practices, or other causes. Data from two cities not subject to a pre-existing state bans suggested that assault weapon use, while rare in those cities both before and after the ban, also tapered off during late 1995 and into 1996.

With our local data sources, we also examined confiscations of selected unbanned handguns capable of accepting large-capacity magazines. Criminal use of these guns relative to other guns remained stable or was higher during the post-ban period, though data from one of these cities were indicative of a recent plateau. However, we were unable to acquire data on the magazines with which these guns were equipped. Further, trends in confiscations of our selected models may not be indicative of trends for other unbanned large-capacity handguns. It is therefore difficult to make any definitive statements about the use of large-capacity magazines in crime since the ban. Nevertheless, the contrasting trends for these guns and assault weapons provide some tentative hints of short-term substitution of non-banned large-capacity semiautomatic handguns for the banned assault weapons.

1.3.2. Recommendations

Although BATF trace request data provide the only national trends related to assault weapon use, our findings based on them are subject to limitations. Law enforcement agencies request traces on only a fraction of confiscated guns that probably does not represent the entire population. Therefore, we recommend further study of available data on all guns recovered in crime in selected cities that either were or were not under state assault weapon bans when the Federal ban took effect. Beyond that, we recommend analyzing BATF trace data already in-house to compare trends for specific banned assault weapon models with trends for non-banned models that are close substitutes. Most strongly, we also recommend updating our trend analysis, to see if the early 1996 rebound in BATF trace requests for assault weapons continued throughout the year and to relate any change to 1996 trends in gun crime and overall trace requests.

From a broader and longer-term perspective, we share others' concerns about the adequacy of BATF trace data, the only available national data, as a basis for assessing the effects of firearms policies and other influences on the use of assault weapons and other guns in violent and drug trafficking crime. Therefore, we commend recent BATF efforts to encourage local law enforcement agencies to request traces on more of the guns they seize from criminals. As a complement, however, we recommend short-term research on departmental policies and officers' decisions that affect the probability that a specific gun recovered in crime will be submitted for tracing.

Unfortunately, we have been unable to this point to assemble much information regarding trends in the criminal use of large-capacity magazines or guns capable of accepting these magazines. This gap is especially salient for the following reasons: the large-capacity magazine is perhaps the most functionally important distinguishing feature of assault weapons; the magazine ban affected more gun models than did the more visible bans on designated assault weapons; and based on 1993 BATF trace requests, non-banned semiautomatic weapons accepting large-capacity magazines were used in more crimes than were the banned assault weapons. For these reasons, we recommend that BATF and state/local law enforcement agencies encourage concerted efforts to record the magazines with which confiscated firearms are equipped — information that frequently goes unrecorded under present practice — and we recommend further research on trends, at both the national and local levels, on the

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criminal use of guns equipped with large-capacity magazines. Finally, to support this research and a variety of strategic objectives for reducing the consequences of violent and drug trafficking crime, consideration should be given to studying the costs and benefits of legislative and administrative measures that would encourage recording, tracing, and analyzing magazines recovered in crimes, with or without guns.

1.4. CONSEQUENCES OF ASSAULT WEAPON USE

1.4.1. Findings

A central argument for special regulation of assault weapons and large-capacity magazines is that the rapid-fire/multi-shot capabilities they make available to gun offenders increase the expected number of deaths per criminal use, because an intended victim may receive more wounds, and more people can be wounded, in a short period of time. Therefore, we examined trends in three consequences of gun use: gun murders, victims per gun homicide incident, and wounds per gunshot victim.

Our ability to discern ban effects on these consequences is constrained by a number of facts. The potential size of ban effects is limited because the banned weapons and magazines were used in only a minority of gun crimes — based on limited evidence, we estimate that 25% of gun homicides are committed with guns equipped with large-capacity magazines, of which assault weapons are a subset. Further, the power to discern small effects statistically is limited because post-ban data are available for only one full calendar year. Also, a large stock still exists of grandfathered magazines as well as grandfathered and legal-substitute guns with assault weapon characteristics.

Our best estimate of the impact of the ban on state level gun homicide rates is that it caused a reduction of 6.7% in gun murders in 1995 relative to a projection of recent trends. However, the evidence is not strong enough for us to conclude that there was any meaningful effect (i.e., that the effect was different from zero). Note also that a true decrease of 6.7% in the gun murder rate attributable to the ban would imply a reduction of 27% in the use of assault weapons and large-capacity guns and no effective substitution of other guns. While we do not yet have an estimate of large-capacity magazine use in 1995, our nationwide assessment of assault weapon utilization suggested only an 8 to 20 percent drop in assault weapon use in 1995.

Using a variety of national and local data sources, we found no statistical evidence of post-ban decreases in either the number of victims per gun homicide incident, the number of gunshot wounds per victim, or the proportion of gunshot victims with multiple wounds. Nor did we find assault weapons to be overrepresented in a sample of mass murders involving guns (see Appendix A).

The absence of stronger ban effects may be attributable to the relative rarity with which the banned weapons are used in violent crimes. At the same time, our chosen measures reflect only a few of the possible manifestations of the rapid-fire/multi-shot characteristics thought to make assault weapons and large-capacity magazines particularly dangerous. For example, we might have found the use of assault weapons and large-capacity magazines to be more consequential in an analysis of the number of victims receiving any wound (fatal or non-fatal), in broader samples of firearm discharge incidents. Moreover, our comparisons did not control for characteristics of incidents and offenders that may affect the choice of weapon, the consequences of weapon use, or both.

Recommendations: First, we recommend further study of the impact measures examined in this investigation. Relatively little time has passed since the implementation of the ban. This weakens the ability of statistical tests — particularly those in our time-series analyses — to discern meaningful impacts. Moreover, the

ban's effects on the gun market are still unfolding. Hence, the long term consequences of the ban may differ substantially from the short term consequences which have been the subject of this investigation.

Therefore, we recommend updating the state-level analysis of gun murder rates as more data become available. Similarly, investigations of trends in wounds per gunshot victim could be expanded to include longer post ban periods, larger numbers of jurisdictions, and, wherever possible, data on both fatal and non-fatal victims. Examination of numbers of total wounded victims in both fatal and non-fatal gunshot incidents may also be useful. In some jurisdictions, it may also be possible to link trends in the types of guns seized by police to trends in specific weapon-related consequence measures.

Second, we recommend further research on the role of assault weapons and large-capacity magazines in murders of police officers. Our analysis of police murders has shown that the fraction of police murders involving assault weapons is higher than that for civilian murders. This suggests that gun murders of police should be more sensitive to the ban than gun murders in general. Yet, further research, considering such factors as numbers of shots fired, wounds inflicted, and offender characteristics, is necessary for a greater understanding of the role of the banned weaponry in these murders.

Along similar lines, we strongly recommend in-depth, incident-based research on the situational dynamics of both fatal and non-fatal gun assaults to gain greater understanding of the roles of banned and other weapons in intentional deaths and injuries. A goal of this research should be to determine the extent to which assault weapons and guns equipped with large-capacity magazines are used in homicides and assaults and to compare the fatality rates of attacks with these weapons to those with other firearms. A second goal should be to determine the extent to which the properties of the banned weapons influence the outcomes of criminal gun attacks after controlling for important characteristics of the situations and the actors. In other words, how many homicides and non-fatal gunshot wound cases involving assault weapons or large-capacity magazines would not occur if the offenders were forced to substitute other firearms and/or small capacity magazines? In what percentage of gun attacks, for instance, does the ability to fire more than 10 rounds without reloading influence the number of gunshot wound victims or determine the difference between a fatal and non-fatal attack? In this study, we found some weak evidence that victims killed with guns having large-capacity magazines tend to have more bullet wounds than victims killed with other firearms, and that mass murders with assault weapons tend to involve more victims than those with other firearms. However, our results were based on simple comparisons; much more comprehensive research should be pursued in this area.

Future research on the dynamics of criminal shootings, including various measures of the number of shots fired and wounds inflicted, would provide information on possible effects of the assault weapon and magazine ban that we were unable to estimate, as well as useful information on violent gun crime generally. Such research requires linking medical and law enforcement data sets on victim wounds, forensic examinations of recovered firearms and magazines, and police incident reports.

2. BACKGROUND FOR THE IMPACT ASSESSMENT

Title XI of the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Control Act), took effect on its enactment date, September 13, 1994. Subtitle A, which is itself known as the Public Safety and Recreational Firearms Use Protection Act, contains three provisions related to “semiautomatic assault weapons.” Section 110102 (the assault weapons ban) made unlawful the manufacture, transfer, or possession of such weapons under 18:922 of the United States Code. Section 110103 (the magazine ban) made unlawful the transfer or possession of “large-capacity ammunition feeding devices”: detachable magazines that accept more than 10 rounds¹ and can be attached to semi- or automatic firearms. Section 110104 (the evaluation requirement) required the Attorney General to study the effect of these prohibitions and “in particular...their impact, if any, on violent and drug trafficking crime.” The evaluation requirement specified a time period for the study: an 18-month period beginning 12 months after the enactment date of the Act. It also required the Attorney General to report the study results to Congress 30 months after enactment of the Crime Control Act — March 13, 1997. The National Institute of Justice awarded a grant to the Urban Institute to conduct the mandated study, and this report contains the findings.

This chapter first explains the legislation in additional detail, then discusses what is already known about the role of the banned weapons in crime, and finally explains certain relevant features of firearms markets.

2.1. THE LEGISLATION

Effective on its enactment date, September 13, 1994, Section 110102 of Title XI banned the manufacture, transfer, and possession of “semiautomatic assault weapons.” It defined the banned items defined in four ways:

- 1) Named guns: specific rifles and handguns, available from ten importers and manufacturers: Norinco, Mitchell, and Poly Technologies (all models, popularly known as AKs); Israeli Military Industries UZI and Galil models, imported by Action Arms; Beretta Ar 70 (also known as SC-70); Colt AR-15; Fabrique National FN/FAL, FN/LAR, FN/FNC), SWD M-10, M-11, M-11/9, and M-12; Steyr AUG; and INTRATEC TEC-9, TEC-DC9, and TEC-22;
- 2) Exact copies: “Copies or duplicates of the [named guns] in any caliber”;
- 3) Revolving cylinder shotguns: Large-capacity shotguns, with the Street Sweeper and Striker 12 named as examples; and
- 4) Features-test guns: semiautomatic weapons capable of accepting detachable magazines and having at least two named features.²

Several provisions of the ban require further explanation because they affected our approach to this study. First, the ban exempted several categories of guns: a long list of specific models specified in Appendix A to Sec.

¹ Or “that can be readily restored or converted to accept.”

² For rifles, the named features were: a folding or telescoping stock; a pistol grip that protrudes below the firing action; a bayonet mount; a flash suppressor or threaded barrel designed to accommodate one; a grenade launcher. For pistols, the features were a magazine outside the pistol grip; a threaded barrel (capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer); a heat shroud that encircles the barrel; a weight of more than 50 ounces unloaded; and a semiautomatic version of an automatic firearm. For shotguns, named features included the folding or telescoping stock, protruding pistol grip, fixed magazine capacity over 5 rounds, and ability to accept a detachable magazine.

110102; bolt- or pump-action, inoperable, and antique guns; semiautomatic rifles and shotguns that cannot hold more than 5 rounds; and firearms belonging to a unit of government, a nuclear materials security organization, a retired law enforcement officer, or an authorized weapons tester.

Second, the prohibitions exempted weapons and magazines that met the definitional criteria but were legally owned (by manufacturers, distributors, retailers, or consumers) on the effective date of the Act. Such “grandfathered” guns may legally be sold, resold, and transferred indefinitely. Estimates of their numbers are imprecise. However, a 1992 report by the American Medical Association reported an estimate of 1 million semiautomatic assault weapons manufactured for civilian use, plus 1.5 million semiautomatic M-1 rifles sold as military surplus (AMA Council, 1992). To distinguish grandfathered guns from exempt guns that might be stolen or diverted to illegal markets, the ban required the serial numbers of guns in the banned categories to clearly indicate their dates of manufacture.

Third, the ban on exact copies of the named guns did not prohibit the manufacture, sale, or transfer of legal substitutes, most of which first appeared around or after the effective date of the ban. Legal substitutes differ from banned exact copies by lacking certain named features or by incorporating minimal design modifications such as slight reductions of pistol barrel length, thumbholes drilled in a rifle stock, or the like. Manufacturers named some legal substitutes by adding a designation such as “Sporter,” “AB,” (After Ban), or “PCR” (Politically Correct Rifle) to the name of the corresponding banned weapon.

Section 110103 of Title XI banned large-capacity magazines, i.e., magazines that accept ten or more rounds of ammunition. Its effective date, exemptions, and grandfathering provisions correspond to those governing firearms under Section 110102. This provision exempts attached tubular devices capable of operating only with .22 caliber rimfire ammunition.

Section 110104 required the study that is the subject of this report: a study of the effect of the ban, citing impacts on violent crime and drug trafficking in particular. It also specified the time period of the study: to begin 12 months after enactment, to be conducted over an 18-month period, and to be reported to Congress after 30 months. Finally, Title XI included a “sunset provision” for the ban, repealing it 10 years after its effective date.

Subtitles B and C of Title XI are relevant to this study because they took effect at the same time, and so special efforts are needed to distinguish their effects from those effects of the assault weapon and magazine bans in Subtitle A. With certain exemptions, Subtitle B bans the sale, delivery, or transfer of handguns to juveniles less than 18 years old. This juvenile handgun possession ban applies, of course, to assault pistols and to other semiautomatic handguns that are frequently recovered in crimes. Subtitle C requires applicants for new and renewal Federal Firearms Licenses — the Federal dealers’ licenses — to submit a photograph and fingerprints with their applications and to certify that their businesses will comply with all state and local laws pertinent to their business operations. These subtitles gave force of law to practices that BATF had begun early in 1994, to require the fingerprints and photographs, and to cooperate with local law enforcement agencies in investigations of Federal Firearms Licensees’ (FFLs) compliance with local sales tax, zoning, and other administrative requirements. These BATF practices are believed to have contributed to an 11 percent reduction in licensees (from 281,447 to 250,833) between January and the effective date of the Crime Act, and a subsequent 50 percent reduction to about 124,286 by December 1996 (U.S. Department of Treasury, 1997). These practices and subtitles were intended to discourage license applications and renewals by the subset of licensees least likely to comply with laws governing sales to felons, juveniles, and other prohibited purchasers.

2.2. CONTEXT FOR THE ASSAULT WEAPONS BAN

At least three considerations appear to have motivated the Subtitle A bans on assault weapons and large-capacity magazines: arguments over particularly dangerous consequences of their use, highly publicized incidents that drew public attention to the widespread availability of military-style weapons, and the disproportionate use of the banned weapons in crime.

The argument over dangerous consequences is that the ban targets a large array of semiautomatic weapons capable of accepting large-capacity magazines (i.e., magazines holding more than 10 rounds). Semiautomatic firearms permit a somewhat more rapid rate of fire than do non-semiautomatics. When combined with large-capacity magazines, semiautomatic firearms enable gun offenders to fire more times and at a faster rate, thereby increasing the probability that offenders hit one or more victims at least once.

There is very little empirical evidence, however, on the direct role of ammunition capacity in determining the outcomes of criminal gun attacks (see Koper 1995). The limited data which do exist suggest that criminal gun attacks involve three or fewer shots on average (Kleck 1991, pp.78-79; McGonigal et al. 1993, p.534). Further, there is no evidence comparing the fatality rate of attacks perpetrated with guns having large-capacity magazines to those involving guns without large-capacity magazines (indeed, there is no evidence comparing the fatality rate of attacks with semiautomatics to those with other firearms). But in the absence of substantial data on the dynamics of criminal shootings (including the number of shots fired and wounds inflicted per incident), it seems plausible that offenders using semiautomatics, especially assault weapons and other guns capable of accepting large-capacity magazines, have the ability to wound more persons, whether they be intended targets or innocent bystanders (see Sherman et al. 1989). This possibility encouraged us to attempt to estimate the effect of the ban on both the number of murder victims per incident and the number of wounds per murder victim.

The potential of assault weapons to kill multiple victims quickly was realized in several dramatic public murder incidents that occurred in the decade preceding the ban and involved assault weapons or other semiautomatic firearms with large-capacity magazines (e.g., see Cox Newspapers 1989; Lenett 1995). In one of the worst mass murders ever committed in the United States, for example, James Huberty killed 21 persons and wounded 19 others in a San Ysidro, California, McDonald's on July 18, 1984, using an Uzi handgun and a shotgun. On September 14, 1989, Joseph T. Wesbecker killed seven persons and wounded thirteen others at his former workplace in Louisville, Kentucky before taking his own life. Wesbecker was armed with an AK-47 rifle, two MAC-11 handguns, and a number of other firearms. One of the most infamous assault weapon cases occurred on January 17, 1989, when Patrick Edward Purdy used an AK-47 to open fire on a schoolyard in Stockton, California, killing 5 children.

There were additional high profile incidents in which offenders using semiautomatic handguns with large-capacity magazines killed large numbers of persons. In October of 1991, a gunman armed with a Glock 17, a Ruger P89 (both the Glock and Ruger models are semiautomatic handguns capable of accepting magazines with more than 10 rounds), and several large-capacity magazines killed 23 people and wounded another 19 in Killeen, Texas. In a December 1993 incident, six people were killed and another 20 were wounded on a Long Island commuter train by a gunman equipped with a semiautomatic pistol and large-capacity magazines.

These events have been cited as jarring the public consciousness, highlighting the public accessibility of weapons generally associated with military use, and demonstrating the apparent danger to public health posed by semiautomatic weapons with large-capacity magazines. These considerations, along with the claim that large-capacity magazines were unnecessary for hunting or sporting purposes, reportedly galvanized public support for the initiative to ban these magazines (Lenett, 1995).

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Debate over assault weapons raged for several years prior to the passage of the 1994 Crime Act. Throughout that time, different studies, news reports, policy debates, and legal regulations employed varying definitions of assault weapons. Yet, in general terms, the firearms targeted in these debates and those ultimately prohibited by the federal government's ban consist of various semiautomatic pistols, rifles, and shotguns, most of which accept detachable ammunition magazines and have military-style features. Mechanically, the most important features of these guns are their semiautomatic firing mechanisms and the ability to accept detachable magazines, particularly large-capacity magazines. However, these traits do not distinguish them from many other semiautomatic weapons used for hunting and target shooting. Therefore, some have argued that assault weapons differ only cosmetically from other semiautomatic firearms (Kleck 1991; Cox Newspapers 1989).

Nonetheless, proponents of assault weapons legislation argued that these weapons are too inaccurate to have much hunting or sporting value. Furthermore, they argued that various features of these weapons, such as folding stocks and shrouds surrounding their barrels, have no hunting or sporting value and serve to make these weapons more concealable and practical for criminal use (Cox Newspapers 1989). To the extent that these features facilitated criminal use of long guns or handguns with large-capacity magazines, one could hypothesize that there would be an increase in the deadliness of gun violence. Proponents also claimed that some of these weapons, such as Uzi carbines and pistols, could be converted rather easily to fully automatic firing.³

To buttress these arguments, proponents of assault weapons legislation pointed out that assault weapons are used disproportionately in crime. According to estimates generated prior to the federal ban, assault weapons represented less than one percent of the over 200 million privately-owned guns in the United States; yet they were reported to account for 8% of all firearms trace requests submitted to BATF from 1986 to 1993 (Lenett 1995; also see Zawitz 1995). Moreover, these guns were perceived to be especially attractive to offenders involved in drug dealing and organized crime, as evidenced by the relatively high representation of these weapons among BATF gun trace requests for these crimes. To illustrate, a late 1980s study of BATF trace requests reported that nearly 30% of the guns tied to organized crime cases were assault weapons, and 12.4% of gun traces tied to narcotics crimes involved these guns (Cox Newspapers 1989, p.4).

Further, most assault weapons combine semiautomatic firing capability with the ability to accept large-capacity magazines and higher stopping power (i.e., the ability to inflict more serious wounds).⁴ Thus, assault weapons would appear to be a particularly lethal group of firearms. However, this is also true of many non-banned semiautomatic firearms. Moreover, there have been no studies comparing the fatality rate of attacks with assault weapons to those committed with other firearms.

³ Fully automatic firearms, which shoot continuously as long as the trigger is held down, have been illegal to own in the U.S. without a federal permit since 1934. BATF has the responsibility of determining whether particular firearm models are too easily convertible to fully automatic firing. Earlier versions of the SWD M series assault pistols made by RPB Industries were met with BATF disapproval for this reason during the early 1980s.

⁴ Determinants of firearm stopping power include the velocity, size, shape, and jacketing of projectiles fired from a gun. Notwithstanding various complexities, the works of various forensic, medical, and criminological researchers suggest we can roughly categorize different types of guns as inflicting more or less lethal wounds (see review in Koper 1995). At perhaps the most general level, we can classify shotguns, centerfire (high-velocity) rifles, magnum handguns, and other large caliber handguns (generally, those larger than .32 caliber) as more lethal firearms and small caliber handguns and .22 caliber rimfire (low velocity) rifles as less lethal firearms. Most assault weapons are either high velocity rifles, large caliber handguns, or shotguns.

Nonetheless, the involvement of assault weapons in a number of mass murder incidents such as those discussed above provided an important impetus to the movement to ban assault weapons. Commenting on Patrick Purdy's murder of five children with an AK-47 rifle in Stockton, California in 1989, one observer noted, "The crime was to raise renewed outcries against the availability of exotic military-style weapons in our society. This time police forces joined forces with those who have traditionally opposed the widespread ownership of guns" (Cox Newspapers 1989, p.i). Later that year, California became the first state in the nation to enact an assault weapons ban, and the federal government enacted a ban on the importation of several foreign military-style rifles.

2.3. ASSAULT WEAPONS AND CRIME

Table 2-1 describes the named guns banned by Subtitle A in terms of their design, price, pre-ban legal status, and examples of legal substitutes for the banned guns. The table also reports counts of BATF trace requests — law enforcement agency requests for BATF to trace the recorded purchase history of a gun. Trace counts are commonly used to compare the relative frequencies of gun model uses in crime, although they are subject to biases discussed in the next chapter. Together, the named guns and legal substitutes accounted for 3,493 trace requests in 1993, the last full pre-ban year. This represented about 6.3 percent of all 55,089 traces requested that year.

Of the nine types of banned weapons shown in Table 2-1, five are foreign-made: AKs, UZI/ Galil, Beretta Ar-70, FN models, and the Steyr AUG. Together they accounted for only 394 BATF trace requests in 1993, and 281 of those concerned Uzis. There are at least three reasons for these low frequencies. First, imports of all of them had been banned under the 1989 assault weapon importation ban. Second, the Blue Book prices of the UZI, FN models, and Steyr AUG were all high relative to the prices of guns typically used in crime. Third, the FN and Steyr models lack the concealability that is often desired in criminal uses.

Among the four domestically produced banned categories, two handgun types were the most frequently submitted for tracing, with 1,377 requests for TEC models and exact copies, and 878 traces of SWD's M-series. Table 2-1 also reports 581 trace requests for Colt AR-15 rifles, 99 for other manufacturers' exact copies of the AR-15, and a handful of trace requests for Street Sweepers and Berettas.

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Table 2-1. Description of firearms banned in Title XI

<i>Name of firearm</i>	<i>Description</i>	<i>1993 Blue Book price</i>	<i>Pre-ban Federal legal status</i>	<i>1993 trace request count</i>	<i>Examples of legal substitutes</i>
Avtomat Kalashnikov (AK)	Chinese, Russian, other foreign and domestic: .223 or 7.62x39mm cal., semi-auto Kalashnikov rifle, 5, 10*, or 30* shot mag., may be supplied with bayonet.	\$550 (plus 10-15% for folding stock models)	Imports banned in 1989	87	Norinco NHM 90/91
UZI, Galil	Israeli: 9mm, .41, or .45 cal. semi-auto carbine, mini-carbine, or pistol. Magazine capacity of 16, 20, or 25, depending on model and type (10 or 20 on pistols).	\$550-\$1050 (UZI) \$875-\$1150 (Galil)	Imports banned in 1989	281 UZI 12 Galil	
Beretta Ar-70	Italian: .222 or .223 cal., semi-auto paramilitary design rifle, 5, 8, or 30 shot mag.	\$1050	Imports banned in 1989	1	
Colt AR-15	Domestic: .Primarily 223 cal. paramilitary rifle or carbine, 5-shot magazine, often comes with two 5-shot detachable mags. Exact copies by DPMS, Eagle, Olympic, and others.	\$825-\$1325	Legal (civilian version of military M-16)	581 Colt 99 Other manufacturers	Colt Sporter, Match H-Bar, Target. Olympic PCR Models.
FN/FAL, FN/LAR, FNC	Belgian design: .308 Winchester cal., semi-auto rifle or .223 Remington combat carbine with 30-shot mag. Rifle comes with flash hider, 4-position fire selector on automatic models. Manufacturing discontinued in 1988.	\$1100-\$2500	Imports banned in 1989	9	L1A1 Sporter (FN, Century)
SWD M-10, M-11, M-11/9, M-12	Domestic: 9mm paramilitary semi-auto pistol, fires from closed bolt, 32-shot mag. Also available in fully automatic variation.	\$215	Legal	878	Cobray PM-11, PM12 Kimel AP-9, Mini AP-9
Steyr AUG	Austrian: .223 Remington/5.56mm cal., semi-auto paramilitary design rifle.	\$2500	Imports banned in 1989	4	
TEC-9, TEC*DC-9, TEC-22	Domestic: 9mm semi-auto paramilitary design pistol, 10** or 32** shot mag.; .22 LR semi-auto paramilitary design pistol, 30-shot mag.	\$145-\$295	Legal	1202 Intratec 175 Exact copies	TEC-AB
Revolving Cylinder Shotguns	Domestic: 12 gauge, 12-shot rotary mag., paramilitary configuration, double action.	\$525***	Legal	64 SWD Street Sweepers	

* The 30-shot magazine was banned by the 1994 Crime Act, and the 10-shot magazine was introduced as a result.

** The 32-shot magazine was banned by the 1994 Crime Act, and the 10-shot magazine was introduced as a result.

*** Street Sweeper

Source: *Blue Book of Gun Values*, 17th Edition, by S.P. Fjestad, 1996.

Although the banned weapons are more likely than most guns to be used in crime, they are so rare that only 5 models appeared among the BATF National Tracing Center list of the 50 most frequently traced guns in 1993: the SWD M-11/9 (659 trace requests, ranked 8), the TEC-9 (602 requests, ranked 9), the Colt AR-15 (581 requests, ranked 11), the TEC-DC9 (397 requests, ranked 21), and the TEC-22 (203, ranked 48). In addition, the list named eight unbanned guns that accept banned large-capacity magazines: the Glock 17 pistol (509 requests, ranked 13), the Ruger P85 pistol (403 requests, ranked 20), the Ruger P89 pistol (361 requests, ranked 24), the

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Glock 19 pistol (339 requests, ranked 28), the Taurus PT92 (282 requests, ranked 31), the Beretta/FI Industries Model 92 pistol (270 requests, ranked 33), the Beretta Model 92 (264 requests, ranked 34), and the Ruger Mini-14 rifle (255 requests, ranked 36).

In contrast, the list of ten most frequently traced guns is dominated by inexpensive small-caliber semiautomatic handguns not subject to the ban. These included the Raven P-25 (1,674 requests, ranked 1), the Davis P380 (1,539 requests, ranked 2), the Lorcin L-380 (1,163 requests, ranked 3), the Jennings J-22 (714 requests, ranked 6), and the Lorcin L-25 (691 requests, ranked 7). Other guns among the 1993 top ten list were: the Norinco SKS, a Chinese-made semi-automatic rifle (786 requests, ranked 4); the Mossberg 500 .12-gauge shotgun (742 requests, ranked 5), and the Smith & Wesson .38 caliber revolver (596 requests, ranked 10). None of these are subject to the assault weapon ban.

The relative infrequency of BATF trace requests for assault weapons is consistent with other findings summarized in Koper (1995). During the two years preceding the 1989 import ban, the percentage of traces involving assault weapons reportedly increased from 5.5 to 10.5 percent for all crimes (Cox Newspapers, n.d., p.4), and was 12.4 percent for drug crimes. Because law enforcement agencies are thought to request BATF traces more frequently in organized crime and drug crime cases, many criminal researchers (including ourselves) believe that raw trace request statistics overstate the criminal use of assault weapons in crime. Based on more representative samples, Kleck (1991) reports that assault weapons comprised 3.6 percent or less of guns confiscated from most of the Florida agencies he surveyed, with only one agency reporting as high as 8 percent. Similarly, Hutson et al. (1994) report that assault weapons were involved in less than one percent of 1991 Los Angeles drive-by shootings with juvenile victims. Based on his reanalysis of 1993 New York City data, Koper (1995) concluded that assault weapons were involved in only 4 percent of the 271 homicides in which discharged guns were recovered and 6.5 percent of the 169 homicides in which ballistics evidence positively linked a recovered gun to the crime.

Koper (1995) also summarizes findings which suggest that criminal self-reporting of assault weapon ownership or use may have become “trendy” in recent years, especially among young offenders. The percentages of offenders who reported ever using weapons in categories that may have included assault weapons was generally around 4 percent in studies conducted during the 1980s, but rose to the 20- to 30-percent range in surveys of youth reported since 1993, when publicity about such weapons was high (see, e.g., Knox et al., 1994; Sheley and Wright, 1993).

2.4. MARKETS FOR ASSAULT WEAPONS AND OTHER FIREARMS

Predicting effects of the bans on assault weapons and large-capacity magazines requires some basic knowledge of firearms markets. The Federal Bureau of Alcohol, Tobacco and Firearms (BATF) licenses persons to sell or repair firearms, or accept them as a pawnbroker under the Gun Control Act of 1968. Cook et al. (1995, p.73) summarized the relevant characteristics of a Federal firearms licensee (FFL) as follows. Licenses are issued for three years renewable, and they allow Federal Firearm licensees to buy guns mail-order across state lines without a background check or a waiting period. Starting well before the 1994 Crime Act, applicants had to state that they were at least 21 years old and provide a Social Security number, proposed business name and location, and hours of operation. Since the 1968 Omnibus Crime Control and Safe Streets Act, FFL applicants have had to state that they were not felons, fugitives, illegal immigrants, or substance abusers, and that they had never renounced their American citizenship, been committed to a mental institution, or dishonorably discharged from the military.

The Gun Control Act of 1968 made these same categories of persons ineligible to purchase a gun from a licensee and required would-be purchasers to sign statements that they were not ineligible purchasers. The 1968

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Act also requires FFLs to retain the records of each sale and a running log of acquisitions and dispositions of all guns that come into their possession. In 1993, the Brady Handgun Violence Prevention Act added several more requirements on handgun sales by FFLs; the focus on handguns reflected their disproportionate involvement in crime. Under the Brady Act, licensed dealers⁵ became required to obtain a photo ID from each would-be handgun purchaser, to verify that the ID described the purchaser, to notify the chief law enforcement officer (CLEO) of the purchaser's home of the attempt to purchase, and to wait five business days before completing the sale, allowing the CLEO to verify eligibility and notify the seller if the purchaser is ineligible. The Brady Act also raised the fee for the most common license, Type 1 (retail), from \$10.00 per year to \$200.00 for the first three years and \$90.00 for each three-year renewal.

Subtitle C of Title XI which took effect simultaneously with the 1994 assault weapons ban strengthened the requirements on FFLs and their customers in several ways, including the following. To facilitate fingerprint-based criminal history checks and to deter applicants who feared such checks, Subtitle C required FFL applicants to submit fingerprints and photographs; this ratified BATF practice that had begun in early 1994. To make FFLs more visible to local authorities, Subtitle C required applicants to certify that within 30 days they would comply with applicable local laws and required the Secretary of the Treasury to notify state and local authorities of the names and addresses of all new licensees. To help local law enforcement agencies recover stolen guns and to discourage licensees from retroactively classifying firearms they had sold without following Federally required procedures as "stolen," Subtitle C introduced requirements for FFLs to report the theft or loss of a firearm to BATF and to local authorities within 48 hours.

Assault weapons and other firearms are sold in primary and secondary markets whose structure was described by Cook et al. (1995). Primary markets include transactions by FFLs. At the wholesale level, licensed importers and distributors purchase firearms directly from manufacturers and advertise them through catalogs and display ads in nationally distributed publications such as *Shotgun News*. Under the law, purchasers may include walk-ins who reside in the distributor's state and FFLs from anywhere who can order guns by telephone, fax, or mail. Primary-market retailers include both large discount stores and smaller-volume independent firearms specialists who offer advice, gun service, sometimes shooting ranges, and other professional services of interest to gun enthusiasts. Some 25,000 independent dealers are organized as the National Alliance of Stocking Gun Dealers. At both the wholesale and retail level, primary-market sellers are legally required to verify that the purchaser is eligible under Federal laws, to maintain records of sales for possible future use in BATF traces of guns used in crime, and, since the effective date of the Crime Act, to report thefts of guns to BATF.

Cook et al. (1995, p.68) also designated "secondary markets," in which non-licensed persons sell or give firearms to others. Sellers other than FFLs include collectors or hobbyists who typically resell used guns through classified ads in newspapers or "consumer classified sheets," through newsletters oriented toward gun enthusiasts, or through word of mouth to family and friends. The secondary market also includes gun shows, "street sales", and gifts or sales to family, friends, or acquaintances. Secondary transfers are not subject to the record-keeping requirements placed on FFLs.

Gun prices in the primary markets are widely publicized, and barriers to entry are few, so that the market for legal purchasers is fairly competitive. For new guns, distributors' catalogs and publications such as *Shotgun News* disseminate wholesale prices. Prices of used guns are reported annually in a *Blue Book* catalog (Fjestad, 1996). Based on interviews with gun market experts, Cook et al. (1995, p.71) report that retail prices track

⁵ The Brady Act exempted sellers in states that already had similar requirements to verify the eligibility of would-be gun purchasers.

wholesale prices quite closely. They estimate that retail prices to eligible purchasers generally exceed wholesale (or original-purchase) prices by 3–5 percent in the large chain stores, by about 15 percent in independent dealerships, and by about 10 percent at gun shows because overhead costs are lower.

In contrast, purchasers who wish to avoid creating a record of the transaction and ineligible purchasers, including convicted felons who lack convincing false identification and wish to avoid the Brady Act eligibility check or waiting period, must buy assault weapons and other guns in the secondary markets, which are much less perfect. Prices for banned guns with accurate and complete descriptions are rarely advertised, for obvious reasons. Sellers do not supply catalogues and reference books that would help an untrained buyer sort out the bewildering array of model designations, serial numbers, and detachable features that distinguish legal from illegal guns. And competition is limited because sellers who are wary of possible undercover purchases by law enforcement agencies prefer to limit “off-the-books” sales either to persons known or personally referred to them, or to settings such as gun shows and streets away from home, where they themselves can remain anonymous.

In general, ineligible purchasers face premium prices some 3 to 5 times legal retail prices.⁶ Moreover, geographic differentials persist that make interstate arbitrage, or trafficking, profitable from “loose regulation” states to “tight regulation” states. Among the banned assault weapons, for example, Cook et al. (1995, p.72, note 56) report TEC-9s with an advertised 1991 price of \$200 in the Ohio legal retail market selling for \$500 on the streets of Philadelphia. By 1995, they report a legal North Carolina price of \$300 compared to a street price of \$1,000 in New York City. In 1992 interviews with Roth (1992), local and state police officers reported even higher premiums in secondary submarkets in which ineligible purchasers bartered drugs for guns: prices in terms of the street value of drugs reportedly exceeded street cash prices by a factor of about 5.

The attraction that the higher premiums hold for FFLs as sellers has been noted by both researchers and market participants. Cook et al. (1995, p.72) note that licensed dealers willing to sell to ineligible purchasers or without Federal paperwork offer buyers the combined advantages of the primary and secondary markets: “they have the ability to choose any new gun in the catalog, but without the paperwork, delays, fees, and restrictions on who can buy.” Their data raise the possibility that up to 78 percent of FFLs in the Raleigh/Durham/Chapel Hill area of North Carolina may operate primarily or exclusively in secondary markets, since 40 percent had not given BATF a business name on their application, and an additional 38 percent provided “business” numbers that turned out to be home numbers (Cook et al., 1995:75). They note the consistency of their findings with a national estimate by the Violence Policy Center (1992 — More Gun Dealers than Gas Stations) that 80 percent of dealers nationwide do not have storefront retail firearms businesses. Jacobs and Potter (1995, p.106) note that because resource constraints have restricted BATF inspections to storefronts, dealers without storefronts may operate without regard to the Brady Act requirements, or presumably to other requirements as well.

The opportunities for FFLs, whether operating from storefronts or not, to sell firearms in both the primary and secondary markets, were colorfully described in the 1993 statement of the National Alliance of Stocking Gun Dealers (NASGD) to the House and Senate Judiciary Committees regarding Subtitle C. After noting the substantial price premium for selling guns directly felons to and others on the street, the statement continues:

Should you feel a little queasy about the late night hours and the face-to-face negotiations with the street folk, then you can become a “gun-show cowboy.” Simply drive by your friendly “distributor” ..., load up 250 handguns, and hit the weekend circuit of gun shows...If you choose

⁶ There are exceptions. Guns fired in crimes may sell at substantial discounts on the street because ballistic “fingerprints” may incriminate the subsequent owner. Drug addicts who find and steal guns during burglaries may sell or trade them for drugs at prices far below market.

to do the “cash and carry” routine then you will command higher prices than those who insist on selling lawfully with all the attendant ID and paperwork. However, since you will most probably be selling at gun shows in states other than where you are licensed, it is unlawful for you to sell and deliver on the spot, so you will not want to identify yourself either. Attendees (purchasers) at gun shows include the entire spectrum of the criminal element — felons, gangs who don’t have their own armorer, underage youth, buyers for underage youth, multistate gun runners and such...Though the gun show cowboy won’t achieve quite as high a profit as the street seller, he can sell in very high volume and easily earn the same dollar amount and feel a lot safer. (NASGD, 1993:2-3).

Pierce et al. (1995) made an initial effort to investigate the extent and distribution of FFLs’ transactions in secondary submarkets through which firearms flow to criminal uses. Using the automated Firearms Tracing System (FTS) recently developed by BATF’s National Tracing Center, they explored several covariates of the distribution of traces in which a given FFL holder is named. They reported the highest mean number of traces for dealers in Maryland, Vermont, and Virginia. Other cross-tabulations indicated that currently active dealers operating at the addresses previously used by out-of-business dealers were more likely than average to be named in traces, which suggests that dealers who are active in secondary markets tend to reapply for licenses under new names. Finally, they reported a very high concentration of dealers in trace requests. While 91.6 percent of the dealers in the FTS database had never been named in a trace, 2,133 dealers, 0.8 percent of the total, had been named in 10 or more traces. Together, they were named in 65.7 percent of all traces conducted. An even smaller handful of 145 dealers’ names surfaced in 30,850 traces — 25.5 percent of the entire trace database. These findings indicated that the channels through which guns flow from FFLs to criminal users are more heavily concentrated than previously recognized.

The channels described above through which firearms flow from licensed dealers (FFLs) and eligible purchasers to ineligible purchasers vary in terms of visibility.⁷ In primary markets, ineligible purchasers may buy guns from FFLs using fake identification themselves or using “straw purchasers” (eligible buyers acting as agents for ineligible buyers, unbeknownst to the FFL). In Cook and Leitzel’s (1996) terminology, these are “formal” transactions that create official records, but the records do not identify the actual consumer.

We use the term “leakage” to designate channels through which guns flow from legal primary and secondary markets to ineligible purchasers. No leakage channel creates valid sales records; however, at least since 1994, all are likely to generate stolen gun reports to BATEF. Ineligible purchasers may buy guns informally (i.e., without paperwork) from unethical FFLs at gun shows or through “street” or “back door” sales. To prevent informal sales from creating discrepancies between actual inventories and the acquisition/disposition records, the FFL may report them as stolen. Such transactions are indistinguishable from actual thefts, the other leakage channel.

Guns may also leak from eligible non-FFL gun owners to ineligible owners through direct sales on the street or at gun shows, or through thefts. While non-FFL owners are not required to record sales or transfers of their guns, they may also wish to report a gun that they sell to an ineligible purchaser as stolen if they suspect it may be recovered in a future crime. Therefore, leakage in secondary markets may also be reflected in theft reports.

⁷ While the law presumes ineligible purchasers to be more likely than eligible purchasers to use guns during crimes, eligible purchasers have, in fact, committed viable crimes with large-capacity firearms.

3. ANALYSIS PLAN

Subtitle A of Title XI banned the manufacture, transfer, and possession of assault weapons and large-capacity magazines. We hypothesized that the ban would produce direct effects in the primary markets for these weapons, that related indirect effects in secondary markets would reduce the frequency of their criminal use, and that the decrease in use would reduce such consequences as gun homicides, especially incidents involving multiple victims, multiple wounds, and killings of law enforcement officers. In this chapter, we explain our general strategy testing these hypotheses.

3.1. POTENTIAL BAN EFFECTS

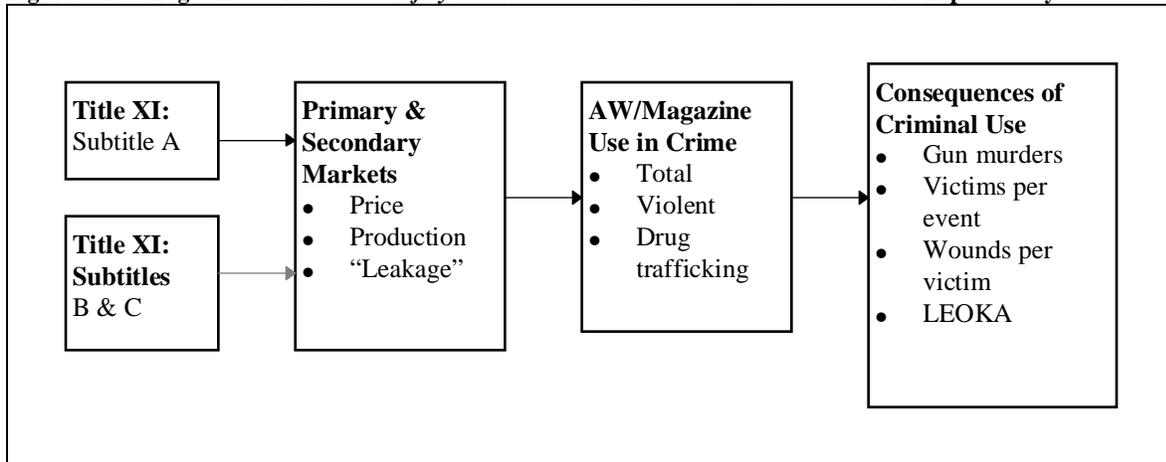
Figure 3-1 displays the ban effects that we hypothesized and the measures that we used to test those effects. As shown there, we anticipated potential effects on primary and secondary markets for the banned guns and magazines, potential reductions in their use in crime, and subsequent reductions in the consequences of criminal use. Although the available measures of any single effect are problematic, the problems differ by measure. Therefore, our approach was to conduct several small studies, each subject to different error sources, and then to integrate the findings of the separate studies.

As shown in Figure 3-1, the **market effects** of interest included indicators of price, production, and “leakage” between primary and secondary markets. If the Subtitle A bans are to be effective in reducing criminal uses of the banned weapons and magazines, they must increase the prices of those items. Our **price** indicators were collected for banned guns, selected legal substitutes, large-capacity magazines, and, as comparison groups, comparable guns that should not have been directly affected by the ban. The data were the nationally advertised prices of distributors who ran display ads in *Shotgun News* continuously from January 1992 through mid-1996. Because these distributors sell guns simultaneously at the wholesale and retail levels, and because primary-market retail margins are small, we believe these prices offer a useful index of primary-market prices. We used hedonic price analysis to study trends. Annual **production** data were obtained from the Violence Policy Research Project, an organization that compiles BATF manufacturing data. We lacked post-ban data because release of the production statistics is delayed two years by law. Also, we had to make certain approximations because production statistics are not reported for specific models. Therefore, findings from our tabular analyses of production are less complete and more tentative than those about price. Finally, as discussed in Section 3.2, we defined “**leakage**” as the transfer of firearms to ineligible purchasers from licensed dealers and eligible purchasers. Because we argued there that leakage is likely to generate theft reports (either because the guns were transferred by theft or because a false theft report was used to conceal a sale to an ineligible purchaser), we measured leakage using counts of stolen gun reports to the FBI’s National Crime Information Center (NCIC).

Our primary indicator of assault weapon **use in crime** is the volume of requests for BATF traces of guns recovered in crime. **Trace request** data have the advantage of providing a national picture, and they allow us to focus on two of the Congressional priorities for this study, violent crime and drug trafficking crime. They require special caution in interpretation, however, since trace requests are a small and unrepresentative sample of guns recovered in crime. We believe that our tabular analyses provide a defensible estimate of the short-term effects of Title XI on criminal use of the banned weapons. We attempted to supplement the national analysis with analyses of **local trends in recovered assault weapons** in representative samples of recovered guns from a number of law enforcement agencies, but could obtain the necessary data for only a few cities.

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Figure 3-1. Logic model for Public Safety and Recreational Firearms Use Protection Act impact study



Finally, as shown in Figure 3-1, we used four indicators of the **consequences** of criminal use of assault weapons and semiautomatic weapons with large-capacity magazines: total gun murders by state, victims per criminal event involving gun murder, entry wounds per gunshot wound victim, and law enforcement officers killed in action. While these indicators all have logical relationships to use of the banned items, all have difficulties. Total gun murders is an insensitive indicator because attacks with assault weapons and other semiautomatics with large-capacity magazines account for only a fraction of all murders. Other consequences such as victims per event and wounds per victim are more specific to the banned weapons and magazines, as supporters argued during the ban debates, and assault weapons are more disproportionately used in killings of law enforcement officers than in other murders. However, available databases for measuring those impacts are difficult to analyze because they contain such small numbers of cases. And, for all the indicators, the existence of only one full post-ban year in available data may make the estimates too imprecise to discern short-run impacts even if they are large enough to be of policy interest. As a result, our findings about ban effects on consequences are especially tentative.

We anticipated that market effects during the short-term period allowed for this study would be heavily influenced by expectations. Enactment of the ban was preceded by extensive publicity and debate, which afforded time for manufacturers, distributors, retailers, and collectors to speculate that the firearms being considered for ban coverage would eventually become expensive collectors' items. Analogous experience from 1989 seemed instructive, because that year saw both a Federal ban on importation of assault rifles and a California ban analogous to Title XI. During the three months leading up to the importation ban, import license requests for assault rifles, which had numbered 40,000 in 1987 and 44,000 in 1988, swelled 10-fold to an annual rate of 456,000 (AMA Council, 1992). It is not clear how rapidly the import surge flowed through the distribution chain from importers to consumers in the primary and secondary markets. Yet six months later, during the period leading up to a California ban and sentence enhancement, several police agencies reported sharp decreases in criminal use of assault rifles. At the time, observers attributed this seeming paradox to advance publicity that may have left the misimpression that the ban took effect when enacted, judicial anticipation of the enhancements in setting bond and imposing sentence, tips to police from law-abiding gun dealers sensitive to the criminal gun use that motivated the ban, and owners' reluctance to risk confiscation for misuse of their assault weapons, which had become more valuable in anticipation of the ban (Mathews, 1989). However, it is equally plausible that the speculative price increases for the banned weapons in formal markets at least temporarily bid assault weapons

away from ineligible purchasers who would more probably have used them in crimes (Cook and Leitzel, 1996).⁸ Whether these short-run conditions would hold for the long run would depend on the extent to which grandfathered guns in the banned categories leaked into secondary markets over time through gun shows, “back door” sales, and thefts.

Therefore, our objectives became to estimate ban-related effects on price, supply responses, and leakage from formal to informal markets; to estimate how these market effects influenced criminal assault weapon use; and to estimate trends in the consequences of that use. In accordance with the statutory study requirement, we placed special emphasis on the use of assault weapons in violent crime and drug trafficking crime wherever available data permitted.

3.2. GENERAL DESIGN STRATEGY

Our general design strategies are to test whether the assault weapon and magazine bans interrupted trends over time in the outcome measures listed above. A variety of techniques exist for this general problem. They differ in terms of desirable qualities such as statistical power, robustness against various threats to the validity of findings, and precision; unfortunately, the techniques with more desirable properties are generally more demanding in terms of data requirements. Because of different data constraints, we employed a variety of methods, including various forms of time series and multiple regression analysis (i.e., pooled, cross-sectional time series analysis, hedonic price analysis, and Box-Jenkins interrupted time series models), simple before and after comparisons, and graphical displays. As a result, our conclusions about some measures are stronger than about others.

Because we anticipated these circumstances, our approach to the Congressional mandate was to conduct a number of small-scale analyses of more-or-less readily available data, then to synthesize the results into our best judgment concerning the impacts of Title XI.⁹ We carried out three kinds of analyses of market effects:

- Hedonic price analyses of 1992–96 primary-market price trends for banned semiautomatic firearms, comparable unbanned firearms, and large-capacity magazines, using national distributors’ prices;
- Tabular analyses of gun production data through 1994, the latest available year;
- Pre-ban/post-ban comparisons and time series analyses of 1992–96 trends in “leakage” to illegal markets, as measured by guns reported stolen to FBI/NCIC.

We carried out two kinds of analyses of assault weapon use:

- Graphical and tabular analyses of 1992–96 trends in requests for BATF traces of assault weapons recovered in crime, in both absolute terms and as a percentage of all requests;

⁸ While unbanned, widely available, inexpensive semiautomatic pistols made by Lorcin, Davis, and other manufacturers are good (and perhaps superior) substitutes for the banned assault weapons in most criminal uses, they are not substitutes for speculative purposes.

⁹ During the project, we abandoned early plans for several additional impact studies that we had contemplated. It proved impossible to analyze trends in enforcement of the ban because of the small numbers of matters referred to U.S. Attorneys and cases filed in U.S. District Court. We were forced to abandon plans to measure secondary-market prices of banned weapons from classified advertisements for two reasons: back issues of consumer classifieds proved unavailable, and the ads describe the weapons too imprecisely for consistent classification. Finally, we dropped plans to analyze multi-city assault weapon use data from the gun module of the Drug Use Forecasting (DUF) program for two reasons. Data exist only for the post-ban period, and we had concerns about the validity of respondents’ reports of assault weapon ownership and use.

- Pre-ban/post-ban comparisons and time series analyses of 1992–96 trends in counts of guns recovered in crime by selected local law enforcement agencies.

We carried out the following analyses of the consequences of using assault weapons and semiautomatics with large-capacity magazines in crime:

- An analysis of state-level time-series data on gun murders which controls for potential influences of legal, demographic, and criminological importance;
- Pre-ban/post-ban comparisons and time series analyses of 1980–95 trends in victims per gun-homicide incident as measured nationally from Supplementary Homicide Reports;
- Descriptive analysis of the use of assault weapons in mass murders in the U.S. from 1992-present (see Appendix A);
- Graphical analyses and pre-ban/post-ban comparisons of 1992–96 trends in the number of wounds per gunshot victim using medical data from medical examiners and one hospital emergency department in selected cities, following Webster et al. (1992) and McGonigal et al. (1993);
- A tabular analysis of 1992–96 trends in law enforcement officers killed in action (LEOKA) with assault weapons.

3.2.1. Threats to Validity and Use of Comparison Groups

The validity of the techniques we applied depends on comparisons of trends between meaningful treatment and comparison groups, and we used two approaches to defining comparison groups. In general, to estimate ban effects on markets and uses, we compared trends between types of guns and magazines that were differentially affected by the ban. To estimate effects on the consequences of assault weapon use, we used pre-existing state-level bans on assault weapons and juvenile handgun possession to define comparison groups, because we assumed that such laws would attenuate the effects of the Federal ban.¹⁰

Table 3-1 describes our general classification scheme for types of guns affected by the ban and the corresponding comparison groups.¹¹ The comparisons are not always precise, and, as later chapters will make clear, they differ from measure to measure depending on the gun descriptors used in available databases.

¹⁰ Although in theory, comparisons of markets and uses could be made simultaneously by weapon and jurisdiction, the disaggregation often leaves too little data for meaningful analysis.

¹¹ To be considered a potential comparison gun, we had to have at least anecdotal evidence that it had appeal beyond the community of sportsmen and collectors and/or evidence that it was among the 50 guns most commonly submitted for BATF traces. Without that constraint, it would have been unreasonable to consider it as being functionally similar to any banned gun, and data on prices and uses would have involved numbers too small to analyze. The trade-off is that the comparison guns may well have been subject to indirect substitution effects from the ban.

Table 3-1. Banned weapons and examples of unbanned comparison weapons

<i>Banned weapon</i>	<i>Examples of Comparison weapon</i>
<p><u>Named Domestic Assault Pistols</u></p> <p>-SWD M-10, M-11, M-11/9, M-12, exact copies under other names, legal substitutes -TEC-9, TEC-DC9, TEC-22, exact copies by AA Arms, legal substitutes</p>	<p>-Lorcin, Davis semiautomatic pistols (less expensive) -Glock, Ruger semiautomatic pistols (more expensive)</p>
<p><u>Named Domestic Assault Rifles</u></p> <p>-Colt AR-15, exact copies and legal substitutes</p>	<p>-Ruger Mini-14 (unbanned domestic) -Maadi (legal import)</p>
<p><u>Named Foreign Assault Weapons</u></p> <p>-UZI carbines and pistols -AK models</p>	<p>-SKS (recently restricted, widely available import)</p>
<p><u>“Features Test” Guns</u></p> <p>Calico Light Weapons pistols and rifles Feather rifles</p>	<p>See pistols and rifles above.</p>
<p><u>Rare Banned Weapons</u></p> <p>Beretta Ar-70, FN models, Steyr AUG, revolving cylinder shotguns</p>	<p>No comparisons defined.</p>

Of the banned weapons named in Table 3-1, the named domestic assault pistols are of greatest interest because they are more widely used in crime than rifles. We used two categories of pistols as comparison groups: the cheap small-caliber pistols by Lorcin and Davis that are among the most widely used guns in crime, and the more expensive Glock and Ruger pistols. The Glock and Ruger models took on additional significance by serving as indicators of non-banned handguns capable of accepting large-capacity magazines. For the AR-15 family of assault rifles, we used the Ruger Mini-14, SKS, and/or Maadi rifles in various comparisons. All are legally and widely available.

We performed relatively few comparative analyses of named foreign assault weapons, the UZI, Galil, and AK weapons, because the 1989 import ban limited their availability during our observation period, and their legal status was unchanged by the Title XI ban. Nevertheless, because these guns remain in criminal use, we performed price analyses for their large-capacity magazines, which are also widely available from foreign military surplus. The SKS semiautomatic rifle, which was imported from China and Russia in fairly large numbers¹² until recently, served as an unbanned comparison weapon for the banned foreign rifles. We carried out no analyses concerning the rarest assault weapons shown in Table 3-1.

Because few available databases relate the consequences of assault weapon use to the make and model of weapon, most of our analyses of consequences are based on treatment and comparison jurisdictions defined in terms of their legal environments. Four states — California, Connecticut, Hawaii, and New Jersey — already

¹² Although a 1994 ban on Chinese imports of many goods including firearms nominally covered SKS rifles, large numbers continued to enter the country under Craig Amendment exemptions for goods already “on the water” at the time of the import ban.

banned assault weapons before the Federal ban was enacted. Although state bans can be circumvented by interstate traffickers, we hypothesized that their existence would reduce the effects of the Federal ban in their respective states.

The following chapters report findings of the analyses described here. Each chapter also explains in detail the tailoring of this general analysis plan to data constraints associated with each comparison.

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4. GUN AND MAGAZINE MARKET EFFECTS

The discussion of gun markets in Chapter 2 led us to several hypotheses. First, assuming that the primary and secondary markets were in equilibrium before Congress took up serious discussion of a ban on assault weapons and large-capacity magazines, we hypothesized that the opening of debate would stimulate speculative demand for the banned guns and magazines, leading to price increases in primary markets well in advance of the effective date of the ban. Second, we hypothesized that for the makes and models of assault weapons whose prices increased, quantities produced would also increase before the ban took effect. These “grandfathered guns” were exempted from the ban.

Having been advised by a gun market expert¹³ that legal substitutes for many of the banned weapons appeared in primary markets around the effective date of the ban, it seemed doubtful that the speculative pre-ban price increases could hold under the combined weight of stockpiled grandfathered guns and the flows of new legal substitute models. Therefore, our third hypothesis was that the post-ban prices of banned guns and their legal substitutes would return to their pre-debate equilibrium levels.

We presumed that assault weapons and large-capacity magazines are economic complements, so that, like bread and butter, an increase in the supply of either one should decrease its price and increase the price of the other. Therefore, our fourth hypothesis was that, for the oversupplied assault weapons and legal substitutes whose prices fell from their speculative peaks, their magazine prices¹⁴ should rise over time, as the stock of grandfathered magazines dwindled.

Finally, we believed that for banned makes and models whose prices experienced a speculative price bubble around the time of the ban and then returned to pre-ban levels, speculative demand would fall eventually in both primary and secondary markets as expectations receded for a price “rebound” in primary markets. In contrast, demand by ineligible purchasers intending to use the banned weapons in crime should be relatively unaffected. Therefore, at least in the short run, relative prices should rise in secondary markets, where such “crime demand” is concentrated. We could not directly observe secondary-market prices. However, a price rise in secondary relative to primary markets should cause increased “leakage” to secondary markets, reflected in rising theft reports of assault weapons during post-ban periods of low prices in primary markets.

The following sections report the methods we used to test these hypotheses about market effects of the ban, and our findings.

4.1. FINDINGS OF PRICE ANALYSIS

4.1.1. Collection of Price Data

To test our hypotheses about price trends, we sought to approximate the prices at which the banned items could be legally purchased throughout the country. After considering available data sources, we decided that monthly data would be sufficient and that the distributors’ prices advertised in national publications would offer a

¹³ William R. Bridgewater, personal communication, September 1995.

¹⁴ Magazines are make and model-specific, so that in general a magazine made for a specific rifle will not fit other rifles. However, a magazine made for a banned assault rifle like the Colt AR-15 will fit an exact copy like the Olympic Arms AR-15 and a legal substitute like the Colt AR-15 Sporter, which has the same receiver.

suitable index. Those prices are available to any FFL, and, as discussed in Chapter 2, primary-market FFLs generally re-sell within 15 percent of the distributors' price.

To collect the necessary data, we developed two forms. The first was designed to collect data on base price and accessorized price on 47 makes and models of guns. These included all guns named in Subtitle A along with selected legal substitutes and functional substitutes (e.g., low-capacity semiautomatic pistols that are commonly used in crimes). The second form recorded make, model, capacity, and price of any advertised large-capacity magazines. Both forms also recorded the distributors' names and, for verification purposes, a citation to the location of the advertisements.

We selected twelve gun and magazine distributors that had display ads on a monthly basis in *Shotgun News* throughout the entire period from April 1992 through June 1996. This period was selected to permit observation of rumored "Clinton election" price effects (i.e., increased speculative demand based on concern over possible new gun controls under a Democratic administration) as well as the entire period of debate over Subtitle XI and as long a post-ban period as possible. Display ad prices were coded on a monthly basis throughout the period except immediately around the ban, from August 1994 to October 1994, when prices were coded on a weekly basis to maximize statistical power during the period when we expected the largest price variances. The *Shotgun News* issue to be coded for each month was selected randomly, to avoid any biases that might have occurred if a particular part of the month was coded throughout the period. The number of advertised-price observations for any given gun varied from month to month over the period, as distributors chose to feature different makes and models. The number of price observations for a given make and model bears an unknown relationship to the number of transactions occurring at that price. The advertised prices should be considered approximations for at least three reasons. Advertised prices simultaneously represent wholesale prices to retail dealers and retail prices to "convenience dealers" who hold licenses primarily to receive guns for personal use by mail from out-of-state sources. There is anecdotal evidence of discounts from advertised prices for purchases in large quantities or by long-time friends of the distributors. Finally, the ads did not permit us to accurately record such price-relevant features as finish, included gun cases, and included magazines.

4.1.2. Analysis

Price trends for a number of firearms and large-capacity magazines were analyzed using hedonic price analysis (Berndt 1990, pp.102-149; also see Chow 1967). This form of analysis examines changes over time in the price of a product while controlling for changes over time in the characteristics (i.e., quality) of the product. Hedonic analysis employs a model of the form:

$$Y = a + b * X + c_1 * T_1 + \dots c_n * T_n + e$$

where Y is the logarithmic price of the product, X represents one or more quality characteristics affecting the price of the product, T₁ through T_n are dummy variables for the time periods of interest, a is an intercept term, and e is an error term with standard properties. The coefficients c₁ through c_n provide quality-adjusted estimates of changes over time in the price of the product.

In the analysis that follows, all price data were first divided by quarterly values of the gross domestic product price deflator as provided in *Economic Indicators* (August 1996). This quantity was then logged. In all models, we have omitted the time dummy for the period when the ban went into effect. Thus, the time coefficients are interpreted relative to the prices at the time of ban implementation. Because the outcome variable is logged, the coefficients on the time period indicators can be interpreted as multiplier effects (we illustrate this in more

detail below). Whenever possible, we examined quarterly price trends. In a number of instances, however, sample size considerations required us to use semi-annual or annual periods.

Our quality variables correspond to factors such as manufacturer, model, distributor, and, in some cases, weapon caliber. In addition, some of the models include an indicator variable denoting whether the firearm had special features or enhancements or was a special edition of any sort.¹⁵ We have used these variables as proxy variables for quality characteristics in the absence of more detailed measures of weapon characteristics. Further, we cannot fully account for the meaning of significant distributor effects. Distributor effects may represent unmeasured quality differentials in the merchandise of different distributors, or they may represent other differences in stock volume or selling or service practices between the distributors.¹⁶ Nevertheless, we included distributor because it was often a significant predictor of price. Thus, our models provide price trends after controlling for the mix of products and distributors advertised during each time period. Finally, the models presented below are parsimonious models in which we have retained only those quality indicators which proved meaningful in preliminary analyses.¹⁷

4.1.2.1. Gun Prices

For the analysis of firearm prices, we chose groups of weapons based on both theoretical importance and data availability (a number of the guns included on our coding form appeared infrequently in the ads examined by project staff). We examined price trends in banned assault pistols and compared them to price trends for unbanned semiautomatic handguns commonly used in crime. In addition, we analyzed the price trend for the banned AR-15 assault rifle and its variations and compared it to trends for a number of similar semiautomatic rifles not subject to the ban.

Our findings for handguns were consistent with our hypotheses. For the banned SWD group of assault pistols, the average advertised price peaked at the time the ban took effect, having risen from 68 percent of the peak a year earlier; within a year, the mean price fell to about 79 percent of peak. In contrast, advertised prices of unbanned Davis and Lorcin semiautomatic pistols commonly used in crime were essentially constant over the entire period.

Rifle price trends were only partially consistent with our hypotheses. For semiautomatic rifles, prices of both the banned AR-15 family of assault rifles and a comparison group of unbanned semiautomatic rifles showed evidence of speculative peaks around the time the ban took effect, followed by a decrease to approximately pre-speculation levels.

We interpret these findings as evidence of substantial speculative pre-ban demand for guns that were expected to be banned as assault weapons, while the underlying primary market for guns more commonly used in crime remained stable. While no plausible definition of assault weapon was ever likely to include the Davis and

¹⁵ We note, however, that recording special features of the weapons was a secondary priority in the data collection effort; for this reason, and because the ads do not follow a consistent format, this information may not have been recorded as consistently as other data elements.

¹⁶ We have heard speculations but have no evidence that distributors' prices for a given quantity of a specific gun may be inversely related to the rigor of their verification of purchasers' eligibility.

¹⁷ We eliminated control variables that had t values less than one in absolute value. This generally improved the standard errors for the coefficients of interest (i.e., the coefficients for the time period indicators).

Lorcin pistols, Lenett (1995) describes considerable uncertainty during the Crime Act debate over precisely which rifles were to be covered.

Assault pistols: The analysis of assault pistol prices focused on the family of SWD M10/M11/M11-9/M12 weapons.^{18 19} Our coders did not find enough ads for these weapons to conduct a quarterly price trend analysis; therefore, we examined semi-annual prices. Results are shown in Table 4-1. In general, the M10, M11, and M11/9 models were significantly more expensive than the M12 model and the new PM11 and PM12 models. Models with the Cobray trademark name had lower prices, while weapons made in .380 caliber commanded higher prices. Finally, two distributors selling these weapons had significantly lower prices than did the other distributors.

¹⁸ Over the years, this class of weapons has been manufactured under a number of different names (i.e., Military Armaments Corp., RPB Industries, Cobray, SWD, and FMJ).

¹⁹ Initially, we had also wished to analyze the prices of banned Intratec weapons and their copies. However, project staff found few ads for these guns among the chosen distributors, particularly in the years prior to the ban's implementation.

Table 4-1. Regression of SWD handgun prices on time indicators, controlling for product characteristics and distributors

Analysis of Variance					
<i>Source</i>	<i>DF</i>	<i>Sum of squares</i>	<i>Mean square</i>	<i>F value</i>	<i>Prob>F</i>
Model	16	16.26086	1.01630	13.376	0.0001
Error	132	10.02900	0.07598		
C Total	148	26.28986			
	Root MSE	0.27564		R-square	0.6185
	Dep Mean	0.87282		Adj R-square	0.5723
Parameter Estimates					
<i>Variable</i>	<i>DF</i>	<i>Parameter estimate</i>	<i>Standard error</i>	<i>T for H0 parameter = 0</i>	<i>Prob> T </i>
INTERCEP	1	1.00876	0.073205	13.78	0.0001
T1	1	-0.17097	0.130798	-1.307	0.1935
T2	1	-0.29236	0.109943	-2.659	0.0088
T3	1	-0.26949	0.078477	-3.434	0.0008
T4	1	-0.38309	0.086909	-4.408	0.0001
T5	1	-0.1881	0.12957	-1.452	0.1489
T7	1	-0.04368	0.076185	-0.573	0.5674
T8	1	-0.23376	0.108602	-2.152	0.0332
T9	1	0.108787	0.205848	0.528	0.5981
CAL380	1	0.200609	0.06946	2.888	0.0045
DIST 3	1	-0.26216	0.128954	-2.033	0.0441
DIST 5	1	0.331378	0.224065	1.479	0.1415
DIST 6	1	-0.18987	0.059367	-3.198	0.0017
COBRAY	1	-0.18832	0.053756	-3.503	0.0006
M10	1	0.771313	0.131932	5.846	0.0001
M11	1	0.308675	0.057351	5.382	0.0001
M119	1	0.110174	0.077347	1.424	0.1567

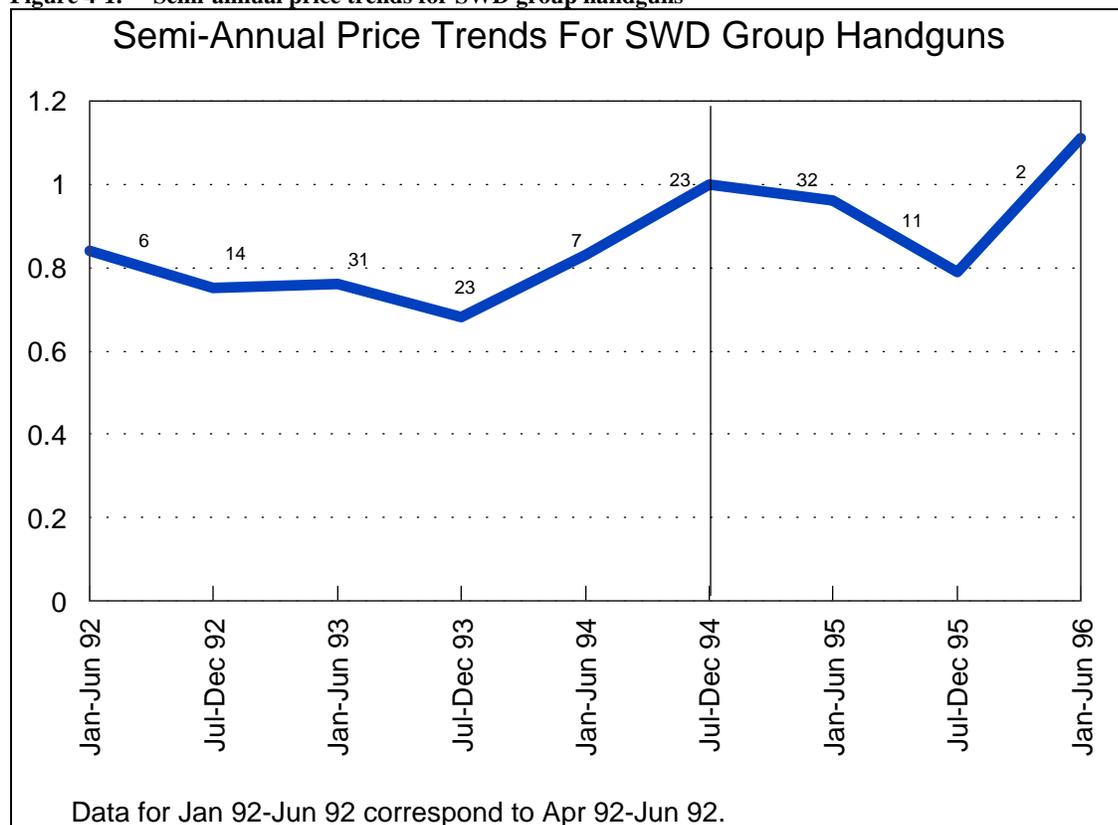
The coefficients for the time indicator variables provide quality-adjusted price trends. The time indicator t6 has been omitted from the equation.²⁰ This indicator corresponds to the period of July 1994 through December 1994 which encompasses the ban implementation date of September 13, 1994. The coefficients on the time dummy variables are all negative and most are significant, indicating that prices for these weapons were at their highest during the six month period when the ban took effect. To interpret the time variables, we exponentiate the coefficients (i.e., take their antilogs). To illustrate, the coefficient for the first time period (January 1992 through June 1992) is -0.170966.²¹ Exponentiating this coefficient yields approximately 0.84, indicating that the average price of these weapons at time 1 (January 1992 through June 1992) was 84 percent of the average price at time 6

²⁰ In this and all other price analyses, time dummies are defined to omit the time period that includes the effective date of the ban. This restricts the coefficient to 0 and $\exp(0) = 1$. Therefore, the effective date is the reference period for prices in all other periods.

²¹ Data collection began with April 1992 issues of Shotgun News. Consequently, the first data point is based on data for April through June of 1992 rather than a full six-month period.

(July 1994 through December 1994). Conversely, the average quality-adjusted price of these firearms was 17 percent less during the January 1992-June 1992 period than during the July 1994-December 1994 period.

Figure 4-1. Semi-annual price trends for SWD group handguns



The time effects are displayed graphically in Figure 4-1 (sample sizes are shown for each time period).²² During the semi-annual periods prior to the ban’s implementation, prices of these weapons ranged from 68 to 83 percent of their price during the period of the ban’s implementation. Prices peaked when the ban became effective in the latter part of 1994 and remained high through the first half of 1995. In the second half of 1995, however, the prices dropped off dramatically, falling to levels comparable to the pre-ban period. Prices may have rebounded again during the first half of 1996, but the apparent “rebound” was based on only two advertisements and should be treated very cautiously. If one assumes that wholesale markets were in equilibrium before debates about the ban started, then these data reflect a ban-related, speculative peak of up to 47 percent in price, followed by a decline of about 20 percent. Parenthetically, we note that contrary to some anecdotes, we found no evidence of speculation related to the 1992 election.

Comparison handguns: For comparison, we also examined price trends for a number of unbanned semiautomatic handgun models: the Davis P32 and P380 and the Lorcin L25 and L380. By a number of accounts, these models are among the guns most frequently used in crime (BATF 1995; Kennedy et al. 1996; Wintemute 1994, Chapter 2 *supra*). Because of small sample size, this model was estimated using semi-annual data spanning from 1992 through 1995. Referring to Table 4-2, two of the handgun models were significantly less expensive than the others, and one distributor offered statistically significant discounts for these guns.

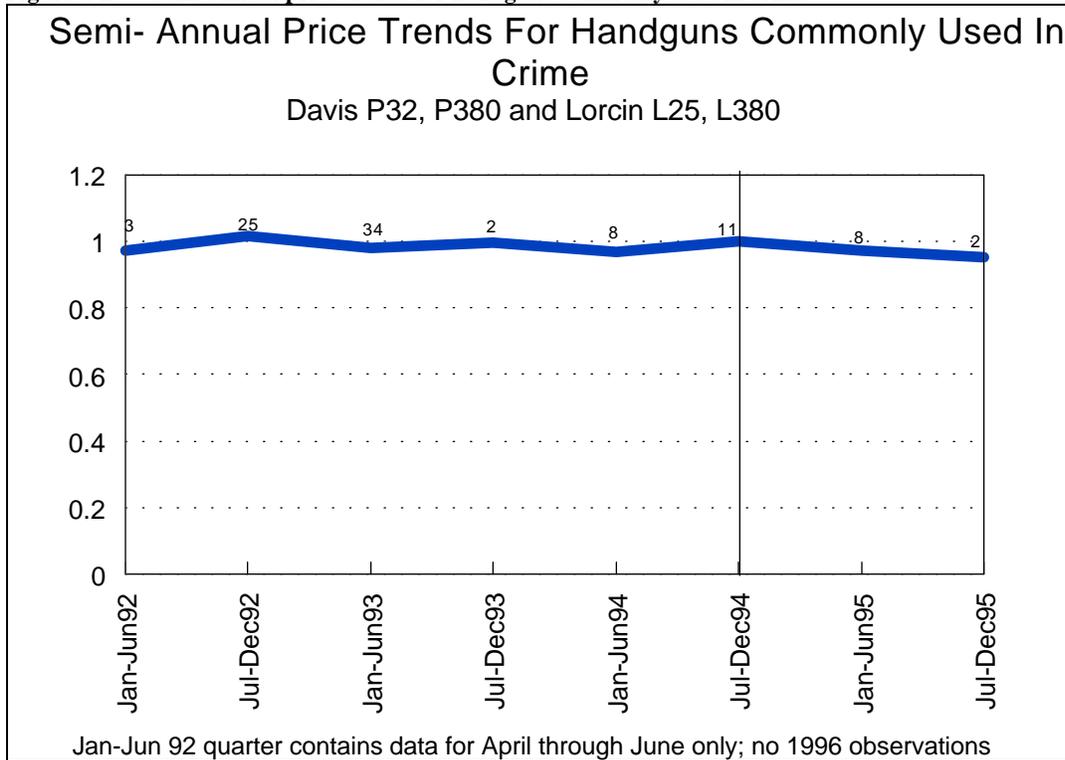
²² Sample sizes are defined in terms of number of price observations available during the period. The number of transactions that took place at each recorded price is, of course, unavailable to us.

Table 4-2. Regression of Lorcin and Davis handgun prices on time indicators, controlling for product characteristics and distributors

Analysis of Variance					
<i>Source</i>	<i>DF</i>	<i>Sum of squares</i>	<i>Mean square</i>	<i>F value</i>	<i>Prob>F</i>
Model	11	3.60246	0.32750	30.678	0.0001
Error	81	0.86469	0.01068		
C Total	92	4.46716			
Root MSE		0.10332		R-square	0.8064
Dep Mean		-0.60396		Adj R-square	0.7801
C.V.		-17.10713			
Parameter Estimates					
<i>Variable</i>	<i>DF</i>	<i>Parameter estimate</i>	<i>Standard error</i>	<i>T for H0 parameter = 0</i>	<i>Prob> T </i>
INTERCEP	1	-0.44243	0.034043	-12.996	0.0001
T1	1	-0.03004	0.069877	-0.43	0.6684
T2	1	0.014817	0.040258	0.368	0.7138
T3	1	-0.0198	0.037239	-0.532	0.5964
T4	1	-0.00259	0.082314	-0.031	0.975
T5	1	-0.03162	0.048582	-0.651	0.517
T7	1	-0.02753	0.048576	-0.567	0.5724
T8	1	-0.05041	0.082314	-0.612	0.542
P32	1	-0.22559	0.033404	-6.753	0.0001
L25	1	-0.55562	0.034119	-16.285	0.0001
DIST 2	1	-0.06434	0.030256	-2.127	0.0365
DIST 6	1	-0.05723	0.042414	-1.349	0.181

The time period coefficients indicate that prices for these weapons were unaffected by the assault weapons ban. Most of the time dummies have negative signs, but their t score values are very small, indicating that prices during these periods did not differ meaningfully from those at the time when the ban was implemented. This is underscored graphically in Figure 4-2.

Figure 4-2. Semi-annual price trends for handguns commonly used in crime



Assault rifles: To investigate the ban’s effect on assault rifle prices, we examined quarterly price trends for the Colt AR15 family, which includes the AR15 as well as Colt’s Sporter, H-Bar, and Target models.²³ Referring to Table 4-3, the AR15 model was more expensive than other models. Further, guns which had special features/enhancements or a special designation of some sort had somewhat higher prices. Models in 7.62mm caliber were lower in price than other models, though this effect was not quite statistically significant. Finally, one distributor stood out as having lower prices than other distributors.

²³ A number of other manufacturers also made exact copies of the Colt AR15 (e.g., Essential Arms, Olympic Arms, and SGW Enterprises). We included a number of these copies on our price coding form before the ban and legal substitutes thereafter, but we did not find advertisements for these non-Colt versions in *Shotgun News*.

Table 4-3. Regression of Colt AR15 group prices on time indicators, controlling for product characteristics and distributors

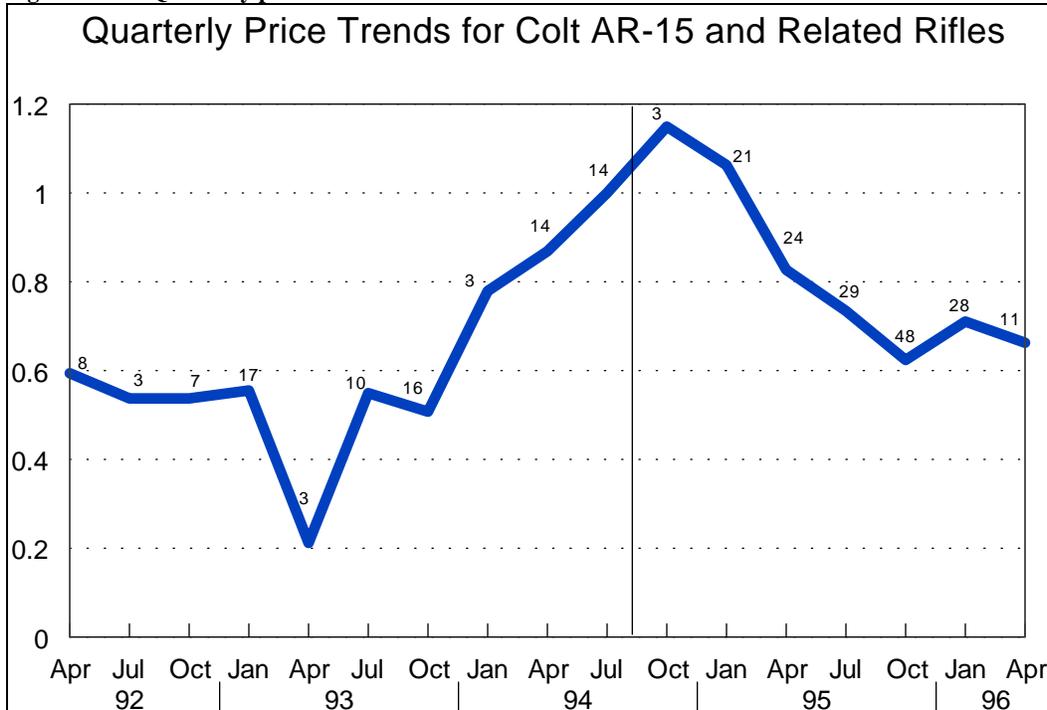
Analysis of Variance					
<i>Source</i>	<i>DF</i>	<i>Sum of squares</i>	<i>Mean square</i>	<i>F value</i>	<i>Prob>F</i>
Model	23	21.67729	0.94249	18.161	0.0001
Error	235	12.19537	0.05190		
C Total	258	33.87266			
Root MSE		0.22781		R-square	0.6400
Dep Mean		2.13335		Adj R-square	0.6047
C.V.		10.67826			
Parameter Estimates					
<i>Variable</i>	<i>DF</i>	<i>Parameter estimate</i>	<i>Standard error</i>	<i>T for H0 parameter = 0</i>	<i>Prob> T </i>
INTERCEP	1	2.714668	0.066599	40.762	0.0001
Q1	1	-0.52079	0.107749	-4.833	0.0001
Q2	1	-0.62023	0.149137	-4.159	0.0001
Q3	1	-0.62368	0.116786	-5.34	0.0001
Q4	1	-0.58506	0.083154	-7.036	0.0001
Q5	1	-1.54569	0.150793	-10.25	0.0001
Q6	1	-0.60339	0.095035	-6.349	0.0001
Q7	1	-0.68488	0.084707	-8.085	0.0001
Q8	1	-0.25158	0.14673	-1.715	0.0877
Q9	1	-0.14066	0.087217	-1.613	0.1081
Q11	1	0.143282	0.148951	0.962	0.3371
Q12	1	0.059189	0.082263	0.72	0.4725
Q13	1	-0.18904	0.07715	-2.45	0.015
Q14	1	-0.3144	0.075984	-4.138	0.0001
Q15	1	-0.46528	0.069595	-6.686	0.0001
Q16	1	-0.33741	0.079461	-4.246	0.0001
Q17	1	-0.40788	0.093078	-4.382	0.0001
DIST 5	1	-0.16586	0.044717	-3.709	0.0003
SPORTERL	1	-0.26691	0.042783	-6.239	0.0001
SPORTERC	1	-0.27709	0.057987	-4.778	0.0001
MATCH H-BAR	1	-0.28594	0.041454	-6.898	0.0001
TARGET	1	-0.30664	0.05565	-5.51	0.0001
FEATURE	1	0.1039	0.040315	2.577	0.0106
CAL762	1	-0.14924	0.092373	-1.616	0.1075

Turning to the quarterly indicator variables, the omitted period is quarter ten (July 1994 through September 1994). Most of the quarterly dummy variables have coefficients which are negative and significant, indicating that prices rose significantly at the time of the ban's implementation. Indeed, prices during the 1992–93 period were 41 to 79 percent lower than those at the time of the ban. The prices then began rising during 1994 and peaked during the quarter after the ban's implementation (however, prices during the latter period were not significantly different from those when the ban went into effect). These data reflect price increase of 69 to 100 percent over typical quarters during the 1992–93 period, and a 376 percent increase over the lowest price quarter during that period.

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Quality-adjusted prices began to fall significantly during the second quarter of 1995. During the first two quarters of 1996, prices were 29 to 33 percent less than at the time of the ban.²⁴ These trends are illustrated in Figure 4-3.²⁵

Figure 4-3. Quarterly price trends for Colt AR-15 and related rifles



Other Semiautomatic Rifles: A comparison price series was constructed for a small number of semiautomatic rifles not prohibited by the ban. The rifles selected for this analysis, the Ruger Mini-14 and Maadi rifles are arguably useful substitutes for the banned rifles for many purposes. The Mini-14 is a semiautomatic rifle which is relatively common among guns submitted to ATF for tracing.²⁶ The Maadi is an Egyptian semiautomatic rifle which is loosely patterned after the AK-47, but it is a legal gun, according to BATF experts.

²⁴ Colt has discontinued its AR15 models, but the company has continued to make post-ban, modified versions of other weapons in the AR15 family (e.g., the Sporter). We considered the possibility that the AR15 model would follow a different pre/post ban trend from the other Colt models. Based on the number of available observations, we estimated a yearly model for the AR15. Yearly prices for the AR15 followed the same basic pattern as did the entire AR15 group. Relative to 1994, prices for the AR15 were 57 percent lower in 1993 ($p < .01$), 39 percent lower in 1995 ($p = .02$), and 37 percent lower in 1996 ($p = .06$). In addition, we estimated a model containing dummy variables for the AR15 and the post-ban period and an interaction term between these dummy variables (no other time period dummies were included in the model). The interaction term was very small and insignificant, leading us to include that the price differential between the AR15 model and the other Colt models remained constant throughout the period under study.

²⁵ Because some quarterly estimates were based on very small numbers of advertisements, the exact values of the quarterly coefficients should be treated cautiously. Nevertheless, a semi-annual model produced the same pattern of results.

²⁶ Based upon figures provided by ATF, the Mini-14 ranked as the 23rd most common firearm submitted to ATF for tracing in 1992 and the 36th most common firearm submitted in 1993. The Ruger Mini-14 was also featured as a common assault weapon in an early study of assault weapons published by *Cox Newspapers* (1989). However, the Crime Act specifically exempts Mini-14's without folding stocks from assault weapons status.

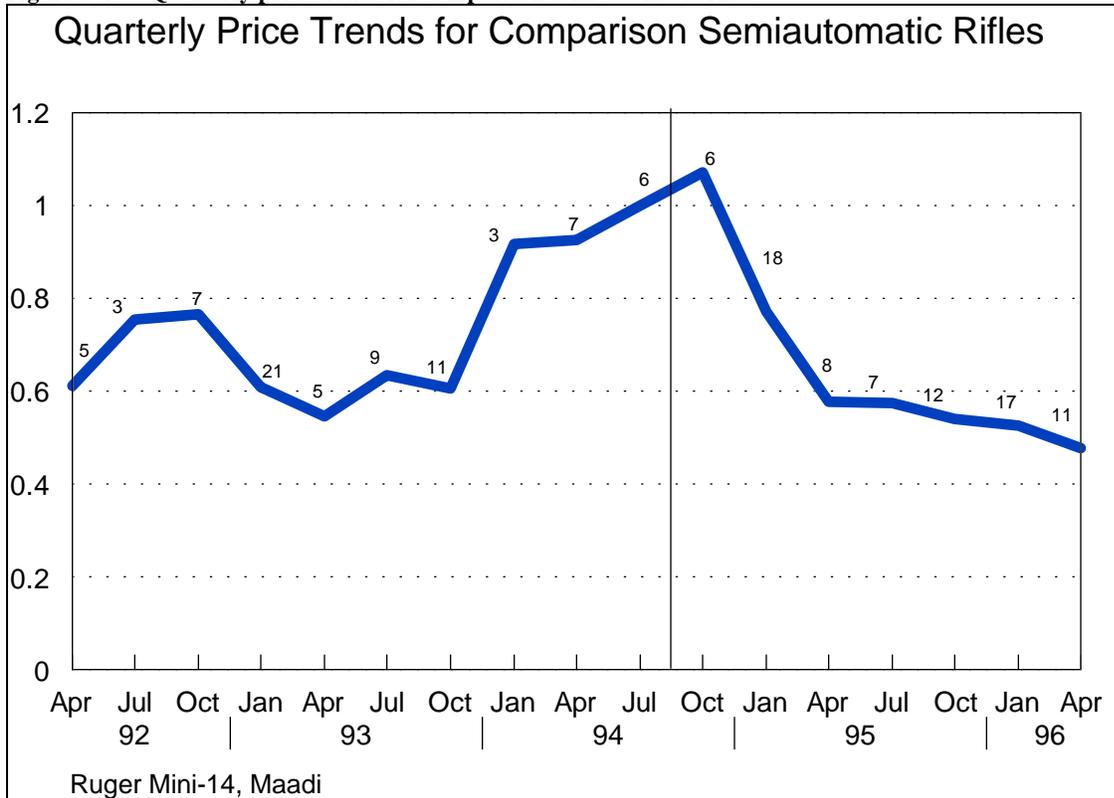
Further, the Maadi rifle has not been affected by import restrictions as have a number of other potential substitute rifles.

Table 4-4 and Figure 4-4 present trends for prices of these rifles (N=156) measured on a quarterly basis. The Ruger Mini-14 was significantly more expensive than was the Maadi, and a number of distributors had substantially lower or higher prices for these weapons. Guns having some sort of special feature or classification were somewhat less expensive than were other weapons.

Table 4-4. Regression of Ruger Mini-14 and Maadi rifle prices on time indicators, controlling for product characteristics and distributors

Analysis of Variance					
<i>Source</i>	<i>DF</i>	<i>Sum of squares</i>	<i>Mean square</i>	<i>F value</i>	<i>Prob>F</i>
Model	23	15.72251	0.68359	12.468	0.0001
Error	132	7.23741	0.05483		
C Total	155	22.95993			
Root MSE		0.23416		R-square	0.6848
Dep Mean		1.11132		Adj R-square	0.6299
C.V.		21.06999			
Parameter Estimates					
<i>Variable</i>	<i>DF</i>	<i>Parameter estimate</i>	<i>Standard error</i>	<i>T for H0 parameter = 0</i>	<i>Prob> T </i>
INTERCEP	1	1.348039	0.096025	14.038	0.0001
Q1	1	-0.49339	0.150985	-3.268	0.0014
Q2	1	-0.28143	0.170394	-1.652	0.101
Q3	1	-0.26618	0.145198	-1.833	0.069
Q4	1	-0.49586	0.1189	-4.17	0.0001
Q5	1	-0.60429	0.149813	-4.034	0.0001
Q6	1	-0.45337	0.12651	-3.584	0.0005
Q7	1	-0.50108	0.123093	-4.071	0.0001
Q8	1	-0.08801	0.166538	-0.528	0.598
Q9	1	-0.07736	0.131103	-0.59	0.5561
Q11	1	0.06801	0.139693	0.487	0.6272
Q12	1	-0.26056	0.114103	-2.284	0.024
Q13	1	-0.55108	0.128193	-4.299	0.0001
Q14	1	-0.5565	0.137519	-4.047	0.0001
Q15	1	-0.61763	0.120067	-5.144	0.0001
Q16	1	-0.64124	0.119303	-5.375	0.0001
Q17	1	-0.73806	0.123765	-5.963	0.0001
RUGER	1	0.672197	0.055061	12.208	0.0001
DIST 2	1	-0.17779	0.079666	-2.232	0.0273
DIST 3	1	-0.08717	0.054575	-1.597	0.1126
DIST 4	1	-1.66399	0.242712	-6.856	0.0001
DIST 5	1	-0.19243	0.0727	-2.647	0.0091
DIST 7	1	0.235402	0.131826	1.786	0.0764
FEATURES	1	-0.08813	0.047131	-1.87	0.0637

Figure 4-4. Quarterly price trends for comparison semiautomatic rifles



The temporal price trends for these weapons mirror those found for the AR15 family rifles. Relative to the period of the ban’s implementation, prices were significantly lower during periods before and after the ban’s implementation. During 1992 and 1993, prices ranged from 23 to 45 percent lower than during the reference period. Prices were at their highest during 1994, with the peak occurring during the quarter following the ban’s effective date, reflecting an increase of 82 percent from the 1992–93 low point to the immediate post-ban period. However, prices for the first, second, and fourth quarters of 1994 were not discernibly different from those during the third quarter. Prices began to fall significantly in 1995, and by the second quarter of 1996, prices were approximately 52 percent lower than during the quarter when the ban took effect.²⁷

Alternative Comparison for Semiautomatic Rifles: As a final test of price trends for potential substitute semiautomatic rifles, we added the SKS rifle to the semiautomatic rifles model. The SKS rifle is imported (there are Russian and Chinese versions) and is occasionally mistaken for an AK-47. The SKS was not covered by either the 1989 import ban or the Crime Act. We initially excluded it as a comparison semiautomatic rifle because importation was nominally restricted in 1994 as part of U.S. trade sanctions directed against China. However, SKS rifles have continued to enter the U.S. under the Craig Amendment exemption for goods already “on the water” when the trade sanctions were imposed. We added it to subsequent analysis because it has been relatively

²⁷ Because some of the quarterly periods yielded few observations, we also estimated a semi-annual model for these gun prices. The results of this model paralleled those of the quarterly model; prices were at their highest during the latter half of 1994 and were significantly lower throughout 1992, 1993, 1995, and early 1996.

common among gun traces submitted to BATF²⁸ and because our coders found over 550 ads for SKS rifles, making that gun the most frequently advertised weapon in *Shotgun News* from among those guns chosen for the analysis.

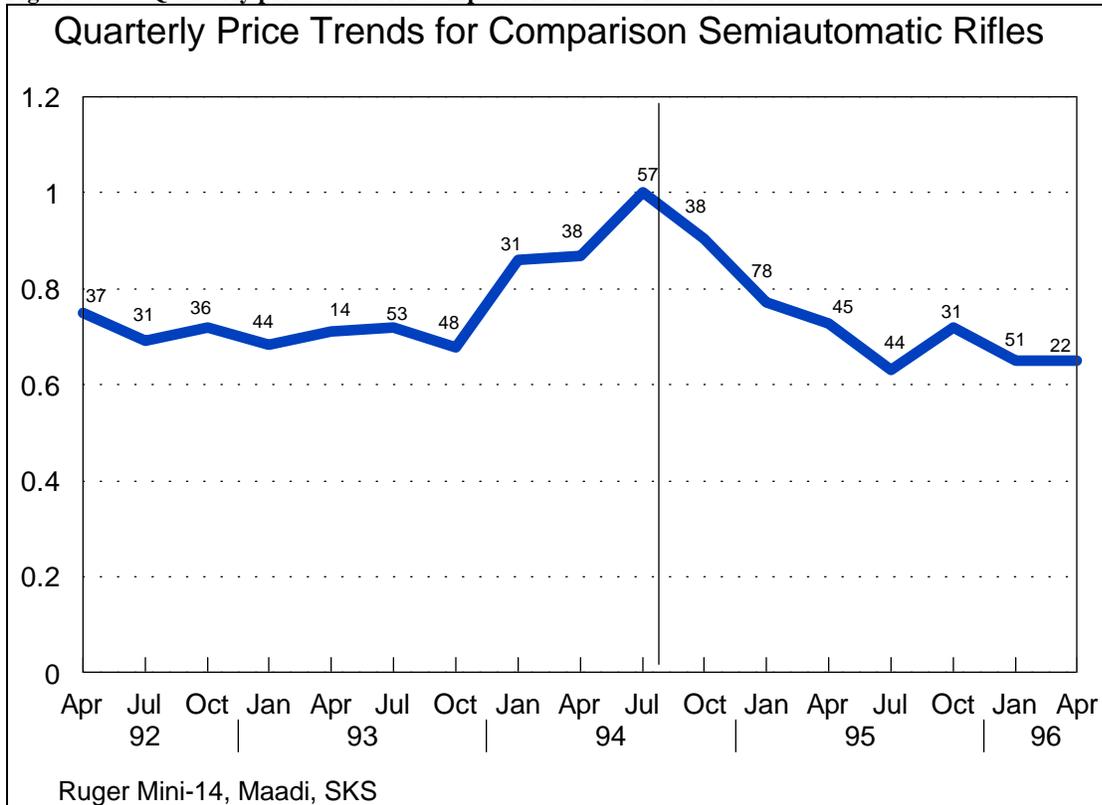
Results from a quarterly price trend model for 698 SKS, Ruger Mini-14, and Maadi AK-type advertisements are presented in Table 4-5 and Figure 4-5. Again, the results indicate that prices were highest during 1994 and peaked during the quarter of the ban's implementation (quarter ten). Prices during the 1992–93 period were generally 32 to 25 percent less than they were during the quarter of the ban's implementation. Following the ban, however, prices fell rather quickly, and by 1996 they were approximately 35 percent less than they had been at the time of the ban.

²⁸ Figures provided to us by BATF show that the SKS was the 10th most common firearm traced in 1992 and the 4th most common in 1993.

Table 4-5. Regression of Ruger Mini-14, Maadi, and SKS rifle prices on time indicators, controlling for product characteristics and distributors

Analysis of Variance					
<i>Source</i>	<i>DF</i>	<i>Sum of squares</i>	<i>Mean square</i>	<i>F value</i>	<i>Prob>F</i>
Model	19	145.53206	7.65958	105.960	0.0001
Error	678	49.01094	0.07229		
C Total	697	194.54300			
Root MSE		0.26886		R-square	0.7481
Dep Mean		0.32139		Adj R-square	0.7410
C.V.		83.65546			
Parameter Estimates					
<i>Variable</i>	<i>DF</i>	<i>Parameter estimate</i>	<i>Standard error</i>	<i>T for H0 parameter = 0</i>	<i>Prob> T </i>
INTERCEP	1	0.320571	0.037047	8.653	0.0001
Q1	1	-0.29288	0.056985	-5.14	0.0001
Q2	1	-0.36758	0.060234	-6.103	0.0001
Q3	1	-0.32732	0.057937	-5.65	0.0001
Q4	1	-0.37657	0.056037	-6.72	0.0001
Q5	1	-0.33581	0.08099	-4.146	0.0001
Q6	1	-0.32629	0.051373	-6.351	0.0001
Q7	1	-0.39266	0.052767	-7.441	0.0001
Q8	1	-0.15306	0.060298	-2.538	0.0114
Q9	1	-0.13647	0.056349	-2.422	0.0157
Q11	1	-0.09587	0.056591	-1.694	0.0907
Q12	1	-0.25553	0.047168	-5.417	0.0001
Q13	1	-0.32473	0.053753	-6.041	0.0001
Q14	1	-0.457	0.054492	-8.387	0.0001
Q15	1	-0.32702	0.06053	-5.403	0.0001
Q16	1	-0.43303	0.052708	-8.216	0.0001
Q17	1	-0.42588	0.068581	-6.21	0.0001
MAADI	1	0.855348	0.032324	26.462	0.0001
RUGER	1	1.363013	0.036904	36.934	0.0001
FEATURES	1	0.093431	0.02203	4.241	0.0001

Figure 4-5. Quarterly price trends for comparison semiautomatic rifles



4.1.3. Magazine Prices

Since the Crime Act permanently capped the stock of large-capacity magazines at the number produced before September 13, 1994, our long-run expectations about price trends for the banned magazines depend on whether or not the ban prevented increases in the supply of “compatible” guns that accept the magazine. For compatible guns whose supply continued to increase — such as the unbanned Ruger Mini-14 rifle and Glock pistols and the AR-15 family of rifles, for which legal substitutes emerged — we expect a gradual long-run increase in the price of the large-capacity magazines. Only for compatible guns such as Uzi models, whose supply was capped because legal substitutes did not emerge, do we expect stable or declining long-run magazine prices as the operational stock of banned guns gradually declines.

In the short run, which is all we can observe at this time, we expect at least three confounding factors to divert large-capacity magazine prices from these trends. First, as with the banned guns, speculative demand for the banned magazines may have caused prices to rise and then fall around the time of the ban. Second, because guns and magazines are economic complements, their prices may be likely to move in opposite directions. Third, for banned guns such as the AR-15 and Uzi models, which are mechanically identical to military weapons, there are military surplus supplies that we believe are huge relative to civilian demand. For these reasons, short-run price trends are a poor guide to long-run price trends for large-capacity magazines.

With these reservations in mind, we examined price trends for large-capacity magazines (i.e., magazines holding more than 10 rounds) manufactured for use with banned firearms and compared them to trends for large-capacity magazines made for unbanned semiautomatic weapons. Selection of firearm models was based on both theoretical relevance and available sample sizes. To improve the generalizeability of the results, we attempted to

analyze magazine prices for both handguns and long guns and for both banned and non-banned weapons. The methodology for the magazine price analysis was essentially the same as that used in the firearm price analysis.²⁹ As in the firearm price analysis, our quality control variables consisted primarily of indicator variables corresponding to manufacturers and distributors. An additional key variable for the magazine analysis was the number of rounds held by the magazine (logged).³⁰

Assault weapon handgun magazines—Uzi: Our analysis of large-capacity magazines prices for assault weapons focused upon the 9mm Uzi handgun.³¹ Though importation of the Uzi handgun had been discontinued in 1993 (Fjestad 1996, p.1049), our coders found ads for Uzi magazines (N=117) more frequently than for other assault weapon handguns.³² Even so, the number of observations was as low as 1-2 for some quarterly periods, and we therefore grouped the data into semi-annual time periods. There is no legal substitute for the banned Uzis that accepts the same magazine.

Regression results for Uzi magazine prices are presented in Table 4-6 and price trends are displayed in Figure 4-6. Controlling for the number of rounds held by the magazine, semi-annual prices during the January 1992 through June 1994 period ranged from approximately 52 to 62 percent of their value during the latter half of 1994. Prices peaked in the first half of 1995, rising another 56 percent, to a tripling of their 1992–94 lowest prices. Prices began to fall in the latter half of 1995 and the first half of 1996, but they did not differ significantly from prices during the latter half of 1994.

²⁹ Project staff recorded information on all advertisements for magazines holding more than 10 rounds which appeared in the selected issues of *Shotgun News*. However, the volume of collected data required us to pursue a data reduction strategy. Based on informal inspection of the hardcopy data, therefore, we chose a group of magazines which appeared relatively more frequently and which had relevance as a banned weapon or legal substitute.

³⁰ Other potentially important characteristics are whether the magazine was new or used and the type of metal from which the magazine was made. Ads often did not state whether magazines were new or used, and our research staff did not record this information. Our working assumption is that the magazines were new or in good working condition. If an ad featured the same magazine manufactured with different types of metals, we used the base price magazine. If the coding form indicated that the advertisement featured only magazines made from special materials (e.g., stainless steel), we made note of this characteristic. There were very few such cases, and preliminary analyses using an indicator variable for the presence of a special metal showed the variable to have no impact in any of the models discussed in the main text.

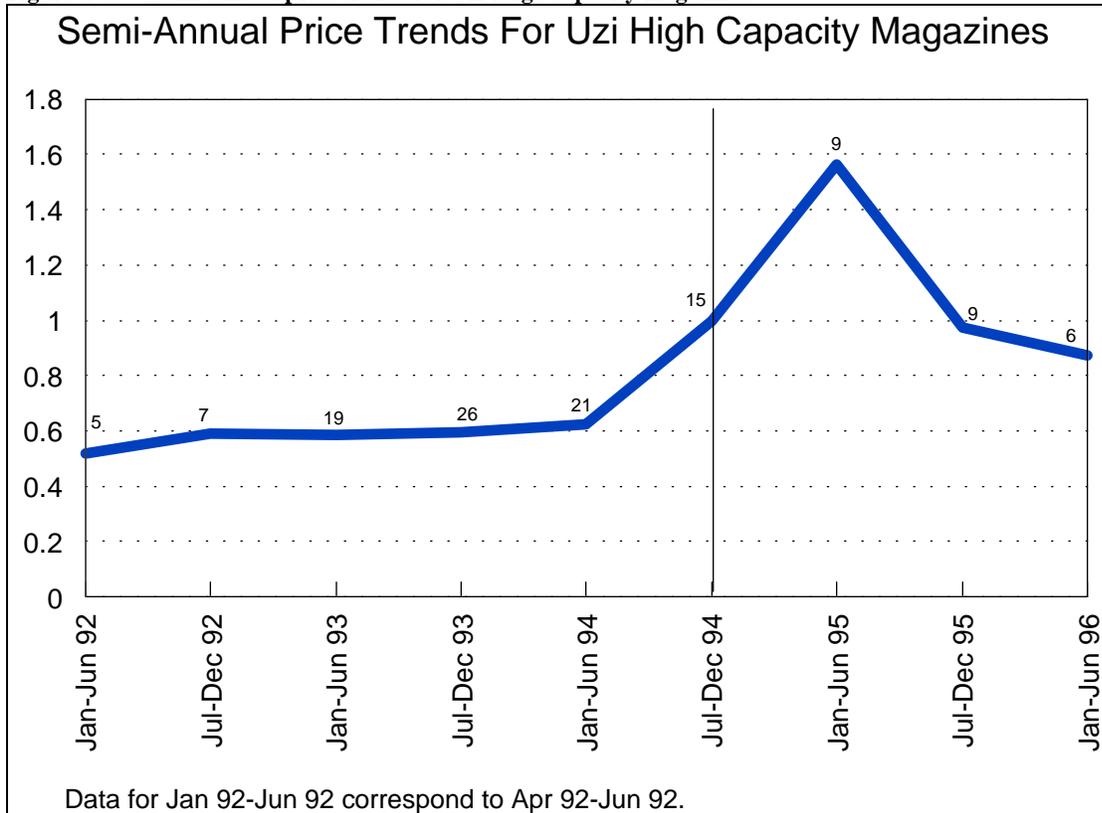
³¹ The Uzi was previously manufactured and imported to the U.S. in both carbine and handgun versions, but the carbine versions were banned from importation in 1989.

³² The relative frequency of Uzi magazine advertisements is probably due to the fact that the Uzi is a military weapon. Firearms experts have informed us that good quality, military surplus magazines are commonly available and are often sold cheaply.

Table 4-6. Regression of Uzi large-capacity magazine prices on time indicators, controlling for product characteristics and distributors

Analysis of Variance					
<i>Source</i>	<i>DF</i>	<i>Sum of squares</i>	<i>Mean square</i>	<i>F value</i>	<i>Prob>F</i>
Model	9	12.80484	1.42276	9.670	0.0001
Error	107	15.74298	0.14713		
C Total	116	28.54782			
Root MSE		0.38358		R-square	0.4485
Dep Mean		-1.65739		Adj R-square	0.4022
C.V.		-23.14337			
Parameter Estimates					
<i>Variable</i>	<i>DF</i>	<i>Parameter estimate</i>	<i>Standard error</i>	<i>T for H0 parameter = 0</i>	<i>Prob> T </i>
INTERCEP	1	-3.835055	0.54716949	-7.009	0.0001
ROUNDS	1	0.729783	0.15350538	4.754	0.0001
T1	1	-0.661263	0.19914123	-3.321	0.0012
T2	1	-0.525479	0.17560540	-2.992	0.0034
T3	1	-0.536934	0.13325422	-4.029	0.0001
T4	1	-0.515880	0.12659037	-4.075	0.0001
T5	1	-0.474834	0.12970256	-3.661	0.0004
T7	1	0.447430	0.16646042	2.688	0.0083
T8	1	-0.027967	0.16286070	-0.172	0.8640
T9	1	-0.137577	0.18908164	-0.728	0.4684

Figure 4-6. Semi-annual price trends for Uzi large-capacity magazines



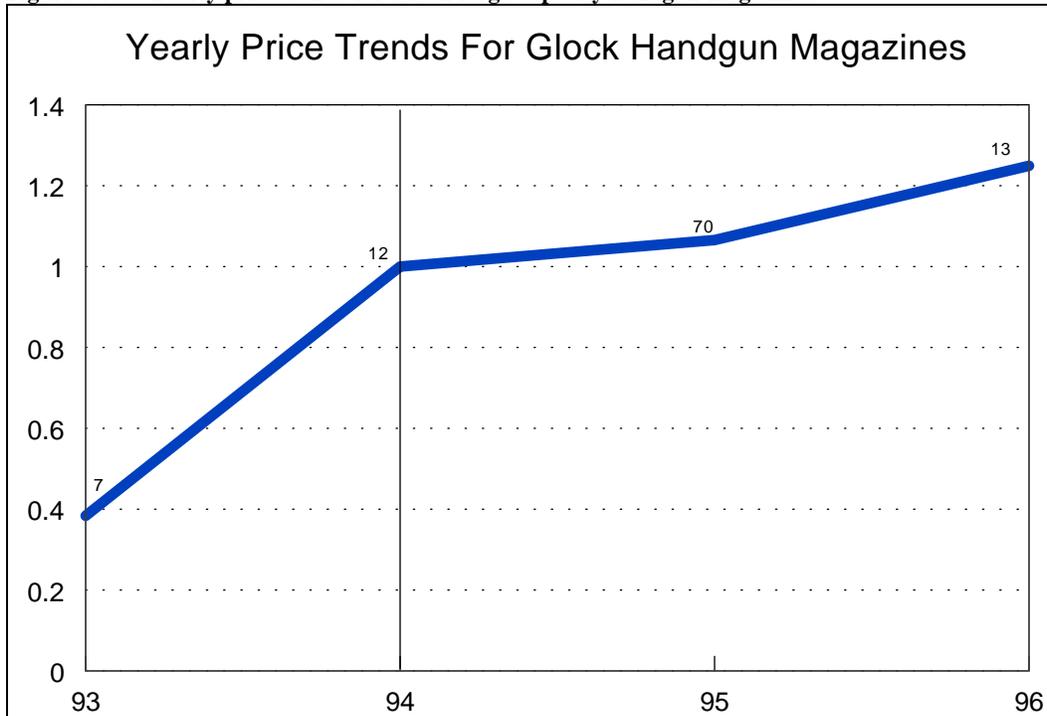
Other Handgun Magazines: To provide price trends for large-capacity magazines manufactured for non-banned handguns, we examined large-capacity magazines for Glock 9mm handguns. Prior to the Crime Act, Glock sold several handgun models with large-capacity magazines. The most common, the Glock 17, was among the ten firearm models submitted most frequently to ATF for tracing in 1994 (BATF 1995a). Guns currently manufactured by Glock are capable of accepting Glock’s pre-ban large-capacity magazines, but the supply is limited to magazines made before the ban.

Project staff found 74 advertisements for Glock magazines, but the large majority of these ads were placed after the ban (only nine ads were pre-ban) and there were no ads for 1992. It was therefore necessary to group the advertisements into yearly periods rather than quarterly or semi-annual periods. Regression results and price trends for 1993 through 1996 are shown in Table 4-7 and Figure 4-7 respectively. In general, magazines with greater numbers of rounds were more expensive. In addition, a number of distributors had higher prices for these magazines, and magazines for one particular model were more expensive at a moderate level of statistical significance.³³

³³ For the model dummy variables, the excluded category included magazines for which no model was indicated.

Table 4-7. Regression of Glock large-capacity handgun magazine prices on time indicators, controlling for product characteristics and distributors

Analysis of Variance					
<i>Source</i>	<i>DF</i>	<i>Sum of squares</i>	<i>Mean square</i>	<i>F value</i>	<i>Prob>F</i>
Model	10	29.85755	2.98575	28.020	0.0001
Error	91	9.69680	0.10656		
C Total	101	39.55434			
Root MSE		0.32643		R-square	0.7548
Dep Mean		-0.86656		Adj R-square	0.7279
C.V.		-37.66991			
Parameter Estimates					
<i>Variable</i>	<i>DF</i>	<i>Parameter estimate</i>	<i>Standard error</i>	<i>T for H0 parameter = 0</i>	<i>Prob> T </i>
INTERCEP	1	-3.37422	0.56384	-5.984	0.0001
ROUNDS	1	0.618327	0.197724	3.127	0.0024
Y93	1	-0.95884	0.17246	-5.56	0.0001
Y95	1	0.064606	0.108817	0.594	0.5542
Y96	1	0.2227	0.143595	1.551	0.1244
DIST 10	1	0.529244	0.279526	1.893	0.0615
DIST 12	1	0.601322	0.162505	3.7	0.0004
DIST 3	1	0.37606	0.17071	2.203	0.0301
DIST 5	1	0.980483	0.101626	9.648	0.0001
M17	1	0.198804	0.108878	1.826	0.0711
M19	1	0.169323	0.112614	1.504	0.1362

Figure 4-7. Yearly price trends for Glock large-capacity handgun magazines

Most importantly, prices for large-capacity Glock magazines were 62 percent lower in 1993 than they were in 1994. Prices remained high through 1995, and they increased another 25 percent in 1996 (relative to 1994), though this increase was not statistically significant by conventional standards.

Assault rifle magazines — AR15 Family: Pre-ban large-capacity magazines manufactured by Colt for their AR15's and related rifles can be utilized with the post-ban, modified versions of these rifles. Consequently, we expected that there would be a continuing demand for these magazines.

Project staff recorded 364 ads for large-capacity magazines (.223 caliber) made to fit the AR15 and related rifles. Results from our analysis of quarterly price trends for these magazines are shown in Table 4-8 and Figure 4-8. Magazines having larger ammunition capacities were more expensive as were those magazines for which Colt was listed explicitly as the manufacturer.³⁴ In addition, prices tended to differ significantly between distributors.

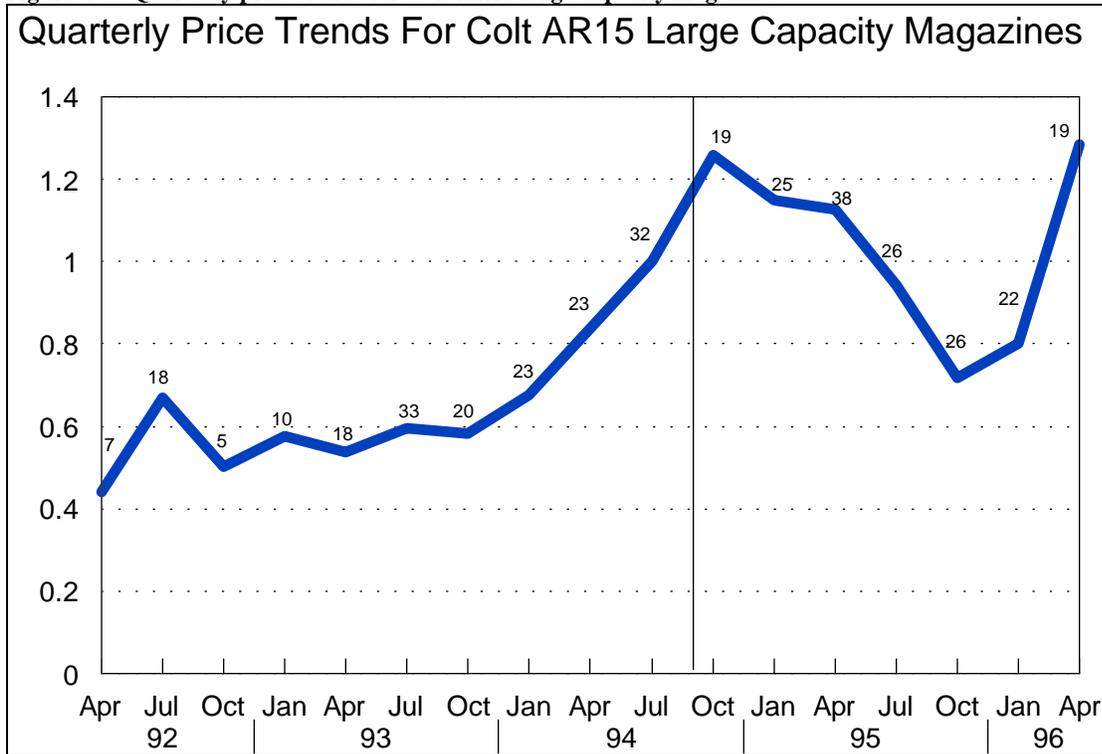
During the quarters of 1992 and 1993, prices were anywhere from 33 to 56 percent lower than during the third quarter of 1994. Prices rose further during the last quarter of 1994 and remained high through the first three quarters of 1995. In the last quarter of 1995 and the first quarter of 1996, prices fell though they remained higher than their pre-ban levels. Prices then rebounded in the second quarter of 1996, reaching a peak value comparable to the last quarter of 1995 (prices were approximately 29 percent higher than during the quarter when the ban took effect). Gun market experts have suggested to us that these short-run fluctuations reflect intermittent availability of military surplus M-16 magazines, which are compatible with the AR-15 family of rifles.

³⁴ Though firearms usually require magazines made by the same manufacturer, a number of manufacturers other than Colt make magazines which can fit Colt rifles.

Table 4-8. Regression of Colt AR15 group large-capacity magazine prices on time indicators, controlling for product characteristics and distributors

Analysis of Variance					
<i>Source</i>	<i>DF</i>	<i>Sum of squares</i>	<i>Mean square</i>	<i>F value</i>	<i>Prob>F</i>
Model	26	122.28012	4.70308	33.836	0.0001
Error	337	46.84153	0.13900		
C Total	363	169.12165			
Root MSE		0.37282		R-square	0.7230
Dep Mean		-1.65183		Adj R-square	0.7017
C.V.		-22.57021			
Parameter Estimates					
<i>Variable</i>	<i>DF</i>	<i>Parameter estimate</i>	<i>Standard error</i>	<i>T for H0 parameter = 0</i>	<i>Prob> T </i>
INTERCEP	1	-5.34744	0.194896	-27.437	0.0001
ROUNDS	1	1.025757	0.046243	22.182	0.0001
CLT	1	0.184123	0.063507	2.899	0.004
DIST 2	1	0.385288	0.283893	1.357	0.1756
DIST 3	1	0.10778	0.078807	1.368	0.1723
DIST 4	1	-0.40188	0.129797	-3.096	0.0021
DIST 5	1	0.134623	0.068759	1.958	0.0511
DIST 7	1	-0.41214	0.13435	-3.068	0.0023
DIST 10	1	0.137861	0.080196	1.719	0.0865
DIST 11	1	-0.36298	0.168942	-2.149	0.0324
DIST 12	1	0.215247	0.085722	2.511	0.0125
Q1	1	-0.82099	0.158248	-5.188	0.0001
Q2	1	-0.39767	0.115668	-3.438	0.0007
Q3	1	-0.68998	0.181038	-3.811	0.0002
Q4	1	-0.55199	0.137727	-4.008	0.0001
Q5	1	-0.61893	0.115858	-5.342	0.0001
Q6	1	-0.52304	0.093025	-5.623	0.0001
Q7	1	-0.54396	0.107619	-5.055	0.0001
Q8	1	-0.38921	0.102709	-3.789	0.0002
Q9	1	-0.17713	0.104247	-1.699	0.0902
Q11	1	0.229259	0.11575	1.981	0.0484
Q12	1	0.13716	0.107928	1.271	0.2047
Q13	1	0.115077	0.099774	1.153	0.2496
Q14	1	-0.05869	0.106556	-0.551	0.5821
Q15	1	-0.32639	0.107409	-3.039	0.0026
Q16	1	-0.21758	0.109759	-1.982	0.0482
Q17	1	0.252132	0.117683	2.142	0.0329

Figure 4-8. Quarterly price trends for Colt AR15 large-capacity magazines



Comparison Semiautomatic Rifle Magazines — Ruger Mini-14: Quarterly price regression results for large-capacity magazines made for the Ruger Mini-14 rifle are shown in Table 4-9. Magazines with the Ruger name and larger magazines were more expensive than other magazines.³⁵ Further, prices differed significantly among distributors.

³⁵ A number of manufacturers besides Ruger made large-capacity magazines to fit the Mini-14.

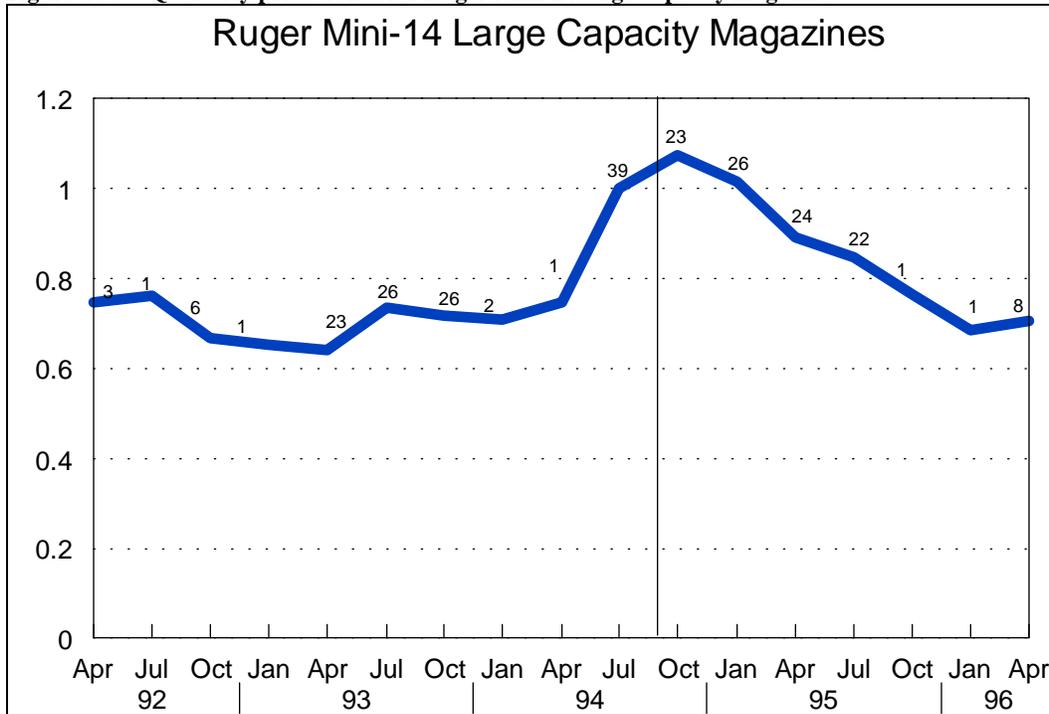
Table 4-9. Regression of Ruger Mini-14 large-capacity magazine prices on time indicators, controlling for product characteristics and distributors

Analysis of Variance					
<i>Source</i>	<i>DF</i>	<i>Sum of squares</i>	<i>Mean square</i>	<i>F value</i>	<i>Prob>F</i>
Model	26	64.39474	2.4672	34.029	0.0001
Error	303	22.05342	0.07278		
C Total	329	86.44816			
Root MSE		0.26978		R-square	0.7449
Dep Mean		-1.72827		Adj R-square	0.7230
C.V.		-15.61009			
Parameter Estimates					
<i>Variable</i>	<i>DF</i>	<i>Parameter estimate</i>	<i>Standard error</i>	<i>T for H0 parameter = 0</i>	<i>Prob> T </i>
INTERCEP	1	-4.41607	0.145547	-30.341	0.0001
ROUNDS	1	0.836435	0.036639	22.829	0.0001
RUG	1	0.264903	0.061061	4.338	0.0001
DIST 2	1	-0.3889	0.17264	-2.253	0.025
DIST 3	1	-0.13012	0.072105	-1.805	0.0721
DIST 4	1	-0.57328	0.126483	-4.532	0.0001
DIST 5	1	-0.40885	0.066235	-6.173	0.0001
DIST 7	1	-0.5319	0.278193	-1.912	0.0568
DIST 10	1	-0.26988	0.074589	-3.618	0.0003
DIST 11	1	-0.1793	0.164002	-1.093	0.2751
DIST 12	1	0.324892	0.094116	3.452	0.0006
Q1	1	-0.29169	0.178205	-1.637	0.1027
Q2	1	-0.27167	0.08733	-3.111	0.002
Q3	1	-0.40486	0.122507	-3.305	0.0011
Q4	1	-0.425	0.082811	-5.132	0.0001
Q5	1	-0.44577	0.073027	-6.104	0.0001
Q6	1	-0.30726	0.070368	-4.366	0.0001
Q7	1	-0.33086	0.069189	-4.782	0.0001
Q8	1	-0.34428	0.074365	-4.63	0.0001
Q9	1	-0.29213	0.078927	-3.701	0.0003
Q11	1	0.071176	0.074263	0.958	0.3386
Q12	1	0.013922	0.07447	0.187	0.8518
Q13	1	-0.11436	0.073432	-1.557	0.1204
Q14	1	-0.1658	0.075341	-2.201	0.0285
Q15	1	-0.26924	0.081055	-3.322	0.001
Q16	1	-0.37783	0.084169	-4.489	0.0001
Q17	1	-0.34628	0.111216	-3.114	0.002

The quarterly indicators in Table 4-9 and the graphic illustration in Figure 4-9 show that quarterly prices prior to the ban were 64 to 76 percent of their level at the time of the ban. By late 1995, prices of these magazines were falling significantly, and by 1996 they had fallen to levels comparable to pre-ban prices.

EB000205

Figure 4-9. Quarterly price trends for Ruger Mini-14 large-capacity magazines



4.1.4. Summary of Large-Capacity Magazine Price Trends

In summary, short-run price trends for four examples of banned large-capacity magazines appeared to depend on the legal status of the guns they fit, speculative demand for the guns and magazines, and the availability of military surplus magazines. All four magazine prices rose substantially during the period of debate over the ban, reflecting anticipatory demand. However, their price trends diverged substantially after that point. For a banned assault pistol (the 9mm Uzi) for which no legal substitute emerged, the post-ban magazine price fell to a level between its peak and its pre-speculation level and remained there. For a banned rifle (Colt AR-15) for which legal substitutes emerged and the gun price fell sharply after the ban, post-ban magazine prices fluctuated dramatically, apparently because of variations in the availability of military surplus M-16 magazines. For unbanned Glock pistols, whose supply continued to grow, the post-ban magazine price continued to rise throughout the post-ban period, though at a slower rate than during the pre-ban speculation; this is consistent with the expected long-term price trend. Finally, prices for large-capacity Ruger Mini-14 magazines appear to have followed speculative trends similar to those for the rifles themselves.

4.2. PRODUCTION TRENDS

Analyses reported in Section 4.1 found substantial pre-ban price increases for two major categories of assault weapons that were examined: SWD and related handguns (+47 percent), the AR-15 assault rifle family (+69 percent to +100 percent, at minimum). A comparison group of unbanned semiautomatic rifles including the domestically produced Ruger Mini-14 showed a pre-ban price increase of 82 percent. But strikingly, a comparison group of inexpensive Davis and Lorcin semiautomatic handguns showed no discernible price change during the 4-year period that included the effective date of the ban.

In the introduction to this chapter, we hypothesized that weapons whose prices increased during the pre-ban period would also show increases in production. To test that hypothesis, we were able to obtain annual

production data from the Violence Policy Center for three of the four weapon categories above: the SWD, AR-15, and Davis/Lorcin groups.³⁶ The data extend through 1994, the year of the ban and the last year for which production data are available.

The production data for these three groups are shown in Figure 4-10, Figure 4-11, and Figure 4-12, and they strongly support the hypothesis that pre-ban price speculation was associated with increases in production. As shown there, the SWD and AR-15 groups show substantial increases in production in 1993 and 1994, the years when prices were increasing in advance of the ban. Production increases of similar magnitude appear for two other categories of banned assault weapons that could not be included in the price analysis: the Intratec/AA Arms group, and Calico and Feather Industries rifles, which are banned by the features test.³⁷ In contrast, the Davis/Lorcin handgun group showed decreased production relative to both 1993 and their 1989–93 average.

Table 4-10 summarizes production data for five typical groups of banned assault weapons and the Lorcin/Davis comparison group of small-caliber semiautomatic pistols. For each weapon type, the table reports 1994 production, average 1989–93 production, and the ratio of 1994 production to the average over the period. On average, 1994 assault weapon production exceeded the 1989–93 average by a ratio of 2.233 during the nine months before the ban took effect. In contrast, 1994 production for the Lorcin/Davis comparison group was only 65.2 percent of the 1989–93 average.

Table 4-10. Production trends for banned assault weapons and comparison guns

<i>Firearm type</i>	(1) <i>1994 production</i>	(2) <i>1989–93 average production</i>	(3) <i>Ratio [(1)/(2)]</i>	(4) <i>“Excess” production [(1)-(2)]</i>
AR-15 group	66,042	38,511	1.714	27,531
Intratec 9mm, 22	102,682	33,578	3.058	69,104
SWD family (all) & MAC (all)	14,380	10,508	1.368	3,872
AA Arms	17,280	6,561	2.633	10,719
Calico 9mm, 22	3,194	1,979	1.613	1,215
Lorcin, Davis	184,139	282,603	0.652	
Assault Weapon Total*	203,578	91,137	2.233	112,441

*Assault weapon total excludes Lorcin/Davis group

Table 4-10 also displays "excess" production, the difference between 1994 production and 1989–93 average production. Excess 1994 production for the five assault weapon types shown in the table was approximately 112,000, which were added to the stock of grandfathered assault weapons eligible for resale after the ban took effect.

³⁶ BATF production data for rifles are not disaggregated by model or caliber. While we could be confident that nearly all Colt's rifles belong to the AR-15 family and could therefore use Colt's rifle production data as an index of AR-15 production, Sturm, Ruger produces too many rifles besides the Mini-14 for us to have a reliable index of Mini-14 production.

³⁷ It may be of interest that the Intratec, SWD, and Calico/Feather groups, but not the AR-15 group, also had production peaks in 1989, the year of the assault weapon import ban.

Figure 4-10. Annual production data, Colt and Olympic Arms AR-15 type (years with complete data only)

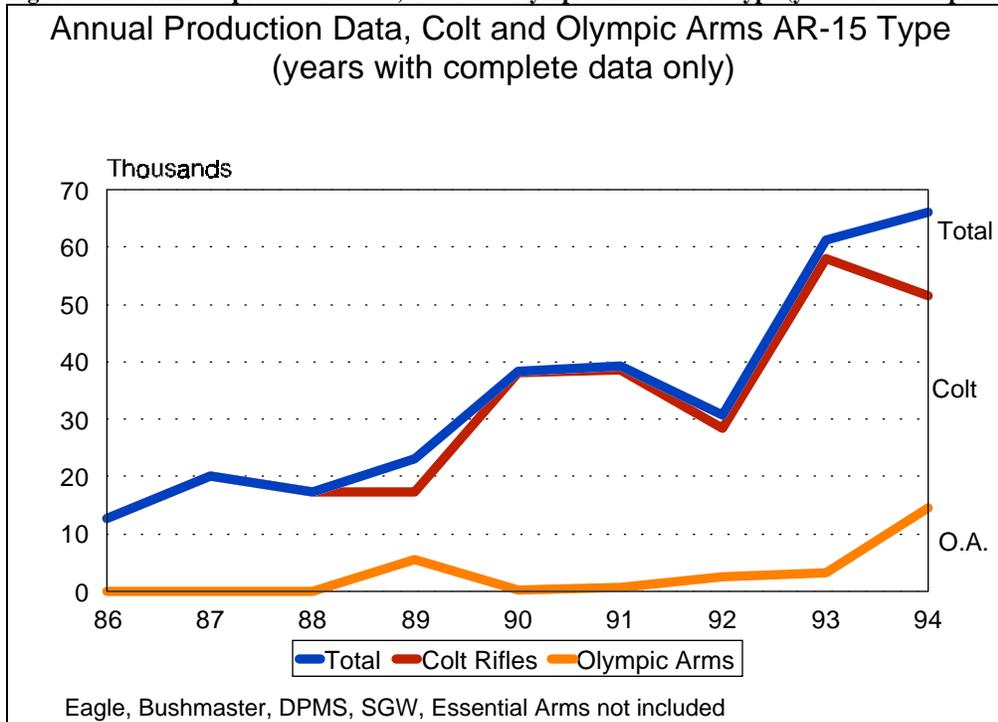


Figure 4-11. Annual production data, SWD group (missing data in some early years)

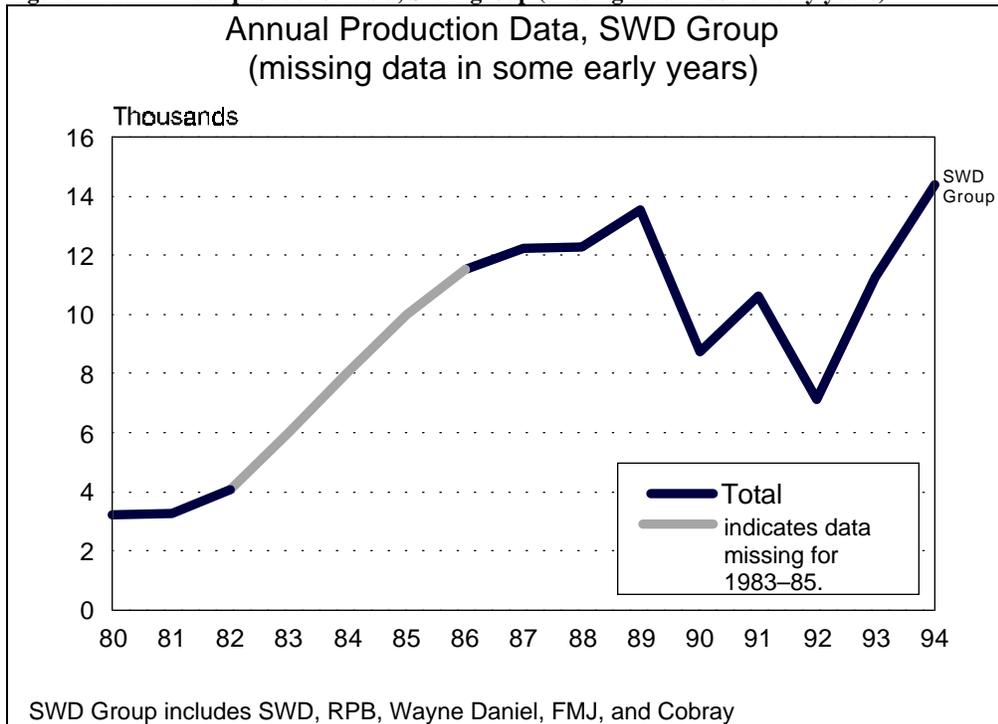
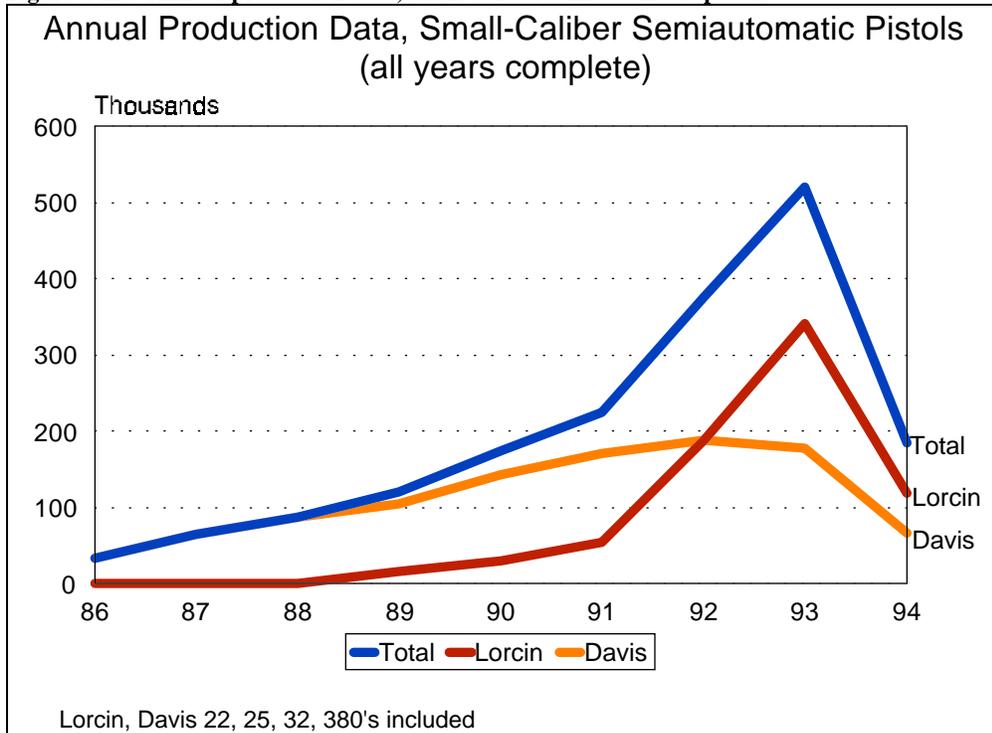


Figure 4-12. Annual production data, small-caliber semiautomatic pistols



4.3. UNINTENDED CONSEQUENCES: GUN THEFTS AND “LEAKAGE”

4.3.1. Introduction

As a final consideration of the ban’s impact on gun markets, we investigated trends in stolen firearms. Given the boom in production of the banned weapons prior to the assault weapon ban, there would appear to be a substantial stockpile of banned weapons, some of which may “leak” from gun dealers and carriers into the hands of criminals and other violence-prone individuals after the ban through a combination of recorded transfers, unrecorded transfers, and thefts.

Indeed, we hypothesized that the Crime Act might have the unintended consequence of increasing reported thefts of the banned weapons for two reasons. Short-term price increases in primary markets might temporarily keep assault weapons from entering the sales distribution channels to criminals, who might be tempted to steal them instead. In addition, dealers who had paid high speculative prices for grandfathered assault weapons around the time of the of the ban but then suffered the post-ban price decline prices might be encouraged to sell their to ineligible purchases and then report the weapons as stolen to BATF, who in turn would enter them into the Federal Bureau of Investigation’s national database on stolen firearms. Our tests of these hypotheses had to recognize that any observed rise in assault weapon thefts could be due, at least in part, to new theft reporting requirements established for firearm dealers by Subtitle C of Title XI. In the sections below, we describe the tests and findings.

4.3.2. Data and Analysis Strategy

Since 1967, the Federal Bureau of Investigation has stored law enforcement agency reports of stolen and recovered guns in a database maintained by the National Crime Information Center (NCIC). This database contains records on guns which have been reported stolen to participating agencies. It also includes a relatively small number of guns which have been recovered by law enforcement agencies but which have not been reported stolen to the FBI. The latter category of guns accounts for about 6 percent of the guns in the database, and we removed them from our analysis. Weapons which are stolen and later recovered are removed from the database by the NCIC. Thus, the file contains only guns which have been stolen and not recovered. Among other items, the database contains entries for the following: the date the gun was reported stolen ; the weapon type, make, model, caliber, and serial number of the gun; and the agency to which the weapon owner reported the theft.

For our analysis, we utilized data on guns stolen between January 1992 and May 1996. Our analysis of assault weapon thefts focused upon our select group of domestic assault weapons. Unfortunately, weapon model is missing for the majority of the records in the file. Therefore we used the following operational definitions to approximate thefts of assault weapons and other guns:³⁸

- 1) Colt AR15 group: all .223 caliber firearms made by Colt, Eagle, Olympic/SGW, Essential Arms, Bushmaster, and Sendra.
- 2) Intratec group: all 9mm and .22 caliber semiautomatic weapons made by Intratec and all 9mm semiautomatic handguns made by AA Arms.
- 3) SWD group: all 9mm, .380, and .45 caliber semiautomatic weapons made by SWD, Ingram, Military Armaments Corp., and RPB Industries.
- 4) Features test group: all semiautomatic handguns and rifles made by Calico and all 9mm and .22 caliber semiautomatic rifles made by Feather.
- 5) Non-banned large-capacity handguns: Based on the relative frequency of the Glock 17 and Ruger P89 among guns traced by BATF (see Chapter 2), we used Glock and Ruger 9mm semiautomatic handguns to operationalize this count.

4.3.3. Trends in Stolen Assault Weapons

Statistics in Table 4-11 show that the number of assault weapons reported stolen per month was higher during the post-ban period than during the pre-ban period. These figures combine all of the assault weapons in our select group. As is shown in

³⁸ We arrived at these operational definitions by examining the varieties of gun types, makes, models, and calibers contained in the *Blue Book of Gun Values* (Fjestad 1996). The largest approximation error is probably that Group 2 includes the Protect .22, which is not banned and does not accept large-capacity magazines.

Figure 4-13, this post-ban increase continued an upward trend which began before the assault weapon ban. Interpreting the raw numbers of assault weapons thefts is problematic even with time series methods, however, because the Subtitle C theft reporting requirement for FFL's may have caused an artificial increase in reported thefts. The monthly average of total reported gun thefts did increase from approximately 11,602 for the January 1992 through August 1994 period to 12,806 during the September 1994 through May 1996 period, although we did not make systematic attempts to explain the increase.

Table 4-11. Pre-ban (Jan. 1992-Aug. 1994) to post-ban (Sept. 1994-May 1996) changes in counts of stolen assault weapons and unbanned semiautomatic handguns capable of accepting large-capacity magazines

<i>Stolen gun type</i>	<i>Pre-ban monthly mean</i>	<i>Post-ban monthly mean</i>
Assault weapons	2,334	2,642
Unbanned large-capacity semiautomatic handguns	235	343

Table 4-12. Pre-ban (Jan. 1992-Aug. 1994) to post-ban (Sept. 1994-May 1996) changes in ratios of stolen assault weapons and unbanned semiautomatic handguns capable of accepting large-capacity magazines

	<i>Pre-ban</i>	<i>Post-ban</i>	<i>Change</i>
Ratio: Assault weapons ÷ automatic and semiautomatic guns	.449	.463	+3%
Ratio: Unbanned large-capacity semiautomatic handguns ÷ All semiautomatic handguns	.054	.073	+35%

To control for possible confounding effects of the Subtitle C reporting requirement, we examined assault weapon thefts as a proportion of all reported thefts of semiautomatic and automatic weapons. A post-ban increase in this proportion would suggest a rise in assault weapon thefts which occurred independently of any Subtitle C effect. We used semiautomatic and automatic weapons as our baseline rather than all reported thefts in order to control for changes in the composition of the gun stock; semiautomatic firearms, of which assault weapons are a subset, have grown dramatically since the late 1980s as a share of the firearms market. Relatedly, some law enforcement personnel have suggested to us that gun theft victims are more likely to report thefts of recently purchased firearms because it is easier for victims to assemble information necessary for a theft report (such as serial numbers) when dealing with a newer firearm. Finally, expressing assault weapons as a proportion of semiautomatic/automatic weaponry may correct potential bias stemming from the NCIC's removal of recovered weapons from their data system. Some evidence suggests that semiautomatic handguns tend to move more quickly from retail sale to crime than do other firearms (Kennedy et al. 1996). If this process works the same way for the time from theft to use in crime and recovery by police, then assault weapons and other semiautomatic firearms may tend to drop out of the system at a faster rate than other firearms.

Figures in Table 4-12 reveal that between 1992 and 1996 automatic and semiautomatic assault weapon thefts increased only very slightly (about 3%) as a proportion of thefts of rapid fire weapons. A contingency table chi-square test indicated that this was a statistically significant increase ($p < .01$).³⁹ However, an interrupted time series analysis of monthly trends (see Figure 4-14) failed to provide any strong evidence that the ban caused a change in the proportion of semiautomatic/automatic firearm thefts involving assault weapons.⁴⁰ Either way, the relative increase in assault weapon thefts appears to have been very modest.

³⁹ The proportion of semiautomatic/automatic gun thefts accounted for by assault weapons is strikingly large in light of the generally low prevalence of these guns among confiscated and traced weapons. Due to the manner in which we approximated assault weapon thefts, our figures probably overstate assault weapon thefts to some degree. In addition, BATF agents have suggested to us that assault weapon thefts may be more likely to be reported to NCIC than thefts of other firearms due to owners' insurance claims on assault weapons and owners' concerns about how stolen assault weapons may be used.

Errors in the data submitted by law enforcement agencies may also be relevant. The NCIC uses character and numeric codes to identify manufacturers, weapon types, and calibers. To assess coding error in the data, we ran a number of crude reliability tests with guns made by selected manufacturers. To illustrate, if a particular handgun manufacturer makes only semiautomatic handguns, one can examine all guns made by that company which appear in the database and determine what percentage were coded as weapon types other than semiautomatic handguns. If 5% of the guns produced by this manufacturer have other weapon type codes, then the manufacturer and/or weapon type must be incorrect for that 5% of cases.

We chose guns made by Davis Industries and Intratec for our tests. Davis Industries makes only derringers and semiautomatic pistols (Fjestad 1996, pp.412-413). Davis derringers are made in .22, .25, .32, .38, and 9mm calibers. The company's semiautomatic pistols are produced in calibers .32 and .380. Of the several thousand guns in the data coded as Davis Industries firearms, about 10% were coded as weapon types other than derringers or semiautomatic handguns (most of these were coded as revolvers). Virtually 100% of the Davis Industries derringers had calibers in the proper range, as did 95% of the semiautomatic handguns.

Intratec, a prominent maker of assault weapons, makes derringers in .38 caliber and produces semiautomatic handguns in .22, .25, .380, .40, .45, and 9mm calibers (Fjestad 1996, pp.577-579). Approximately 89% of the several thousand guns coded as Intratecs were coded as semiautomatic handguns or derringers. Nearly 100% of the Intratec semiautomatic handguns had caliber codes in the proper range, while 97% of the derringers had the proper caliber.

In light of the various coding errors which are present in the NCIC data, we constructed our counts of assault weapons and semiautomatic/automatic guns using a broad array of weapon type codes corresponding to various semiautomatic and fully automatic weapon types. The analyses described above seem to indicate that errors in the numerator and denominator of our assault weapon measure are roughly proportional. Finally, our analysis assumes that any biases in the data resulting from the various issues discussed above have remained relatively constant from the pre-ban to post-ban periods.

⁴⁰ Due to ambiguity regarding the form of the ban's hypothesized impact on assault weapon thefts, we tested a number of impact models (see McCleary and Hay 1980). The temporary increase in assault weapon prices which occurred around the time of the ban may have raised the incentive for criminals to steal assault weapons, thereby creating an abrupt, temporary impact on thefts of assault weapons. However, an abrupt temporary impact was inconsistent with the data.

The eventual fall in assault weapon prices, on the other hand, could have increased the incentive for dealers to "leak" the guns to illegitimate buyers. The gradual decline of assault weapon prices documented in the price analysis would suggest a gradual, permanent impact on assault weapon thefts. However, an abrupt, permanent impact also seems plausible. Further, abrupt, permanent impact models are less demanding on the data and sometimes provide a better fit and more accurate results even when the true form of the impact is not of this type (see McDowall et al. 1996). In this case, a gradual, permanent impact model yielded insignificant results and provided a worse fit to the data than did an abrupt, permanent impact model.

Assessment of the abrupt, permanent impact model was complicated by the presence of an outlier observation corresponding to March 1993, during which time there was an unusually low proportion of thefts involving assault weapons (see Figure 4-14). We therefore estimated models with and without this observation. In the first model, we retained the outlier observation and logged the data series. This model suggested that the ban produced a moderately significant ($p < .10$) positive impact on the proportion of semiautomatic/automatic gun thefts that involved assault weapons. (After adding the intervention component, this model did not require any autoregressive or moving average parameters for the noise component). When the outlier observation was removed, however, the model failed to yield evidence of an impact from the ban. (The noise

EB000212

component for this model included a fourth order autoregressive subset model [see SAS Institute 1993] in which all parameters except the fourth were set to zero).

EB000213

Figure 4-13. Stolen assault weapons count, January 1992–May 1996

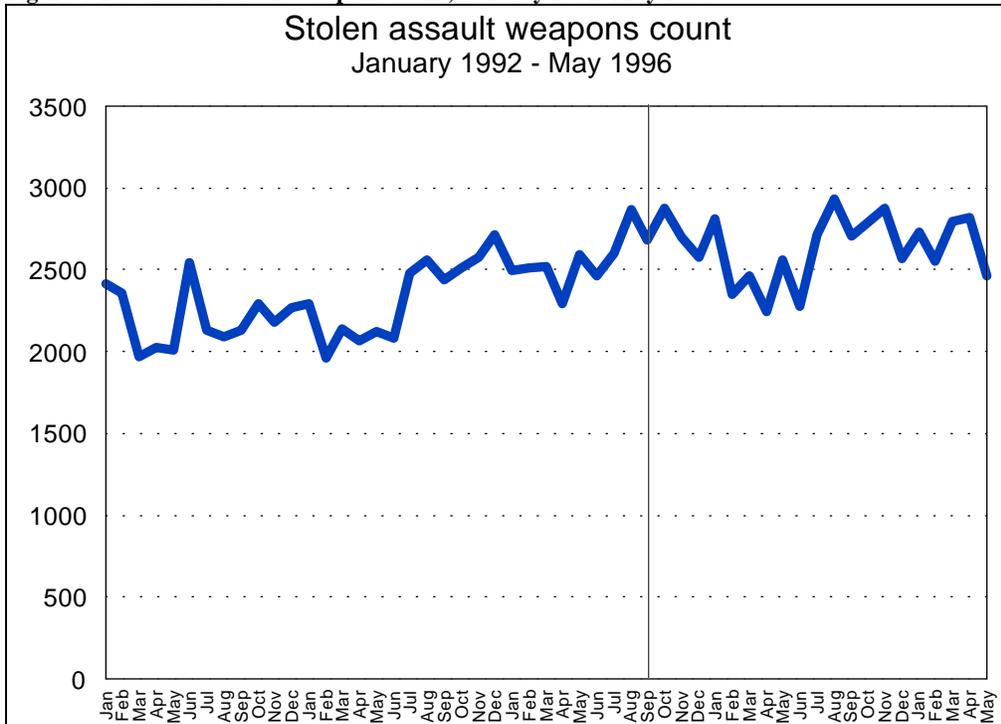
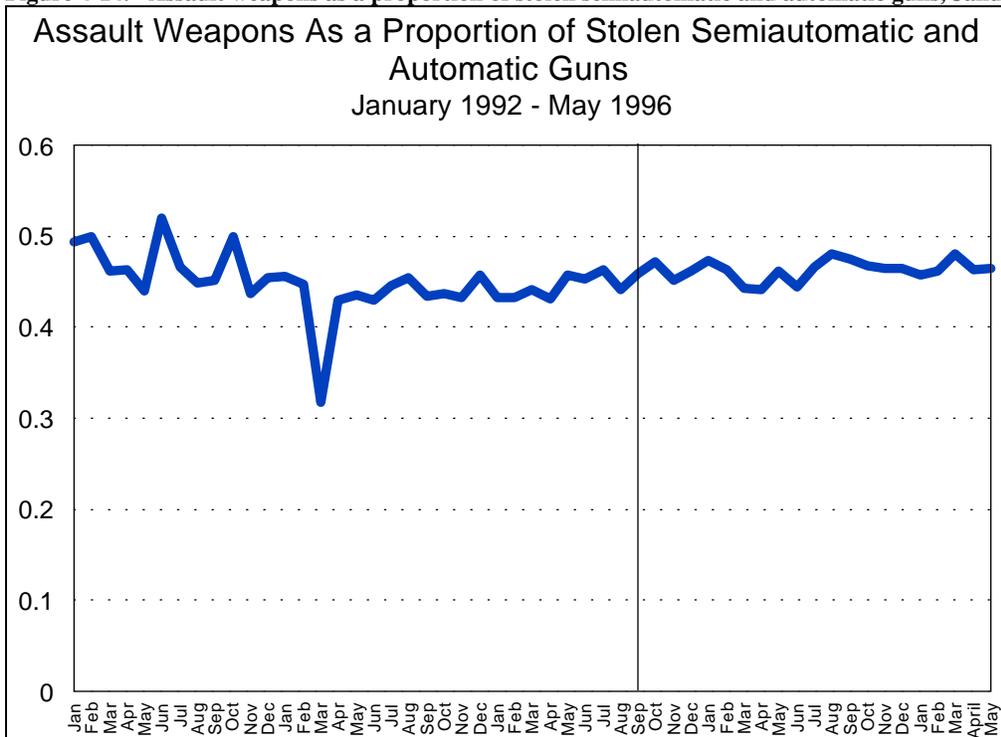


Figure 4-14. Assault weapons as a proportion of stolen semiautomatic and automatic guns, January 1992–June 1996



Additional analyses (not shown) revealed that the assault weapon trends were driven entirely by assault pistols. Thefts of the AR15 group weapons, for example, were rather few in number both before and after the ban, and they decreased both in numbers and as a proportion of stolen weapons during the post-ban months.

4.3.4. Trends in Thefts of Non-Banned Semiautomatic Handguns Capable of Accepting Large-capacity Magazines

In another set of analyses, we investigated whether the ban affected thefts of non-banned semiautomatic handguns capable of handling banned, large-capacity magazines. A number of effects seem plausible. If the magazine ban has been effective in decreasing the availability of large-capacity magazines, one might hypothesize a decrease in offenders' demand for handguns capable of accepting these magazines and a decrease in thefts of these weapons from primary-market dealers and eligible owners. Alternatively, if a similar decrease in the demand for these guns drove down their prices in the primary market, it might increase the incentive for dealers to leak the guns to the illegal market and report the guns as stolen or missing. However, recent years' Blue Book values for Glock pistols suggest that their primary-market prices have been quite stable, when adjusted for inflation. Therefore, if these magazines are still widely available in secondary markets, some offenders might desire to substitute unbanned large-capacity handguns for banned assault weapons. In that case, we might also expect to see a rise in thefts of these guns.

Average monthly thefts of these weapons were higher in the months following the ban (Table 4-11). Moreover, thefts of these guns increased by about a third during the post ban period as a fraction of all semiautomatic handgun thefts (Table 4-12). However, Figure 4-15 and Figure 4-16 show that thefts of these guns were trending upwards in both numbers and as a proportion of semiautomatic handgun thefts both before and after the ban. A time series analysis did not provide conclusive evidence that handguns accepting large-capacity magazines increased significantly after the ban as a fraction of semiautomatic handgun thefts.⁴¹ (We did not employ contingency table chi-square tests due to the clear upward trend in this variable.) At any rate, the Crime Act does not appear to have decreased criminal demand for these guns, as approximated by theft reports.

⁴¹ We tested a variety of potential impact forms for this time series, though we considered an abrupt, permanent impact or a gradual, permanent impact to be most plausible in light of the steadily increasing prices for Glock magazines documented in the price analysis. A model with an abrupt, permanent intervention component and a first order autoregressive process for the noise component provided an adequate fit to the data. However, this model yielded an impact estimate virtually identical to the change in the proportion measure shown in Table 4-12 (an increase of approximately one third). In light of the clear pre-ban upward trend in this measure shown in Figure 4-16, we find this effect to be implausible and suspect that the data series is too short to provide a rigorous test of the ban's impact using this methodology.

We ran a crude alternative test in which we regressed the proportion measure on a time trend and a pre-ban/post-ban indicator variable. The time trend variable was significant, while the post ban variable suggested a positive, but statistically insignificant, increase of about 7% in the proportion measure.

Figure 4-15. Stolen unbanned large-capacity semiautomatic handgun counts, January 1992–May 1996

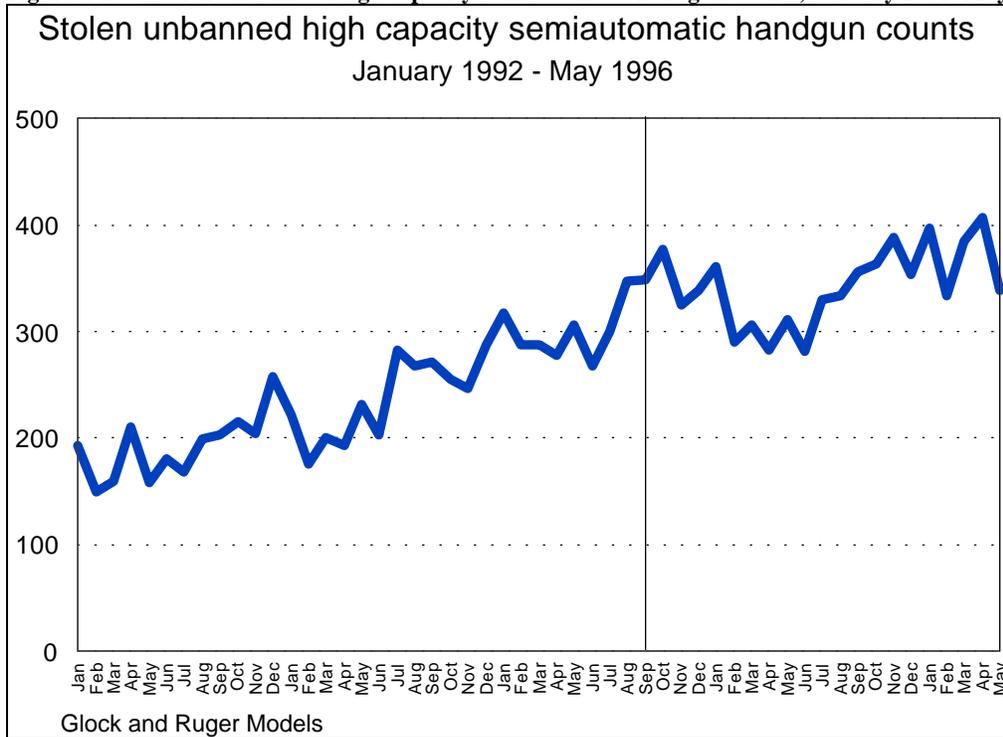
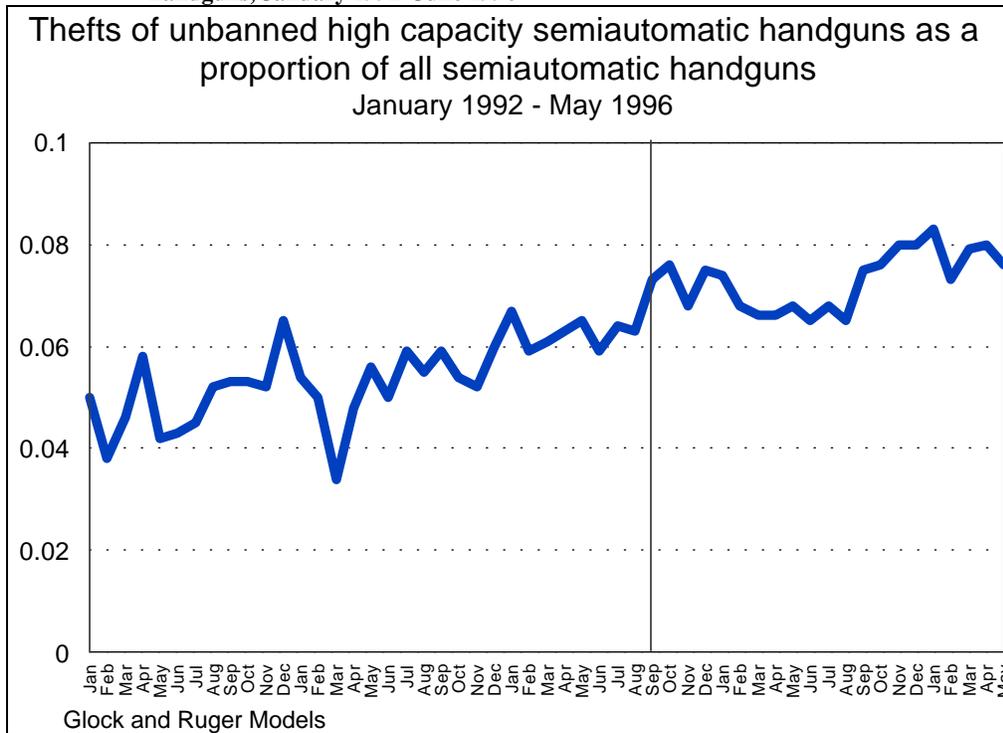


Figure 4-16. Thefts of unbanned large-capacity semiautomatic handguns as a proportion of all semiautomatic handguns, January 1992–June 1996



5. UTILIZATION EFFECTS

5.1. BATF NATIONAL FIREARM TRACE DATA

5.1.1. Introduction: Data and Limitations

To provide national level estimates of the use of assault weapons, we obtained data on firearm trace requests submitted to the U.S. Bureau of Alcohol, Tobacco and Firearms (BATF) by Federal, State, and local law enforcement personnel throughout the nation from January 1993 through May 1996. BATF maintains a firearm tracing center in West Virginia. Upon request, personnel at this center can trace firearms to their last point of recorded sale in a primary market. BATF makes this service available to police departments throughout the country to assist in criminal investigations.

The assault weapon trace file provided by BATF contains the make, model, and caliber of all models subject to the assault weapons ban (the designations are discussed in more detail below). Further, the file includes the month and year when BATF received the request, the state from which the request originated, and type of crime with which the firearm was associated. Our data for total traces consist of aggregate counts of traces broken down by month, year, state, weapon type,⁴² and offense.

BATF trace data are the only available national-level sample of guns used in crime. Nevertheless, BATF trace data have significant limitations for research purposes. As Zawitz (1995, p.4) has noted, trace requests represent an unknown fraction of all guns used in crime. In terms of general limitations, BATF cannot trace military surplus weapons, imported guns without the importer name, stolen guns, or guns without a legible serial number (Zawitz 1995, p.4). Tracing guns manufactured before 1968 is also difficult because FFL's were not required to keep records of their transactions prior to that time. BATF does not generally trace guns having a manufacturing date more than six years old (such guns are likely to be many transfers removed from the original retail purchaser), though BATF can and does trace these guns in response to special requests.

Moreover, trace data are based on requests from law enforcement agencies; yet not all guns used in crime are seized by authorities, and agencies, particularly local ones, do not submit all guns they seize for tracing. Consequently, firearms submitted to BATF for tracing may not be a representative sample of firearms used in crime. Previous studies of trace data have suggested that only about 10 percent of gun crimes and 2 percent of violent crimes result in trace requests to BATF (Cox Newspapers 1989, p.3; Kleck 1991, p.75).⁴³

The vast majority of weapons submitted to BATF for tracing are associated with weapons offenses, drug offenses, or violent crimes. In 1994, 72% of traces were for weapons offenses, 12% were for drug-related offenses, 12% were for the combined violent crimes of homicide, assault, and robbery, and 2% were for burglary

⁴² The weapon categories consist of revolver, pistol, derringer, rifle, shotgun, combination rifle/shotgun, and a few other miscellaneous categories.

⁴³ A prior study of BATF trace data by *Cox Newspapers* (1989) suggested that police are more likely to request gun traces for organized crime and drug trafficking. Further, the study indicated that these were the types of crimes with which assault weapons were most likely to be associated. Nearly 30 percent of the gun traces tied to organized crime were for assault weapons as defined by the Cox study (their definition did not match that in the 1994 Crime Act), and 12.4 percent of gun traces for drug crimes involved these guns. In contrast, assault weapons accounted for only 8 percent of gun trace requests for assaults and homicides.

(BATF 1995a, p.43). The high representation of weapons offenses was probably due to the fact that 57% of the trace requests were made by BATF field offices (BATF 1995a, p.45).

Because of the predominance of weapons offenses, BATF trace data might not appear to be a good indicator of guns used in violent and/or drug-related crime. However, the fact that a gun was not seized in association with a specific violent crime does not rule out the possibility that it had been used or would have been used in violent crime. Substantial percentages of adult and juvenile offenders carry firearms on a regular basis for protection and to be prepared for criminal opportunities (Sheley and Wright 1993; Wright and Rossi 1986). In Kansas City, Missouri, for example, about 60% of the guns seized as a result of regular police enforcement activity in high crime beats in 1992 were seized in conjunction with pedestrian checks, car checks, and other traffic violations (Shaw 1994, p.263).⁴⁴ Moreover, drug offenders tend to be disproportionately involved in violence and illegal gun traffic (National Institute of Justice 1995; Sheley and Wright 1993). Thus, guns seized in association with weapons offenses and violent offenses — in addition to those seized for drug-related crimes — may serve as a good indicator of guns possessed by drug offenders.

Despite their limitations, guns confiscated by law enforcement agencies are a reasonable index of guns used in violent and drug-related crime, and they are the best available indicator of changes over time in the types of guns used in crime and possessed and/or carried by criminal and otherwise deviant or high risk persons. BATF trace data are the only such national sample.

Yet, another important limitation to national trace data is that the process by which state and local law enforcement agencies decide to submit guns for tracing is largely unknown, and there are undoubtedly important sources of variation between agencies in different states and localities (and perhaps regions). For instance, a state or local agency may be less likely to need the tracing services of BATF if its state or city maintains its own firearms registration system. Knowledge of BATF's tracing capabilities and participation in federal/state/local law enforcement task forces are some additional factors that can affect an agency's tracing practices. Further, these conditions will vary over time; for example, BATF has been actively trying to spread this knowledge and encourage trace requests since 1994. For all of these reasons, BATF trace data should be interpreted cautiously.

Finally, prior studies have suggested that assault weapons are more likely than other guns to be submitted for tracing.⁴⁵ However, this generalization may no longer be valid, for, as is discussed below, police appear to be requesting traces for increasing proportions of confiscated firearms.

5.1.2. Trends in Total Trace Requests

Table 5-1 presents yearly changes in trace requests for all firearms for 1993 through early 1996. Total traces grew 57 percent from 1993 to 1994, decreased 11 percent from 1994 to 1995, and then increased 56 percent from 1995 to 1996. In contrast, Table 5-2 indicates that gun crimes declined throughout the 1993–95 period (national gun crime figures are not yet available for 1996). The increase in gun trace requests that occurred in 1994 was not attributable to an increase in gun crime and thus appears to have reflected a change in police trace request behavior and/or BATF initiatives. The large growth in traces in early 1996 also seems to be unrelated to gun crime (national gun crime figures for 1996 are not yet available, but we are not aware of any data suggesting

⁴⁴ This calculation excludes guns seized by special crime hot spots patrols which were proactively targeting guns. Thus, the figure reflects normal police activity.

⁴⁵ Prior estimates have indicated that approximately 5 to 11 percent of trace requests are for assault weapons (*Cox Newspapers* 1989; Lenett 1995; Zawitz 1995), though these estimates have not all been based on the 1994 Crime Act definition of assault weapons.

that gun crime has increased over 50 percent since 1995). On the other hand, the decline in trace requests in 1994 mirrored the decline in gun crime, particularly gun homicides (the most accurately measured gun crime category), suggesting that tracing practices were fairly stable from 1994 to 1995.

Table 5-1. Total traces, January 1993–May 1996

<i>Year</i>	<i>Total</i>	<i>Monthly average</i>	<i>Percent change from previous year</i>
1993	55,089	4,591	N/A
1994	86,216	7,185	+ 57
1995	76,924	6,410	- 11
1996 (Jan.-May)	54,254	10,851	+56*

* Change is expressed relative to January through May of 1995.

Table 5-2. National trends in gun crime, 1993–95

<i>Year</i>	<i>Offense</i>	<i>Number</i>	<i>Percent change from previous year</i>
1993	Gun murders	16,136	N/A
1994	Gun murders	15,463	- 4
1995	Gun murders	13,673	- 12
1993	Gun robberies	279,737	N/A
1994	Gun robberies	257,428	- 8
1995	Gun robberies	238,023	- 8
1993	Gun aggrav. assaults	284,910	N/A
1994	Gun aggrav. assaults	268,788	- 6
1995	Gun aggrav. assaults	251,712	- 6

Sources: FBI Uniform Crime Reports, *Crime in the United States* (1996, pp.18, 26-29, 31-32; 1995, pp.18, 26-29, 31; 1994, pp.27-29, 31-32).

As a comparison to national trends, Table 5-3 presents gun confiscation figures for the cities of Boston and St. Louis, two cities for which we have data on all confiscated firearms.⁴⁶ The Boston data are consistent with national trends in gun violence in that they show decreases in gun seizures for each year.⁴⁷ In St. Louis, gun confiscations increased slightly in 1994, but in 1995, they decreased by an amount comparable to the nationwide

⁴⁶ These Boston data were provided to us by the Boston Police Department via researchers at Harvard University. The St. Louis data are from the St. Louis Police Department and were provided by researchers at the University of Missouri, St. Louis.

⁴⁷ The sharp decrease in gun confiscations from 1995 to 1996 may be due in part to recent youth gun violence initiatives being undertaken by the Boston Police Department in collaboration with a number of other agencies and researchers from Harvard University (Kennedy et al. 1996; Kennedy 1996).

decreases in gun murders and gun robberies. Of course, trends in Boston and St. Louis may not be indicative of those in the rest of the nation. Nevertheless, the contrast between the Boston and St. Louis figures and the national tracing figures provide further evidence that changes in national gun traces in 1994 and early 1996 were driven largely by police practices and BATF initiatives rather than changes in gun crime.

Table 5-3. Gun confiscations/traces, January 1993–May 1996

<i>Year</i>	<i>Total</i>	<i>Monthly average</i>	<i>Percent change from previous year</i>
Gun confiscations/traces for Boston, MA, January 1993–May 1996			
1993	866	72	N/A
1994	762	64	- 12%
1995	712	59	- 7%
1996 (Jan.-May)	241	48	- 28%*
Gun confiscations in St. Louis, MO, 1993–95			
1993	3,544	295	N/A
1994	3,729	311	5%
1995	3,349	279	-10%

*Change is expressed relative to January-May of 1995.

In sum, the changes in national trace requests which occurred in 1994 and early 1996 appear to have stemmed from BATF initiatives. Although we have little documentation of these changes, our consultations with BATF agents have suggested that the surge in trace requests from 1993 to 1994 was due largely to internal BATF initiatives that now require agents to submit all confiscated firearms for tracing. In addition, BATF has made efforts to encourage more police departments to submit trace requests and to encourage police departments to request traces for greater fractions of their confiscated weapons. One example is BATF's national juvenile firearms tracing initiative launched in late 1993 (BATF 1995b, p.21). Greater cooperation between BATF and local agencies (through, for example, special task forces) has also resulted in more trace requests according to BATF officials, and a few states and localities have recently reached 100 percent tracing. Beginning in the fall of 1995, moreover, agents from the tracing center began visiting BATF's field divisions to inform federal, state, and local law enforcement personnel about the tracing center's services and capabilities, including the implementation of computerized on-line tracing services. This would appear to be a major factor behind the growth in trace requests from 1995 to 1996.

For the 1994–95 period, however, tracing practices seem to have remained steady. The decline in traces in 1995 matched a real decrease in gun crimes. These developments have important ramifications for the analysis of assault weapon traces.⁴⁸

⁴⁸ We made limited efforts to further disentangle federal and state/local trends by obtaining annual data on traces from a number of states broken down by requesting agency. We examined trace requests from a number of cities where, according to informal judgments by BATF agents, cooperative efforts between local law enforcement agencies and BATF had resulted in the submission of trace requests for a relatively high percentage of confiscated firearms over an extended period. We anticipated that trace requests from BATF field offices in these locations would show substantial increases from 1993 to

5.1.3. Total Assault Weapon Traces

During the period from January 1993 through May 1996, BATF received 12,701 trace requests for assault weapons. This count covers specific makes and models listed in the 1994 Crime Act, exact copies of those makes and models, and other firearms failing the Crime Act's features test for assault weapons.⁴⁹ The requests include all states, Washington, D.C., Puerto Rico, and Guam.⁵⁰

Table 5-4 shows the number, monthly averages, and percentage changes of assault weapon traces for each year. Assault weapon traces increased 9 percent from 1993 to 1994, declined 20 percent from 1994 to 1995, and then increased 7 percent from 1995 to 1996. While one cannot entirely dismiss the possibility that the use of assault weapons rose in 1994 and 1996, it seems likely that these increases were due partially or entirely to the general increase in police trace requests which occurred during those years. Yet assault weapon traces increased by amounts much smaller than did total traces in 1994 and 1996, a finding which supports the conjecture that police have been more consistently diligent over time in requesting traces for confiscated assault weapons.⁵¹

1994, and that requests from the local law enforcement agencies would rise from 1995 to 1996. However, the figures from these locations did not reveal any clearly interpretable patterns. Any patterns which might have existed may be obscured by the fact that local agencies may submit traces directly to the tracing center or submit them indirectly through local ATF field offices. In 1994, for example, 17% of trace requests were from outside (i.e., non-BATF) agencies directly, while 26% were from outside agencies through BATF offices (BATF 1995, p.45). Our judgment is that analyzing trace requests according to submitting agency will not necessarily illuminate the ambiguities in interpreting trace request trends without extensive research into both the processes by which guns are selected for tracing and submitted by local agencies and BATF field offices and the impact of special BATF/local initiatives on these processes.

⁴⁹ The guns designated as "features test" guns consist of makes and models that fail the features test based on manufacturer specifications. The file does not generally include guns which were legal as manufactured but were later modified in ways which made them illegal. (Firearms which are traced by BATF are not actually sent to BATF for inspection). Further, firearms are often manufactured and sold with various options, and the legal/illegal status of some models is contingent upon the particular features with which the gun was manufactured. For example, a Franchi Spas 12 shotgun may or may not be an assault weapon depending upon the size of its ammunition magazine (prior to the ban, the gun was sold with 5 shot and 8 shot tube magazines - see Fjestad [1996, p.471]). Unfortunately, this level of detail is not available in the BATF data. Potential assault weapon models like the Franchi Spas 12 were included in the assault weapon file, but, as is discussed later in the text, we did not utilize them in all analyses.

⁵⁰ It should be noted that the firearm make and model designations in BATF trace data are made by the law enforcement officers who submit the requests. Undoubtedly, there exists some level of error in these designations, though we do not have any data with which to estimate the error rate.

⁵¹ The 1996 assault weapon traces include 89 observations identified as "duplicate traces." Although these trace requests can sometimes represent instances in which the same gun was used in multiple crimes, they usually represent instances in which, for various administrative reasons, a particular trace request was entered into the computer system more than once. Unfortunately, it is not possible to identify duplicate trace requests for years prior to 1996. In order to treat data from all years in a consistent manner, we therefore retained all of the 1996 trace requests for the analysis. Consequently, the total and assault weapon trace numbers presented in this report overstate the true numbers of trace requests. Our analysis of the trace data rests on the assumption that the rate of duplicate tracing has remained relatively constant over the 1993-96 period.

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Table 5-4. Assault weapons traces, January 1993–May 1996

<i>Year</i>	<i>Total</i>	<i>Monthly average</i>	<i>Percent change from previous Year</i>
1993	3,748	312	N/A
1994	4,077	340	+ 9%
1995	3,268	272	- 20%
1996 (Jan.-May)	1,608	322	+ 7%*

*Change is expressed relative to January through May of 1995.

Traces for assault weapons dropped more markedly from 1994 to 1995 (20 percent) than did overall traces (11 percent). In a t-test of 1994 and 1995 monthly means, the drop in assault weapon traces was statistically significant ($p=.01$, two-tailed test), while the drop in total traces was not ($p=.22$, two-tailed test). Moreover, the drop in assault weapon traces was substantially greater than the declines in gun murder (12 percent), gun robbery (8 percent), and gun assault (6 percent) for the same period. This suggests that criminal use of assault weapons decreased from 1994 to 1995, both in absolute terms and relative to crime trends generally. In addition, utilization of assault weapons in crime was less in 1995 than in 1993.

5.1.4. Analysis of Select Assault Weapons

As noted in Chapter 2, many of the foreign makes and models banned by Title XI were banned from importation prior to the passage of that legislation. Thus, any recent decrease in the use of those weapons cannot be attributed unambiguously to the effects of the Crime Act. For this reason, we concentrated our analyses below on a select group of domestic assault weapons whose availability was not affected by legislation or regulations predating the 1994 Crime Act. These guns include the AR15 family (including the various non-Colt copies), the Intratec family (including the AA Arms AP-9), and the SWD handgun family.

In addition, we selected a small number of firearm models which, as manufactured, fail the features test of the assault weapons legislation. These weapons had to meet three selection criteria: 1) the weapon had to be in production at the time of the Crime Act (if the weapon was a foreign weapon, its importation could not have been discontinued prior to the Crime Act);⁵² 2) there had to be 30 or more trace requests for assault weapons made by that manufacturer during the period January 1993 through April 1994; and 3) the weapon had to have an unambiguous assault weapon designation as it was manufactured prior to the ban (i.e., its status could not be conditional on optional features).⁵³ These criteria ensured that we would capture the most prevalent assault weapons that were still being sold in primary markets just prior to the effective date of Title XI. We used January 1993 through April 1994 as the selection period in order to minimize effects on the gun market which may have resulted from the passage of the assault weapons legislation by the U.S. House of Representatives in May of 1994.

⁵² Heckler and Koch, for example, manufactured a number of rifle and handgun models which were relatively common among assault weapon traces (i.e., the HK91, HK93, HK94, and SP89). However, these models were all discontinued between 1991 and 1993 (Fjestad 1996, p.531).

⁵³ BATF officials assisted us in these designations. The only weapon which passed the first two criteria but not the third was the Franchi Spas 12 shotgun. The assault weapon trace file contained 53 trace requests for this model prior to May 1994.

The features test weapons selected for the analysis were: Calico M950 and M110 model handguns; Calico M100, M900, and M951 model rifles; and Feather AT9 and AT22 model rifles.

This select group of assault weapons accounted for 82 percent of assault weapon traces submitted to BATF during the study period. Yearly trends in trace requests for these weapons (see Table 5-5) were virtually identical to those for all assault weapons. Most importantly, average monthly traces were 20 percent lower in 1995 than in 1994 (p=.01, two-tailed test). Figure 5-1 displays the trend in monthly traces for these firearms.

Figure 5-1. National ATF trace data: Traces for select assault weapons, January 1993–May 1996

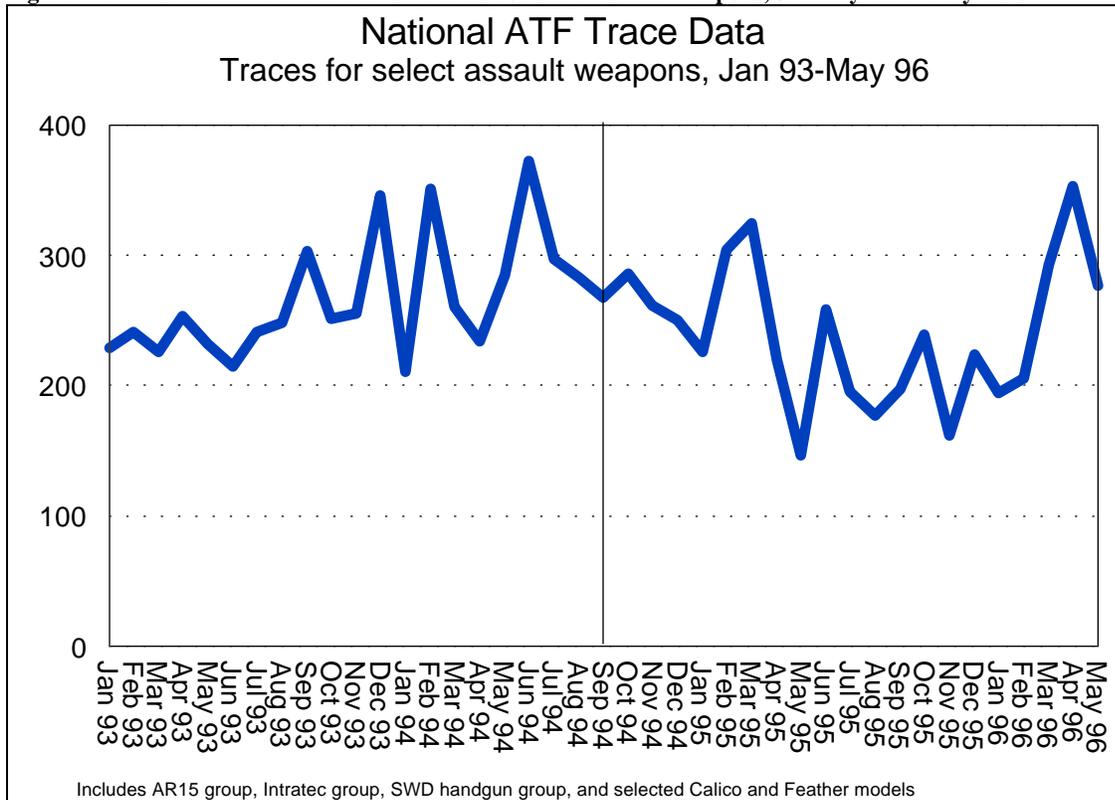


Table 5-5. Traces for select assault weapons,[†] January 1993–May 1996

<i>Year</i>	<i>Total</i>	<i>Monthly average</i>	<i>Percent change from previous year</i>
1993	3,040	253	N/A
1994	3,358	280	+ 10%
1995	2,673	223	- 20%
1996 (Jan.-May)	1,323	265	+ 8%*

*Change is expressed relative to January through May of 1995.

[†]Includes traces for AR15 group, Intratec group, SWD handgun group, and selected Calico and Feather models.

5.1.5. Assault Weapon Traces for Violent Crimes and Drug-Related Crimes

To fulfill Title XI's mandate to assess the effects of the ban on violent and drug-related crime, we also analyzed assault weapon traces associated with violent crimes (murder, assault, and robbery) and drug-related crimes. We used our select group of assault weapons for this analysis. Yearly trends for these traces are presented in Table 5-6. Monthly trends are graphed in Figure 5-2 and Figure 5-3. A striking feature of these numbers is their small magnitude. On average, the monthly number of assault weapon traces associated with violent crimes across the entire nation ranged from approximately 30 in 1995 to 44 in 1996. For drug crimes, the monthly averages ranged from 34 in 1995 to 50 in 1994.

Figure 5-2. National ATF trace data: Traces for select assault weapons (violent crimes)

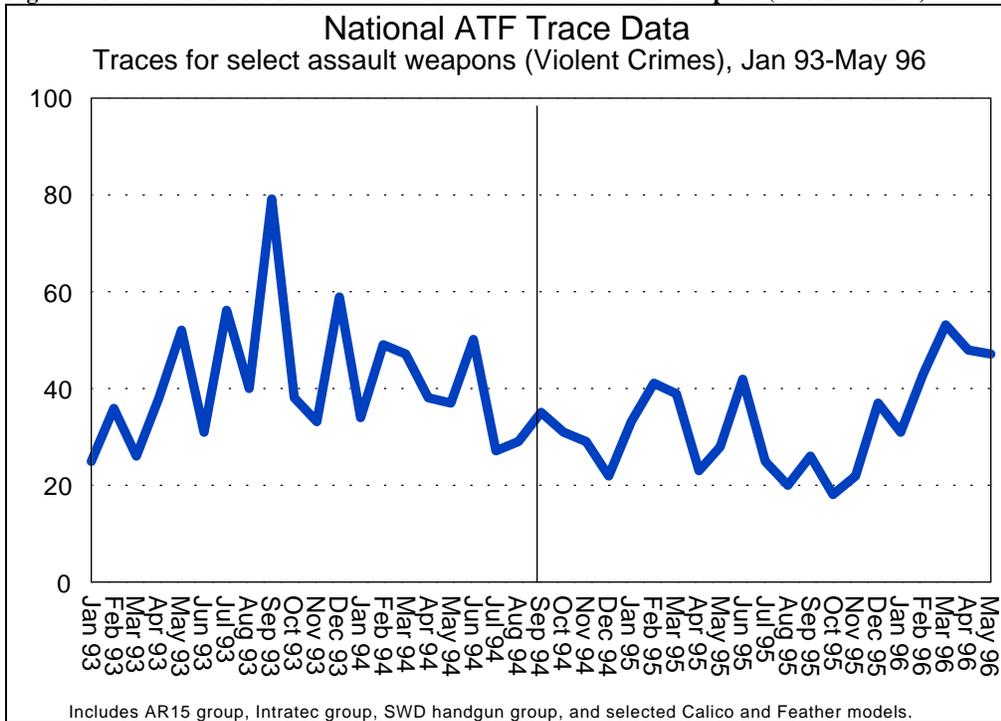


Figure 5-3. National ATF trace data: traces for select assault weapons (drug crimes)

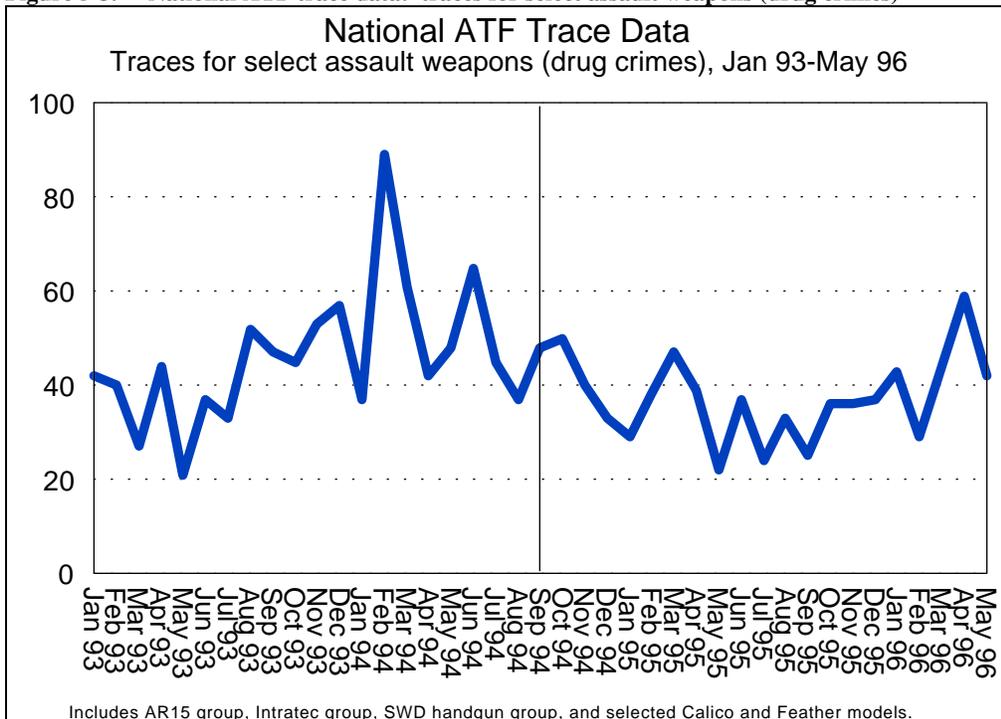


Table 5-6. Traces for select assault weapons,[†] January 1993–May 1996 (violent and drug-related crimes)**Violent Crimes:**

<i>Year</i>	<i>Total</i>	<i>Monthly average</i>	<i>Percent change from previous year</i>
1993	513	43	N/A
1994	428	36	- 17%
1995	354	30	- 17%
1996 (Jan.-May)	222	44	+ 35%*

Drug-Related Crimes:

<i>Year</i>	<i>Total</i>	<i>Monthly average</i>	<i>Percent change from previous year</i>
1993	498	42	N/A
1994	595	50	+ 19%
1995	403	34	- 32%
1996 (Jan.-May)	217	43	+ 24%*

*Change is expressed relative to January through May of 1995.

[†]Includes AR15 group, Intratec group, SWD handgun group, and selected Calico and Feather models.

Traces for assault weapons associated with violent crimes dropped 17 percent in both 1994 and 1995. Both decreases were greater than the decreases which occurred for violent gun crimes in each of those years. However, assault weapon traces for violent crime rebounded 35 percent in 1996 to a level comparable with that in 1993.

Assault weapon traces for drug crimes followed patterns similar to those for all assault weapons. Assault weapon traces increased 19 percent from 1993 to 1994, decreased 32 percent from 1994 to 1995, and then increased 24 percent from 1995 to 1996. The yearly fluctuations of these traces were greater than those for all assault weapons, but the drug trace numbers may be relatively more unstable due to the small number of weapons under consideration.

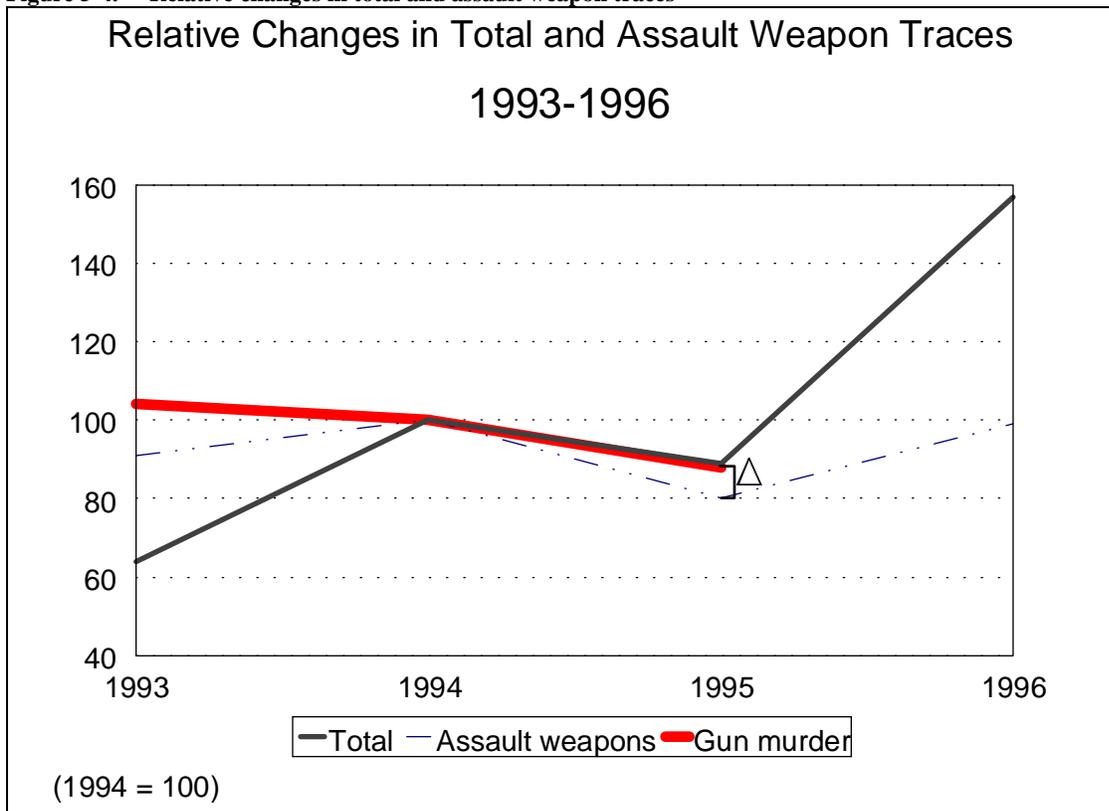
5.1.6. Conclusions on National Trends in the Use of Assault Weapons

National-level data suggest that the use of assault weapons, as measured by trace requests to BATF, declined in 1995 in the wake of the Crime Act. The 20 percent decrease in assault weapon trace requests from 1994 to 1995 was greater than occurred overall, and it was greater than the 6 to 12 percent national drop in violent gun crime. This is demonstrated graphically in Figure 5-4. Assault weapon traces for violent crimes and drug-related crimes also decreased in 1995 by amounts comparable to or greater than the overall drop in assault weapon

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traces. Further, there were approximately 13 percent fewer assault weapon trace requests in 1995 than during the pre-ban year of 1993.⁵⁴

Figure 5-4. Relative changes in total and assault weapon traces



Another indication that this was an effect from the ban is that assault weapon traces declined less in 1995 in states which had their own bans prior to the Federal legislation. Table 5-7 presents combined yearly traces for our select assault pistol group in the four states with assault weapon bans: California, New Jersey, Connecticut, and Hawaii. In general, assault weapon traces in these states followed the same pattern as did the national figures. The increases in 1994 and 1996 were larger than the national increases which occurred during those years, but the 1995 decrease was smaller than the national assault weapon decrease. Further, the decline in these ban states was consistent in magnitude with the national drop in gun crime.⁵⁵

⁵⁴ The data also do not show any obvious substitution of non-banned long guns for assault weapons. Trace requests for shotguns decreased 10 percent in 1995. Total rifle traces increased 3.5 percent in 1995, but our select group of assault weapon rifles (AR15 group and selected Calico and Feather models) also increased 3 percent. Thus, banned and non-banned rifles did not follow divergent trends. With currently available data, we have not been able to assess whether the assault weapon ban led to displacement to other categories of weapons, such as non-banned semiautomatic handguns capable of carrying pre-ban large-capacity magazines.

⁵⁵ We chose to examine only assault weapon pistols because assault rifles are rarely used in crime and Hawaii's assault weapons legislation covers only handguns. Maryland passed an assault pistol ban in 1994, but the legislation was passed only a few months prior to the Federal ban, so we did not include Maryland as a ban state.

All of the assault pistol ban states outlawed one or more of the handguns in our select group of assault pistols. However, the coverage of these state laws varied, and our select assault pistols were not banned in all of these states. We therefore conducted a supplemental analysis focusing on the Intratec TEC-9 series and the M10/M11 series made by SWD and others. As far as we can determine, these guns were covered by all of the state assault pistol bans. Trace requests for TEC-9's,

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Table 5-7. Assault pistol traces, ban states (CA, NJ, CT, and HI), January 1993–May 1996

<i>Year</i>	<i>Total</i>	<i>Monthly mean</i>	<i>Percent change from previous year</i>
1993	204	17	N/A
1994	228	19	+12%
1995	210	18	- 8%
1996 (Jan.-May)	106	21	+15%

*Change is expressed relative to January through May of 1995.

Nationally, traces for assault weapons rebounded in 1996 to a level higher than that of 1993 but lower than that of 1994. This could represent leakage into illegal channels from the stockpile of legal, grandfathered assault weapons manufactured prior to the implementation of Title XI. Production of assault weapons increased considerably in 1994, and prices of these weapons fell to pre-ban levels in late 1995 and early 1996 (see Chapter 3). Over the next few years, it is possible that more, rather than fewer, of the grandfathered weapons will make their way into the hands of criminals through secondary markets.

On the other hand, the increase for 1996 may be an artifact of recent BATF initiatives to increase trace requests from local police. The rebound in assault weapon traces might also reflect an as yet undocumented rebound in gun crime in 1996. Unfortunately, we cannot disentangle these possibilities with data available at this time, and it is not yet clear whether the 1995 decrease in our indicator of assault weapon use was temporary or permanent.⁵⁶

5.1.7. The Prevalence of Assault Weapons Among Crime Guns

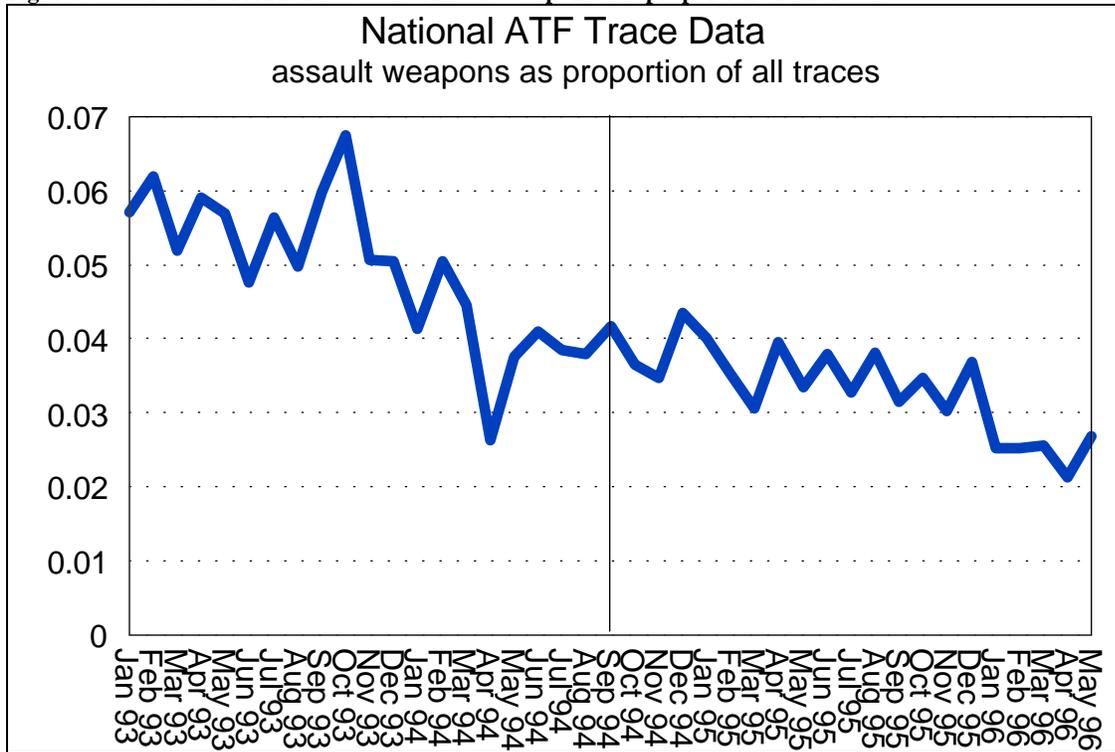
As is shown in Figure 5-5, assault weapon traces decreased as a proportion of all traces throughout the entire study period. While Title XI may have contributed to this trend, it is apparent that the trend began before implementation of Title XI, and, to a large degree, must reflect the disproportionate growth in trace requests for non-assault weapons rather than a continual decline in the prevalence of assault weapons.

M10's, and M11's from the ban states rose 1% from 1993 to 1994, decreased 6% from 1994 to 1995, and remained steady from 1995 to early 1996. The 6% drop in 1995 seems to confirm that assault weapon trace requests dropped in the ban states after implementation of the federal law but by smaller percentages than assault weapon trace requests nationwide.

⁵⁶ In light of the substantial instrumentation problems with these data and the threat which such problems pose to quasi-experimental time series designs (Campbell and Stanley 1963, pp.40-41), we elected not to pursue more sophisticated methods, such as an interrupted time series analysis, with these data.

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Figure 5-5. National ATF trace data: Assault weapons as a proportion of all traces



Despite this problem with interpreting trends in the prevalence of assault weapon traces, the 1996 trace figures arguably provide the best available estimate of the prevalence of assault weapons among crime guns. Firearm tracing should now be more complete and less biased than at any time previously. For January through May of 1996, assault weapons accounted for 3 percent of all trace requests. Our group of select domestic assault weapons represented 2.5 percent of all traces. Traces for the select assault weapon group accounted for 2.6 percent of traces for guns associated with violent crimes and 3.5 percent of traces for guns associated with drug crimes. This is consistent with previous research indicating that assault weapons are more likely to be associated with drug crimes than with violent crime (Cox Newspapers 1989; Kleck 1991). At the same time, these numbers reinforce the conclusion that assault weapons are rare among crime guns.

5.1.8. Crime Types Associated with Assault Weapons

Table 5-8 displays the types of offenses with which assault weapons were associated. For each year, approximately two-thirds of assault weapons were tied to weapons offenses. Drug offenses were the next most common, accounting for 16 to 18 percent of assault weapon traces for each year. Violent offenses ranged from 13 to 17 percent of assault weapon traces. For comparison, the percentage of total traces associated with drug offenses varied between 12 and 13 percent during this period. Violent offenses accounted for 12 to 16 percent of total traces. Hence, assault weapons were more likely to be associated with drug offenses than were other traces.

Table 5-8. Assault weapon trace requests to BATF by crime type

	<i>1993</i> (N=3,725)	<i>1994</i> (N=4,048)	<i>1995</i> (N=3,226)	<i>1996 (Jan–May)</i> (N=1,500)
Offense type*				
Murder/Homicide	.097	.069	.063	.072
Aggravated assaults	.048	.040	.051	.076
Robbery	.027	.018	.020	.022
Drug abuse violations	.167	.182	.161	.174
Weapons; carrying, possessing, etc.	.647	.665	.661	.581
Other offenses	.015	.025	.046	.075

*Offense type could not be determined for 1 percent of assault weapon traces in 1993, 1994, and 1995. Offense type could not be determined for 7 percent of assault weapon traces in 1996.

5.2. ASSAULT WEAPON UTILIZATION: LOCAL POLICE DATA SOURCES

5.2.1. *Introduction and Data Collection Effort.*

Because of our concerns over the validity of national BATF trace data for measuring the distribution of guns used in crime, we attempted to collect and analyze data from a number of police departments around the country. We sought to acquire data on all firearms confiscated in these jurisdictions, rather than just firearms for which BATF trace requests were made. Analyzing all guns confiscated in a jurisdiction provides a more complete and less biased picture of weapons used in crime than does analysis of guns selected for BATF traces. The disadvantage of using local agency gun seizure data is that trends in any given jurisdiction may not be indicative of those elsewhere in the nation. Of course, local agency data are still subject to general limitations regarding police gun confiscation data which were raised in the last section (i.e., not all guns confiscated by police are used in violent or drug-related crime and not all guns used in crime are seized by police).

Unfortunately, the attempt to collect local gun data fell short of our expectations. Our intention was to collect data from cities in states both with and without their own assault weapon bans. Further, we concentrated our data collection effort on cities in states which had relatively high rates of gun violence. To this end, we contacted several police departments around the country. However, most of the departments that we contacted either did not have their property records computerized or had only computerized their records a few months prior to the implementation of the Crime Act, thus precluding the collection of meaningful pre-ban baseline data.⁵⁷

Ultimately, we obtained data from two cities, St. Louis and Boston, neither of which is subject to a State assault weapon ban. From St. Louis, we acquired a database on all firearms confiscated by police from 1992 through 1995 (N=13,863). Our Boston data consist of monthly counts of various categories of firearms confiscated by Boston police from 1992 through August of 1996 (total confiscations numbered 3,840 for this period). For both locations, we examined trends in confiscations of our select domestic assault weapon group (i.e., the AR15, Intratec, and SWD families and selected Calico and Feather models). In addition, we approximated trends in confiscations of semiautomatic handguns capable of accepting large-capacity magazines by analyzing confiscations of selected Glock and Ruger pistols.

⁵⁷ Time, cost, and personnel considerations limited our ability to implement on-site data collection efforts.

The patterns we discovered were relatively consistent in both cities. Assault weapon confiscations were rare both before and after the ban. In both cities, the data were suggestive of a decrease in assault weapon confiscations after the ban. As a fraction of all confiscated guns, assault weapons decreased roughly 25% in these cities. Thus, these data sources provide some confirmation of our inferences regarding assault weapon trends from the national trace data. Further, we were able to examine the crimes with which assault weapons were associated in St. Louis and found that, as in the national data, assault weapons are overrepresented in drug offenses but not in violent offenses. Finally, confiscations of non-banned semiautomatic handguns capable of accepting large-capacity magazines increased or remained stable after the ban as a fraction of all confiscated handguns in both St. Louis and Boston.⁵⁸

5.2.2. Assault Weapons in St. Louis and Boston

St. Louis police confiscated 180 weapons in the select assault weapon group between 1992 and 1995.⁵⁹ The vast majority of these weapons were from the Intratec and SWD assault pistol groups. Average monthly confiscations of assault weapons dropped from 4 to 3 after the ban’s implementation (see Table 5-9). Total gun seizures also dropped during the post-ban months. In order to control for the general downward trend in gun confiscations, we examined assault weapons as a fraction of all confiscated guns. Prior to the ban, assault weapons accounted for about 1.4% of all guns. After the ban they decreased to 1% of confiscated guns, a relative decrease of approximately 29%. A contingency table chi-square test indicated that this was a statistically meaningful drop (p=.05). In addition, assault weapons represented a lower fraction of all guns confiscated during 1995 (.009) than

Table 5-9. Summary data on guns confiscated in St. Louis, January 1992 – December 1995

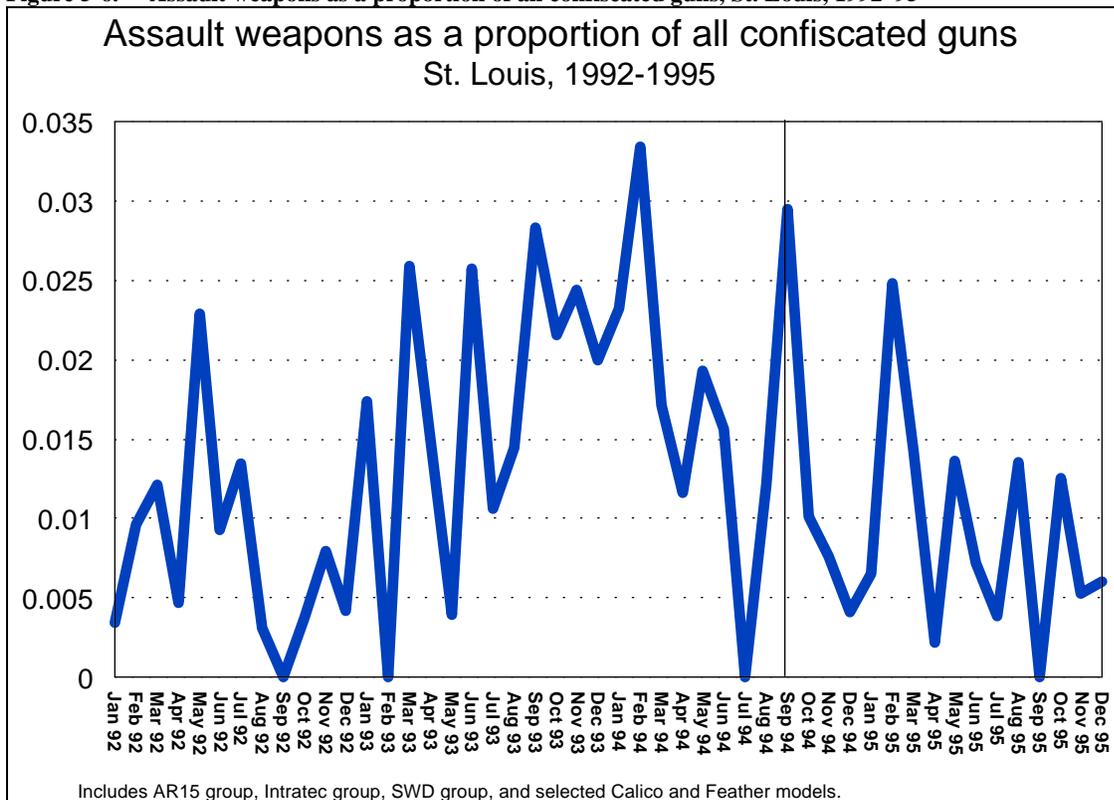
	<i>Pre-ban (Jan. '92–Aug. '94)</i>	<i>Post-ban (Sept. '94–Dec. '95)</i>	<i>Change</i>
<u>Total guns confiscated</u>			
Total	9,372	4,491	
Monthly mean	293	281	-4%
<u>Assault guns</u>			
Total	134	46	
Monthly mean	4	3	-25%
Proportion of confiscated guns	.014	.010	-29%
<u>Large-capacity handguns (Ruger and Glock)</u>			
Total	118	93	
Monthly mean	4	6	+50%
Proportion of all handguns	.018	.031	+72%

⁵⁸ As stated above, analyses of local data sources have the limitation that they are not necessarily indicative of those elsewhere in the nation. We cannot address the various local conditions which may have impacted recent gun trends in the selected cities. However, we should note that youth gun violence initiatives sponsored by the National Institute of Justice have been ongoing in each city during recent years. It is not clear at this time what impact, if any, these initiatives have had upon the gun trends that are the subjects of our investigation.

⁵⁹ The St. Louis data contain a few SWD streetsweeper shotguns in addition to SWD assault pistols.

during 1993 (.018), the last full calendar year prior to the passage and implementation of the ban. A monthly trend line for assault weapons as a fraction of all guns is shown in Figure 5-6.^{60 61}

Figure 5-6. Assault weapons as a proportion of all confiscated guns, St. Louis, 1992–95



A similar picture emerged from Boston. From 1992 through August of 1996, Boston police seized only 74 of these weapons. As in St. Louis, the vast majority were Intratec and SWD assault pistols. Table 5-10 shows

⁶⁰ We also estimated interrupted time series models to test the post intervention change in the monthly trend for the assault weapons proportion measure. As in the NCIC analysis reported in Section 4.3 (p.50) we considered various models of impact. An abrupt, temporary impact model might seem appropriate, for example, based on the price trends presented in Section 4.1 (p.24). Both abrupt, permanent and gradual, permanent impacts are also plausible and seem to better match the pattern displayed in the St. Louis data. At any rate, these analyses failed to confirm that there was a significant change in assault weapons as a fraction of all guns. (The best fitting model was an abrupt, permanent impact model with an autoregressive parameter at the third lag).

However, we have emphasized the chi-square proportions test because the monthly series is rather short (N=48) for interrupted time series analysis (McCleary and Hay 1980) and because the monthly trend line provides no strong indication that the post ban drop was due to a preexisting trend.

⁶¹ Average monthly confiscations of long guns (rifles and shotguns) increased somewhat from 88 in the pre-ban months to 92 after the ban. As a proportion of all confiscated guns, long guns rose from .299 before the ban to .326 after the ban. Thus, the decrease in assault weapons may have been offset by an increase in the use of long guns. However, we did not have the opportunity to investigate the circumstances under which long guns were seized. The post-ban increase could have been due, for example, to an increase in the proportion of confiscated guns turned in voluntarily by citizens. In addition, the ramifications of a long gun substitution effect are somewhat unclear. If, for instance, the substituted long guns were .22 caliber, rimfire (i.e., low velocity) rifles (and in addition did not accept large-capacity magazines), then a substitution effect would be less likely to have demonstrably negative consequences. If, on the other hand, offenders substituted shotguns for assault weapons, there could be negative consequences for gun violence mortality.

the respective numbers of total firearms and assault weapons seized before and after the Crime Act. The average number of assault weapons seized per month dropped from approximately 2 before the ban to about 1 after the ban, but total gun seizures were also falling. As a fraction of all guns, assault weapons decreased from .021 before the ban to .016 after the ban, a relative decrease of about 24%. A contingency table chi-square test indicated that this change was not statistically meaningful ($p=.38$), but the numbers provide some weak indication that assault weapons were dropping at a faster rate than were other guns. Quarterly trends for the proportions variable shown in Figure 5-7 suggest that assault weapons were relatively high as a proportion of confiscated guns during the quarters immediately following the ban, but then dropped off notably starting in the latter part of 1995.^{62 63}

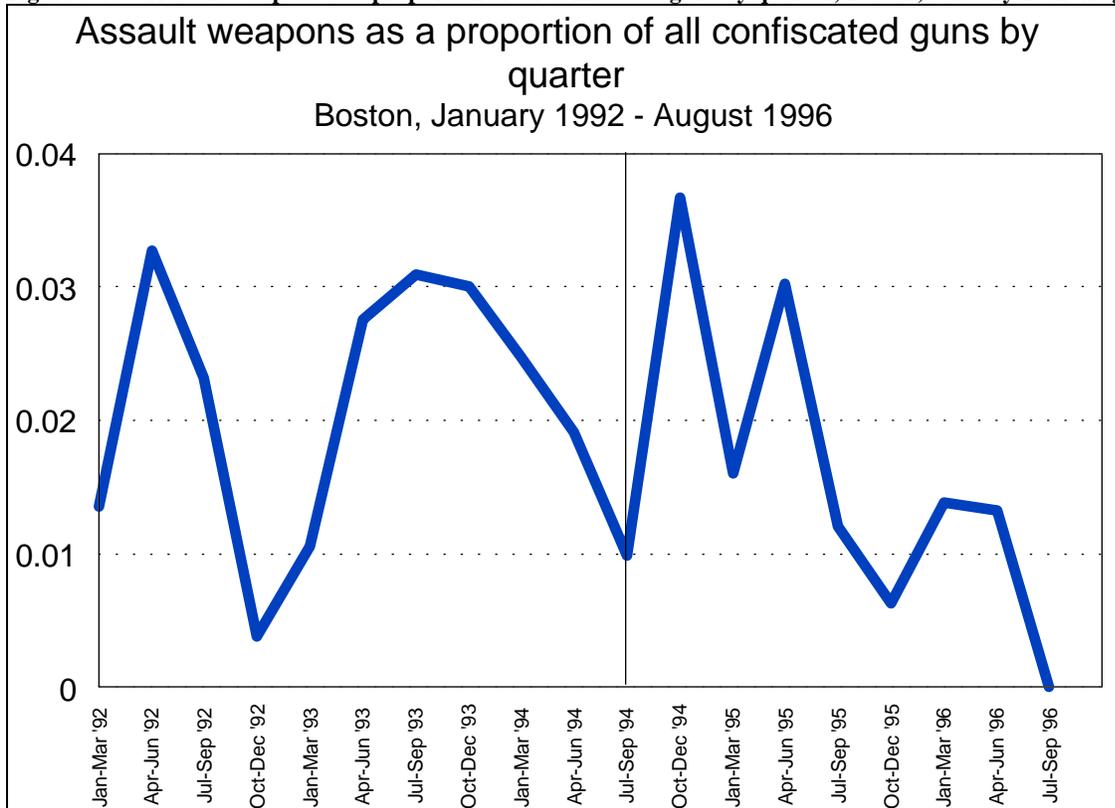
Table 5-10. Summary data on guns confiscated in Boston, January 1992 – August 1996

	<i>Pre-ban Jan. '92–Aug. '94</i>	<i>Post-ban (Sept. '94–Aug. '96)</i>	<i>Change</i>
<u>Total guns confiscated</u>			
Total	2,567	1,273	
Monthly mean	80	53	-34%
<u>Assault guns</u>			
Total	53	21	
Monthly mean	2	1	-50%
Proportion of confiscated guns	.021	.016	-24%
<u>Large-capacity handguns (Ruger and Glock)</u>			
Total	28	17	
Monthly mean	1	1	0%
Proportion of all handguns	.015	.016	+7%

⁶² We did not estimate time series models with the Boston data due to the rarity with which assault weapons were confiscated during the study period.

⁶³ In other analyses, we found that long guns decreased as a proportion of gun confiscations throughout the period, suggesting that there was not substitution of long guns for assault weapons in Boston.

Figure 5-7. Assault weapons as a proportion of all confiscated guns by quarter, Boston, January 1992–August 1996



5.2.3. Assault Weapons and Crime

Using the data from St. Louis, we were able to investigate the types of crimes with which assault weapons were associated. Approximately 12% of the assault weapons seized in St. Louis during the study period were associated with the violent crimes of homicide, aggravated assault, and robbery. Overall, about 12% of all confiscated guns were associated with these crimes. Hence, assault weapons do not appear to be used disproportionately in violent crime relative to other guns in these data, a finding consistent with our conclusions about national BATF trace data (see previous section). Overall, assault weapons accounted for about 1% of guns associated with homicides, aggravated assaults, and robberies.

However, 27% of the assault weapons seized in St. Louis were associated with drug offenses. This figure is notably higher than the 17% of all confiscated guns associated with drug charges.⁶⁴ This finding is also consistent with our national trace data analysis showing assault weapons to be more heavily represented among drug offenders relative to other firearms. Nevertheless, only 2% of guns associated with drug crimes were assault weapons.

5.2.4. Unbanned Handguns Capable of Accepting Large-capacity Magazines

We could not directly measure criminal use of pre-ban large-capacity magazines. Therefore, in order to approximate pre-ban and post-ban trends, we examined confiscations of a number of Glock and Ruger handgun models which can accept large-capacity magazines. These guns are not banned by the Crime Act, but they can

⁶⁴ Some of the guns associated with drug charges were also tied to weapons charges.

accept banned large-capacity magazines. We selected Glock and Ruger models because they are relatively common in BATF trace data (BATF 1995a, p.35). A caveat to the analysis is that we were not able to obtain data on the magazines recovered with these guns. Consequently, we cannot say whether Glock and Ruger pistols confiscated after the ban were equipped with pre-ban large-capacity magazines. It is also possible that trends corresponding to Glocks and Rugers are not indicative of trends for other unbanned, large-capacity handguns.

As was discussed in Chapter 4 (see the NCIC stolen gun analysis), the hypothesized effects of the ban on this group of weapons is ambiguous. If large-capacity handgun magazines have become less available since the ban as intended (indeed, recall that the magazine price analysis in Chapter 4 indicated that prices of large-capacity magazines for Glock handguns remained at high levels through our last measurement period in the spring of 1996), one might hypothesize that offenders would find large-capacity handguns like Glocks and Rugers to be less desirable, particularly in light of their high prices relative to other handguns. If, on the other hand, large-capacity magazines for these unbanned handguns are still widely available, offenders seeking high-quality rapid-fire capability might substitute them for the banned assault weapons.

With the St. Louis data, we investigated trends in confiscations of all Glock handguns and Ruger P85 and P89 models. Police confiscated 118 of these handguns during the pre-ban months and 93 during the post-ban months (see Table 5-9). The monthly average increased from approximately 4 in the pre-ban months to 6 in the post-ban period. As a fraction of all confiscated handguns, moreover, the Glock and Ruger models rose from .018 before the ban to .031 after the ban, a relative increase of 72%. (These handguns also increased from .037 to .065 — a 76% change — as a fraction of all semiautomatic handguns; thus, the upward trend for these guns was not simply a result of a general increase in the use of semiautomatic handguns). However, Figure 5-8 shows that these handguns were trending upward as a fraction of all handguns well before the ban was implemented. (For this reason, we did not conduct contingency table chi-square tests for the pre-ban and post-ban proportions). Visually, it appears that the ban may have caused this trend to level off. Nevertheless, an interrupted time series analysis failed to provide evidence of a ban effect on the proportion of handguns which were unbanned large-capacity semiautomatics.⁶⁵

⁶⁵ In preliminary analysis, we found that the noise component of this time series was substantially affected by a modest outlier value at the last data point. We were able to estimate a better fitting model with more stable parameters with the outlier removed. After removing this data point (N=47), the final noise component consisted of a moving average parameter at the third lag, autoregressive parameters at lags two and four, and a seasonal autoregressive parameter at the twelfth lag. As in the time series analyses reported elsewhere, we examined a variety of impact models. The most appropriate impact model for the data was an abrupt, permanent impact. The impact parameter was positive (.006) but statistically insignificant (t value=1.13).

Figure 5-8. Unbanned large-capacity handguns as a proportion of all confiscated handguns, St. Louis, 1992-95

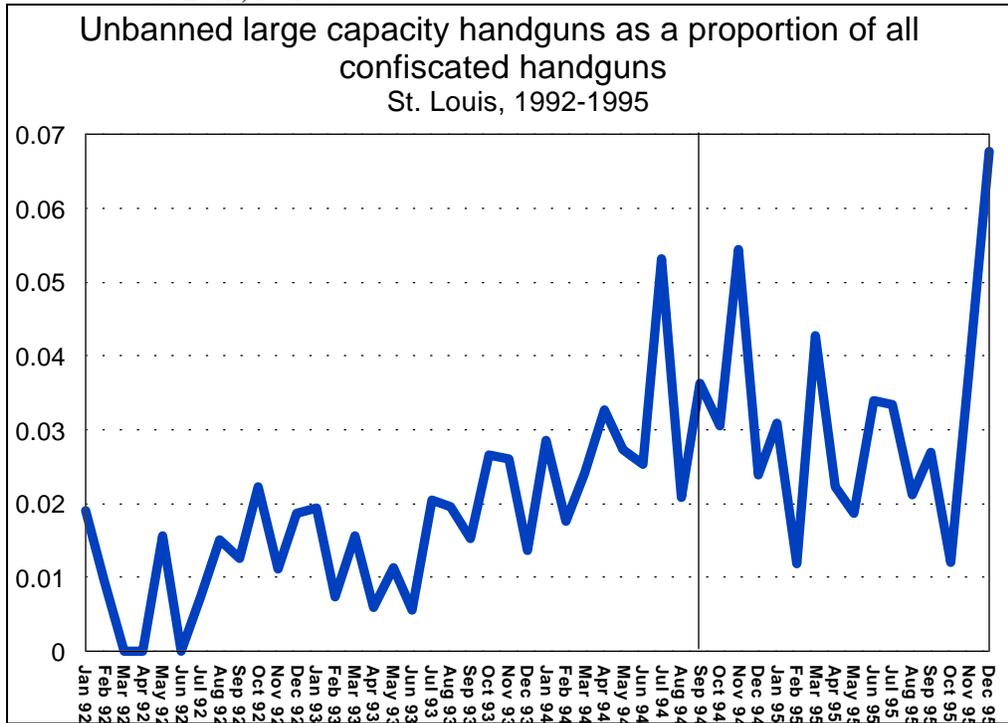
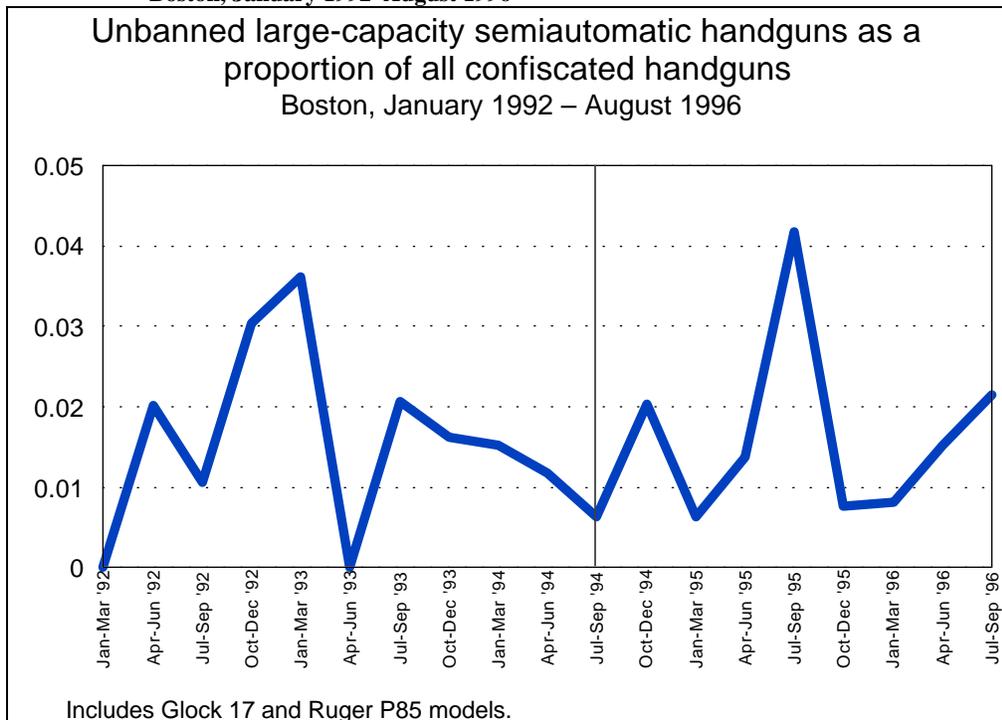


Figure 5-9. Unbanned large-capacity semiautomatic handguns as a proportion of all confiscated handguns, Boston, January 1992–August 1996



The data we acquired from Boston included counts for two specific unbanned, large-capacity handgun models, the Glock 17 and Ruger P85. Police in Boston confiscated 28 of these guns from January 1992 through August of 1994 and 17 from September 1994 through August 1996 (see Table 5-10). As a proportion of all

confiscated handguns, these models increased slightly from .015 before the ban to .016 after the ban. However, a contingency table chi-square test indicated that this difference was not statistically meaningful ($p=.83$).⁶⁶ The quarterly trend for the proportion measure is displayed in Figure 5-8. The pattern does not suggest any meaningful trends over time.⁶⁷

In sum, the data from St. Louis and Boston do not warrant any strong conclusions one way or the other with respect to the use of large-capacity magazines, as crudely approximated by confiscations of a few relatively popular unbanned handgun models which accept such magazines. The ban on large-capacity magazines does not seem to have discouraged the use of these guns. At the same time, the assault weapon ban has not caused a clear substitution of these weapons for the banned large-capacity firearms.

⁶⁶ We did not attempt any time series analyses with these data due to the rarity with which these guns were confiscated in Boston.

⁶⁷ A caveat to this analysis is that the Ruger P85 was discontinued in 1992 and replaced with a new version called the P89 (Fjestad 1996, p.996). The P89 was one of the ten most frequently traced guns nationally in 1994 (BATF 1995a, p.35). Unfortunately, we did not acquire data on confiscations of P89's in Boston (the P89 was included in our St. Louis figures). Had we been able to examine P89's in Boston, we may have found a greater increase in the use of unbanned, large-capacity handguns after the ban. Accordingly, the most prudent conclusion from the Boston data may be that there are no signs of a decrease in the use of unbanned, large-capacity handguns.

6. POTENTIAL CONSEQUENCES OF ASSAULT WEAPON USE

The Congressional mandate for this study required us to study how the Subtitle A bans on assault weapons and large-capacity magazines affected two consequences of using those weapons: specifically, violent and drug-related crime. Among violent crimes, we devoted most attention to gun murders, because it is the best measured. However, the total gun murder rate is an insensitive indicator of ban effects, because only a fraction of gun murders involve large-capacity magazines, and only about 25 percent of those murders involve the banned assault weapons. Therefore, we carried out supplementary analyses of certain categories of gun murders that more commonly involve the banned guns and magazines: events that involve multiple gun murder victims, gun murders involving multiple wounds, and killings of law enforcement officers. Unlike the BATF trace data analyzed in Chapter 5, available data sources did not permit us to categorize these events on the basis of relationship to drugs.

6.1. TRENDS IN STATE-LEVEL GUN HOMICIDE RATES

To estimate the impact of the Subtitle A bans on gun homicide rates, we estimated multivariate regression models using data from all states with reasonably consistent Supplementary Homicide Reporting over the sixteen-year period 1980 through 1995. We closely followed the approach used by Marvell and Moody (1995) to analyze the impact of enhanced prison sentences for felony gun use. Marvell and Moody generously provided their database, which we updated to cover the post-ban period.

Any effort to estimate how the ban affected the gun murder rate must confront a fundamental problem, that the maximum achievable preventive effect of the ban is almost certainly too small to detect statistically. Although our statistical model succeeded in explaining 92 percent of the variation in State murder rates over the observation period, a post hoc power analysis revealed that it lacks the statistical power to detect a preventive effect smaller than about 17 percent of all gun murders under conventional standards of statistical reliability.⁶⁸ A reduction that large would amount to preventing at least 2.4 murders for every one committed with an assault weapon before the ban, or, alternatively, preventing two-thirds of all gun murders committed with large-capacity magazines — obviously impossible feats given the availability of substitutes for the banned weapons.⁶⁹ While there are substantially smaller reductions that would benefit society by more than the cost of the ban, they would be impossible to detect in a statistical sense, at least until the U.S. accumulates more years of post-ban data.

Within this overall constraint, our strategy was to begin with a “first-approximation” estimate of the ban effect on murders, then to produce a series of re-estimates intended to rule out alternative explanations of the estimated effect. Based on these efforts, our best estimate of the short-run effect is that the ban produced a 6.7 percent reduction in gun murders in 1995. However, we caution that for the reasons just explained, we cannot statistically rule out the possibility that no effect occurred. Also, we expect any short-run 1995 preventive effect on gun murders to ebb, then flow, in future years, as the stock of grandfathered assault weapons makes its way to offenders patronizing secondary markets, while the stock of large-capacity magazines dwindles over time.

The following sections first describe our data set, then explain our analyses.

⁶⁸ By conventional standards, we mean statistical power of 0.8 to detect a change, with .05 probability of a Type 1 error.

⁶⁹ Moreover, no evidence exists on the lethality effect of limiting magazine capacity.

6.1.1. Data

Data for gun homicides are available for the entire 1980–95 period of the study. We obtained data from “Crime in the United States” Uniform Crime Reports for the years 1994 and 1995, and from Marvell and Moody for the years 1980 through 1993. (Marvell and Moody used “Crime in the United States” Uniform Crime Reports for years 1991 to 1993, and unpublished data from the FBI for the earlier years.)

Since the fraction of homicides for which weapon use was reported by states varied from state to state and even year to year over the period, it was necessary to adjust and filter the data. To address this reporting problem, we adopted Marvell and Moody’s (1995) approach to compile what they call a “usable” data series, consisting of observations (each year for each state) for which homicide weapon-use reporting is at least 75 percent complete (See Marvell and Moody, 1995).⁷⁰ On this basis we had to eliminate a certain portion of the gun homicide data (see Table 6-2) For each observation that met this requirement, the number of gun homicides was multiplied by a correction factor defined as the ratio of the FBI estimate for the total number of reported homicides in the state to the number of homicides for which the state reported weapon data.

We used Marvell and Moody’s rule of retaining states in the analysis only if they had data for seven or more consecutive years⁷¹ and added the additional requirement that states must have had gun homicide data for the post-intervention year, 1995. (This additional requirement caused us to eliminate four states entirely from the analysis: Delaware, Kansas, Nebraska, and New Mexico.) In addition, Marvell and Moody made allowances for otherwise adequate seven-year series that contained a single year of data that did not meet the above requirements. Provided the reporting rate was at least 50 percent and the corrected figure did not “depart greatly”⁷² from surrounding years, the state was not dropped from the analysis. (These are: Louisiana 1987, South Carolina 1991, Tennessee 1991, and Wyoming 1982.) A further allowance was, that if the reporting rate was below 50 percent, or if the adjusted number did depart from surrounding years, the percentage of gun homicides was revised as the average of that for the four surrounding years. (These are: Alaska 1984, Arizona 1989, Idaho 1991, Iowa, 1987, Kentucky 1983, Maryland 1987, Minnesota 1990, North Dakota 1991, Texas 1982, and Vermont, 1993.) In the end, “usable data” remained for 42 states for the analysis (see Table 6-2).

To allow us to account for intervening influences on gun homicide rates, we gathered data for several time-varying control variables that proved statistically significant in Marvell and Moody’s analysis. Two economic variables (state per capita personal income and state employment rate) and two age structure variables were included. State per capita personal income was available from the Bureau of Economic Analysis for all years; we obtained data for 1991–95 directly from the Department of Commerce, while Marvell and Moody provided us the data for earlier years. State employment rates were available from the Bureau of Labor Statistics, Department of Labor for 1994 and 1995 and from the Bureau of Economic Analysis (via Marvell and Moody) for year 1980–93. Data on the age structures of state populations were available from the Bureau of the Census

⁷⁰ An alternative approach would have been to use mortality data available from the National Center for Health Statistics through 1992, then to append NCR data for the subsequent years. We were concerned about possible artifactual effects of combining medical examiners’ and police data into a single time series, but recommend this approach for future replication.

⁷¹ However, we departed from Marvell and Moody by including observations for years that followed a gap in a series of “usable” data and were therefore not part of a seven-year string. The state was treated as a missing observation during the gap.

⁷² According to Marvell and Moody, a single year of data does not “depart greatly” from surrounding years if either the percentage of gun murders falls within the percentages for the prior and following years, or if it is within three percentage points of the average of the four closest years.

unadjusted estimates of total resident population of each state as of July 1 of each year. (We obtained these data directly for years 1994–95, while Marvell and Moody generously provided us with the data for earlier years).

6.1.2. Research Design

As a first approximation for estimating effects of the assault weapon ban, we specified Model 1 as loglinear in state gun homicide rate (adjusted as described above) and a series of regressors.⁷³ The regressors were:

- A third-degree polynomial trend in the logarithm of time;
- A dummy variable for each state;
- State per-capita income and employment rates for each year (logged);
- Proportions of the population aged 15-17 and 18-24 (logged);
- D95, a 1995 dummy variable, which represented ban effects in this first-approximation model; and
- PREBAN, a dummy variable set to represent states with assault weapon bans during their pre-ban years.

We represented time with the polynomial trend instead of a series of year dummies for two reasons. First, by reducing the number of time parameters to estimate from 15 to 3, we improved statistical efficiency. Second, during sensitivity analyses after Model 1 was fit, we discovered that it produced more conservative estimates of ban effects than a model using time dummies (that model implicitly compares 1995 levels to 1994 levels instead of to the projected trend for 1995), because the estimated trend began decreasing at an increasing rate in the most recent years. We included the economic and demographic explanatory variables because Marvell and Moody (1995) had found them to be significant influences on state-level homicide rates using the same data set. PREBAN was included so that for states with their own assault weapon bans, the D95 coefficient would reflect differences between 1995 and only those earlier years in which the state's gun ban was in place.

As shown in Table 6-1, Model 1 estimated a 9.0 percent reduction in gun murder rates in the year following the Crime Act, based on a statistically significant estimated coefficient for the 1995 dummy variable.⁷⁴ This estimated coefficient, of course, reflects the combined effect of a package of interventions that occurred nearly simultaneously with the Subtitle A bans on assault weapons and large-capacity magazines. These include: the Subtitle B ban on juvenile handgun possession and the new Subtitle C FFL application and reporting requirements, other Crime Act provisions, the Brady Act, and a variety of State and local initiatives.

We reasoned that if the Model 1 estimate truly reflected assault weapon ban effects, then by disaggregating the states we would find a larger reduction in gun murders in the states without pre-existing assault weapon bans than in the four states with such bans prior to 1994 (California, Connecticut, Hawaii, and New Jersey). To test this hypothesis, we estimated Model 2, in which D95 was replaced by two interaction terms that indicated whether or not a State ban was in place in 1995. As shown in Table 6-1, disaggregating the states using

⁷³ We weighted the regression by state population to adjust for heteroskedasticity and to avoid giving undue weight to small states.

⁷⁴ In our sensitivity analyses of models in which the polynomial time trend was replaced with year dummies, the corresponding Model 1 estimated reduction was 11.2 percent, and the estimated coefficient was statistically significant at the .05 level. Similarly, for alternatives to Models 2-4, the estimated ban effects were 2 to 3 percent larger than those shown in Table 6-1 and were statistically significant at the .05 level.

Model 2 did produce a larger estimated ban effect, a statistically significant reduction of 10.3 percent in the states without their own bans.

Table 6-1. Estimated Coefficients and Changes in Gun Murder Rates from Title XI Interventions

<i>Model</i>	<i>Subgroup for 1995 impact</i>	<i>Coefficient</i>	<i>Percent change</i>	<i>test statistic</i>
1	All Usable (N = 42)	-0.094 +	-9.0%	-1.67
2	States without AW ban (N = 38)	-0.108 +	-10.3	-1.88
	States with AW ban (N = 4)	-0.001	-0.1	-0.01
3	States without AW or JW ban (N = 22)	-0.102	-9.7	-1.56
	States without AW, with JW ban (N = 16)	-0.115	-10.9	-1.64
	States with AW, without JW ban (N = 2)	-0.076	-7.3	-0.41
	States with AW and JW ban (N = 2)	0.044	4.5	0.39
4	California and New York excluded: States without AW or JW ban (N = 22)	-0.103	-9.8	-1.58
	States without AW, with JW ban (N = 15)	-0.069	-6.7	-0.95
	States with AW, without JW ban (N = 2)	-0.079	-7.6	-0.43
	States with AW and JW ban (N = 1)	0.056	5.8	0.30

+ Statistically significant at 10-percent level

To isolate the hypothesized Subtitle A bans from the Subtitle B ban on juvenile handgun possession, we estimated Model 3, in which D95 was used in four interaction terms with dummy variables indicating whether a state had its own assault weapon ban, juvenile handgun possession ban, both, or neither at the time of the Crime Act.⁷⁵ We also added a term, PREJBAN, which represented states with juvenile bans during their pre-ban years, for reasons analogous to the inclusion of PREBAN. The estimates of most interest are those for the 38 states without their own assault weapon bans. Among those, the estimated ban effect was slightly larger in states that

⁷⁵ A more restrictive alternative to Model 3 is based on the assumption that the impacts for states without assault weapon bans and the impacts for states without juvenile handgun possession bans are additive. A model estimate under this assumption yielded very similar point estimates and slightly smaller standard errors than Model 3. We preferred the more flexible Model 3 for two reasons. First, the less restrictive model helps us interpret the estimates clearly in light of some of the legislative changes that occurred in late 1994. Model 3 allows the reader to assess the consequences of the assault weapon ban under each set of conditions that existed at the time the ban was implemented. Second, because a juvenile handgun possession ban a fortiori prohibits the most crime-prone segment of the population from possessing the assault weapons most widely used in crime, we hesitated to impose an additivity assumption.

already had a juvenile handgun possession ban than in those that did not. We interpret the former estimate as a better estimate of the assault weapon ban effect because the State juvenile ban attenuates any confounding effects of the Federal juvenile ban. In any event, however, the estimates are not widely different, and they imply a reduction in the 10 to 11 percent range.

We were also concerned that our estimates might be distorted by the effects of relevant State and local initiatives. Therefore, we reestimated Model 3 excluding 1995 data for California and New York. We filtered out these two because combined they account for nearly one-fourth of all U.S. murders and because they were experiencing potentially relevant local interventions at the time of the ban: California’s “three strikes” law and New York City’s “Bratton era” in policing, coming on the heels of several years of aggressive order maintenance in that city’s subway system.

The estimation results with California and New York omitted appear as Model 4 in Table 6-1. While dropping these states leaves three of the estimated coefficients largely unaffected, it has a substantial effect on New York’s category, states with a juvenile handgun possession ban but no assault weapon ban. The estimated ban effect in this category drops from a nearly significant 10.9 percent reduction to a clearly insignificant 6.7 percent reduction, which we take as our best estimate.

To conclude our study of state-level gun homicide rates, we performed an auxiliary analysis. We were concerned that our Model 4 estimate of 1995 ban effects could be biased by failure to control for the additional requirements on FFL applicants that were imposed administratively by BATF in early 1994 and included statutorily in Subtitle C of Title XI, which took effect simultaneously with the assault weapon ban. These requirements were intended to discourage new and renewal applications by scofflaw dealers who planned to sell guns primarily to ineligible purchasers presumed to be disproportionately criminal. Indeed, they succeeded in decreasing the number of FFLs by some 37 percent during 1994 and 1995, from about 280,000 to about 180,000 (U.S. Department of Treasury, 1997). We were concerned that if the FFLs who left the formal market during that period were disproportionately large suppliers of guns to criminals, then failure to control for their disappearance could cause us to impute any resulting decrease in gun murder rates mistakenly to the Subtitle A ban.

Unfortunately, we could use only the 1989–95 subset of our database to test this possibility, because we could not obtain state-level FFL counts for years before 1989. Therefore, we modified Model 4 by replacing the time trend polynomial with year dummies. We then estimated the modified Model 4 both with and without a logged FFL count and an interaction term between the logged count and a 1994–95 dummy variable. Although the estimated coefficient on the interaction term was significantly negative, the estimated 1995 ban effect was essentially unchanged.

Table 6-2. Years for which gun-related homicide data are not available

	<i>Gun homicide data 1980–95</i>
Alabama	✓
Alaska	✓
Arizona	✓
Arkansas	✓
California	✓
Colorado	✓
Connecticut	✓

	<i>Gun homicide data 1980-95</i>
Delaware	No usable data
District of Columbia	No usable data
Florida	1988-91
Georgia	1980-81
Hawaii	✓
Idaho	✓
Illinois	No usable data
Indiana	1989-1991
Iowa	1991-1993
Kansas	No usable data
Kentucky	1987-89; 1994
Louisiana	1990-91
Maine	1990-92
Maryland	✓
Massachusetts	1988-90
Michigan	✓
Minnesota	✓
Mississippi	No usable data
Missouri	✓
Montana	No usable data
Nebraska	No usable data
Nevada	✓
New Hampshire	✓
New Jersey	✓
New Mexico	No usable data
New York	✓
North Carolina	✓
North Dakota	1994
Ohio	✓
Oklahoma	✓
Oregon	✓

EB000243

	<i>Gun homicide data 1980–95</i>
Pennsylvania	✓
Rhode Island	✓
South Carolina	✓
South Dakota	No usable data
Tennessee	✓
Texas	✓
Utah	✓
Vermont	1980-83
Virginia	✓
Washington	✓
West Virginia	✓
Wisconsin	✓
Wyoming	✓

✓ indicates usable data are available for all years (1980–95) in the period

6.2. ASSAULT WEAPONS, LARGE-CAPACITY MAGAZINES, AND MULTIPLE VICTIM/MASS MURDERS

6.2.1. Trends in Multiple-Victim Gun Homicides

The use of assault weapons and other firearms with large-capacity magazines is hypothesized to facilitate a greater number of shots fired per incident, thus increasing the probability that one or more victims are hit in any given gun attack. Accordingly, one might expect there to be on average a higher number of victims per gun homicide incident for cases involving assault weapons or other firearms with large-capacity magazines. To the extent that the Crime Act brought about a permanent or temporary decrease in the use of these weapons (a result tentatively but not conclusively demonstrated for assault weapons in Chapter 5), we can hypothesize that the number of victims per gun homicide incident may have also declined.

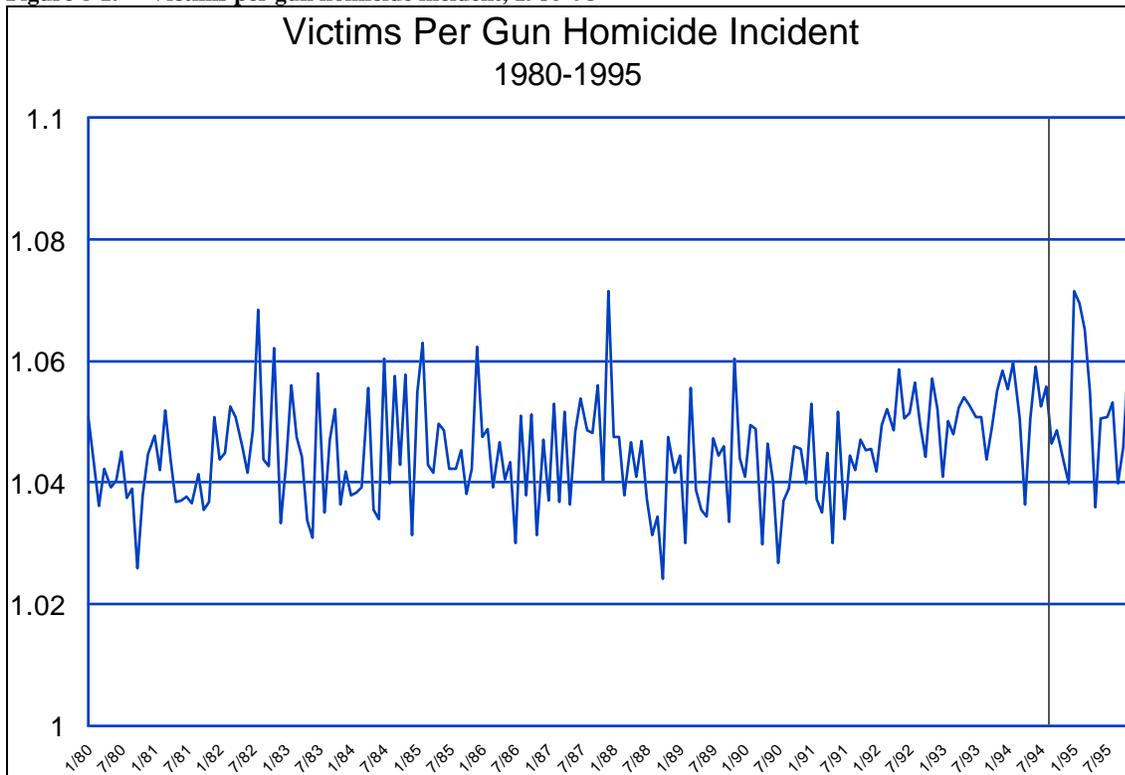
We investigated this hypothesis using data from the Federal Bureau of Investigation’s Supplemental Homicide Reports (SHR) for the years 1980 through 1995. We constructed a monthly database containing the number of gun homicide incidents and victims throughout the nation.⁷⁶ The SHR does not contain information

⁷⁶ The SHR is compiled annually by the FBI based on homicide incident reports submitted voluntarily by law enforcement agencies throughout the country (see the FBI’s *Uniform Crime Reports* for more information about reporting to the Uniform Crime Reports and the Supplemental Homicide Reports). Though the SHR contains data on the vast majority of homicides in the nation, not all agencies report homicide incident data to the SHR, and those agencies which do report may fail to report data for some of the homicides in their jurisdiction. In this application, it is not clear how any potential bias from

about the makes, models, and magazine capacities of firearms used in homicides. Consequently, these results rely on indirect, inferred links between expected changes in the use of banned weapons and trends in the victim per incident measure.

From 1980 through August of 1994 (the pre-ban period), there were 184,528 gun homicide incidents reported to the SHR. These cases involved 192,848 victims, for an average of 1.045 victims per gun homicide incident. For the post-ban months of September 1994 through December 1995, there were 18,720 victims killed in 17,797 incidents, for an average of 1.052 victims per incident. Thus, victims per incident increased very slightly (less than 1 percent) after the Crime Act. A graph of monthly means presented in Figure 6-1 suggests that this increase predated the assault weapon ban. Nevertheless, an interrupted time series analysis also failed to produce any evidence that the ban reduced the number of victims per gun homicide incident.⁷⁷

Figure 6-1. Victims per gun homicide incident, 1980-95



Considering the rarity with which assault weapons are used in violent crime (for example, assault weapons are estimated to be involved in 1 to 7 percent of gun homicides),⁷⁸ this result is not unexpected. At the same time, an important qualifier is that the data available for this study have not produced much evidence regarding pre-ban/post-ban trends in the use of large-capacity magazines in gun crime. In the next section, we offer a tentative estimate, based on one city, that approximately 20 to 25 percent of gun homicides are committed

missing cases would operate. That is, we are unaware of any data indicating whether reported and non-reported cases might differ with respect to the number of victims killed.

⁷⁷ We tested the data under different theories of impact suggested by the findings on assault weapon utilization reported in Chapter 5, but failed to find evidence of a beneficial ban effect. If anything, our time series analysis suggested that the post-ban increase in victims per gun murder incident was a meaningful change.

⁷⁸ See discussion in Chapters 2 (p.8) and 5 (p.58) and in Section 6.3 (p.87) of this chapter.

with gun equipped with large-capacity magazines banned by the Crime Act.⁷⁹ Hence, trends in the use of large-capacity magazines would seem to have more potential to produce measurable effects on gun homicides. It is not yet clear as to whether the use of large-capacity magazines has been substantially affected by the Crime Act.

Despite these ambiguities, we can at least say that this examination of SHR data produced no evidence of short term decreases in the lethality of gun violence as measured by the mean number of victims killed in gun homicide incidents.⁸⁰

6.3. CONSEQUENCES OF TITLE XI: MULTIPLE WOUND GUN HOMICIDES

To provide another measure of the consequences of the assault weapon/large-capacity magazine ban on the lethality of gun violence, we analyzed trends in the mean number of gunshot wounds per victim of gun homicides in a number of sites. In one jurisdiction, we were able to examine trends in multiple wound non-fatal gunshot cases. The logic of these analyses stems from the hypothesis that offenders with assault weapons or other large-capacity firearms can fire more times and at a more rapid rate, thereby increasing both the probability that they hit one or more victims and the likelihood that they inflict multiple wounds on their victims. One manifestation of this phenomenon could be a higher number of gunshot wounds for victims of gun homicides committed with assault weapons and other large-capacity firearms. To the extent that Title XI decreased the use of assault weapons and large-capacity magazines, we hypothesize a decrease in the average number of wounds per gun murder victim.

To test this hypothesis, we collected data from police and medical sources on gunshot murders (justifiable homicides were excluded) in Milwaukee County, Seattle and King County, Jersey City (New Jersey), Boston, and San Diego County. Selection of the cities was based on both data availability and theoretical relevance. Jersey City and San Diego were chosen as comparison series for the other cities because New Jersey and California had their own assault weapons bans prior to the Federal ban. The New Jersey and California laws did not ban all large-capacity magazines, but they did ban several weapons capable of accepting large-capacity magazines. Thus, we hypothesized that any reduction in gunshot wounds per gun homicide victim due to the Federal ban might be smaller in magnitude in Jersey City and San Diego.

The data from Seattle and San Diego were collected from the respective medical examiners' offices of those counties.⁸¹ The Milwaukee data were collected from both medical and police sources by researchers at the Medical College of Wisconsin. The Jersey City data were collected from the Jersey City Police Department. Finally, the Boston data were provided by the Massachusetts Department of Public Health. From each of these sources, we were able to collect data spanning from January 1992 through at least the end of 1995. In some cities we were able to obtain data on the actual number of gunshot wounds inflicted upon victims, while in other cities we were able to classify cases only as single wound or multiple wound cases. Depending on data available, we analyzed pre-ban and post-ban data in each city for either the mean number of wounds per victim or the proportion

⁷⁹ A New York study estimated this figure to be between 16 percent and 25 percent (New York State Division of Criminal Justice Services 1994, p.7).

⁸⁰ See Appendix A for an investigation of assault weapon use in mass murders.

⁸¹ The Seattle data were collected for this project by researchers at the Harborview Injury Prevention and Research Center in Seattle. The San Diego County Medical Examiner's Office provided data from San Diego.

of victims with multiple wounds. We concluded this investigation with an examination of the mean number of gunshot wounds for victims killed with assault weapons and other firearms with large-capacity magazines, based on data from one city.

6.3.1. Wounds per Incident: Milwaukee, Seattle, and Jersey City

From the Milwaukee, Seattle, and Jersey City data, we were able to ascertain the number of gunshot wounds suffered by gun murder victims. Relevant data comparing pre-ban and post-ban cases are displayed in Table 6-3. The average number of gunshot wounds per victim did not decrease in any of these three cities. Gunshot wounds per victim actually increased in all these cities, but these increases were not statistically significant.^{82 83}

Table 6-3. Gunshot wounds per gun homicide victim, Milwaukee, Seattle, and Jersey City

	<i>Cases</i>	<i>Average</i>	<i>Standard deviation</i>	<i>T value</i>	<i>P level</i>
<u>Milwaukee County (N = 418)</u>					
Pre-ban: January '92 - August '94	282	2.28	2.34		
Post-ban: September '94 - December '95	136	2.52	2.90		
<i>Difference</i>		+ 0.24		0.85*	.40
<u>Seattle and King County (N = 275)</u>					
Pre-ban: January '92 - August '94	184	2.08	1.78		
Post-ban: September '94 - June '96	91	2.46	2.22		
<i>Difference</i>		+ 0.38		1.44*	.15
<u>Jersey City (N =44)</u>					
Pre-ban: January '92 - August '94	24	1.58	1.56		
Post-ban: September '94 - May '96	20	1.60	1.79		
<i>Difference</i>		+ 0.02		0.03	.97

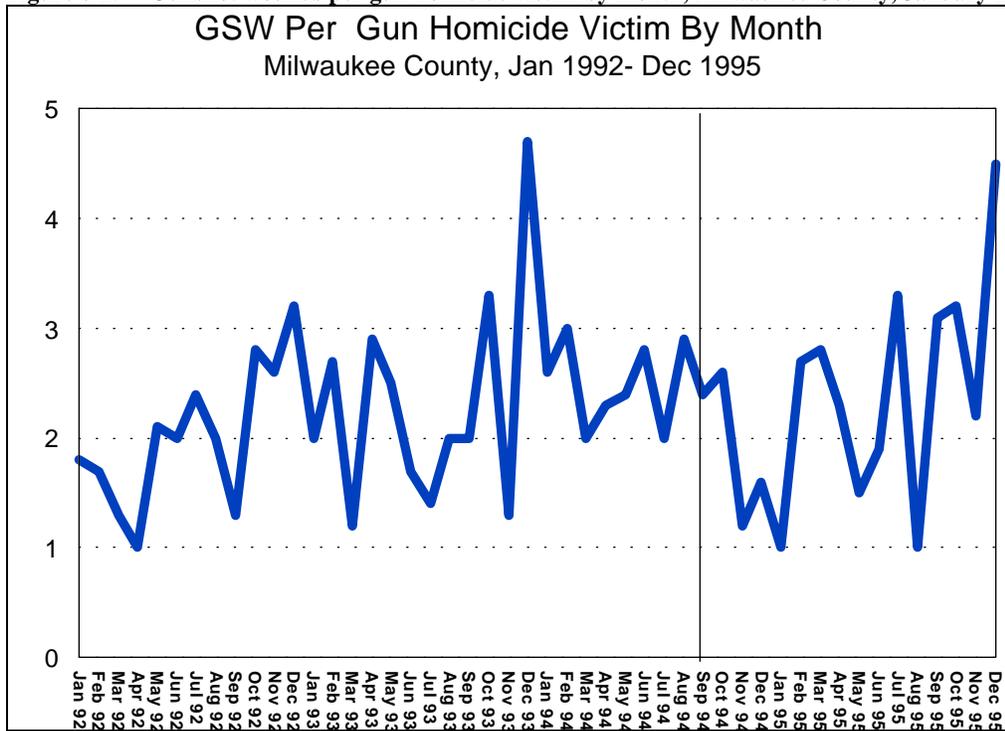
* T values were computed using formula for populations having unequal variances

⁸² Our comparisons of pre-ban and post-ban cases throughout this section are based on the assumption that the cases in each sample are independent. Technically, this assumption may be violated by incidents involving multiple victims and/or common offenders. Violation of this assumption has the practical consequence of making test statistics larger, thus making it more likely that differences will appear significant. Since the observed effects in these analyses are insignificant and usually in the wrong direction, it does not appear that violation of the independence assumption is a meaningful threat to our inferences.

⁸³ We also ran tests comparing only cases from 1993 (the last full year prior to passage and implementation of Title XI) and 1995 (the first full year following implementation of Title XI). These tests also failed to yield evidence of a post-ban reduction in the number of wounds per case.

Time trends in the monthly average of wounds per victim for Milwaukee and Seattle are displayed in Figure 6-2 and Figure 6-3. Figure 6-4 presents quarterly time trends for Jersey City. None of the graphs provide strong visual evidence of trends or changes in trends associated with the implementation of Title XI, but the Milwaukee and Seattle graphs are somewhat suggestive of upward pre-ban trends that may have been affected by the ban. We made limited efforts to estimate interrupted time series models (McCleary and Hay 1980) for these two series. The Milwaukee model provided no evidence of a ban effect,⁸⁴ and the efforts to model the Seattle data were inconclusive.⁸⁵ Because the ban produced no effects in Milwaukee or Seattle, it was not necessary to draw inferences about Jersey City as a comparison site.

Figure 6-2. Gunshot wounds per gun homicide victim by month, Milwaukee County, January 1992–December 1995



⁸⁴ We tested the Milwaukee data under various theories of impact but failed to find evidence of an effect from the ban.

⁸⁵ The Seattle data produced an autocorrelation function (see McCleary and Hay 1980) that was uninterpretable, perhaps as a result of the small number of gun murders per month in Seattle. Aggregating the data into larger time periods (such as quarters) would have made the series substantially shorter than the 40-50 observations commonly accepted as a minimum number of observations necessary for Box-Jenkins (i.e., ARIMA) modeling techniques (e.g., see McCleary and Hay 1980, p.20).

Figure 6-3. Gunshot wounds per gun homicide victim by month, King County (Seattle), January 1992–June 1996

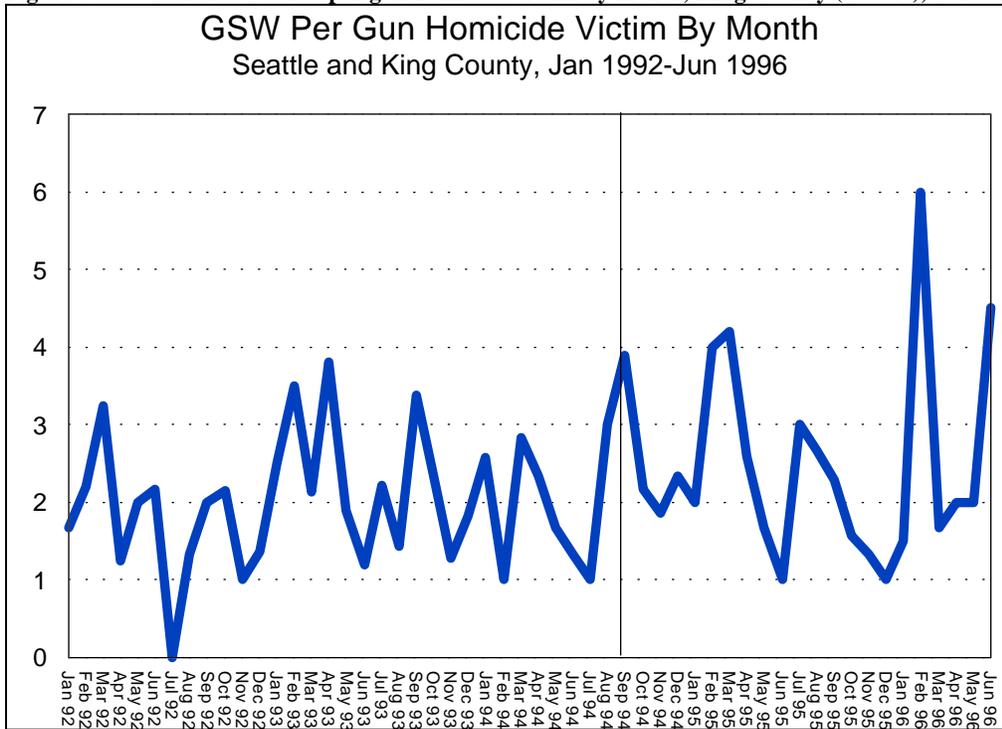
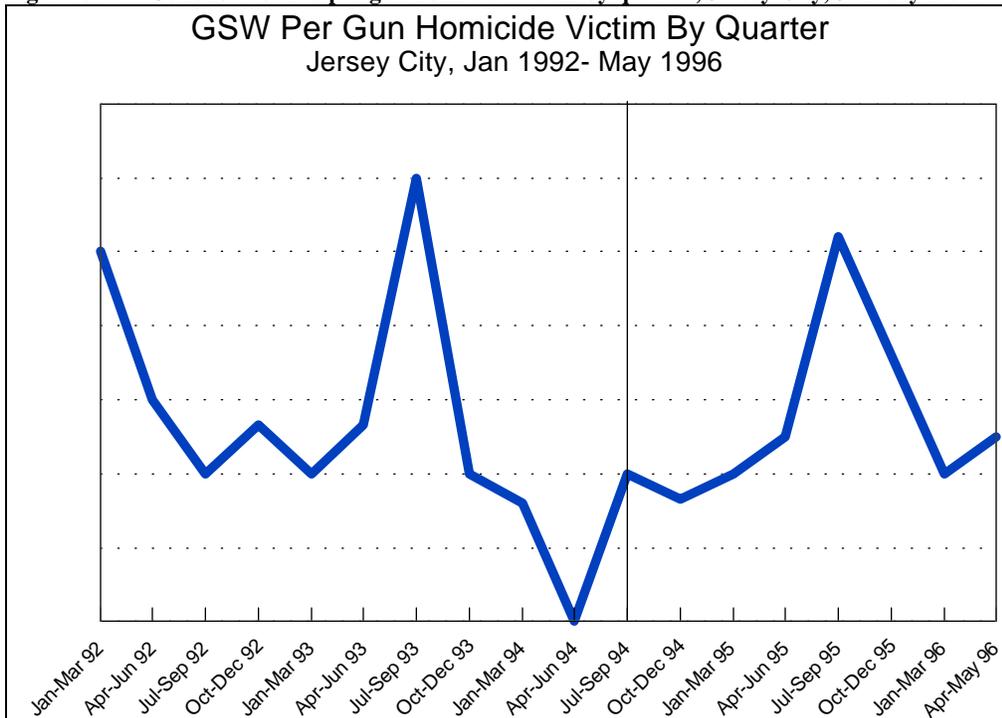


Figure 6-4. Gunshot wounds per gun homicide victim by quarter, Jersey City, January 1992–May 1996

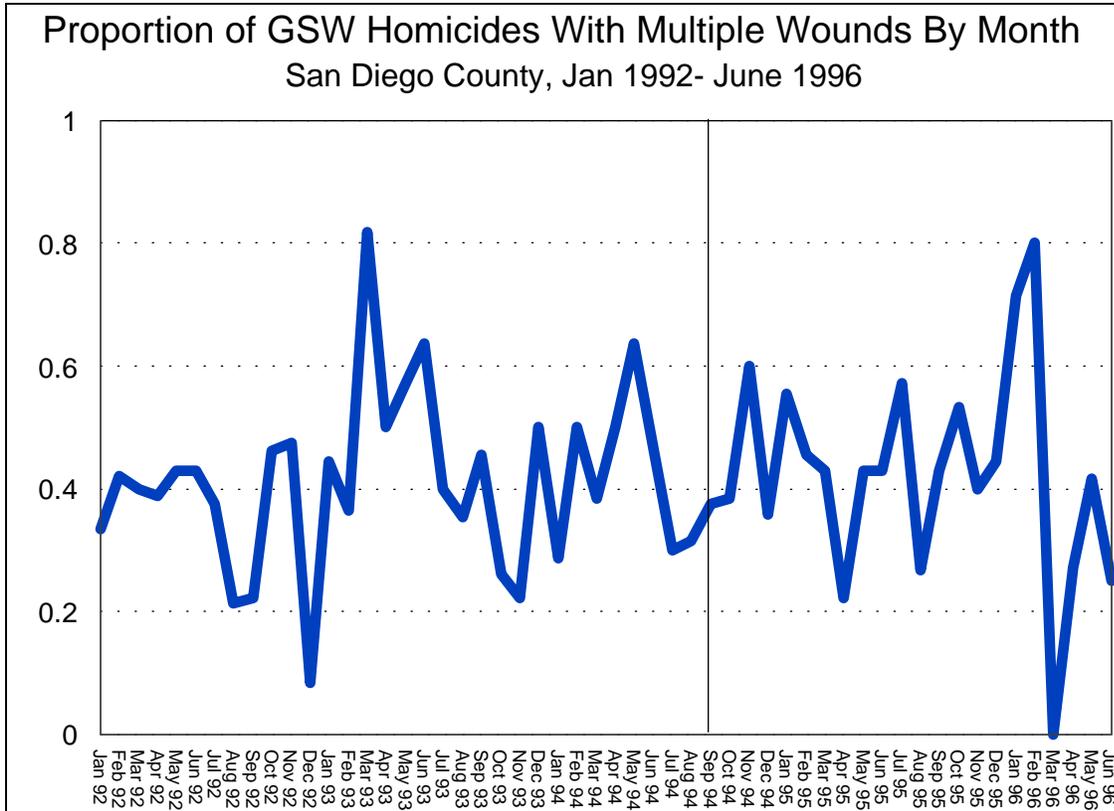


6.3.2. Proportion of Cases With Multiple Wounds: San Diego and Boston

The data from San Diego and Boston identified cases only as being single or multiple wound cases. We examined the proportions of pre-ban and post-ban cases involving multiple wounds and utilized contingency tables with chi-square tests to determine whether pre-ban and post-ban cases differed significantly.⁸⁶

The proportion of San Diego County’s gun homicide victims sustaining multiple wounds increased very slightly after the ban (see Table 6-4), thus providing no evidence of a ban impact. Nor do there appear to have been any significant temporal trends before or after the ban (see Figure 6-5).

Figure 6-5. Proportion of gunshot homicides with multiple wounds by month, San Diego County, January 1992–June 1996



The Boston data require further explanation and qualification. The data were taken from the Weapon-Related Injury Surveillance System (WRISS) of the Massachusetts Department of Public Health (MDPH). WRISS tracks gunshot and stabbing cases treated in acute care hospital emergency departments throughout the state.⁸⁷ These data have the unique advantage of providing trends for non-fatal victimizations, but they represent a biased sample of gunshot homicide cases because gun homicide victims found dead at the scene are not tracked by WRISS.⁸⁸ Since multiple wound victims can be expected to have a greater chance of dying at the scene, WRISS

⁸⁶ Monthly and quarterly averages in the fraction of cases involving multiple wounds did not appear to follow discernible time trends for any of these series (see Figure 6-5 through Figure 6-8). Therefore, we did not analyze the data using time series methods.

⁸⁷ For a discussion of error rates in the determination of wound counts by hospital staff, see Randall (1993).

⁸⁸ The MDPH also maintains a database on all homicide victims, but this database does not contain single/multiple wound designations and data for 1995 are not complete as of this writing.

data are likely to underestimate the fraction of gun homicide victims with multiple wounds. While it is possible that this bias has remained constant over time, the gun homicide trends should be treated cautiously.

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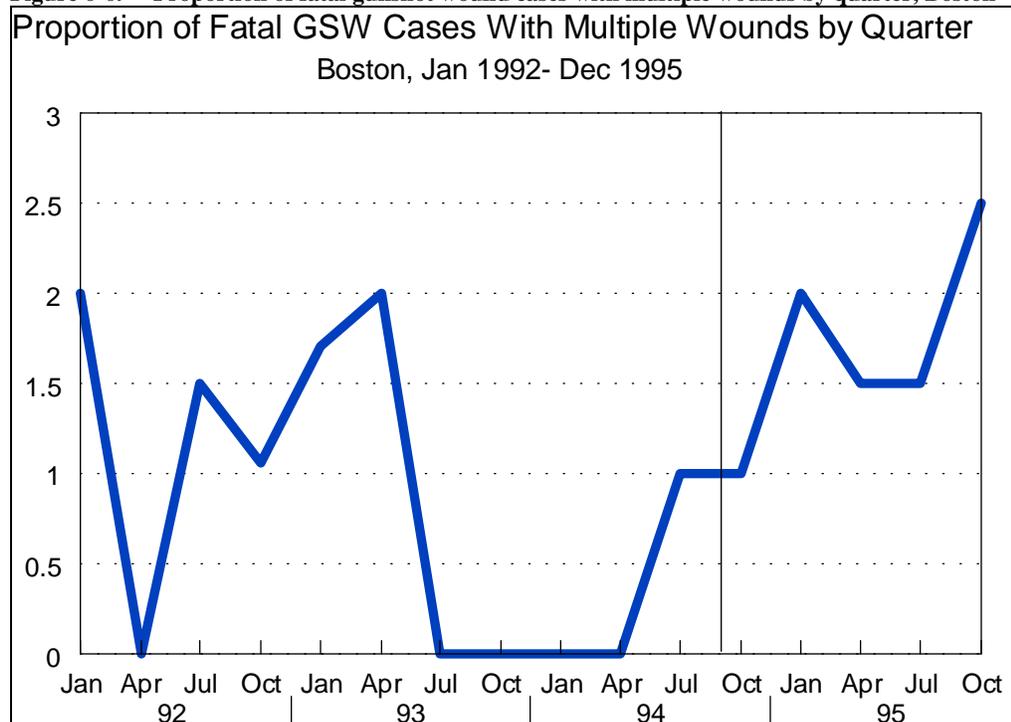
Table 6-4. Proportion of gunshot victims receiving multiple wounds, San Diego and Boston

	<i>Cases</i>	<i>Proportion with multiple wounds</i>	<i>Standard deviation</i>
San Diego homicides (N = 668)			
Pre-ban: January '92 - August '94	445	.41	.49
Post-ban: September '94 - June '96	223	.43	.50
<i>Difference</i>		.02	
$\xi^2 = 0.177$			
<i>P level = .674</i>			
Boston Gun homicides (N = 53)			
Pre-ban: January '92 - August '94	32	.50	.50
Post-ban: September '94 - December '95	21	.38	.50
<i>Difference</i>		-.12	
$\xi^2 = 0.725$			
<i>P level = .39</i>			
Boston non-fatal gunshot victims (N = 762)			
Pre-ban: January '92 - August '94	518	.18	.39
Post-ban: September '94 - December '95	244	.24	.43
<i>Difference</i>		.06	
$\xi^2 = 3.048$			
<i>P level = .08</i>			
Boston total gunshot victims (N = 815)			
Pre-ban: January '92 - August '94	550	.20	.40
Post-ban: September '94 - December '95	265	.27	.44
<i>Difference</i>		.07	
$\xi^2 = 4.506$			
<i>P level = .03</i>			

An additional concern with WRISS data is that system compliance is not 100 percent. Based on figures provided by MDPH, yearly hospital reporting rates in Boston during the study period were as follows: 63 percent for 1992; 69 percent for 1993; 75 percent for 1994; and 79 percent for 1995. It is thus possible that gunshot cases treated in non-reporting hospitals differ significantly from those treated in reporting hospitals with respect to single/multiple wound status. For all of these reasons, the Boston data should be interpreted cautiously. Overall, the WRISS captured 18 to 33 percent of Boston’s gun homicides for the years 1992–94.

Pre-ban/post-ban comparisons for fatal, non-fatal, and total gunshot cases from WRISS are presented in Table 6-4. The proportion of multiple wound cases decreased only for gun homicides. This decrease was not statistically significant, but the sample sizes were very small and thus the statistical power of the test is rather low. Nonetheless, the non-fatal wound data, which are arguably less biased than the fatal wound data, show statistically meaningful increases in the proportion of cases with multiple wounds.⁸⁹ Figure 6-6 through Figure 6-8 present monthly or quarterly trends for each series. These trends fail to provide any visual evidence of a post-ban reduction in the proportion of multiple wound gunshot cases.⁹⁰ Thus, overall, the Boston data appear inconclusive.

Figure 6-6. Proportion of fatal gunshot wound cases with multiple wounds by quarter, Boston



⁸⁹ Further, the decrease for homicide cases could have been due to an increase in the proportion of multiple wound victims who died at the scene and were not recorded in the WRISS.

⁹⁰ As with the Milwaukee and Seattle data, we also ran supplemental tests with the San Diego and Boston data using only cases from 1993 and 1995. These comparisons also failed to produce evidence of post-ban reductions in the proportion of gunshot cases with multiple wounds.

Figure 6-7. Proportion of non-fatal gunshot wound cases with multiple wounds by month, Boston, January 1992–December 1995

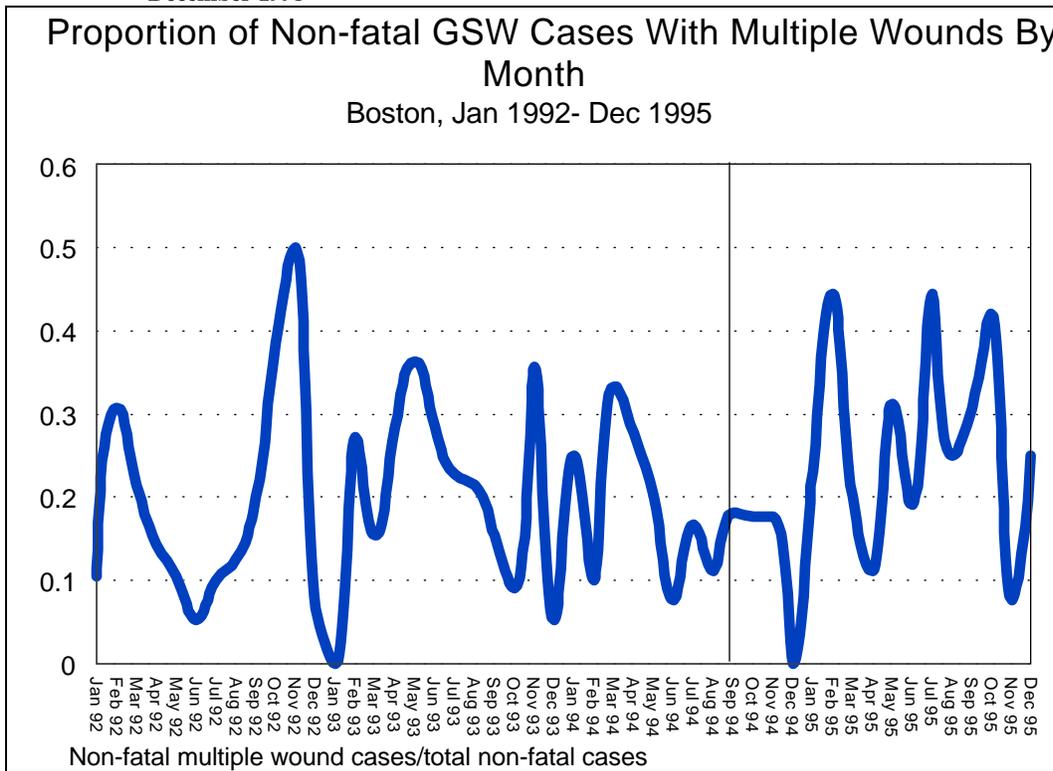
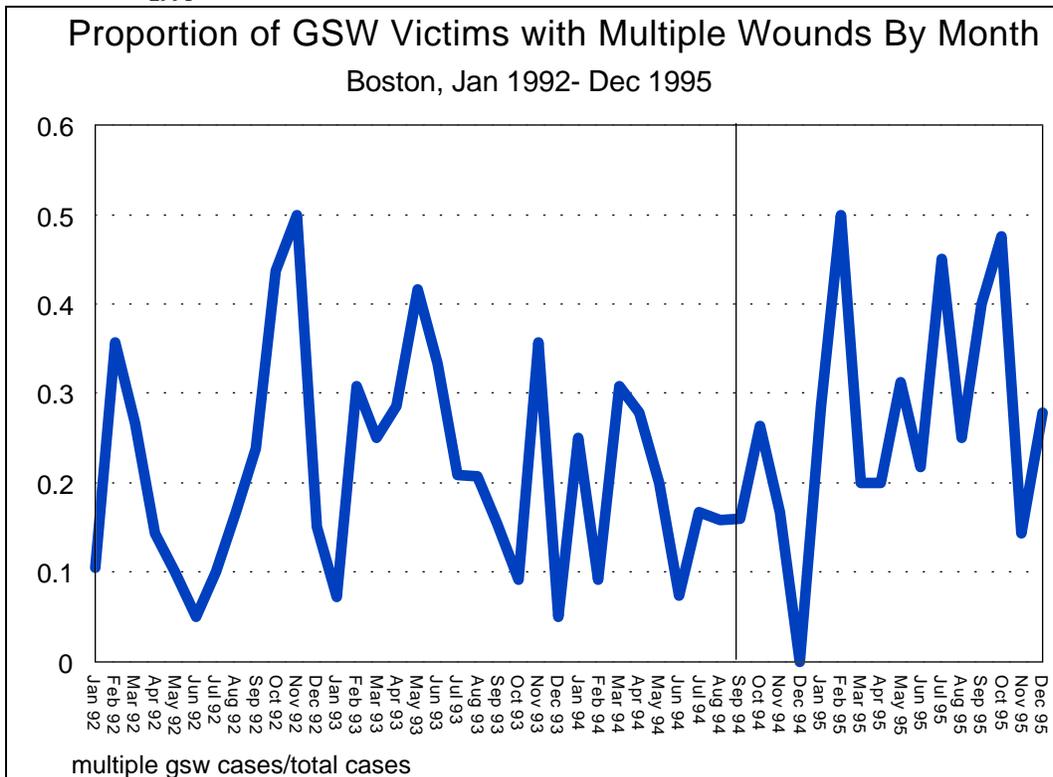


Figure 6-8. Proportion of gunshot wound victims with multiple wounds by month, Boston, January 1992–December 1995



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6.3.3. Assault Weapons, Large-Capacity Magazines, and Multiple Wound Cases: Milwaukee

Most of the data sources used in this investigation contain little or no detailed information regarding weapon makes and models. Consequently, the validity of the previous analyses rest on indirect, inferred links between multiple wound gun homicides and expected changes in the use of assault weapons and large-capacity magazines.

However, we were able to make more explicit links between the banned weapons and gunshot wound counts by performing a cross-sectional analysis with the data from Milwaukee. Complete weapon make and model data were obtained for 149 guns associated with the 418 gun murders which occurred in Milwaukee County from 1992 through 1995. Eight of these firearms, or 5.4 percent, were assault weapons named in Title XI or copies of firearms named in Title XI (all of the assault weapons were handguns).⁹¹ Table 6-5 shows the mean number of wounds for gun homicide victims killed with assault weapons and other guns. Note that in Table 6-5 we screened out two cases in which the victim appeared to have been shot with multiple firearms. One of these cases involved an assault weapon. The results in Table 6-5 indicate that victims killed with assault weapons were shot a little over three times on average, while victims killed with other firearms were shot slightly over two times on average. This difference was not statistically significant, but the small number of cases involving assault weapons makes the test rather weak.

Table 6-5. Gunshot wounds per gun homicide victim: Assault weapon and large-capacity magazine cases, Milwaukee

	<i>Cases</i>	<i>Average</i>	<i>Standard deviation</i>	<i>T value</i>	<i>P level</i>
Assault weapons v. other firearms (N = 147)					
Assault weapons	7	3.14	3.08		
Other firearms	140	2.21	2.87		
<i>Difference</i>		0.93		0.83	.41
Firearms with banned large-capacity magazines v. other firearms (N = 132)					
Large-capacity firearms	30	3.23	4.29		
Other firearms	102	2.08	2.48		
<i>Difference</i>		1.15		1.41*	.17

*T values were computed using formula for populations having unequal variances.

We also conducted a more general examination of cases involving any firearm with a large-capacity magazine. There were 132 cases in which a victim was killed with a firearm for which make, model, and magazine capacity could be determined (the magazine capacity variable corresponds to the magazine actually recovered with the firearm). This analysis also excluded cases in which the victim was shot with more than one firearm. In 30 of these cases (23 percent), the victim was killed with a firearm carrying a large-capacity magazine

⁹¹ It is possible that other firearms in the database were assault weapons according to the features test of Title XI, but we did not have the opportunity to fully assess this issue.

banned by Title XI. As is shown in the bottom of Table 6-5, offenders killed with guns having banned large-capacity magazines received over three wounds on average. In contrast, persons killed with firearms having non-banned magazines received an average of two wounds. Despite the relatively small number of large magazine cases, the t statistic is moderately large and could be considered statistically meaningful with a one-tailed test.⁹² In addition, we constructed a regression model in which wound counts were regressed upon magazine capacity and the number of perpetrators involved in the incident.⁹³ The large-capacity magazine coefficient was 1.24 with a two-tailed p level equal to 0.05 (however, the equation explained only 3 percent of the variance in wound counts). These admittedly crude comparisons support the hypothesis that large-capacity magazines are linked to higher numbers of shots fired and wounds inflicted.

6.3.4. Conclusions

Our multi-site analysis of gunshot wounds inflicted in fatal and non-fatal gunshot cases failed to produce evidence of a post-ban reduction in the average number of gunshot wounds per case or in the proportion of cases involving multiple wounds. These results are perhaps to be expected. Available data from national gun trace requests to BATF (see Chapter 5), Milwaukee (this chapter), and other cities (see Chapters 2 and 5) indicate that assault weapons account for only 1 to 7 percent of all guns used in violent crime. Likewise, our analysis of guns used in homicides in Milwaukee suggests that a substantial majority of gun homicides (approximately three-quarters) are not committed with guns having large-capacity magazines. Further, victims killed with large-capacity magazines in Milwaukee were shot three times on average, a number well below the ten-round capacity permitted for post-ban magazines. This does not tell us the actual number of shots fired in these cases, but other limited evidence also suggests that most gun attacks involve three or fewer shots (Kleck 1991; McGonigal et al. 1993). Finally, a faster rate of fire is arguably an important lethality characteristic of semiautomatics which may influence the number of wounds inflicted in gun attacks; yet one would not expect the Crime Act to have had an impact on overall use of semiautomatics, of which assault weapons were a minority even before the ban.

On the other hand, the analysis of Milwaukee gun homicides did produce some weak evidence that homicide victims killed with guns having large-capacity magazines tended to have more bullet wounds than did victims killed with other firearms. This may suggest that large-capacity magazines facilitate higher numbers of shots fired per incident, perhaps by encouraging gun offenders to fire more shots (a phenomenon we have heard some police officers refer to as a “spray and pray” mentality). If so, the gradual attrition of the stock of pre-ban large-capacity magazines could have important preventive effects on the lethality of gun violence. However, our analysis of wounds inflicted in banned and non-banned magazine cases was crude and did not control for potentially important characteristics of the incidents, victims, and offenders. We believe that such incident-based analyses would yield important information about the role of specific firearm characteristics in lethal and non-lethal gun violence and provide further guidance by which to assess this aspect of the Crime Act legislation.

⁹² Note that two cases involving attached tubular .22 caliber large-capacity magazines were included in the non-banned magazine group because these magazines are exempted by Title XI. In one of these cases, the victim sustained 13 wounds. In a second comparison, these cases were removed from the analysis entirely. The results were essentially the same; the two-tailed p level for the comparison decreased to .13.

⁹³ The regression model (N=138) included cases in which the victim was shot with more than one gun. Separate variables were included for the number of victims and the use of more than one firearm. Both variables proved insignificant, but the perpetrator variable had a somewhat larger t statistic and was retained for the model discussed in the main text.

6.4. LAW ENFORCEMENT OFFICERS KILLED IN ACTION

6.4.1. Introduction and Data

As a final measure of consequences stemming from the assault weapons ban, we examined firearm homicides of police officers. Assault weapons and other high capacity firearms offer substantial firepower to offenders and may be especially attractive to very dangerous offenders. Further, the firepower offered by these weapons may facilitate successful gun battles with police. We hypothesized that these weapons might turn up more frequently in police homicides than in other gun homicides, and that the Crime Act might eventually decrease their use in these crimes.

To investigate this issue, we obtained data from the Federal Bureau of Investigation (FBI) on all gun murders of police officers from January 1992 through May 1996.⁹⁴ The data include the date of the incident, the state in which the incident occurred, the agency to which the officer belonged, and the make, model, and caliber of the firearm reportedly used in the murder. During this period, 276 police officers were killed by offenders using firearms. Gun murders of police peaked in 1994 (see Table 6-6). Data for 1995 and early 1996 suggest a decline in gun murders of police. However, any drop in gun murders of police could be due to more officers using bullet-proof vests, changes in policing tactics for drug markets, or other factors unrelated to the assault weapons ban. Moreover, the 1995 and 1996 data we received are preliminary and thus perhaps incomplete. For these reasons, we concentrated on the use of assault weapons in police homicides and did not attempt to judge whether the assault weapon ban has caused a decline in gun murders of police.

Table 6-6. Murders of police officers with assault weapons

<i>Year</i>	<i>Total gun murders of police officers</i>	<i>Officers killed with assault weapons</i>	<i>Proportion of victims killed with assault weapons (minimum estimate)</i>	<i>Proportion of victims killed with assault weapons for cases in which gun make is known</i>
1992	54	0	0%	0%
1993	67	4	6%	8%
1994	76	9	12%	16%
1995*	61	7	11%	16%
1996* (Jan–May)	18	0	0%	0%

*Data for 1995 and 1996 are preliminary

Even this more limited task was complicated by the fact that complete data on the make, model, and caliber of the murder weapon were not reported for a substantial proportion of these cases. The number of cases by year for which at least the gun make is known are 43 (80%) for 1992, 49 (73%) for 1993, 58 (76%) for 1994, 44 (72%) for 1995, and 10 (56%) for 1996.

6.4.2. Assault Weapons and Homicides of Police Officers

We focused our investigation on all makes and models named in Title XI and their exact copies. We also included our selected features test guns (Calico and Feather models), although we did not make a systematic

⁹⁴ These data are compiled annually by the FBI based on reports submitted by law enforcement agencies throughout the country.

assessment of all guns which may have failed the features test of the Crime Act as produced by their manufacturers.⁹⁵ Using these criteria, our estimate is that 20 officers were murdered by offenders using assault weapons during this period. (In some of these cases, it appears that the same weapon was used to murder more than one officer). Of these cases, 3 involved Intratec models, 6 were committed with weapons in the SWD family, 3 involved AR15's or exact AR15 copies, 2 cases involved Uzi's, and 6 cases identified AK-47's as the murder weapons.^{96 97} These cases accounted for about 7% of all gun murders of police during this period. This 7% figure serves as a minimum estimate of assault weapon use in police gun murders. A more accurate estimate was obtained by focusing on those cases for which, at a minimum, the gun make was reported. Overall, 10% of these cases involved assault weapons, a figure higher than that for gun murders of civilians.⁹⁸

All of the assault weapon cases took place from 1993 through 1995 (see Table 6-6). For those three years, murders with assault weapons ranged from 6% of the cases in 1993 to 12% in 1994. Among those cases for which firearm make was reported, assault weapons accounted for 8% in 1993 and 16% in both 1994 and 1995. All of these cases occurred prior to June 1995. From that point through May of 1996, there were no additional deaths of police officers attributed to assault weapons. This is perhaps another indication of the temporary or permanent decrease in the availability of these weapons which was suggested in Chapter 5.

In sum, police officers are rarely murdered with assault weapons. Yet the fraction of police gun murders perpetrated with assault weapons is higher than that for civilian gun murders. Assault weapons accounted for about 10% of police gun murders from 1992 through May of 1996 when considering only those cases for which the gun make could be ascertained. Whether the higher representation of assault weapons among police murders is due to characteristics of the weapons, characteristics of the offenders who are drawn to assault weapons, or some

⁹⁵ With the available data, it is not possible for us to determine whether otherwise legal guns were modified so as to make them assault weapons.

⁹⁶ There is a discrepancy between our data and those provided elsewhere with respect to a November 1994 incident in which two FBI agents and a Washington, D.C. police officer were killed. In a study of police murders from January 1994 through September 1995, Adler et al. (1995) reported that the offender in this case used a TEC9 assault pistol. The FBI data identify the weapon as an M11. (The data actually identify the gun as a Smith and Wesson M11. However, Smith and Wesson does not make a model M11. We counted the weapon as an SWD M11.)

In addition, Adler et al. identified one additional pre-ban incident in which an officer was killed with a weapon which may have failed the features test (a Springfield M1A). We are not aware of any other cases in our data which would qualify as assault weapon cases based on the features test, but we did not undertake an in-depth examination of this issue. There were no cases involving our select features test guns (Calico and Feather models).

⁹⁷ The weapon identifications in these data were made by the police departments reporting the incidents, and there is likely to be some degree of error in the firearm model designations. In particular, officers may not always accurately distinguish banned assault weapons from legal substitutes or look-alike variations. We note the issue here due to the prominence of AK-47's among guns used in police homicides. There are numerous AK-47 copies and look-alikes, and firearm experts have informed us that legal guns such as the SKS rifle and the Norinco NHM-90/91 (a modified, legal version of the AK-47) are sometimes, and perhaps commonly, mistakenly identified as AK-47's.

⁹⁸ In consultation with BATF officials, we developed a list of manufacturers who produced models listed in the Crime Act and exact copies of those firearms. We were thus able to determine whether all of the identified makes in the FBI file were assault weapons.

combination of both is unclear. However, there have been no recorded murders of police with assault weapons since the early part of 1995.⁹⁹

These findings have important ramifications for future research on the impact of the assault weapons ban. The relatively high use of assault weapons in murders of police suggests that police gun murders should be more sensitive to the effects of the ban than gun murders of civilians. That is, if the disproportionate representation of assault weapons among gun homicides of police is attributable to the objective properties of these firearms (i.e., the greater lethality of these firearms), then a decrease in the availability of these guns should cause a notable reduction of police gun murders because other weapons will not be effective substitutes in gun battles with police. At this point, however, it is not clear whether the high representation of assault weapons among police murder cases is due to the greater stopping power of assault weapons (most assault weapons are high velocity rifles or high velocity handguns and thus inflict more serious wounds), their rate of fire and ability to accept large-capacity magazines, some combination of these weapon characteristics, or simply the traits of offenders who prefer assault weapons. A variety of non-banned weapons may serve as adequate substitutes for offenders who engage in armed confrontations with police.

As more data become available, we encourage the study of trends in police gun murders before and after the Crime Act. Furthermore, we believe that research on these issues would be strengthened by the systematic recording of the magazines with which police murder weapons were equipped and the numbers of shots fired and wounds inflicted in these incidents.

⁹⁹ We did not examine police murders committed with firearms capable of accepting large-capacity magazines because the available data do not enable us to determine whether any guns used after the ban were actually equipped with pre-ban large-capacity magazines, nor do the data indicate the number of shots fired in these incidents. Moreover, in recent years many police departments have adopted large-capacity semiautomatic handguns as their standard firearm. Since about 14% of police officers murdered with guns are killed with their own firearms (FBI 1994, p.4), this could create an apparent increase in police murders with large-capacity firearms. (We did not acquire data on whether the officers were killed with their own firearms.) For a discussion of large-capacity firearms used in killings of police from January 1994 through September 30, 1995, see Adler et al. (1995).

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Appendix A

Assault Weapons and Mass Murder

INTRODUCTION: MASS MURDERS AS AN IMPACT MEASURE

As another indicator of ban effects on the consequences of assault weapon use, we attempted to analyze pre- and post-ban trends in mass murders, which we defined as the killing of four or more victims at one time and place by a lone offender. Although we lacked advance information on the proportion of mass murders involving assault weapons, we had two reasons for believing that assault weapons were more prevalent in mass murders than in events involving smaller numbers of victims:

- 1) A weapon lethality/facilitation hypothesis, that assault weapon characteristics, especially high magazine capacities, would enable a rational but intent killer to shoot more people more rapidly with an assault weapon than with many other firearms.
- 2) A selection hypothesis, that certain deranged killers might tend to select assault weapons to act out “commando” fantasies (e.g., see Holmes and Holmes 1994, pp.86-87).

In addition, we believed that newspaper reports of mass murders might carry more detail than reports of other murders, and that these reports might provide insights into the situational dynamics of mass murders involving assault weapons.

Our attempt to construct and analyze a 1992–96 trend line in mass murders using Nexis searches of U.S. news sources foundered, for two primary reasons. First, apparent variations in reporting or indexing practices forced us to alter our search parameters over the period, and so all three kinds of variation introduce validity problems into the trends. Second, newspaper accounts were surprisingly imprecise about the type of weapon involved. In some cases, the offender had not yet been apprehended and thus the make and model of the weapon was probably unknown. In other instances, there was apparent inattention or confusion regarding the make, model, and features. Finally, some offenders were armed with multiple weapons when they committed their crimes or when they were captured, and it was unclear to the reporter which weapon accounted for which death(s).¹

Nevertheless, our mass murder analysis produced several interesting, though tentative, findings. First, SHR and news media sources both appear to undercount mass murders under our definition, and our capture-recapture analysis suggests that their true number may exceed the count based on either source by something like 50 percent. Second, contrary to our expectations, only 2 — 3.8 percent — of the 52 mass murders we gleaned from the Nexis search unambiguously involved assault weapons. This is about the same percentage as for other murders. Third, media accounts lend some tenuous support to the notion that assault weapons are more deadly than other weapons in mass murder events, as measured by victims per incident.

Our search methodology and the findings above are explained more fully in the following sections, which conclude with recommendations for further related research.

¹ It is also not unusual for news accounts to use imprecise terms like “assault rifle” when describing a military-style firearm. However, we did not encounter any such cases in our particular sample.

DEFINING MASS MURDERS AND SAMPLE SELECTION

In general terms, a mass murder is the killing of a number of people at one time and place. The time requirement in particular sets mass murders apart from serial murders, which take place over a very long timeframe. We focused our analysis upon mass murders committed with firearms, and we chose four victims for our operational definition of mass murder.² In addition, we focused upon cases in which the murders were committed by one offender. We selected the victim and offender criteria based on practicality and because they arguably fit better with the weapon lethality/weapon facilitation argument. If assault weapons do contribute to mass murder, we hypothesized that they will enable a single offender to murder greater numbers of people at one time. Thus, we selected a subset of mass murders for which we felt assault weapons might plausibly play a greater role.

Project staff conducted Nexis searches for multiple-victim firearm murder stories appearing in U.S. news sources from 1992 through the early summer of 1996. Fifty-two stories meeting our firearm mass murder criteria were found. A breakdown of these cases by year is shown in the bottom row of table A-1.³ Cases ranged from a low of 3 in 1994 and 1996 to a high of 20 in 1995. We urge caution in the interpretation of these numbers. Although project staff did examine well over a thousand firearm murder stories, we do not claim to have found all firearm mass murders occurring during this time. Rather, these cases should be treated as a possibly unrepresentative sample of firearm mass murders. Further, we do not recommend using these numbers as trend indicators. We refined our search parameters several times during the course of the research, and we cannot speak to issues regarding changes in journalistic practices (or Nexis coverage) which may have occurred during this period and affected our results. This portion of the evaluation was more exploratory in nature, and the primary goal was to assess the prevalence of assault weapons among a sample of recent mass murder incidents.

Table A-1. Mass murder newspaper reports, by weapon type and year of event

	<i>1992</i>	<i>1993</i>	<i>1994</i>	<i>1995</i>	<i>1996</i>	<i>Total</i>
<u>Semiautomatics</u>						
Handgun	4	3	1	7	1	16
Rifle	0	0	0	2	0	2
<u>Generic weapon types</u>						
Revolver	0	0	0	1	0	1
Other non-semiautomatic handgun	0	0	0	0	0	0
Handgun, type unknown	2	2	0	1	0	5
Non-semiautomatic rifle	0	0	0	1	0	1
Rifle, type unknown	1	1	0	0	0	2
Non-semiautomatic shotgun	0	0	0	1	0	1
Shotgun, type unknown	2	3	0	1	0	6
Unknown firearm	5	2	2	6	2	17

² As Holmes and Holmes (1994, pp.71-73) have noted, most scholars set the victim criterion for mass murder at three or four victims.

³ Table A-1 excludes 1 of the 52 for which we were unable to ascertain the date of the mass murder.

Total cases	14	11	3	20	3	51
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ESTIMATING TOTAL FIREARM MASS MURDERS: A METHODOLOGICAL NOTE

Our investigation of multiple/mass murders utilized both the SHR and news media as data sources. Both of these sources have limitations for this task. Though the SHR is widely accepted as an accurate source of homicide data, not all agencies in the country report homicides to the SHR, and agencies that do report to the SHR program may not report all of their homicides. Likewise, some mass murders may not be reported accurately in media sources, or the stories may differ in their accessibility depending on where they occurred and the publication(s) which carried the story. Family-related mass murders, for example, seem less likely to be reported in national sources (Dietz 1986), although the availability of national electronic searches through services such as Nexis would seem to lessen this problem.⁴ Our experience suggests that both sources underestimate the number of true mass murders.

Capture-recapture methods (e.g., see Mastro et al. 1994; Neugebauer and Wittes 1994) offer one potential way of improving estimation of mass murders. Capture-recapture methods enable one to estimate the true size of a population based on the number of overlapping subjects found in random samples drawn from the population. Mastro et al. (1994), for example, have used this methodology to estimate the number of HIV-infected drug users in the population of a foreign city. Similarly, researchers in the biological sciences have used this methodology to estimate the size of different wildlife populations.

Given two samples from a population, the size of the population can be estimated as:

$$N = n1 * n2 / m$$

where N is the population estimate, n1 is the size of the first sample, n2 is the size of the second sample, and m is the amount of overlap in the samples (i.e., the number of subjects which turned up in the first sample and that were subsequently recaptured in the second sample). Neugebauer and Wittes (1994, p.1068) point out that this estimate is biased but that the "bias is small when the capture and recapture sizes are large." The reliability of the estimate depends on four assumptions (Mastro et al. 1994, pp.1096-1097). First, the population must be closed (in our case, this is not a problem because our samples are drawn from the same geographic area and time period). Second, the capture sources must be independent (if more than two sources are used, log-linear modeling can be used to account for dependence between the sources, and the assumption of independence is not necessary). Third, members of the population must have an equal probability of being captured. Finally, the matching procedure must be accurate — all matches must be identified and there can be no false matches.

As mentioned previously, our work with the SHR and media sources suggests that both sources underestimate the true number of firearm mass murders occurring in the nation. That being the case, we offer a tentative illustration of how capture-recapture methods might be used to estimate the true number of mass murders occurring in the nation based on the SHR and media source numbers. We add a number of qualifiers

⁴ In our experience, one factor making mass murder cases more difficult to locate is that many of these stories are not labeled with dramatic terms such as "mass murder" or "massacre." Despite the rarity and tragedy of these events, they are often described in commonplace terms (headlines may simply state something like, "Gunman shoots five persons during robbery"). Thus, it becomes necessary to develop Nexis search parameters broad enough to capture various sorts of multiple-victim incidents. This, in turn, requires one to examine a much greater number of stories.

throughout this exercise. To begin with, the SHR and media sources might not seem independent because, generally speaking, news organizations are reliant upon police for information about crime. Once a homicide is discovered, on the other hand, the reporting apparatuses for the SHR and news organizations are distinct.

With that caveat in mind, we used the year 1992 for this demonstration. For that year, we identified all cases from both sources in which one offender killed four or more persons using a firearm. The SHR search turned up 15 cases, and the Nexis search yielded 14 cases.

Next, we attempted to match these cases. Tentatively, we determined that nine cases were common to both sources (see Table A-2). Our estimate for the number of incidents during 1992 in which one offender killed four or more persons using a firearm(s) thus becomes:

$$N = (15 * 14)/9 = 23.$$

Table A-2. 1992 HR/Nexis comparisons

<u>NEXIS</u>	<u>SHR</u>	<u>NEXIS & SHR</u>
14	15	9
		<u>NUMBER OF VICTIMS</u>
<u>NEXIS ONLY</u>		
2/16/92	Mobile, AL	4
5/1/92	Yuba County, CA	4
6/15/92	Inglewood, CA	5
9/13/92	Harris County, TX	4
11/13/92	Spring Branch, TX	5
<u>FBI ONLY</u>		<u>NUMBER OF VICTIMS</u>
8/92	Dade, FL	4
9/92	Chicago, IL	4
5/92	Detroit, MI	4
3/92	New York, NY	4
1/92	Burleigh, ND	4
7/92	Houston, TX	4
<u>NEXIS & FBI</u>		<u>NUMBER OF VICTIMS</u>
2/12/92	Seattle, WA	4
3/21/92	Sullivan, MO	6
3/26/92	Queens, NY	5
7/23/92	Fairmont, WV	4
10/4/92	Dallas, TX	4
10/15/92	Schuyler County	4
11/1/92	Rancho Santa Fe, CA	4
12/13/92	King County, WA	4
12/24/92	Prince William County, VA	4

A number of cautionary notes are required. Obviously, our sample sizes are quite small, but, apparently, so is the population which we are trying to estimate. In addition, our matches between the sources were based on matching the town (determined from the police department's name), month of occurrence, number of victims, and number of offenders. In a more thorough investigation, one would wish to make the matches more carefully. If,

for instance, the victims were not all immediately killed, one may find a news story referring to the initial number of deaths, and that count might not match the final count appearing in the SHR. Moreover, we have focused on cases in which one offender committed the murders. However, the SHR might list two or more offenders if there were other accomplices who did not do the shooting. Finally, there could be ambiguity regarding the exact location of the SHR cases because we used the police department name to match the locations with the Nexis cases (city or town name does not appear in the file). We did not investigate these issues extensively, but they would seem to be manageable problems.

Another issue is whether each incident's probability of being captured is the same for each sample. Our tentative judgment is that this is not the case, or at least it does not appear to have been true for our sample. Referring to Table A-2, it seems that the SHR-only cases were more likely to appear in urban areas, whereas the Nexis-only cases appear to have taken place in more rural areas. We can speculate that rural police departments are somewhat less likely to participate in the SHR, and that cases in rural areas are thus less likely to be reported to the SHR. In contrast, the greater number of murders and violent acts which occur in urban areas may have the effect of making any given incident less newsworthy, even if that incident is a mass murder. A mass murder taking place among family members in an urban jurisdiction, for instance, might get less prominent coverage in news sources and might therefore be more difficult to locate in a national electronic search.

But even if we accept these biases as real, we can at least estimate the direction of the bias in the capture-recapture estimate. Biases such as those discussed above have the effect of lessening the overlap between our sources. Therefore, they decrease the denominator of the capture-recapture equation and bias the population estimate upwards. With this in mind, our 1992 estimate of 23 cases should be seen as an upper estimate of the number of these incidents for that year.

In this section, we have provided a very rough illustration of how capture-recapture models might be utilized to more accurately estimate the number of mass murders in the U.S. or any portion of the U.S. If additional homicide sources were added such as the U.S. Public Health Service's Mortality Detail Files, moreover, researchers could model any dependencies between the sources. With further research into past years and ahead into future years, researchers could build time series to track mass murders and firearm mass murders over time. This may be a worthwhile venture because though these events are only a small fraction of all homicides, they are arguably events which have a disproportionately negative impact on citizens' perceptions of safety.

Firearms Used in Mass Murders

Table A-1 displays information about the weapons used in our sample of mass murders. One of the major goals behind the Nexis search was to obtain more detailed information on the weapons used in firearm mass murders. Yet a substantial proportion of the articles said nothing about the firearm(s) used in the crime or identified the gun(s) with generic terms such as "handgun," "rifle," or "shotgun." Overall, 18 stories identified the murder weapon(s) as a semiautomatic weapon, and 16 of these guns were semiautomatic handguns. Only eight stories named the make and model of the murder weapon.

Despite the general lack of detailed weapon information, our operating assumption was that, due to their notoriety, assault weapons would draw more attention in media sources. That is, we assumed that reporters would explicitly identify any assault weapons that were involved in the incident and that unidentified weapons were most likely not assault weapons. This assumption is most reasonable for cases in which the offender was apprehended. Overall, 37 cases (71 percent) were solved and another 6 (11.5 percent) had known suspects.

Of the total 52 cases in our sample, 2, or 3.8 percent, involved assault weapons as the murder weapon. If we focus on just the 37 solved cases, assault weapons were involved in 5.4 percent (both assault weapon cases were solved). One of the assault weapon cases took place in 1993 and the other took place in 1995 after the ban's implementation. The accounts of those cases are as follows:

Case 1 (July 3, 1993, San Francisco, California). A 55-year-old man bearing a grudge against his former attorneys for a lawsuit in which he lost 1 million dollars killed 8 persons, wounded 6 others, and then killed himself during a 15-minute rampage in which he fired 50-100 rounds. The offender was armed with two TEC-9 assault pistols, a .45 caliber semiautomatic pistol, and hundreds of rounds of ammunition.⁵

Case 2 (June 20, 1995, Spokane, Washington). A military man assigned to Fairchild Air Force Base entered the base hospital with an AK-47 assault rifle and opened fire, killing 4 and wounding 19. The gunman was killed by a military police officer. At the time of the story, no motive for the killing had been discovered.

In addition, our search uncovered two other cases in which the offender possessed an assault weapon but did not use it in the crime. In one of these cases, the additional weapon was identified only as a "Chinese assault rifle," so there is the possibility that the gun was an SKS rifle or other firearm that was not an assault weapon by the criteria of Title XI.

LETHALITY OF ASSAULT WEAPONS USED IN MASS MURDERS

Although assault weapons appeared rarely in our sample of firearm mass murder cases, there are some indications that mass murders involving assault weapons are more deadly than other mass murders with guns. The two unambiguous assault weapon cases in our sample involved a mean of 6 victims, a number 1.5 higher than the 4.5 victims killed on average in the other cases. Further, each assault weapon case involved a substantial number of other victims who were wounded but not killed. Other notorious mass murders committed with assault weapons also claimed particularly high numbers of victims (Cox Newspapers 1989). The numbers of victims in these cases suggests that the ability of the murder weapons to accept large-capacity magazines was probably an important factor. We offer this observation cautiously, however, for several reasons besides the small number of cases in our sample. We did not make detailed assessments of the actors or circumstances involved in these incidents. Relevant questions, for example, might include whether the offender had a set number of intended targets (and, relatedly, the relationship between the offender and victims), the number of different guns used, whether the offender had the victims trapped at the time of the murders, and the amount of time the offender had to commit the crime.

In order to refine our comparison somewhat further, we examined the number of victims in assault weapon and non-assault weapon cases after removing 19 family-related cases from consideration. This did not change the results; the average number of victims in assault weapon cases was still approximately 1.5 higher than that of non-assault weapon cases.

⁵ The story indicated that the offender had modified the firearms to make them fire more rapidly than they would have otherwise. Presumably, this means that he converted the guns to fully automatic fire, but this is not entirely clear from the article.

RECOMMENDATIONS FOR FURTHER RELATED RESEARCH

There are a number of related questions that could be pursued in future research. One concerns a more explicit examination of the role of large-capacity magazines in mass murder, particularly for incidents involving non-assault weapon firearms. Based on our experience, this information is rarely offered in media sources and would require contacting police departments which investigated mass murder incidents. Another issue concerns non-fatal victims. This was not an express focus of our research, but if the assault weapon/large-capacity semiautomatic hypothesis has validity, we can hypothesize that shootings involving these weapons will involve more total victims. Along similar lines, Sherman and his colleagues (1989) documented a rise in bystander shootings in a number of cities during the 1980s and speculated that the spread of semiautomatic weaponry was a factor in this development. Due to time and resource limitations, we did not pursue the issue of bystander shootings for this study, but further research might shed light on whether assault weapons and large-capacity magazines have been a factor in any such rise.

EXHIBIT C
To
Declaration of Christopher S. Koper in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction

The author(s) shown below used Federal funds provided by the U.S. Department of Justice and prepared the following final report:

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An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003

**Report to the National Institute of Justice,
United States Department of Justice**

By

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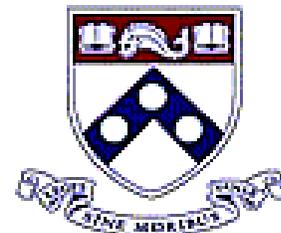


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PREFACE

Gun violence continues to be one of America's most serious crime problems. In 2000, over 10,000 persons were murdered with firearms and almost 49,000 more were shot in the course of over 340,000 assaults and robberies with guns (see the Federal Bureau of Investigation's annual *Uniform Crime Reports* and Simon et al., 2002). The total costs of gun violence in the United States – including medical, criminal justice, and other government and private costs – are on the order of at least \$6 to \$12 billion per year and, by more controversial estimates, could be as high as \$80 billion per year (Cook and Ludwig, 2000).

However, there has been good news in recent years. Police statistics and national victimization surveys show that since the early 1990s, gun crime has plummeted to some of the lowest levels in decades (see the *Uniform Crime Reports* and Rennison, 2001). Have gun controls contributed to this decline, and, if so, which ones?

During the last decade, the federal government has undertaken a number of initiatives to suppress gun crime. These include, among others, the establishment of a national background check system for gun buyers (through the Brady Act), reforms of the licensing system for firearms dealers, a ban on juvenile handgun possession, and Project Safe Neighborhoods, a collaborative effort between U.S. Attorneys and local authorities to attack local gun crime problems and enhance punishment for gun offenders.

Perhaps the most controversial of these federal initiatives was the ban on semiautomatic assault weapons and large capacity ammunition magazines enacted as Title XI, Subtitle A of the *Violent Crime Control and Law Enforcement Act of 1994*. This law prohibits a relatively small group of weapons considered by ban advocates to be particularly dangerous and attractive for criminal purposes. In this report, we investigate the ban's impacts on gun crime through the late 1990s and beyond. This study updates a prior report on the short-term effects of the ban (1994-1996) that members of this research team prepared for the U.S. Department of Justice and the U.S. Congress (Roth and Koper, 1997; 1999).

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The author wishes to thank several people and organizations that assisted this effort in numerous ways. Daniel Woods assisted with data analysis. Jeffrey Roth, who directed our first study of the assault weapons ban, provided advice and editorial input. Additional research assistance was provided by the following former employees of the Urban Institute: Gretchen Moore, David Huffer, Erica Dinger, Darin Reedy, Kate Bunting, Katie Gorie, and Michele Waul. The following persons and organizations provided databases, information, or other resources utilized for this report: Glenn Pierce (Northeastern University), Pamela Shaw and Edward Koch (Baltimore Police Department), Robert Shem (Alaska State Police), Bill McGill and Mallory O'Brien (currently or formerly of the Firearm Injury Center, Medical College of Wisconsin), Rick Ruddell (California State University, Chico), Scott Doyle (Kentucky State Police), Terrence Austin and Joe Vince (currently or formerly of the Bureau of Alcohol, Tobacco, Firearms, and Explosives), Carlos Alvarez and Alan Lynn (Metro-Dade Police Department), Charles Branas (Firearm and Injury Center, University of Pennsylvania), Caroline Harlow (Bureau of Justice Statistics), and Rebecca Knox (Brady Center to Prevent Handgun Violence). Robert Burrows (Bureau of Alcohol, Tobacco, Firearms, and Explosives) and Wain Roberts (Wain Roberts Firearms) shared technical expertise on firearms. Anonymous reviewers for the National Institute of Justice provided thorough and helpful comments on earlier versions of this report, as did Terrence Austin and Robert Burrows of the Bureau of Alcohol, Tobacco, Firearms, and Explosives. Finally, I thank Lois Mock, our National Institute of Justice grant monitor, for her advice and encouragement throughout all of the research that my colleagues and I have conducted on the assault weapons ban.

1. IMPACTS OF THE FEDERAL ASSAULT WEAPONS BAN, 1994-2003: KEY FINDINGS AND CONCLUSIONS

This overview presents key findings and conclusions from a study sponsored by the National Institute of Justice to investigate the effects of the federal assault weapons ban. This study updates prior reports to the National Institute of Justice and the U.S. Congress on the assault weapons legislation.

The Ban Attempts to Limit the Use of Guns with Military Style Features and Large Ammunition Capacities

- Title XI, Subtitle A of the Violent Crime Control and Law Enforcement Act of 1994 imposed a 10-year ban on the “manufacture, transfer, and possession” of certain semiautomatic firearms designated as assault weapons (AWs). The ban is directed at semiautomatic firearms having features that appear useful in military and criminal applications but unnecessary in shooting sports or self-defense (examples include flash hiders, folding rifle stocks, and threaded barrels for attaching silencers). The law bans 18 models and variations by name, as well as revolving cylinder shotguns. It also has a “features test” provision banning other semiautomatics having two or more military-style features. In sum, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has identified 118 models and variations that are prohibited by the law. A number of the banned guns are foreign semiautomatic rifles that have been banned from importation into the U.S. since 1989.
- The ban also prohibits most ammunition feeding devices holding more than 10 rounds of ammunition (referred to as large capacity magazines, or LCMs). An LCM is arguably the most functionally important feature of most AWs, many of which have magazines holding 30 or more rounds. The LCM ban’s reach is broader than that of the AW ban because many non-banned semiautomatics accept LCMs. Approximately 18% of civilian-owned firearms and 21% of civilian-owned handguns were equipped with LCMs as of 1994.
- The ban exempts AWs and LCMs manufactured before September 13, 1994. At that time, there were upwards of 1.5 million privately owned AWs in the U.S. and nearly 25 million guns equipped with LCMs. Gun industry sources estimated that there were 25 million pre-ban LCMs available in the U.S. as of 1995. An additional 4.7 million pre-ban LCMs were imported into the country from 1995 through 2000, with the largest number in 1999.
- Arguably, the AW-LCM ban is intended to reduce gunshot victimizations by limiting the national stock of semiautomatic firearms with large ammunition capacities – which enable shooters to discharge many shots rapidly – and other features conducive to criminal uses. The AW provision targets a relatively small number of weapons based on features that have little to do with the weapons’

operation, and removing those features is sufficient to make the weapons legal. The LCM provision limits the ammunition capacity of non-banned firearms.

The Banned Guns and Magazines Were Used in Up to A Quarter of Gun Crimes Prior to the Ban

- AWs were used in only a small fraction of gun crimes prior to the ban: about 2% according to most studies and no more than 8%. Most of the AWs used in crime are assault pistols rather than assault rifles.
- LCMs are used in crime much more often than AWs and accounted for 14% to 26% of guns used in crime prior to the ban.
- AWs and other guns equipped with LCMs tend to account for a higher share of guns used in murders of police and mass public shootings, though such incidents are very rare.

The Ban's Success in Reducing Criminal Use of the Banned Guns and Magazines Has Been Mixed

- Following implementation of the ban, the share of gun crimes involving AWs declined by 17% to 72% across the localities examined for this study (Baltimore, Miami, Milwaukee, Boston, St. Louis, and Anchorage), based on data covering all or portions of the 1995-2003 post-ban period. This is consistent with patterns found in national data on guns recovered by police and reported to ATF.
- The decline in the use of AWs has been due primarily to a reduction in the use of assault pistols (APs), which are used in crime more commonly than assault rifles (ARs). There has not been a clear decline in the use of ARs, though assessments are complicated by the rarity of crimes with these weapons and by substitution of post-ban rifles that are very similar to the banned AR models.
- However, the decline in AW use was offset throughout at least the late 1990s by steady or rising use of other guns equipped with LCMs in jurisdictions studied (Baltimore, Milwaukee, Louisville, and Anchorage). The failure to reduce LCM use has likely been due to the immense stock of exempted pre-ban magazines, which has been enhanced by recent imports.

It is Premature to Make Definitive Assessments of the Ban's Impact on Gun Crime

- Because the ban has not yet reduced the use of LCMs in crime, we cannot clearly credit the ban with any of the nation's recent drop in gun violence. However, the ban's exemption of millions of pre-ban AWs and LCMs ensured that the effects

of the law would occur only gradually. Those effects are still unfolding and may not be fully felt for several years into the future, particularly if foreign, pre-ban LCMs continue to be imported into the U.S. in large numbers.

The Ban's Reauthorization or Expiration Could Affect Gunshot Victimization, But Predictions are Tenuous

- Should it be renewed, the ban's effects on gun violence are likely to be small at best and perhaps too small for reliable measurement. AWs were rarely used in gun crimes even before the ban. LCMs are involved in a more substantial share of gun crimes, but it is not clear how often the outcomes of gun attacks depend on the ability of offenders to fire more than ten shots (the current magazine capacity limit) without reloading.
- Nonetheless, reducing criminal use of AWs and especially LCMs could have non-trivial effects on gunshot victimizations. The few available studies suggest that attacks with semiautomatics – including AWs and other semiautomatics equipped with LCMs – result in more shots fired, more persons hit, and more wounds inflicted per victim than do attacks with other firearms. Further, a study of handgun attacks in one city found that 3% of the gunfire incidents resulted in more than 10 shots fired, and those attacks produced almost 5% of the gunshot victims.
- Restricting the flow of LCMs into the country from abroad may be necessary to achieve desired effects from the ban, particularly in the near future. Whether mandating further design changes in the outward features of semiautomatic weapons (such as removing all military-style features) will produce measurable benefits beyond those of restricting ammunition capacity is unknown. Past experience also suggests that Congressional discussion of broadening the AW ban to new models or features would raise prices and production of the weapons under discussion.
- If the ban is lifted, gun and magazine manufacturers may reintroduce AW models and LCMs, perhaps in substantial numbers. In addition, pre-ban AWs may lose value and novelty, prompting some of their owners to sell them in undocumented secondhand markets where they can more easily reach high-risk users, such as criminals, terrorists, and other potential mass murderers. Any resulting increase in crimes with AWs and LCMs might increase gunshot victimizations for the reasons noted above, though this effect could be difficult to measure.

2. PROVISIONS OF THE ASSAULT WEAPONS BAN

2.1. Assault Weapons

Enacted on September 13, 1994, Title XI, Subtitle A of the *Violent Crime Control and Law Enforcement Act of 1994* imposes a 10-year ban on the “manufacture, transfer, and possession” of certain semiautomatic firearms designated as assault weapons (AWs).¹ The AW ban is not a prohibition on all semiautomatics. Rather, it is directed at semiautomatics having features that appear useful in military and criminal applications but unnecessary in shooting sports or self-defense. Examples of such features include pistol grips on rifles, flash hiders, folding rifle stocks, threaded barrels for attaching silencers, and the ability to accept ammunition magazines holding large numbers of bullets.² Indeed, several of the banned guns (e.g., the AR-15 and Avtomat Kalashnikov models) are civilian copies of military weapons and accept ammunition magazines made for those military weapons.

As summarized in Table 2-1, the law specifically prohibits nine narrowly defined groups of pistols, rifles, and shotguns. A number of the weapons are foreign rifles that the federal government has banned from importation into the U.S. since 1989. Exact copies of the named AWs are also banned, regardless of their manufacturer. In addition, the ban contains a generic “features test” provision that generally prohibits other semiautomatic firearms having two or more military-style features, as described in Table 2-2. In sum, the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has identified 118 model and caliber variations that meet the AW criteria established by the ban.³

Figures 2-1 and 2-2 illustrate a few prominent AWs and their features. Figure 2-1 displays the Intratec TEC-9 assault pistol, the AW most frequently used in crime (e.g., see Roth and Koper 1997, Chapter 2). Figure 2-2 depicts the AK-47 assault rifle, a weapon of Soviet design. There are many variations of the AK-47 produced around the world, not all of which have the full complement of features illustrated in Figure 2-2.

¹ A semiautomatic weapon fires one bullet for each squeeze of the trigger. After each shot, the gun automatically loads the next bullet and cocks itself for the next shot, thereby permitting a somewhat faster rate of fire relative to non-automatic firearms. Semiautomatics are not to be confused with fully automatic weapons (i.e., machine guns), which fire continuously as long as the trigger is held down. Fully automatic weapons have been illegal to own in the United States without a federal permit since 1934.

² Ban advocates stress the importance of pistol grips on rifles and heat shrouds or forward handgrips on pistols, which in combination with large ammunition magazines enable shooters to discharge high numbers of bullets rapidly (in a “spray fire” fashion) while maintaining control of the firearm (Violence Policy Center, 2003). Ban opponents, on the other hand, argue that AW features also serve legitimate purposes for lawful gun users (e.g., see Kopel, 1995).

³ This is based on AWs identified by ATF’s Firearms Technology Branch as of December 1997.

Table 2-1. Firearms Banned by the Federal Assault Weapons Ban

Firearm	Description	1993 Blue Book Price	Pre-Ban Federal Legal Status	Examples of Legal Substitutes
Avtomat Kalashnikov (AK) (by Norinco, Mitchell, Poly Technologies)	Chinese, Russian, other foreign and domestic: .223 or 7.62x39mm caliber, semiauto. rifle; 5, 10, or 30 shot magazine, may be supplied with bayonet	\$550 (generic import); add 10-15% for folding stock models	Imports banned in 1989.	Norinco NHM 90/91 ¹
Uzi, Galil	Israeli: 9mm, .41, or .45 caliber semiauto. carbine, mini-carbine, or pistol. Magazine capacity of 16, 20, or 25, depending on model and type (10 or 20 on pistols).	\$550-\$1050 (Uzi) \$875-\$1150 (Galil)	Imports banned in 1989	Uzi Sporter ²
Beretta AR-70	Italian: .222 or .223 caliber semiauto. paramilitary design rifle; 5, 8, or 30 shot magazine.	\$1050	Imports banned in 1989.	
Colt AR-15	Domestic: primarily .223 caliber paramilitary rifle or carbine; 5 shot magazines, often comes with two 5-shot detachable magazines. Exact copies by DPMS, Eagle, Olympic, and others.	\$825-\$1325	Legal (civilian version of military M-16)	Colt Sporter, Match H-Bar, Target models
Fabrique National FN/FAL, FN/LAR, FNC	Belgian design: .308 caliber semiauto. rifle or .223 combat carbine with 30 shot magazine. Rifle comes with flash hider, 4 position fire selector on automatic models. Discontinued in 1988.	\$1100-\$2500	Imports banned in 1989.	L1A1 Sporter (FN, Century) ²
Steyr AUG	Austrian: .223/5.56mm caliber semiauto. paramilitary design rifle.	\$2500	Imports banned in 1989	
SWD M-10, 11, 11/9, 12	Domestic: 9mm, .380, or .45 caliber paramilitary design semiauto. pistol; 32 shot magazine. Also available in semiauto. carbine and fully automatic variations.	\$215 (M-11/9)	Legal	Cobray PM11, 12
TEC-9, DC9, 22	Domestic: 9mm caliber semiauto. paramilitary design pistol, 10 or 32 shot magazine.; .22 caliber semiauto. paramilitary design pistol, 30 shot magazine.	\$145-\$295	Legal	TEC-AB
Revolving Cylinder Shotguns	Domestic: 12 gauge, 12 shot rotary magazine; paramilitary configuration	\$525 (Street Sweeper)	Legal	

¹ Imports were halted in 1994 under the federal embargo on the importation of firearms from China.

² Imports banned by federal executive order, April 1998.

EB000281

Table 2-2. Features Test of the Federal Assault Weapons Ban

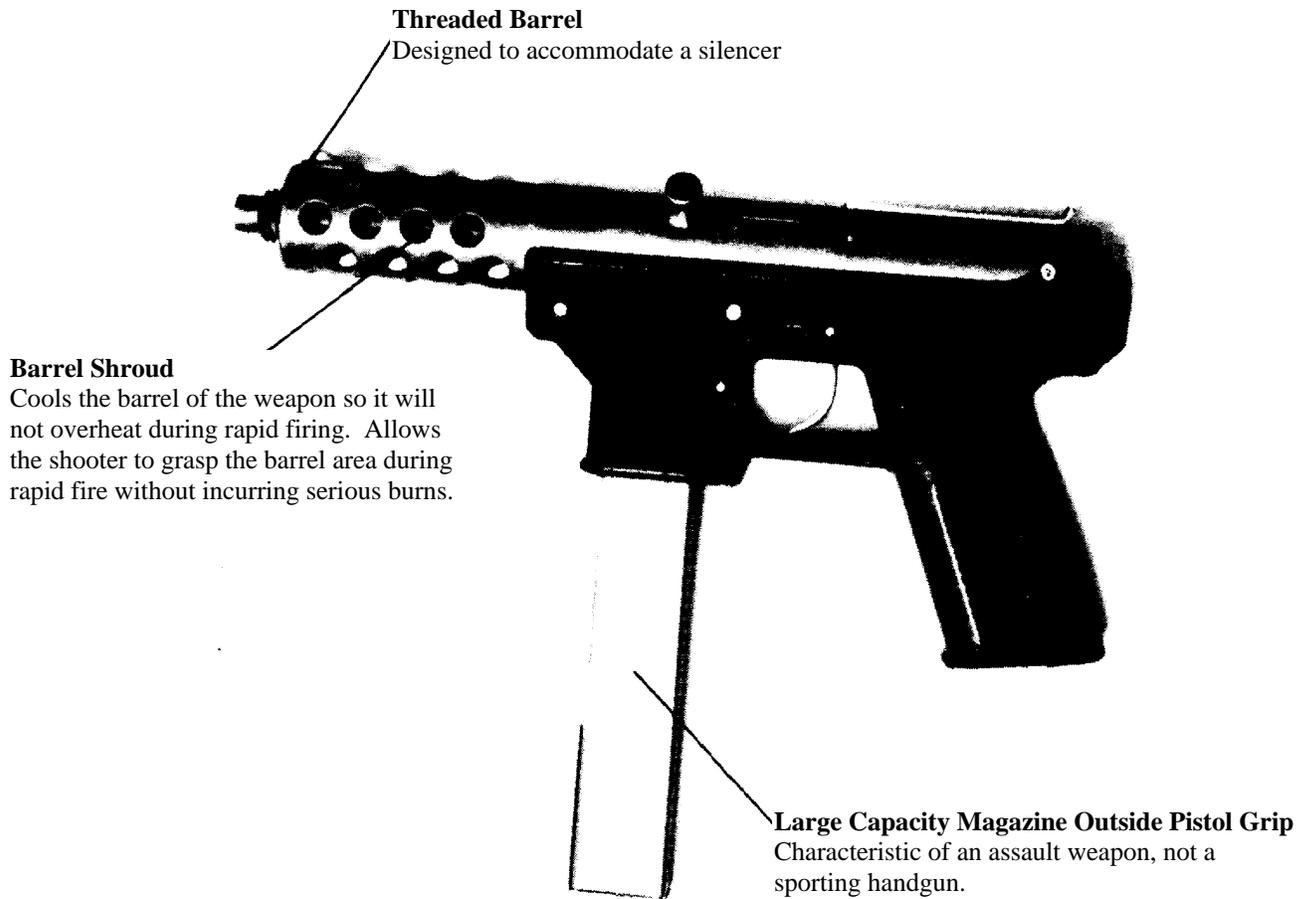
Weapon Category	Military-Style Features (Two or more qualify a firearm as an assault weapon)
Semiautomatic pistols accepting detachable magazines:	<ol style="list-style-type: none"> 1) ammunition magazine that attaches outside the pistol grip 2) threaded barrel capable of accepting a barrel extender, flash hider, forward handgrip, or silencer 3) heat shroud attached to or encircling the barrel 4) weight of more than 50 ounces unloaded 5) semiautomatic version of a fully automatic weapon
Semiautomatic rifles accepting detachable magazines:	<ol style="list-style-type: none"> 1) folding or telescoping stock 2) pistol grip that protrudes beneath the firing action 3) bayonet mount 4) flash hider or threaded barrel designed to accommodate one 5) grenade launcher
Semiautomatic shotguns:	<ol style="list-style-type: none"> 1) folding or telescoping stock 2) pistol grip that protrudes beneath the firing action 3) fixed magazine capacity over 5 rounds 4) ability to accept a detachable ammunition magazine

2.2. Large Capacity Magazines

In addition, the ban prohibits most ammunition feeding devices holding more than 10 rounds of ammunition (referred to hereafter as large capacity magazines, or LCMs).⁴ Most notably, this limits the capacity of detachable ammunition magazines for semiautomatic firearms. Though often overlooked in media coverage of the law, this provision impacted a larger share of the gun market than did the ban on AWs. Approximately 40 percent of the semiautomatic handgun models and a majority of the semiautomatic rifle models being manufactured and advertised prior to the ban were sold with LCMs or had a variation that was sold with an LCM (calculated from Murtz et al., 1994). Still others could accept LCMs made for other firearms and/or by other manufacturers. A national survey of gun owners found that 18% of all civilian-owned firearms and 21% of civilian-owned handguns were equipped with magazines having 10 or more rounds as of 1994 (Cook and Ludwig, 1996, p. 17). The AW provision did not affect most LCM-compatible guns, but the LCM provision limited the capacities of their magazines to 10 rounds.

⁴ Technically, the ban prohibits any magazine, belt, drum, feed strip, or similar device that has the capacity to accept more than 10 rounds or ammunition, or which can be readily converted or restored to accept more than 10 rounds of ammunition. The ban exempts attached tubular devices capable of operating only with .22 caliber rimfire (i.e., low velocity) ammunition.

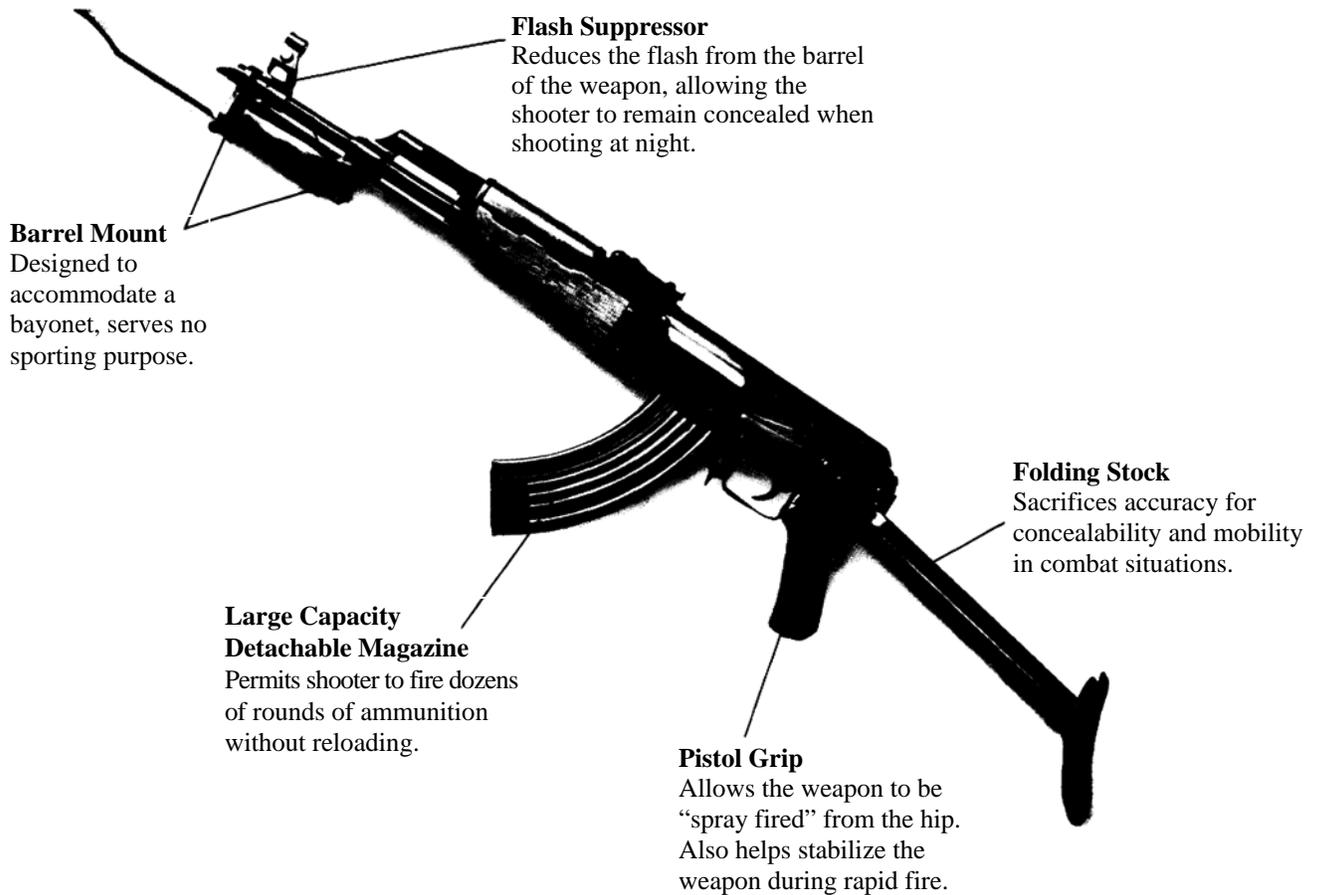
**Figure 2-1. Features of Assault Weapons:
The Intratec TEC-9 Assault Pistol**



Adapted from exhibit of the Center to Prevent Handgun Violence.

As discussed in later chapters, an LCM is perhaps the most functionally important feature of many AWs. This point is underscored by the AW ban's exemptions for semiautomatic rifles that cannot accept a detachable magazine that holds more than five rounds of ammunition and semiautomatic shotguns that cannot hold more than five rounds in a fixed or detachable magazine. As noted by the U.S. House of Representatives, most prohibited AWs came equipped with magazines holding 30 rounds and could accept magazines holding as many as 50 or 100 rounds (U.S. Department of the Treasury, 1998, p. 14). Also, a 1998 federal executive order (discussed below) banned further importation of foreign semiautomatic rifles capable of accepting LCMs made for military rifles. Accordingly, the magazine ban plays an important role in the logic and interpretations of the analyses presented here.

**Figure 2-2. Features of Assault Weapons:
The AK-47 Assault Rifle**



Adapted from exhibit of the Center to Prevent Handgun Violence.

2.3. Foreign Rifles Accepting Large Capacity Military Magazines

In April of 1998, the Clinton administration broadened the range of the AW ban by prohibiting importation of an additional 58 foreign semiautomatic rifles that were still legal under the 1994 law but that can accept LCMs made for military assault rifles like the AK-47 (U.S. Department of the Treasury, 1998).⁵ Figure 2-3 illustrates a few such rifles (hereafter, LCMM rifles) patterned after the banned AK-47 pictured in Figure 2-2. The LCMM rifles in Figure 2-3 do not possess the military-style features incorporated into the AK-47 (such as pistol grips, flash suppressors, and bayonet mounts), but they accept LCMs made for AK-47s.⁶

⁵ In the civilian context, AWs are semiautomatic firearms. Many semiautomatic AWs are patterned after military firearms, but the military versions are capable of semiautomatic and fully automatic fire.

⁶ Importation of some LCMM rifles, including a number of guns patterned after the AK-47, was halted in 1994 due to trade sanctions against China (U.S. Department of the Treasury, 1998).

Figure 2-3. Foreign Semiautomatic Rifles Capable of Accepting Large Capacity Military Magazines: AK47 Copies Banned by Executive Order in 1998



MISR



ARM



MAK90



WUM 1

Taken from U.S. Department of the Treasury (1998)

2.4. Ban Exemptions

2.4.1. *Guns and Magazines Manufactured Prior to the Ban*

The ban contains important exemptions. AWs and LCMs manufactured before the effective date of the ban are “grandfathered” and thus legal to own and transfer. Around 1990, there were an estimated 1 million privately owned AWs in the U.S. (about 0.5% of the estimated civilian gun stock) (Cox Newspapers, 1989, p. 1; American Medical Association Council on Scientific Affairs, 1992), though those counts probably did not correspond exactly to the weapons prohibited by the 1994 ban. The leading domestic AW producers manufactured approximately half a million AWs from 1989 through 1993, representing roughly 2.5% of all guns manufactured in the U.S. during that time (see Chapter 5).

We are not aware of any precise estimates of the pre-ban stock of LCMs, but gun owners in the U.S. possessed an estimated 25 million guns that were equipped with LCMs or 10-round magazines in 1994 (Cook and Ludwig, 1996, p. 17), and gun industry sources estimated that, including aftermarket items for repairing and extending magazines, there were at least 25 million LCMs available in the United States as of 1995 (Gun Tests, 1995, p. 30). As discussed in Chapter 7, moreover, an additional 4.8 million pre-ban LCMs were imported into the U.S. from 1994 through 2000 under the grandfathering exemption.

2.4.2. *Semiautomatics With Fewer or No Military Features*

Although the law bans “copies or duplicates” of the named gun makes and models, federal authorities have emphasized exact copies. Relatively cosmetic changes, such as removing a flash hider or bayonet mount, are sufficient to transform a banned weapon into a legal substitute, and a number of manufacturers now produce modified, legal versions of some of the banned guns (examples are listed in Table 2-1). In general, the AW ban does not apply to semiautomatics possessing no more than one military-style feature listed under the ban’s features test provision.⁷ For instance, prior to going out of business, Intratec, makers of the banned TEC-9 featured in Figure 2-1, manufactured an AB-10 (“after ban”) model that does not have a threaded barrel or a barrel shroud but is identical to the TEC-9 in other respects, including the ability to accept an ammunition magazine outside the pistol grip (Figure 2-4). As shown in the illustration, the AB-10 accepts grandfathered, 32-round magazines made for the TEC-9, but post-ban magazines produced for the AB-10 must be limited to 10 rounds.

⁷ Note, however, that firearms imported into the country must still meet the “sporting purposes test” established under the federal Gun Control Act of 1968. In 1989, ATF determined that foreign semiautomatic rifles having any one of a number of named military features (including those listed in the features test of the 1994 AW ban) fail the sporting purposes test and cannot be imported into the country. In 1998, the ability to accept an LCM made for a military rifle was added to the list of disqualifying features. Consequently, it is possible for foreign rifles to pass the features test of the federal AW ban but not meet the sporting purposes test for imports (U.S. Department of the Treasury, 1998).

Another example is the Colt Match Target H-Bar rifle (Figure 2-5), which is a legalized version of the banned AR-15 (see Table 2-1). AR-15 type rifles are civilian weapons patterned after the U.S. military's M-16 rifle and were the assault rifles most commonly used in crime before the ban (Roth and Koper, 1997, Chapter 2). The post-ban version shown in Figure 2-5 (one of several legalized variations on the AR-15) is essentially identical to pre-ban versions of the AR-15 but does not have accessories like a flash hider, threaded barrel, or bayonet lug. The one remaining military feature on the post-ban gun is the pistol grip. This and other post-ban AR-15 type rifles can accept LCMs made for the banned AR15, as well as those made for the U.S. military's M-16. However, post-ban magazines manufactured for these guns must hold fewer than 11 rounds.

The LCMM rifles discussed above constituted another group of legalized AW-type weapons until 1998, when their importation was prohibited by executive order. Finally, the ban includes an appendix that exempts by name several hundred models of rifles and shotguns commonly used in hunting and recreation, 86 of which are semiautomatics. While the exempted semiautomatics generally lack the military-style features common to AWs, many take detachable magazines, and some have the ability to accept LCMs.⁸

2.5. Summary

In the broadest sense, the AW-LCM ban is intended to limit crimes with semiautomatic firearms having large ammunition capacities – which enable shooters to discharge high numbers of shots rapidly – and other features conducive to criminal applications. The gun ban provision targets a relatively small number of weapons based on outward features or accessories that have little to do with the weapons' operation. Removing some or all of these features is sufficient to make the weapons legal. In other respects (e.g., type of firing mechanism, ammunition fired, and the ability to accept a detachable magazine), AWs do not differ from other legal semiautomatic weapons. The LCM provision of the law limits the ammunition capacity of non-banned firearms.

⁸ Legislators inserted a number of amendments during the drafting process to broaden the consensus behind the bill (Lennett 1995). Among changes that occurred during drafting were: dropping a requirement to register post-ban sales of the grandfathered guns, dropping a ban on “substantial substitutes” as well as “exact copies” of the banned weapons, shortening the list of named makes and models covered by the ban, adding the appendix list of exempted weapons, and mandating the first impact study of the ban that is discussed below.

Figure 2-4. Post-Ban, Modified Versions of Assault Weapons:
The Intratec AB (“After Ban”) Model (See Featured Firearm)

AMERICAN PRIDE

BRAND NEW

AMERICAN MADE

Introducing The AB-10 Stainless Steel 9mm Pistol!
 The New non-threaded AB-10 Stainless Steel Firearm is now available with a 32-round Stainless Steel capacity magazine. This new edition is one of the most affordable and reliable firearms on the market! In Standard Blue or Stainless Steel, the AB-10 series makes an ideal firearm for self-defense or recreation.
A super profit-maker!

"Cat"-9
 9mm, Luger. Magazine 7+1

Sport -22
 Non-Threaded Barrel
 10-Round Magazine

"Cat"-9/.380 Auto
 Magazine 7+1

"Cat" -45
 45 A.C.P.
 Magazine 6+1

Pro-"tec"-tor Series
 Protec 25B, 8-Round Mag.
 Protec 25KB, 8-Round Mag.

INTRATEC
 12405 S.W. 130th St., Miami, FL 33186
<http://amfire.com/intratec.html>
 Fax: (305) 253-7207

**Figure 2-5. Post-Ban, Modified Versions of Assault Weapons:
The Colt Match Target HBAR Model**



3. CRIMINAL USE OF ASSAULT WEAPONS AND LARGE CAPACITY MAGAZINES BEFORE THE BAN

During the 1980s and early 1990s, AWs and other semiautomatic firearms equipped with LCMs were involved in a number of highly publicized mass murder incidents that raised public concern about the accessibility of high powered, military-style weaponry and other guns capable of discharging high numbers of bullets in a short period of time (Cox Newspapers, 1989; Kleck, 1997, pp.124-126,144; Lenett, 1995). In one of the worst mass murders ever committed in the U.S., for example, James Huberty killed 21 persons and wounded 19 others in a San Ysidro, California MacDonald's restaurant on July 18, 1984 using an Uzi carbine, a shotgun, and another semiautomatic handgun. On September 14, 1989, Joseph Wesbecker, armed with an AK-47 rifle, two MAC-11 handguns, and a number of other firearms, killed 7 persons and wounded 15 others at his former workplace in Louisville, Kentucky before taking his own life. Another particularly notorious incident that precipitated much of the recent debate over AWs occurred on January 17, 1989 when Patrick Purdy used a civilian version of the AK-47 military rifle to open fire on a schoolyard in Stockton, California, killing 5 children and wounding 29 persons.

There were additional high profile incidents in which offenders using semiautomatic handguns with LCMs killed and wounded large numbers of persons. Armed with two handguns having LCMs (and reportedly a supply of extra LCMs), a rifle, and a shotgun, George Hennard killed 22 people and wounded another 23 in Killeen, Texas in October 1991. In a December 1993 incident, a gunman named Colin Ferguson, armed with a handgun and LCMs, opened fire on commuters on a Long Island train, killing 5 and wounding 17.

Indeed, AWs or other semiautomatics with LCMs were involved in 6, or 40%, of 15 mass shooting incidents occurring between 1984 and 1993 in which six or more persons were killed or a total of 12 or more were wounded (Kleck, 1997, pp.124-126, 144). Early studies of AWs, though sometimes based on limited and potentially unrepresentative data, also suggested that AWs recovered by police were often associated with drug trafficking and organized crime (Cox Newspapers, 1989; also see Roth and Koper, 1997, Chapter 5), fueling a perception that AWs were guns of choice among drug dealers and other particularly violent groups. All of this intensified concern over AWs and other semiautomatics with large ammunition capacities and helped spur the passage of AW bans in California, New Jersey, Connecticut, and Hawaii between 1989 and 1993, as well as the 1989 federal import ban on selected semiautomatic rifles. Maryland also passed AW legislation in 1994, just a few months prior to the passage of the 1994 federal AW ban.⁹

Looking at the nation's gun crime problem more broadly, however, AWs and LCMs were used in only a minority of gun crimes prior to the 1994 federal ban, and AWs were used in a particularly small percentage of gun crimes.

⁹ A number of localities around the nation also passed AW bans during this period.

3.1. Criminal Use of Assault Weapons

Numerous studies have examined the use of AWs in crime prior to the federal ban. The definition of AWs varied across the studies and did not always correspond exactly to that of the 1994 law (in part because a number of the studies were done prior to 1994). In general, however, the studies appeared to focus on various semiautomatics with detachable magazines and military-style features. According to these accounts, AWs typically accounted for up to 8% of guns used in crime, depending on the specific AW definition and data source used (e.g., see Beck et al., 1993; Hargarten et al., 1996; Hutson et al., 1994; 1995; McGonigal et al., 1993; New York State Division of Criminal Justice Services, 1994; Roth and Koper, 1997, Chapters 2, 5, 6; Zawitz, 1995). A compilation of 38 sources indicated that AWs accounted for 2% of crime guns on average (Kleck, 1997, pp.112, 141-143).¹⁰

Similarly, the most common AWs prohibited by the 1994 federal ban accounted for between 1% and 6% of guns used in crime according to most of several national and local data sources examined for this and our prior study (see Chapter 6 and Roth and Koper, 1997, Chapters 5, 6):

- Baltimore (all guns recovered by police, 1992-1993): 2%
- Miami (all guns recovered by police, 1990-1993): 3%
- Milwaukee (guns recovered in murder investigations, 1991-1993): 6%
- Boston (all guns recovered by police, 1991-1993): 2%
- St. Louis (all guns recovered by police, 1991-1993): 1%
- Anchorage, Alaska (guns used in serious crimes, 1987-1993): 4%
- National (guns recovered by police and reported to ATF, 1992-1993): 5%¹¹
- National (gun thefts reported to police, 1992-Aug. 1994): 2%
- National (guns used in murders of police, 1992-1994): 7-9%¹²
- National (guns used in mass murders of 4 or more persons, 1992-1994): 4-13%¹³

Although each of the sources cited above has limitations, the estimates consistently show that AWs are used in a small fraction of gun crimes. Even the highest

¹⁰ The source in question contains a total of 48 estimates, but our focus is on those that examined all AWs (including pistols, rifles, and shotguns) as opposed to just assault rifles.

¹¹ For reasons discussed in Chapter 6, the national ATF estimate likely overestimates the use of AWs in crime. Nonetheless, the ATF estimate lies within the range of other presented estimates.

¹² The minimum estimate is based on AW cases as a percentage of all gun murders of police. The maximum estimate is based on AW cases as a percentage of cases for which at least the gun manufacturer was known. Note that AWs accounted for as many as 16% of gun murders of police in 1994 (Roth and Koper, 1997, Chapter 6; also see Adler et al., 1995).

¹³ These statistics are based on a sample of 28 cases found through newspaper reports (Roth and Koper, 1997, Appendix A). One case involved an AW, accounting for 3.6% of all cases and 12.5% of cases in which at least the type of gun (including whether the gun was a handgun, rifle, or shotgun and whether the gun was a semiautomatic) was known. Also see the earlier discussion of AWs and mass shootings at the beginning of this chapter.

estimates, which correspond to particularly rare events such as mass murders and police murders, are no higher than 13%. Note also that the majority of AWs used in crime are assault pistols (APs) rather than assault rifles (ARs). Among AWs reported by police to ATF during 1992 and 1993, for example, APs outnumbered ARs by a ratio of 3 to 1 (see Chapter 6).

The relative rarity of AW use in crime can be attributed to a number of factors. Many AWs are long guns, which are used in crime much less often than handguns. Moreover, a number of the banned AWs are foreign weapons that were banned from importation into the U.S. in 1989. Also, AWs are more expensive (see Table 2-1) and more difficult to conceal than the types of handguns that are used most frequently in crime.

3.1.1. A Note on Survey Studies and Assault Weapons

The studies and statistics discussed above were based primarily on police information. Some survey studies have given a different impression, suggesting substantial levels of AW ownership among criminals and otherwise high-risk juvenile and adult populations, particularly urban gang members (Knox et al., 1994; Sheley and Wright, 1993a). A general problem with these studies, however, is that respondents themselves had to define terms like “military-style” and “assault rifle.” Consequently, the figures from these studies may lack comparability with those from studies with police data. Further, the figures reported in some studies prompt concerns about exaggeration of AW ownership (perhaps linked to publicity over the AW issue during the early 1990s when a number of these studies were conducted), particularly among juvenile offenders, who have reported ownership levels as high as 35% just for ARs (Sheley and Wright, 1993a).¹⁴

Even so, most survey evidence on the actual use of AWs suggests that offenders rarely use AWs in crime. In a 1991 national survey of adult state prisoners, for example, 8% of the inmates reported possessing a “military-type” firearm at some point in the past (Beck et al., 1993, p. 19). Yet only 2% of offenders who used a firearm during their conviction offense reported using an AW for that offense (calculated from pp. 18, 33), a figure consistent with the police statistics cited above. Similarly, while 10% of adult inmates and 20% of juvenile inmates in a Virginia survey reported having owned an AR, none of the adult inmates and only 1% of the juvenile inmates reported having carried them at crime scenes (reported in Zawitz, 1995, p. 6). In contrast, 4% to 20% of inmates surveyed in eight jails across rural and urban areas of Illinois and Iowa reported having used an AR in committing crimes (Knox et al., 1994, p. 17). Nevertheless, even assuming the accuracy and honesty of the respondents’ reports, it is not clear what

¹⁴ As one example of possible exaggeration of AW ownership, a survey of incarcerated juveniles in New Mexico found that 6% reported having used a “military-style rifle” against others and 2.6% reported that someone else used such a rifle against them. However, less than 1% of guns recovered in a sample of juvenile firearms cases were “military” style guns (New Mexico Criminal Justice Statistical Analysis Center, 1998, pp. 17-19; also see Ruddell and Mays, 2003).

weapons they were counting as ARs, what percentage of their crimes were committed with ARs, or what share of all gun crimes in their respective jurisdictions were linked to their AR uses. Hence, while some surveys suggest that ownership and, to a lesser extent, use of AWs may be fairly common among certain subsets of offenders, the overwhelming weight of evidence from gun recovery and survey studies indicates that AWs are used in a small percentage of gun crimes overall.

3.1.2. Are Assault Weapons More Attractive to Criminal Users Than Other Gun Users?

Although AWs are used in a small percentage of gun crimes, some have argued that AWs are more likely to be used in crime than other guns, i.e., that AWs are more attractive to criminal than lawful gun users due to the weapons' military-style features and their particularly large ammunition magazines. Such arguments are based on data implying that AWs are more common among crime guns than among the general stock of civilian firearms. According to some estimates generated prior to the federal ban, AWs accounted for less than one percent of firearms owned by civilians but up to 11% of guns used in crime, based on firearms reported by police to ATF between 1986 and 1993 (e.g., see Cox Newspapers, 1989; Lennett, 1995). However, these estimates were problematic in a number of respects. As discussed in Chapter 6, ATF statistics are not necessarily representative of the types of guns most commonly recovered by police, and ATF statistics from the late 1980s and early 1990s in particular tended to overstate the prevalence of AWs among crime guns. Further, estimating the percentage of civilian weapons that are AWs is difficult because gun production data are not reported by model, and one must also make assumptions about the rate of attrition among the stock of civilian firearms.

Our own more recent assessment indicates that AWs accounted for about 2.5% of guns produced from 1989 through 1993 (see Chapter 5). Relative to previous estimates, this may signify that AWs accounted for a growing share of civilian firearms in the years just before the ban, though the previous estimates likely did not correspond to the exact list of weapons banned in 1994 and thus may not be entirely comparable to our estimate. At any rate, the 2.5% figure is comparable to most of the AW crime gun estimates listed above; hence, it is not clear that AWs are used disproportionately in most crimes, though AWs still seem to account for a somewhat disproportionate share of guns used in murders and other serious crimes.

Perhaps the best evidence of a criminal preference for AWs comes from a study of young adult handgun buyers in California that found buyers with minor criminal histories (i.e., arrests or misdemeanor convictions that did not disqualify them from purchasing firearms) were more than twice as likely to purchase APs than were buyers with no criminal history (4.6% to 2%, respectively) (Wintemute et al., 1998a). Those with more serious criminal histories were even more likely to purchase APs: 6.6% of those who had been charged with a gun offense bought APs, as did 10% of those who had been charged with two or more serious violent offenses. AP purchasers were also more likely to be arrested subsequent to their purchases than were other gun purchasers.

Among gun buyers with prior charges for violence, for instance, AP buyers were more than twice as likely as other handgun buyers to be charged with any new offense and three times as likely to be charged with a new violent or gun offense. To our knowledge, there have been no comparable studies contrasting AR buyers with other rifle buyers.

3.2. Criminal Use of Large Capacity Magazines

Relative to the AW issue, criminal use of LCMs has received relatively little attention. Yet the overall use of guns with LCMs, which is based on the combined use of AWs and non-banned guns with LCMs, is much greater than the use of AWs alone. Based on data examined for this and a few prior studies, guns with LCMs were used in roughly 14% to 26% of most gun crimes prior to the ban (see Chapter 8; Adler et al., 1995; Koper, 2001; New York Division of Criminal Justice Services, 1994).

- Baltimore (all guns recovered by police, 1993): 14%
- Milwaukee (guns recovered in murder investigations, 1991-1993): 21%
- Anchorage, Alaska (handguns used in serious crimes, 1992-1993): 26%
- New York City (guns recovered in murder investigations, 1993): 16-25%¹⁵
- Washington, DC (guns recovered from juveniles, 1991-1993): 16%¹⁶
- National (guns used in murders of police, 1994): 31%-41%¹⁷

Although based on a small number of studies, this range is generally consistent with national survey estimates indicating approximately 18% of all civilian-owned guns and 21% of civilian-owned handguns were equipped with LCMs as of 1994 (Cook and Ludwig, 1996, p. 17). The exception is that LCMs may have been used disproportionately in murders of police, though such incidents are very rare.

As with AWs and crime guns in general, most crime guns equipped with LCMs are handguns. Two handgun models manufactured with LCMs prior to the ban (the Glock 17 and Ruger P89) were among the 10 crime gun models most frequently recovered by law enforcement and reported to ATF during 1994 (ATF, 1995).

¹⁵ The minimum estimate is based on cases in which discharged firearms were recovered, while the maximum estimate is based on cases in which recovered firearms were positively linked to the case with ballistics evidence (New York Division of Criminal Justice Services, 1994).

¹⁶ Note that Washington, DC prohibits semiautomatic firearms accepting magazines with more than 12 rounds (and handguns in general).

¹⁷ The estimates are based on the sum of cases involving AWs or other guns sold with LCMs (Adler et al., 1995, p.4). The minimum estimate is based on AW-LCM cases as a percentage of all gun murders of police. The maximum estimate is based on AW-LCM cases as a percentage of cases in which the gun model was known.

3.3. Summary

In sum, AWs and LCMs were used in up to a quarter of gun crimes prior to the 1994 AW-LCM ban. By most estimates, AWs were used in less than 6% of gun crimes even before the ban. Some may have perceived their use to be more widespread, however, due to the use of AWs in particularly rare and highly publicized crimes such as mass shootings (and, to a lesser extent, murders of police), survey reports suggesting high levels of AW ownership among some groups of offenders, and evidence that some AWs are more attractive to criminal than lawful gun buyers.

In contrast, guns equipped with LCMs – of which AWs are a subset – are used in roughly 14% to 26% of gun crimes. Accordingly, the LCM ban has greater potential for affecting gun crime. However, it is not clear how often the ability to fire more than 10 shots without reloading (the current magazine capacity limit) affects the outcomes of gun attacks (see Chapter 9). All of this suggests that the ban’s impact on gun violence is likely to be small.

4. OVERVIEW OF STUDY DESIGN, HYPOTHESES, AND PRIOR FINDINGS

Section 110104 of the AW-LCM ban directed the Attorney General of the United States to study the ban's impact and report the results to Congress within 30 months of the ban's enactment, a provision which was presumably motivated by a sunset provision in the legislation (section 110105) that will lift the ban in September 2004 unless Congress renews the ban. In accordance with the study requirement, the National Institute of Justice (NIJ) awarded a grant to the Urban Institute to study the ban's short-term (i.e., 1994-1996) effects. The results of that study are available in a number of reports, briefs, and articles written by members of this research team (Koper and Roth, 2001a; 2001b; 2002a; Roth and Koper, 1997; 1999).¹⁸ In order to understand the ban's longer-term effects, NIJ provided additional funding to extend the AW research. In 2002, we delivered an interim report to NIJ based on data extending through at least the late 1990s (Koper and Roth, 2002b). This report is based largely on the 2002 interim report, but with various new and updated analyses extending as far as 2003. It is thus a compilation of analyses conducted between 1998 and 2003. The study periods vary somewhat across the analyses, depending on data availability and the time at which the data were collected.

4.1. Logical Framework for Research on the Ban

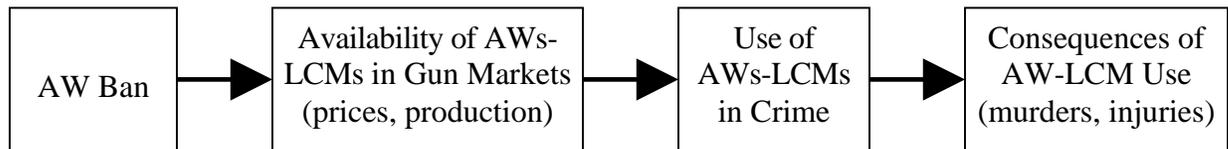
An important rationale for the AW-LCM ban is that AWs and other guns equipped with LCMs are particularly dangerous weapons because they facilitate the rapid firing of high numbers of shots, thereby potentially increasing injuries and deaths from gun violence. Although AWs and LCMs were used in only a modest share of gun crimes before the ban, it is conceivable that a decrease in their use might reduce fatal and non-fatal gunshot victimizations, even if it does not reduce the overall rate of gun crime. (In Chapter 9, we consider in more detail whether forcing offenders to substitute other guns and smaller magazines can reduce gun deaths and injuries.)

It is not clear how quickly such effects might occur, however, because the ban exempted the millions of AWs and LCMs that were manufactured prior to the ban's effective date in September 1994. This was particularly a concern for our first study, which was based on data extending through mid-1996, a period potentially too short to observe any meaningful effects. Consequently, investigation of the ban's effects on gun markets – and, most importantly, how they have affected criminal use of AWs and LCMs – has played a central role in this research. The general logic of our studies, illustrated in Figure 4-1, has been to first assess the law's impact on the availability of AWs and LCMs, examining price and production (or importation) indices in legal markets and relating them to trends in criminal use of AWs and LCMs. In turn, we can relate these market patterns to trends in the types of gun crimes most likely to be affected by changes in the use of AWs and LCMs. However, we cannot make definitive assessments of the

¹⁸ The report to Congress was the Roth and Koper (1997) report.

ban's impact on gun violence until it is clear that the ban has indeed reduced criminal use of AWs and LCMs.

Figure 4-1. Logic Model for Research on the Assault Weapons Ban



4.2. Hypothesized Market Effects

4.2.1. A General Description of Gun Markets

Firearms are distributed in markets commonly referred to as primary and secondary markets. Illicit gun transactions occur in both markets. Primary markets include wholesale and retail transactions by federally-licensed gun dealers, referred to as federal firearm licensees. Licensed dealers are required to, among things, follow federal and state background procedures to verify the eligibility of purchasers, observe any legally required waiting period prior to making transfers, and maintain records of gun acquisitions and dispositions (though records are not required for sales of ammunition magazines).

Despite these restrictions, survey data suggest that as many as 21% of adult gun offenders obtained guns from licensed dealers in the years prior to the ban (Harlow, 2001, p. 6; also see Wright and Rossi, 1986, pp. 183,185). In more recent years, this figure has declined to 14% (Harlow, 2001, p. 6), due likely to the Brady Act, which established a national background check system for purchases from licensed dealers, and reforms of the federal firearms licensing system that have greatly reduced the number of licensed gun dealers (see ATF, 2000; Koper, 2002). Some would-be gun offenders may be legally eligible buyers at the time of their acquisitions, while others may seek out corrupt dealers or use other fraudulent or criminal means to acquire guns from retail dealers (such as recruiting a legally entitled buyer to act as a “straw purchaser” who buys a gun on behalf of a prohibited buyer).

Secondary markets encompass second-hand gun transactions made by non-licensed individuals.¹⁹ Secondary market participants are prohibited from knowingly transferring guns to ineligible purchasers (e.g., convicted felons and drug abusers). However, secondary transfers are not subject to the federal record-keeping and background check requirements placed on licensed dealers, thus making the secondary

¹⁹ Persons who make only occasional sales of firearms are not required to obtain a federal firearms license (ATF, 2000, p. 11).

market almost entirely unregulated and, accordingly, a better source of guns for criminal users.²⁰ In the secondary market, ineligible buyers may obtain guns from a wide variety of legitimate or illegitimate gun owners: relatives, friends, fences, drug dealers, drug addicts, persons selling at gun shows, or other strangers (e.g., see Wright and Rossi, 1986; Sheley and Wright, 1993a). Of course, ineligible purchasers may also steal guns from licensed gun dealers and private gun owners.

Secondary market prices are generally lower than primary market prices (because the products are used), though the former may vary substantially across a range of gun models, places, circumstances, and actors. For example, street prices of AWs and other guns can be 3 to 6 times higher than legal retail prices in jurisdictions with strict gun controls and lower levels of gun ownership (Cook et al., 1995, p. 72). Nonetheless, experts note that primary and secondary market prices correspond to one another, in that relatively expensive guns in the primary market are also relatively expensive in the secondary market. Moreover, in any given locality, trends in secondary market prices can be expected to track those in the primary market because a rise in primary market prices for new weapons will increase demand for used weapons and therefore increase secondary market prices (Cook et al., 1995, p. 71).

4.2.2. *The AW-LCM Ban and Gun Markets*

In the long term, we can expect prices of the banned guns and magazines to gradually rise as supplies dwindle. As prices rise, more would-be criminal users of AWs and LCMs will be unable or unwilling to pay the higher prices. Others will be discouraged by the increasing non-monetary costs (i.e., search time) of obtaining the weapons. In addition, rising legal market prices will undermine the incentive for some persons to sell AWs and LCMs to prohibited buyers for higher premiums, thereby bidding some of the weapons away from the channels through which they would otherwise reach criminal users. Finally, some would-be AW and LCM users may become less willing to risk confiscation of their AWs and LCMs as the value of the weapons increases. Therefore, we expect that over time diminishing stocks and rising prices will lead to a reduction in criminal use of AWs and LCMs.²¹

²⁰ Some states require that secondary market participants notify authorities about their transactions. Even in these states, however, it is not clear how well these laws are enforced.

²¹ We would expect these reductions to be apparent shortly after the price increases (an expectation that, as discussed below, was confirmed in our earlier study) because a sizeable share of guns used in crime are used within one to three years of purchase. Based on analyses of guns recovered by police in 17 cities, ATF (1997, p. 8) estimates that guns less than 3 years old (as measured by the date of first retail sale) comprise between 22% and 43% of guns seized from persons under age 18, between 30% and 54% of guns seized from persons ages 18 to 24, and between 25% and 46% of guns seized from persons over 24. In addition, guns that are one year old or less comprise the largest share of relatively new crime guns (i.e., crime guns less than three years old) (Pierce et al., 1998, p. 11). Similar data are not available for secondary market transactions, but such data would shorten the estimated time from acquisition to criminal use.

However, the expected timing of the market processes is uncertain. We can anticipate that AW and LCM prices will remain relatively stable for as long as the supply of grandfathered weapons is adequate to meet demand. If, in anticipation of the ban, gun manufacturers overestimated the demand for AWs and LCMs and produced too many of them, prices might even fall before eventually rising. Market responses can be complicated further by the continuing production of legal AW substitute models by some gun manufacturers. If potential AW buyers are content with an adequate supply of legal AW-type weapons having fewer military features, it will take longer for the grandfathered AW supply to constrict and for prices to rise. Similarly, predicting LCM price trends is complicated by the overhang of military surplus magazines that can fit civilian weapons (e.g., military M-16 rifle magazines that can be used with AR-15 type rifles) and by the market in reconditioned magazines. The “aftermarket” in gun accessories and magazine extenders that can be used to convert legal guns and magazines into banned ones introduces further complexity to the issue.

4.3. Prior Research on the Ban’s Effects

To summarize the findings of our prior study, Congressional debate over the ban triggered pre-ban speculative price increases of upwards of 50% for AWs during 1994, as gun distributors, dealers, and collectors anticipated that the weapons would become valuable collectors’ items. Analysis of national and local data on guns recovered by police showed reductions in criminal use of AWs during 1995 and 1996, suggesting that rising prices made the weapons less accessible to criminal users in the short-term aftermath of the ban.

However, the speculative increase in AW prices also prompted a pre-ban boost in AW production; in 1994, AW manufacturers produced more than twice their average volume for the 1989-1993 period. The oversupply of grandfathered AWs, the availability of the AW-type legal substitute models mentioned earlier, and the steady supply of other non-banned semiautomatics appeared to have saturated the legal market, causing advertised prices of AWs to fall to nearly pre-speculation levels by late 1995 or early 1996. This combination of excess supply and reduced prices implied that criminal use of AWs might rise again for some period around 1996, as the large stock of AWs would begin flowing from dealers’ and speculators’ gun cases to the secondary markets where ineligible purchasers may obtain guns more easily.

We were not able to gather much specific data about market trends for LCMs. However, available data did reveal speculative, pre-ban price increases for LCMs that were comparable to those for AWs (prices for some LCMs continued to climb into 1996), leading us to speculate – incorrectly, as this study will show (see Chapter 8) – that there was some reduction in LCM use after the ban.²²

²² To our knowledge, there have been two other studies of changes in AW and LCM use during the post-ban period. One study reported a drop in police recoveries of AWs in Baltimore during the first half of 1995 (Weil and Knox, 1995), while the other found no decline in recoveries of AWs or LCMs in Milwaukee homicide cases as of 1996 (Hargarten et al., 2000). Updated analyses for both of these cities

Determining whether the reduction in AW use (and perhaps LCM use) following the ban had an impact on gun violence was more difficult. The gun murder rate dropped more in 1995 (the first year following the ban) than would have been expected based on preexisting trends, but the short post-ban follow-up period available for the analysis precluded a definitive assessment as to whether the reduction was statistically meaningful (see especially Koper and Roth, 2001a). The reduction was also larger than would be expected from the AW-LCM ban, suggesting that other factors were at work in accelerating the decline. Using a number of national and local data sources, we also examined trends in measures of victims per gun murder incident and wounds per gunshot victim, based on the hypothesis that these measures might be more sensitive to variations in the use of AWs and LCMs. These analyses revealed no ban effects, thus failing to show confirming evidence of the mechanism through which the ban was hypothesized to affect the gun murder rate. However, newly available data presented in subsequent chapters suggest these assessments may have been premature, because any benefits from the decline in AW use were likely offset by steady or rising use of other guns equipped with LCMs, a trend that was not apparent at the time of our earlier study.

We cautioned that the short-term patterns observed in the first study might not provide a reliable guide to longer-term trends and that additional follow-up was warranted. Two key issues to be addressed were whether there had been a rebound in AW use since the 1995-1996 period and, if so, whether that rebound had yet given way to a long-term reduction in AW use. Another key issue was to seek more definitive evidence on short and long-term trends in the availability and criminal use of LCMs. These issues are critical to assessing the effectiveness of the AW-LCM ban, but they also have broader implications for other important policy concerns, namely, the establishment of reasonable timeframes for sunset and evaluation provisions in legislation. In other words, how long is long enough in evaluating policy and setting policy expiration dates?

are presented in Chapters 6 and 8.

5. MARKET INDICATORS FOR ASSAULT WEAPONS: PRICES AND PRODUCTION

This chapter assesses the ban's impact on the availability of AWs in primary and secondary markets, as measured by trends in AW prices and post-ban production of legal AW substitute models. Understanding these trends is important because they influence the flow of grandfathered weapons to criminals and the availability of non-banned weapons that are close substitutes for banned ones. In the next chapter, we assess the impact of these trends on criminal use of AWs, as approximated by statistics on gun seizures by police. (Subsequent chapters present similar analyses for LCMs.)

Following our previous methods, we compare trends for AWs to trends for various non-banned firearms. The AW analyses generally focus on the most common AWs formerly produced in the U.S., including Intratec and SWD-type APs and AR-15-type ARs produced by Colt and others. In addition, we selected a small number of domestic pistol and rifle models made by Calico and Feather Industries that fail the features test provision of the AW legislation and that were relatively common among crime guns reported by law enforcement agencies to ATF prior to the ban (see Roth and Koper, 1997, Chapter 5). Together, this group of weapons represented over 80% of AWs used in crime and reported to ATF from 1993 through 1996, and the availability of these guns was not affected by legislation or regulations predating the AW-LCM ban.²³ We also examine substitution of legalized, post-ban versions of these weapons, including the Intratec AB-10 and Sport-22, FMJ's PM models (substitutes for the SWD group), Colt Sporters, Calico Liberty models, and others. We generally did not conduct comparative analyses of named foreign AWs (the Uzi, Galil, and AK weapons) because the 1989 federal import ban had already limited their availability, and their legal status was essentially unchanged by the 1994 ban.

The exact gun models and time periods covered vary across the analyses (based on data availability and the time at which data were collected). The details of each analysis are described in the following sections.

5.1. Price Trends for Assault Weapons and Other Firearms

To approximate trends in the prices at which AWs could be purchased throughout the 1990s, we collected annual price data for several APs, ARs, and non-banned comparison firearms from the *Blue Book of Gun Values* (Fjestad, 1990-1999). The *Blue Book* provides national average prices for an extensive list of new and used firearms based on information collected at gun shows and input provided by networks of dealers

²³ The Intratec group includes weapons made by AA Arms. The SWD group contains related models made by Military Armaments Corporation/Ingram and RPB Industries. The AR-15 group contains models made by Colt and copies made by Bushmaster, Olympic Arms, Eagle Arms, SGW Enterprises, Essential Arms, DPMS, and Sendra.

and collectors. The *Blue Book* is utilized widely in the gun industry, though prices in any given locality may differ notably from the averages appearing in the *Blue Book*.

To assess time trends in gun prices, we conducted hedonic price analyses (Berndt, 1990) in which the gun prices were regressed upon a series of year and model indicators. The coefficients for the year indicators show annual changes in the prices of the guns relative to 1994 (the year the ban went into effect), controlling for time-stable differences in the prices of various gun models. Since manufacturers' suggested retail prices (MSRP) were not available for banned AWs during post-ban years, we utilized prices for AWs in 100% condition for all years.²⁴ For non-banned firearms, we used MSRP.²⁵ For all models, we divided the gun prices by annual values of the gross domestic product price deflator provided in the December 2001 and 2000 issues of *Economic Indicators* and logged these adjusted prices.

Each model presented below is based on data pooled across a number of firearm models and years, so that observation P_{jt} represents the price of gun model j during year t . We weighted each observation, P_{jt} , based on cumulative estimates of the production of model j from 1985 or 1986 (depending on data availability) through year t using data provided by gun manufacturers to ATF and published by the Violence Policy Center (1999).^{26, 27}

²⁴ Project staff also collected prices of weapons in 80% condition. However, the levels and annual changes of the 80% prices were very highly correlated (0.86 to 0.99) with those of the 100% condition prices. Therefore, we limited the analysis to the 100% prices.

²⁵ We utilized prices for the base model of each AW and comparison firearm (in contrast to model variations with special features or accessories).

²⁶ The regression models are based on equal numbers of observations for each gun model. Hence, unweighted regressions would give equal weight to each gun model. This does not seem appropriate, however, because some guns are produced in much larger numbers than are other guns. Weighting the regression models by production estimates should therefore give us a better sense of what one could "typically" expect to pay for a generic gun in each study category (e.g., a generic assault pistol).

²⁷ Several of the selected weapons began production in 1985 or later. In other cases, available production data extended back to only the mid-1980s. Published production figures for handguns are broken down by type (semiautomatic, revolver) and caliber and thus provide perfect or very good approximations of production for the handgun models examined in this study. Rifle production data, however, are not disaggregated by gun type, caliber, or model. For the ARs under study, the production counts should be reasonable approximations of AR production because most of the rifles made by the companies in question prior to the ban were ARs. The rifles used in the comparison (i.e., non-banned) rifle analysis are made by companies (Sturm Ruger, Remington, and Marlin) that produce numerous semiautomatic and non-semiautomatic rifle models. However, the overall rifle production counts for these companies should provide some indication of differences in the availability of the comparison rifles relative to one another. Because production data were available through only 1997 at the time this particular analysis was conducted (Violence Policy Center, 1999), we used cumulative production through 1997 to weight the 1998 and 1999 observations for the comparison handgun and comparison rifle models. This was not a consideration for AWs since their production ceased in 1994 (note that the AW production figures for 1994 may include some post-ban legal substitute models manufactured after September 13, 1994). Nonetheless, weighting had very little effect on the inferences from either of the comparison gun models.

5.1.1. Assault Pistol Prices

The analysis of AP prices focuses on the Intratec TEC-9/DC-9, TEC-22, SWD M-11/9, and Calico M950 models. Regression results are shown in Table 5-1, while Figure 5-1 graphically depicts the annual trend in prices for the period 1990 through 1999. None of the yearly coefficients in Table 5-1 is statistically significant, thus indicating that average annual AP prices did not change during the 1990s after adjusting for inflation. Although the model is based on a modest number of observations (n=40) that may limit its statistical power (i.e., its ability to detect real effects), the size of the yearly coefficients confirm that prices changed very little from year to year. The largest yearly coefficient is for 1990, and it indicates that AP prices were only 4% higher in 1990 than in 1994.²⁸

This stands in contrast to our earlier finding (Roth and Koper, 1997, Chapter 4) that prices for SWD APs may have risen by as much as 47% around the time of the ban. However, the earlier analyses were based on semi-annual or quarterly analyses advertised by gun distributors and were intended to capture short-term fluctuations in price that assumed greater importance in the context of the first AW study, which could examine only short-term ban outcomes. *Blue Book* editions released close in time to the ban (e.g., 1995) also cautioned that prices for some AWs were volatile at that time. This study emphasizes longer-term price trends, which appear to have been more stable.²⁹

²⁸ To interpret the coefficient of each indicator variable in terms of a percentage change in the dependent variable, we exponentiate the coefficient, subtract 1 from the exponentiated value, and multiply the difference by 100.

²⁹ Although the earlier analysis of AP prices focused on the greatest variations observed in semi-annual prices, the results also provide indications that longer-term trends were more stable. Prices in 1993, for example, averaged roughly 73% of the peak prices reached at the time the ban was implemented (i.e., late 1994), while prices in early 1994 and late 1995 averaged about 83% and 79% of the peak prices, respectively. Hence, price variation was much more modest after removing the peak periods around the time of the ban's implementation (i.e., late 1994 and early 1995). The wider range of APs used in the current study may also be responsible for some of the differences between the results of this analysis and the prior study.

Table 5-1. Regression of Assault Pistol and Comparison Handgun Prices on Annual Time Indicators, 1990-1999, Controlling for Gun Model

	Assault Pistols (n=40)		Comparison Handguns (n=38)	
	Estimate	T Value	Estimate	T Value
Constant	1.56	26.94***	-0.21	-6.81***
1990	0.04	1.07	0.12	2.07**
1991	0.01	0.30	0.09	1.79*
1992	-0.01	-0.32	0.05	1.30
1993	-0.03	-1.09	0.02	0.48
1995	0.01	0.22	-0.02	-0.48
1996	-0.01	-0.45	-0.09	-2.69***
1997	-0.03	-1.13	-0.11	-3.26***
1998	0.00	-0.10	-0.07	-1.99*
1999	-0.02	-0.58	-0.14	-4.02***
Tec-9	-0.67	-11.95***		
Tec-22	-0.89	-15.59***		
SWD	-0.64	-11.49***		
Davis P32			0.09	3.63***
Davis P380			0.20	8.20***
Lorcin L380			0.29	11.35***
F value	27.79		16.24	
(p value)	<.01		<.01	
Adj. R-square	0.89		0.83	

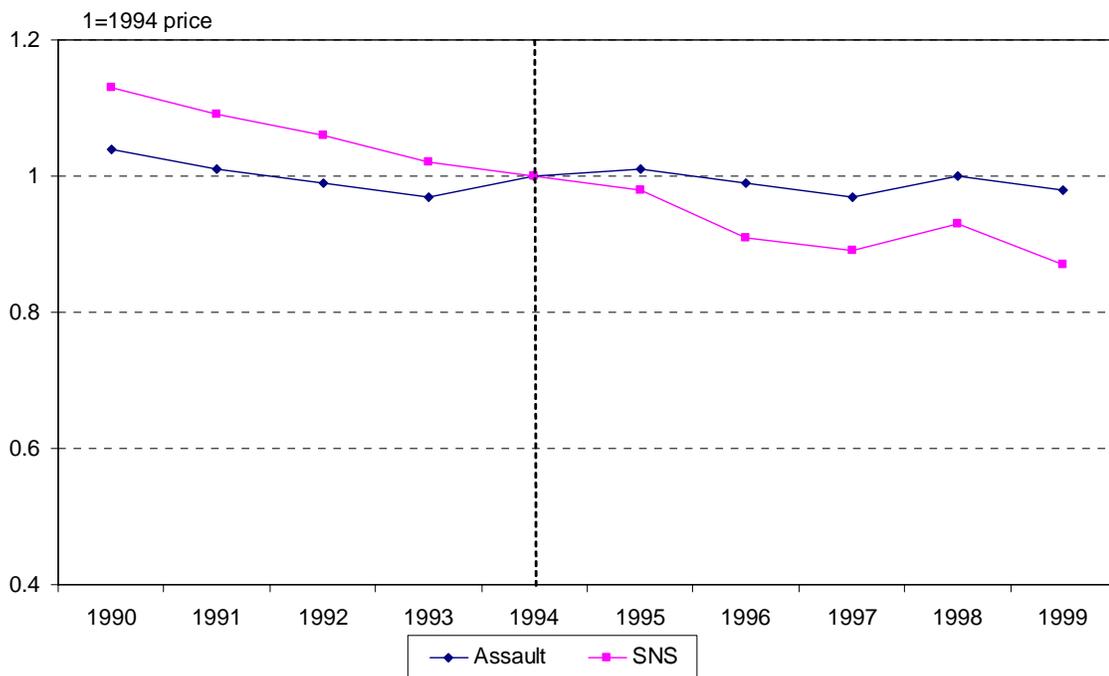
Time indicators are interpreted relative to 1994. Assault pistol model indicators are interpreted relative to Calico 9mm. Comparison handgun models are interpreted relative to Lorcin .25 caliber.

* Statistically significant at $p \leq .10$.

** Statistically significant at $p \leq .05$.

*** Statistically significant at $p \leq .01$.

Figure 5-1. Annual Price Trends for Assault Pistols and SNS Handguns, 1990-1999



Assault pistol prices based on TEC9, TEC22, SWD M11/9, and Calico M950. SNS prices based on Davis P32 and P380 and Lorcin L25 and L380.

5.1.2. Comparison Handgun Prices

For comparison, Table 5-1 and Figure 5-1 illustrate price trends for a number of non-banned, cheaply priced, and readily concealable semiautomatic handgun models: the Davis P32 and P380 and the Lorcin L25 and L380. Such guns are often referred to as Saturday night specials (SNS). By a number of accounts, SNS-type guns, and Davis and Lorcin models in particular, are among the guns most frequently used in crime (ATF, 1995; 1997; Kennedy et al., 1996; Wintemute, 1994). Although the differences between APs and SNS handguns (particularly the fact that most SNS handguns do not have LCMs) suggest they are likely to be used by gun consumers with different levels of firearms experience and sophistication, the SNS guns are arguably a good comparison group for APs because both groups of guns are particularly sensitive to criminal demand. Like AP buyers, SNS buyers are more likely than other gun buyers to have criminal histories and to be charged with new offenses, particularly violent or firearm offenses, subsequent to their purchases (Wintemute et al., 1998b).

Prices of SNS handguns dropped notably throughout the 1990s. Prices for SNS handguns were 13% higher in 1990 than in 1994. Prices then dropped another 13% from 1994 to 1999. This suggests that although AP prices remained generally stable throughout the 1990s, they increased relative to prices of other guns commonly used in crime. We say more about this below.

5.1.3. Assault Rifle Prices

To assess trends in prices of ARs, we examined prices for several Colt and Olympic rifle models in the AR-15 class, as well as Calico models M900 and M951 and Feather models AT9 and AT22.³⁰ Because rifle production data are not disaggregated by weapon type (semiautomatic, bolt action, etc.), caliber, or model, the regressions could only be weighted using overall rifle production counts for each company. For this reason, we calculated the average price of the ARs made by each company for each year and modeled the trends in these average prices over time, weighting by each company's total rifle production.³¹

Results shown in Table 5-2 and Figure 5-2 demonstrate that AR prices rose significantly during 1994 and 1995 before falling back to pre-ban levels in 1996 and remaining there through 1999. Prices rose 16% from 1993 to 1994 and then increased another 13% in 1995 (representing an increase of nearly one third over the 1993 level). Yet by 1996, prices had fallen to levels virtually identical to those before 1994. These patterns are consistent with those we found earlier for the 1992-1996 period (Roth and Koper, 1997, Chapter 4), though the annual price fluctuations shown here were not as dramatic as the quarterly changes shown in the earlier study.

Note, however, that these patterns were not uniform across all of the AR categories. The results of the model were driven largely by the patterns for Colt rifles, which are much more numerous than the other brands. Olympic rifles increased in price throughout the time period, while prices for most Calico and Feather rifles tended to fall throughout the 1990s without necessarily exhibiting spikes around the time of the ban.

³⁰ Specifically, we tracked prices for the Match Target Lightweight (R6530), Target Government Model (R6551), Competition H-Bar (R6700), and Match Target H-Bar (R6601) models by Colt and the Ultramatch, Service Match, Multimatch M1-1, AR15, and CAR15 models by Olympic Arms. Each of these models has a modified, post-ban version. We utilized prices for the pre-ban configurations during post-ban years.

³¹ Prices for the different models made by a given manufacturer tended to follow comparable trends, thus strengthening the argument for averaging prices.

Table 5-2. Regression of Assault Rifle and Comparison Semiautomatic Rifle Prices on Annual Time Indicators, 1991-1999, Controlling for Gun Make

	Assault Rifles (n=36)		Comparison Rifles (n=27)	
	Estimate	T value	Estimate	T value
Constant	1.31	21.15***	1.40	76.75***
1991	-0.12	-1.98*	-0.01	-0.21
1992	-0.13	-2.26**	0.01	0.30
1993	-0.15	-2.78**	0	-0.13
1995	0.12	2.47**	0.03	1.08
1996	-0.11	-2.27**	0.04	1.69
1997	-0.11	-2.23**	0.03	1.46
1998	-0.12	-2.47**	0.02	0.91
1999	-0.14	-2.71**	0.03	1.21
Colt (AR-15 type)	1.07	19.93***		
Olympic (AR-15 type)	1.14	16.08***		
Calico	0.43	5.53***		
Ruger			0.26	20.07***
Remington			0.29	21.69***
F statistic	50.52			63.62
(p value)	<.01			<.01
Adj. R-square	0.94			0.96

Time indicators interpreted relative to 1994. Assault rifle makes interpreted relative to Feather.

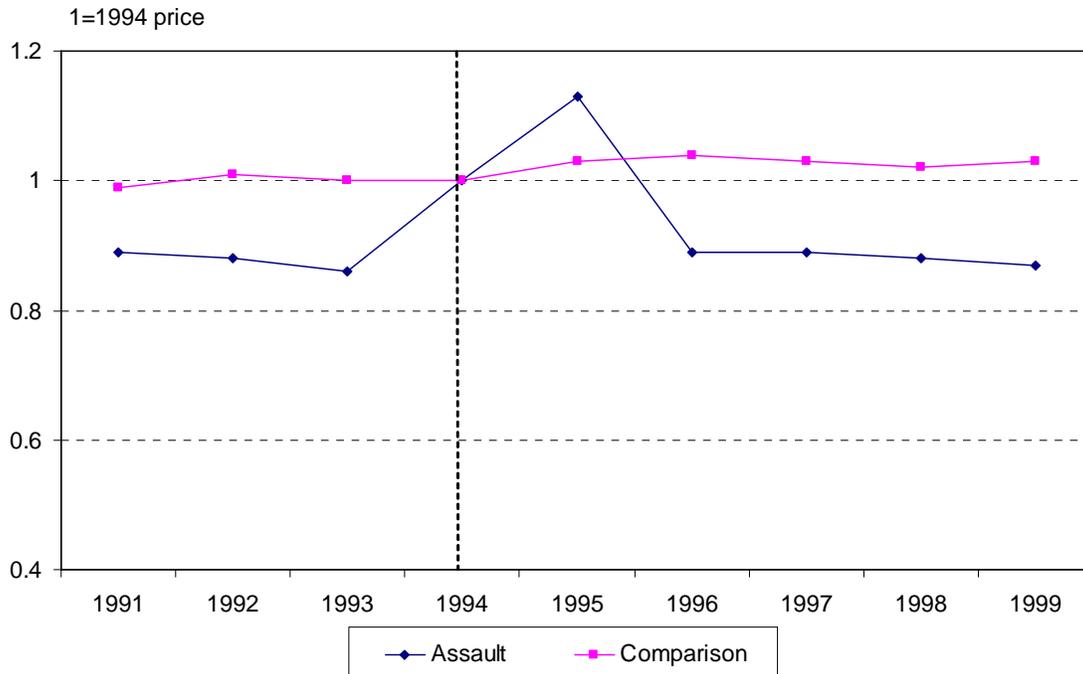
Comparison rifle makes interpreted relative to Marlin.

* Statistically significant at $p \leq .10$.

** Statistically significant at $p \leq .05$.

*** Statistically significant at $p \leq .01$.

Figure 5-2. Annual Price Trends for Assault Rifles and Comparison Semiautomatic Rifles, 1991-1999



Assault rifle prices based on Colt and Olympic AR-type, Calico, and Feather models. Comparison rifle prices based on selected Remington, Marlin, and Sturm Ruger models.

5.1.4. Comparison Semiautomatic Rifles.

The analysis of comparison rifle prices includes the Remington 7400, Marlin Model 9, and Sturm Ruger Mini-14 and Mini-30 models (the Ruger model prices were averaged for each year). The AW legislation exempted each of these semiautomatic rifles by name, though the exemption does not apply to Mini-14 models with folding stocks (a feature included in the ban’s features test). The Ruger models are of particular interest since they are among only four exempted guns that can accept LCMs made for military rifles (U.S. Department of the Treasury, 1998, p. 23), though Ruger produced LCMs only for the Mini-14 model and substituted a 5-round magazine for this gun in 1989 (Fjestad, 2002, pp. 1361-1362). The Marlin model was also manufactured with an LCM prior to 1990 (Fjestad, 2002, p. 917). The Remington model is manufactured with a detachable 4-round magazine.

Prices for these guns remained steady throughout the decade (see Table 5-2 and Figure 5-2). The largest change was a 4% increase (non-significant) in prices in 1996 relative to prices in 1994. Therefore, the rifle price spikes in 1994 and 1995 were specific to assault rifles. However, the steady annual price trends may mask short-term fluctuations that we found

previously (Roth and Koper, 1997, Chapter 4) for some non-banned semiautomatic rifles (including the Ruger Mini-14) during 1994 and early 1995.³²

5.2. Production Trends for Assault Weapons and Other Firearms

To more fully assess the ban's effects on gun markets, examination of pre and post-ban trends in production of AWs and legal AW substitutes is a useful complement to studying price trends. Our earlier work revealed a spike in AW production during 1994 as the ban was being debated. Post-ban production of legal AW substitutes should reveal additional information about the reaction of gun markets to the ban. If production of these models has fallen off dramatically, it may suggest that the market for AWs has been temporarily saturated and/or that consumers of AWs favor the original AW models that have more military-style features. Stable or rising production levels, on the other hand, may indicate substantial consumer demand for AW substitutes, which would suggest that consumers consider the legal substitute models to be as desirable as the banned models.

5.2.1. Production of Assault Pistols and Other Handguns

Figure 5-3 presents production trends for a number of domestic AP manufacturers from 1985 through 2001 (the most recent year available for data on individual manufacturers).³³ After rising in the early 1990s and surging notably to a peak in 1994, production by these companies dropped off dramatically, falling 80% from 1993-1994 to 1996-1997 and falling another 35% by 1999-2000 (Table 5-3).³⁴ Makers of Intratec and SWD-type APs continued manufacturing modified versions of their APs for at least a few years following the ban, but at much lower volumes than that at which they produced APs just prior to the ban. Companies like AA Arms and Calico produced very few or no AP-type pistols from 1995 onward, and Intratec – producers of the APs most frequently used in crime – went out of business after 1999.

However, the pattern of rising and then falling production was not entirely unique to APs. Table 5-3 shows that production of all handguns and production of SNS-type pistols both declined sharply in the mid to late 1990s following a peak in 1993. Nonetheless, the trends –

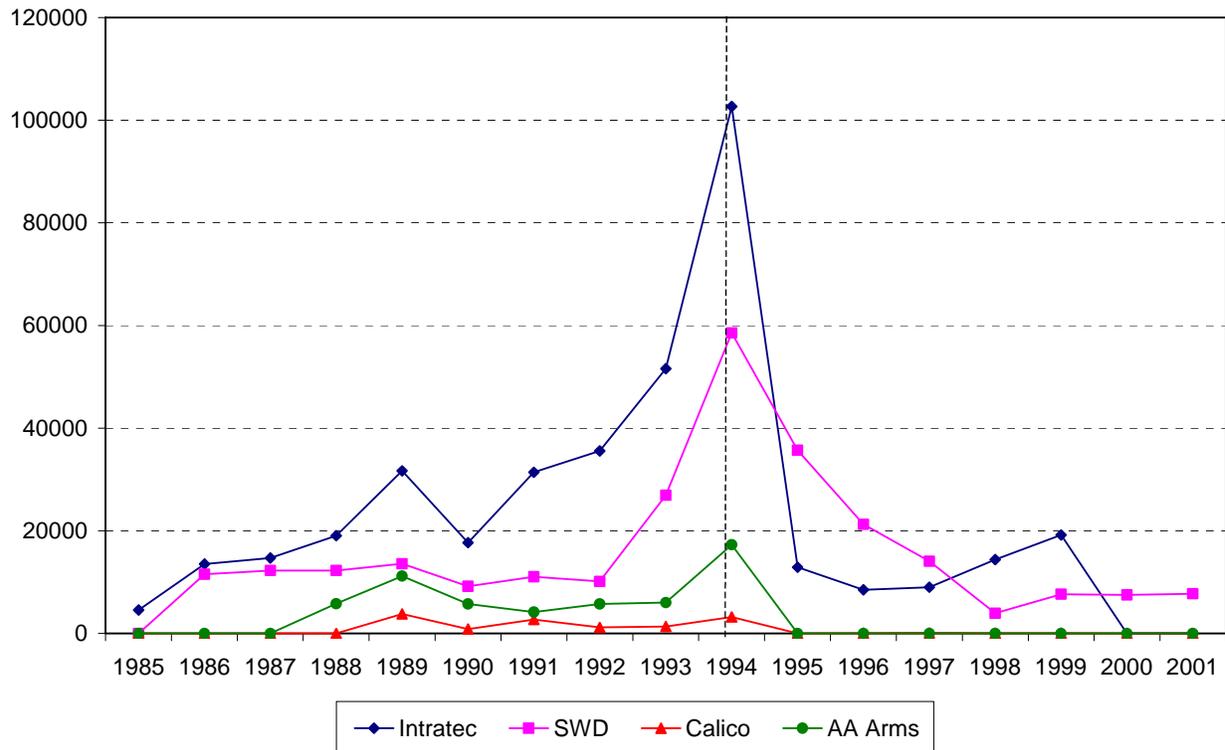
³² We attributed those short-term fluctuations to pre-ban uncertainty regarding which semiautomatic rifles would be prohibited by the ban. Also note that the prior findings were based on a different set of comparison semiautomatic rifles that included a number of foreign rifles. We concentrated on domestically produced rifles for this updated analysis in order to make more explicit links between rifle price and production trends (data for the latter are available only for domestic firearms).

³³ Production figures for individual manufacturers through 2000 have been compiled by the Violence Policy Center (2002). Year 2001 data are available from ATF via the Internet (see www.atf.treas.gov). National gun production totals through 1998 are also available from ATF (2000, p. A-3).

³⁴ The assault pistol production figures used here and in the price analysis include 9mm and .22 caliber pistols made by Intratec, 9mm pistols manufactured by AA Arms, all non-.22 caliber pistols manufactured by S.W. Daniels, Wayne Daniels, and Military Armaments Corporation (which together constitute the SWD group), and .22 and 9mm pistols manufactured by Calico. Intratec produces a few non-AW models in .22 and 9mm calibers, so the Intratec figures will overstate production of assault pistols and their legal substitutes to some degree. The comparison, SNS production figures are based on all handguns produced by Lorcin Engineering and Davis Industries.

both peak and decline – were more dramatic for APs than for other handguns. Production of APs rose 69% from 1990-1991 to 1993-1994, while SNS production and overall handgun production each increased 47%. From 1993-1994 to 1996-1997, production of AP-type handguns, SNS models, and all handguns declined 80%, 66%, and 47%, respectively. Further, production of AP-type handguns continued to decline at a faster rate than that of other handguns through the end of the decade.³⁵

Figure 5-3. Assault Pistol Production, 1985-2001



³⁵ Lorcin, a prominent SNS brand that we examined for the price and production analyses, went out of business after 1998. Unlike the situation in the AP market (where, to our knowledge, former AP makers have not been replaced on any large scale), the SNS market appears to have compensated somewhat to offset the loss of Lorcin. The SNS change from 1996-1997 to 1999-2000 is based on examination of a larger group of SNS-type makers, including Lorcin, Davis, Bryco, Phoenix Arms, and Hi-Point. Production among this group declined by 22% from 1996-1997 to 1999-2000, a decline greater than that for total handgun production but less than that for AP-type production.

Table 5-3. Production Trends for Assault Weapons and Other Firearms, 1990-2000*

Firearm Category	% Change 1990/91 to 1993/94	% Change 1993/94 to 1996/97	% Change 1996/97 to 1999/2000
Total Handguns	47%	-47%	-10%
Assault Pistols (or Post-Ban Models)	69%	-80%	-35%
SNS Handguns	47%	-66%	-22%
Total Rifles	22%	8%	18%
Assault Rifles (or Post-Ban Models)	81%	-51%	156%
Comparison Rifles	15%	13%	-16%

* Total handgun and rifle figures include all production by U.S. manufacturers. Assault pistols include Intratec group, SWD group, and Calico models. SNS figures are based on Lorcin Engineering and Davis Industries for changes up through 1996-1997. Because Lorcin went out of business after 1998, the SNS change from 1996-1997 to 1999-2000 is based on a larger group of SNS makers including Lorcin, Davis, Bryco, Phoenix Arms, and Hi-Point. Assault rifles include AR-15 type models by Colt and others. Comparison rifles include Sturm Ruger, Remington, and Marlin.

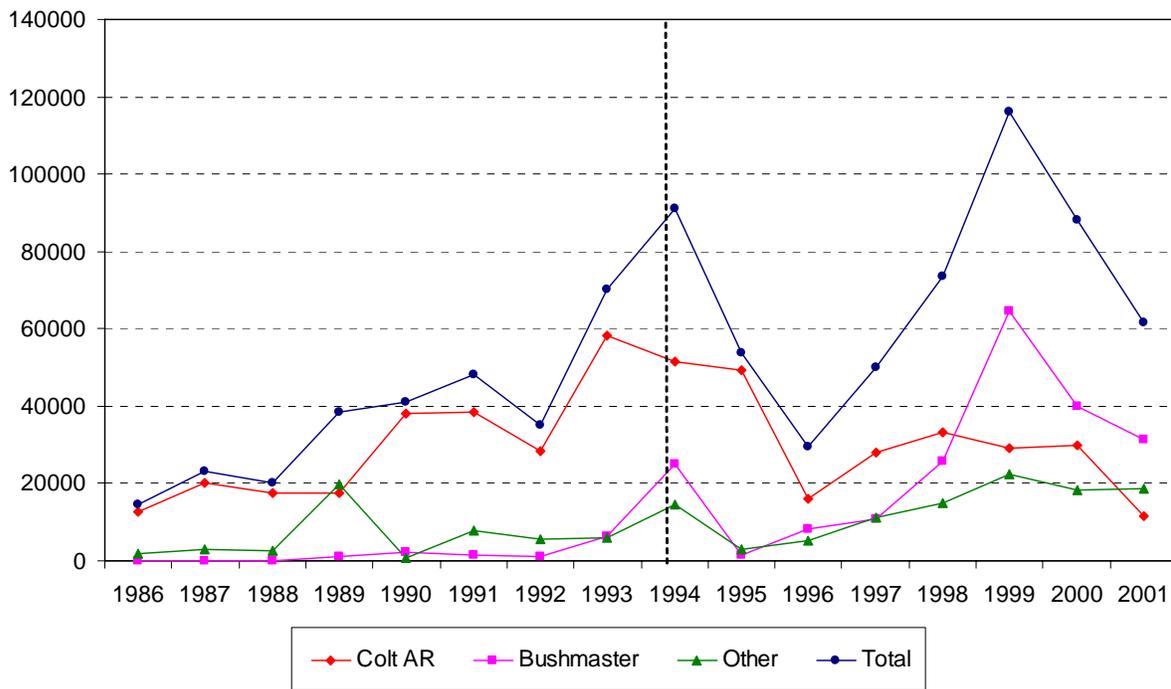
5.2.2. Production of Assault Rifles and Other Rifles

As shown in Figure 5-4, production of AR-15 type rifles surged during the early 1990s, reaching a peak in 1994.³⁶ AR production during the early 1990s rose almost 4 times faster than total rifle production and over 5 times faster than production of the comparison rifles examined in the price analysis (Table 5-3). Yet, by 1996 and 1997, production of legalized AR-type rifles had fallen by 51%, as production of other rifles continued increasing. AR production trends reversed again during the late 1990s, however, rising over 150%.³⁷ Total rifle production increased much more modestly during this time (18%), while production of the comparison rifles declined.

³⁶ Note again that the AR and legalized AR production figures are approximations based on all rifles produced by the companies in question (rifle production data are not available by type, caliber, or model), but it appears that most rifles made by these companies during the study period were AR-type rifles. Also, the figures for the comparison rifle companies (Ruger, Marlin, and Remington) are based on all rifles produced by these companies (the price analysis focused on selected semiautomatic models).

³⁷ There was also a notable shift in market shares among AR makers, as Bushmaster overtook Colt as the leading producer of AR-15 type rifles (Figure 5-4).

Figure 5-4. Assault Rifle Production, 1986-2001 (AR-15 Type)



Other: Olympic, Eagle/Armalite, DPMS, Essential Arms, Sendra.

5.3. Summary and Interpretations

Below, we offer some interpretations of the patterns found in the price and production analyses, keeping in mind that these analyses were largely descriptive, so causal inferences must be made cautiously. As documented in our earlier study, Congressional debate over the AW-LCM ban triggered speculative price increases for AWs in the months leading up to the ban’s enactment. This study’s examination of longer-term, annual price trends suggests that this speculative effect was very brief (and perhaps quite variable across jurisdictions) for APs but persisted through 1995 for ARs. This implies that speculators and sophisticated gun collectors (who we suspect played a large role in driving price trends) have more interest in ARs, which tend to be higher in quality and price than APs.

Responding to the speculative price growth, AW manufacturers boosted their production of AWs in 1994. Although total handgun and rifle production were increasing during the early 1990s, the rise in AW production was steeper, and there was a production peak unique to AWs in 1994 (production of other handguns peaked in 1993). It seems that this boost in the supply of grandfathered AWs was sufficient to satisfy speculative demand, thereby restoring national average AP prices to pre-ban levels within a year of the ban and doing the same for AR prices by 1996. AW prices remained stable through the late 1990s, and production of legalized AW-type weapons dropped off

substantially, at least through 1998. This suggests that the supply of grandfathered AWs was sufficient to meet demand through the late 1990s.

However, prices of APs rose relative to other handguns commonly used in crime during the 1990s. Handgun prices and production declined in general during the late 1990s, implying a decrease in demand for APs and other handguns that probably stemmed from the nation's declining crime rates.³⁸ But the AW ban's restriction of the AP supply, combined with the interest of speculators and collectors in these guns, may have prevented AP prices from falling as did prices for other handguns. The market patterns also suggest that consumers of APs are not as easily satisfied by legalized APs with fewer military-style features; despite the increasing value of APs (in relative terms), post-ban production of legalized APs declined faster than did production of other handguns, and some AP makers went out of business.

Prices of ARs, on the other hand, remained steady during the late 1990s (after the speculative price bubble of 1994-1995) both in absolute terms and relative to other rifles. The failure of AR prices to rise in at least relative terms, as occurred for APs, and the temporary drop in production of AR-type rifles after the ban may signify that the AR market was saturated relative to the AP market for at least a number of years following the ban. However, demand for AR-type rifles later rebounded, as evidenced by the resurgence in production of legalized, AR-type rifles in the late 1990s. In fact, more of these guns were produced in 1999 than in 1994. Unlike AP users, therefore, rifle users appear to be readily substituting the legalized AR-type rifles for the banned ARs, which may be another factor that has kept prices of the latter rifles from rising. All of this suggests that rifle owners, who have a lower prevalence of criminal users than do handgun owners, can more easily substitute rifles with fewer or no military features for the hunting and other sporting purposes that predominate among rifle consumers.

Another relevant factor may have been a surge in the supply of foreign semiautomatic rifles that can accept LCMs for military weapons (the LCMM rifles discussed in Chapter 2) during the early 1990s. Examples of LCMM rifles include legalized versions of banned AK-47, FN-FAL, and Uzi rifles. Importation of LCMM rifles rose from 19,147 in 1991 to 191,341 in 1993, a nine-fold increase (Department of the Treasury, 1998, p. 34). Due to an embargo on the importation of firearms from China (where many legalized AK-type rifles are produced), imports of LCMM rifles dropped

³⁸ It seems likely that the rise and fall of handgun production was linked to the rising crime rates of the late 1980s and early 1990s and the falling crime rates of the mid and late 1990s. Self-defense and fear of crime are important motivations for handgun ownership among the general population (e.g., Cook and Ludwig, 1996; McDowall and Loftin, 1983), and the concealability and price of handguns make them the firearms of choice for criminal offenders. It is likely that the peak in 1993 was also linked to the Congressional debate and passage of the Brady Act, which established a background check system for gun purchases from retail dealers. It is widely recognized in the gun industry that the consideration of new gun control legislation tends to increase gun sales.

The decline in production was more pronounced for SNS handguns, whose sales are likely to be particularly sensitive to crime trends. Criminal offenders make disproportionate use of these guns. We can also speculate that they are prominent among guns purchased by low-income citizens desiring guns for protection. In contrast, the poor quality and reliability of these guns make them less popular among more knowledgeable and affluent gun buyers.

back down to 21,261 in 1994. Importation of all foreign LCMM rifles was ended by federal executive order in 1998.

ATF has reported that criminal use of LCMM rifles increased more quickly during the early 1990s than did that of other military-style rifles (U.S. Department of the Treasury, 1998, p. 33; also see Chapter 6). Accordingly, it is possible that the availability of LCMM rifles also helped to depress the prices of domestic ARs and discourage the production of legalized ARs during the 1990s, particularly if criminal users of rifles place a premium on the ability to accept LCMs. It is noteworthy, moreover, that the rebound in domestic production of legalized ARs came on the heels of the 1998 ban on LCMM rifles, perhaps suggesting the LCMM ban increased demand for domestic rifles accepting LCMs.

In sum, this examination of the AW ban's impact on gun prices and production suggests that there has likely been a sustained reduction in criminal use of APs since the ban but not necessarily ARs. Since most AWs used in crime are APs, this should result in an overall decline in AW use. In the following chapter, we examine the accuracy of this prediction.

6. CRIMINAL USE OF ASSAULT WEAPONS AFTER THE BAN

6.1. Measuring Criminal Use of Assault Weapons: A Methodological Note

In this chapter, we examine trends in the use of AWs using a number of national and local data sources on guns recovered by law enforcement agencies (we focus on the domestic AW models discussed at the beginning of the previous chapter). Such data provide the best available indicator of changes over time in the types (and especially the specific makes and models) of guns used in violent crime and possessed and/or carried by criminal and otherwise deviant or high-risk persons. The majority of firearms recovered by police are tied to weapon possession and carrying offenses, while the remainder are linked primarily to violent crimes and narcotics offenses (e.g., see ATF, 1976; 1977; 1997; Brill, 1977). In general, up to a quarter of guns confiscated by police are associated with violent offenses or shots fired incidents (calculated from ATF, 1977, pp. 96-98; 1997; Brill, 1977, pp. 24,71; Shaw, 1994, pp. 63, 65; also see data presented later in this chapter). Other confiscated guns may be found by officers, turned in voluntarily by citizens, or seized by officers for temporary safekeeping in situations that have the potential for violence (e.g., domestic disputes).

Because not all recovered guns are linked to violent crime investigations, we present analyses based on all gun recoveries and gun recoveries linked to violent crimes where appropriate (some of the data sources are based exclusively, or nearly so, on guns linked to violent crimes). However, the fact that a seized gun is not clearly linked to a violent crime does not rule out the possibility that it had been or would have been used in a violent crime. Many offenders carry firearms on a regular basis for protection and to be prepared for criminal opportunities (Sheley and Wright, 1993a; Wright and Rossi, 1986). In addition, many confiscated guns are taken from persons involved in drugs, a group involved disproportionately in violence and illegal gun trafficking (National Institute of Justice, 1995; Sheley and Wright, 1993a). In some instances, criminal users, including those fleeing crime scenes, may have even possessed discarded guns found by patrol officers. For all these reasons, guns recovered by police should serve as a good approximation of the types of guns used in violent crime, even though many are not clearly linked to such crimes.

Two additional caveats should be noted with respect to tracking the use of AWs. First, we can only identify AWs based on banned makes and models. The databases do not contain information about the specific features of firearms, thus precluding any assessment of non-banned gun models that were altered after purchase in ways making them illegal. In this respect, our numbers may understate the use of AWs, but we know of no data source with which to evaluate the commonality of such alterations. Second, one cannot always distinguish pre-ban versions of AWs from post-ban, legalized versions of the same weapons based on weapon make and model information (this occurs when the post-ban version of an AW has the same name as the pre-ban version), a factor which may have caused us to overstate the use of AWs after the ban. This was more of a problem for our assessment of ARs, as will be discussed below.

Finally, we generally emphasize trends in the percentage of crime guns that are AWs in order to control for overall trends in gun violence and gun recoveries. Because gun violence was declining throughout the 1990s, we expected the number of AW recoveries to drop independently of the ban's impact.

6.2. National Analysis of Guns Reported By Police to the Federal Bureau of Alcohol, Tobacco, and Firearms

6.2.1. An Introduction to Gun Tracing Data

In this section, we examine national trends in AW use based on firearm trace requests submitted to ATF by federal, state, and local law enforcement personnel throughout the nation. A gun trace is an investigation that typically tracks a gun from its manufacture to its first point of sale by a licensed dealer. Upon request, ATF traces guns seized by law enforcement as a service to federal, state, and local agencies. In order to initiate a trace on a firearm, the requesting law enforcement agency provides information about the firearm, such as make, model, and serial number.

Although ATF tracing data provide the only available national sample of the types of guns used in crime and otherwise possessed or carried by criminal and high-risk groups, they do have limitations for research purposes. Gun tracing is voluntary, and police in most jurisdictions do not submit trace requests for all, or in some cases any, guns they seize. Crime and tracing data for 1994, for example, suggest that law enforcement agencies requested traces for 27% of gun homicides but only 1% of gun robberies and gun assaults known to police during that year (calculated from ATF, 1995 and Federal Bureau of Investigation, 1995, pp. 13, 18, 26, 29, 31, 32).

The processes by which state and local law enforcement agencies decide to submit guns for tracing are largely unknown, and there are undoubtedly important sources of variation between agencies in different states and localities. For example, agencies may be less likely to submit trace requests in states that maintain their own registers of gun dealers' sales. Knowledge of ATF's tracing capabilities and procedures,³⁹ as well as participation in federal/state/local law enforcement task forces, are some of the other factors that may affect an agency's tracing practices. Further, these factors are likely to vary over time, a point that is reinforced below.

Therefore, firearms submitted to ATF for tracing may not be representative of the

³⁹ To illustrate, ATF cannot (or does not) trace military surplus weapons, imported guns without the importer name (generally, pre-1968 guns), stolen guns, or guns without a legible serial number (Zawitz 1995). Tracing guns manufactured before 1968 is also difficult because licensed dealers were not required to keep records of their transactions prior to that time. Throughout much of the 1990s, ATF did not generally trace guns older than 5-10 years without special investigative reasons (Kennedy et al., 1996, p. 171). Our data are based on trace requests rather than successful traces, but knowledge of the preceding operational guidelines might have influenced which guns law enforcement agencies chose to trace in some instances.

types of firearms typically seized by police. In general, not much is known about the nature of potential bias in tracing data. In prior studies, however, AWs tended to be more common in tracing data than in more representative samples of guns confiscated by police (Kleck, 1997, pp. 112, 141). This suggests that police have been more likely historically to initiate traces for seized AWs than for other seized guns. Although comparisons across studies are complicated by varying definitions of AWs used in different analyses, studies of guns confiscated by police or used in particular types of crimes generally suggest that AWs accounted for up to 6% of crime guns and about 2% on average prior to the federal AW ban (see Chapter 3 and Kleck, 1997, p. 141), whereas studies of pre-ban tracing data indicated that 8% of traced guns, and sometimes as many as 11%, were AWs (Cox Newspapers, 1989; Lenett, 1995; Zawitz, 1995).

Changes over time in the tracing practices of law enforcement agencies present additional complexities in analyzing tracing data. Due to improvements in the tracing process, ATF promotional efforts, and special initiatives like the Youth Crime Gun Interdiction Initiative (see ATF, 1997; 1999 and more recent reports available via the Internet at www.atf.treas.gov),⁴⁰ the utilization of tracing grew substantially throughout the 1990s in jurisdictions that chose to participate (also see ATF, 2000; Roth and Koper, 1997). To illustrate, trace requests to ATF rose from roughly 42,300 in 1991 to 229,500 in 2002 (see Table 6-1 in the next section), an increase of 443%. This growth reflects changes in tracing practices (i.e., changes in the number of agencies submitting trace requests and/or changes in the percentage of recovered guns for which participating agencies requested traces) rather than changes in gun crime; gun homicides, for example, were falling throughout the 1990s (see Table 6-1 in the next section) and were a third lower in 2002 than in 1991.

Therefore, an increase in trace requests for AWs does not necessarily signal a real increase in the use of AWs. Further, examining trends in the percentage of trace requests associated with AWs is also problematic. Because law enforcement agencies were more likely to request traces for AWs than for other guns in years past, we can expect the growth rate in tracing for non-AWs to exceed the growth rate in traces for AWs as gun tracing becomes more comprehensive. Consequently, AWs are likely to decline over time as a share of trace requests due simply to reporting effects, except perhaps during periods when AWs figure prominently in public discourse on crime.⁴¹

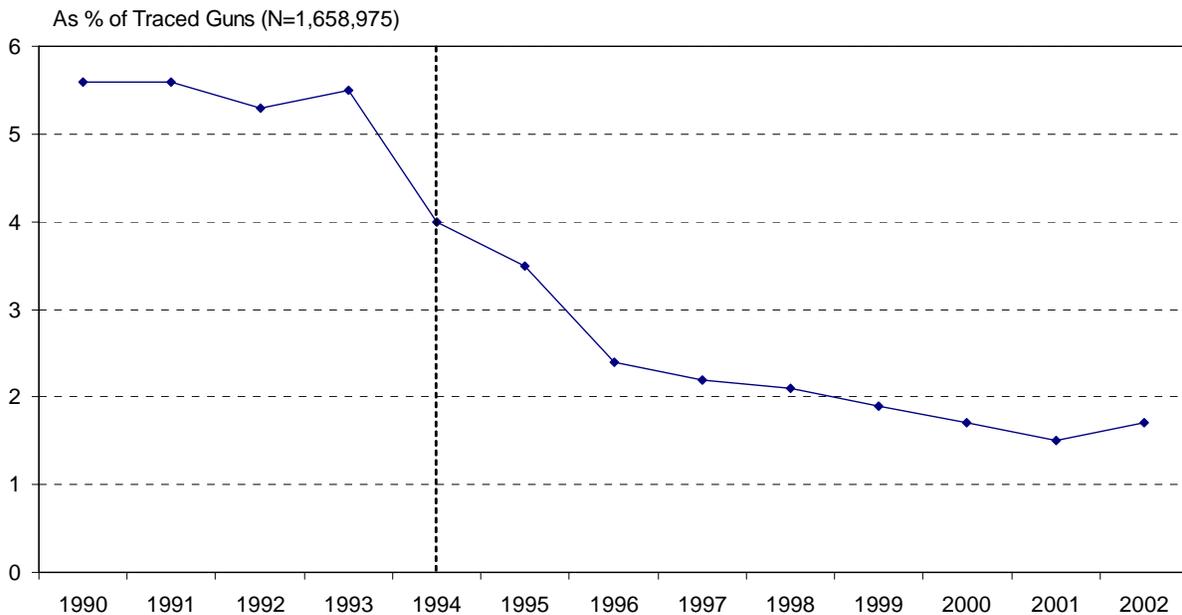
⁴⁰ As part of this initiative, police in a few dozen large cities are submitting trace requests to ATF for all guns that they confiscate. The initiative began with 17 cities in 1996 and has since spread to 55 major urban jurisdictions.

⁴¹ To illustrate, assume that a hypothetical police agency recovers 100 guns a year, 2 of which are AWs, and that the agency has a selective tracing policy that results in the submission of trace requests for 20 of the guns, including 1 of the recovered AWs. Under this scenario, the department would be almost three times as likely to request traces for AWs as for other guns. If the department adopted a policy to request traces on all guns (and again recovered 2 AWs and 98 other guns), AW traces would double and traces of other guns would increase by more than 400%. Moreover, AWs would decline from 5% of traced guns to 2% of traced guns due simply to the change in tracing policy.

6.2.2. *Traces of Assault Weapons, 1990-2002*

Figure 6-1 illustrates the share of all traces that were for AWs from 1990 through 2002. A more detailed assessment of annual changes in traces for AWs and other guns is presented in Table 6-1. Changes in gun murders are also shown in Table 6-1 to emphasize the differences in trends for tracing and gun crime. Below, we summarize key points from the analysis. Due to the instrumentation problems inherent in tracing data, statistical tests are not presented.⁴²

Figure 6-1. Police Recoveries of Assault Weapons Reported to ATF (National), 1990-2002



Includes Intratec group, SWD group, AR-15 group, and selected Calico and Feather models.

⁴² Nearly 30% of the tracing records lack specific gun model designations (the crucial elements for conducting a trace are the gun make and serial number). For the makes and types of guns likely to be AWs, however, the missing model rate was slightly under 10%. Further, we were able to identify some of the latter weapons as AWs with reasonable confidence based on the makes, types, and calibers alone. Nevertheless, we conducted a supplemental analysis using only those records for which the gun model was identified. The results of that analysis were substantively very similar to those presented below.

Table 6-1. Annual Percentage Changes in Gun Murders and Police Requests to ATF for Traces of Assault Weapons and Other Firearms, 1991-2002 (Number of Traces in Parentheses)

<u>Year</u>	<u>Gun Murders</u> (1)	<u>All Traces</u> (2)	<u>AW Traces*</u> (3)	<u>AP Traces</u> (4)	<u>AR Traces</u> (5)	<u>AW and AW Substitute Traces</u> (6)	<u>Violent Crime Traces</u> (7)	<u>AW Violent Crime Traces</u> (8)	<u>LCMM Rifle Traces**</u> (9)
1991	9%	14% (42281)	14% (2378)	24% (1775)	-6% (603)	14% (2378)	19% (6394)	20% (344)	--
1992	-1%	6% (44992)	1% (2398)	4% (1838)	-7% (560)	1% (2398)	3% (6558)	7% (367)	--
1993	5%	20% (54189)	25% (2994)	20% (2199)	42% (795)	25% (2994)	26% (8248)	41% (516)	252% (183)
1994	-4%	53% (82791)	11% (3337)	23% (2706)	-21% (631)	11% (3337)	22% (10083)	-18% (424)	223% (592)
1995	-10%	-6% (77503)	-19% (2730)	-24% (2051)	8% (679)	-18% (2747)	23% (12439)	-15% (362)	-10% (530)
1996	-9%	66% (128653)	12% (3059)	13% (2309)	10% (750)	17% (3214)	67% (20816)	27% (459)	40% (743)
1997	-7%	42% (183225)	31% (4019)	31% (3017)	34% (1002)	36% (4362)	11% (23147)	13% (519)	24% (925)
1998	-11%	5% (192115)	0% (4014)	-9% (2751)	26% (1263)	7% (4681)	3% (23844)	-22% (404)	33% (1227)
1999	-8%	-2% (188296)	-11% (3581)	-12% (2414)	-8% (1167)	-6% (4406)	3% (24663)	0% (404)	-18% (1003)
2000	1%	-3% (182961)	-11% (3196)	-16% (2027)	0% (1169)	-6% (4143)	-13% (21465)	-25% (305)	-14% (859)
2001	-1%	18% (215282)	1% (3238)	5% (2138)	-6% (1100)	3% (4273)	20% (25822)	6% (322)	-3% (833)
2002	6%	7% (229525)	19% (3839)	4% (2214)	48% (1625)	12% (4765)	20% (30985)	65% (531)	4% (865)

* Based on Intratec group, SWD group, AR-15 group, and Calico and Feather models.

** Foreign semiautomatic rifles accepting large capacity military magazines (banned by executive order in 1998). (Data are not shown for 1991 and 1992 because very few of these guns were traced in those years.)

6.2.2.1. Assault Weapons as a Percentage of Crime Gun Traces

As shown in Figure 6-1, AWs declined from 5.4% of crime gun traces in 1992-1993 to 1.6% in 2001-2002, a decline of 70%. Although this downward trend could be attributable in large part to changes in tracing practices, it is noteworthy that it did not begin until 1994 (the year of the ban); during the pre-ban years, 1990 to 1993, AWs accounted for a steady share of traces despite a 46% increase in total tracing volume. It is also remarkable that about 3,200 AWs were traced in both 2000 and 2001, which is virtually identical to the average number traced during 1993 and 1994 (3,166) even though total traces increased more than 190% during the same period (Table 6-1, columns 2 and 3).⁴³

6.2.2.2. Annual Changes in Traces for Assault Weapons and Other Guns

Throughout most of the post-ban period (particularly 1995 to 2001), AW traces either increased less or declined more than total traces (Table 6-1, columns 2 and 3), a pattern that is also consistent with a decline in the use of AWs relative to other guns, though it too may be distorted by changes in tracing practices. This pattern was largely consistent whether analyzing all traces or only traces associated with violent crimes (columns 7 and 8).⁴⁴

The years when total traces declined or were relatively flat are arguably the most informative in the series because they appear to have been less affected by changes in tracing practices. For example, there was a 6% decline in total trace requests from 1994 to 1995 (the years featured in our earlier study) that coincided with a 10% drop in gun murders (Table 6-1, column 1). Therefore, it seems tracing practices were relatively stable (or, conversely, reporting effects were relatively small) from 1994 to 1995. The 19% reduction in AW traces during this same period implies that AW use was declining faster than that of other guns. Furthermore, there were fewer AW traces in 1995 than in 1993, the year prior to the ban. The fact that this occurred during a period when the AW issue was very prominent (and hence police might have been expected to trace more of the AWs they recovered) arguably strengthens the causal inference of a ban effect.⁴⁵

Total traces also declined slightly (2%-3%) in 1999 and 2000. In each of those years, the decline was greater for AWs (11%). Thus, in years when tracing declined overall, AW traces fell 3 to 6 times faster than did total traces. Put another way, AWs fell between 9% and 13% as a percentage of all traces in each of these years.

The general pattern of AW traces increasing less or declining more than those of

⁴³ These general findings are consistent with those of other tracing analyses conducted by ATF (2003 Congressional Q&A memo provided to the author) and the Brady Center to Prevent Gun Violence (2004).

⁴⁴ A caveat is that requests without specific crime type information are often grouped with weapons offenses (ATF, 1999). Therefore, traces associated with violent crimes are likely understated to some degree.

⁴⁵ This inference is also supported by our earlier finding that trace requests for AWs declined by only 8% in states that had their own AW bans prior to the federal ban (Roth and Koper, 1997, Chapter 5).

other crime guns was clearly apparent for APs but less consistent for ARs (Table 6-1, columns 4 and 5). For example, AR traces went up 26% in 1998 while total traces went up only 5% and AP traces declined 9%. In 2000, total and AP traces fell 3% and 16%, respectively, but AR traces remained flat. This is consistent with predictions derived from the price and production analyses described above. But note that the post-ban AR counts could be overstated because the data do not distinguish pre-ban from post-ban versions of some popular AR-15 type rifles like the Colt Sporter and Bushmaster XM-15. (Also note that the percentage of traces for ARs did fall from 1.4% in 1992-1993 to 0.6% in 2001-2002.)

More generally, the use of post-ban AW-type weapons (including both legalized APs and ARs) has not been widespread enough to completely offset the apparent decline in the use of banned AWs. Combined traces for banned AWs and AW substitutes (Table 6-1, column 6) also followed the pattern of increasing less or declining more than did total traces throughout most of the period, though the differences were not as pronounced as those between AWs and total traces. In 1999 and 2000, for example, AWs traces dropped 11%, while combined traces for AWs and legal substitutes declined only 6%. Still, the latter figure was greater than the 2%-3% drop for total traces.

Finally, traces of the LCMM rifles banned by executive order in 1998 were generally rising to that point, reaching levels as high as those for AR-15 type rifles (Table 6-1, column 9). Since 1998, however, the number of traces for LCMM rifles has fallen substantially. Despite a 4% increase from 2001 to 2002, the number of LCMM traces in 2002 (865) was 30% lower than the peak number traced in 1998 (1,227). Tentatively, this suggests that the 1998 extension of the ban has been effective in curtailing weapons that offenders may have been substituting for the ARs banned in 1994.

6.2.2.3. *Did Use of Assault Weapons Rebound in 2002?*

In 2002, tracing volume increased 7%, which closely matched the 6% increase in gun murders for that year. In contrast to the general pattern, AW traces increased by 19%, suggesting a possible rebound in AW use independent of changes in tracing practices, a development that we have predicted elsewhere (Roth and Koper, 1997) based on the boom in AW production leading up to the ban. The disproportionate growth in AW traces was due to ARs, however, so it could partially reflect increasing use of post-ban AR-type rifles (see the discussion above).

Moreover, this pattern could be illusory. With data from the most recent years, it was possible to run a supplementary analysis screening out traces of older weapons (not shown). Focusing on just those guns recovered and traced in the same year for 2000 through 2002 revealed that recoveries of AWs declined in 2001, more so for ARs (16%) than for APs (9%), while total traces increased 1%.⁴⁶ Traces for APs and ARs then

⁴⁶ The tracing database indicates when guns were recovered and when they were traced. However, the recovery dates were missing for 30% of the records overall and were particularly problematic for years prior to 1998. For this reason, the main analysis is based on request dates. The auxiliary analysis for 2000-

increased in 2002 (1% and 6%, respectively) but by less than total traces (8%). Therefore, the disproportionate growth in AR traces in 2002 shown in Table 6-1 may have been due to tracing of older AWs by newly participating police agencies.

6.2.2.4. *Summary of the ATF Gun Tracing Analysis*

Complexities arising from recent changes in the use of gun tracing by law enforcement warrant caution in the interpretation of ATF gun tracing data. Notwithstanding, the data suggest that use of AWs in crime, though relatively rare from the start, has been declining. The percentage of gun traces that were for AWs plummeted 70% between 1992-1993 and 2001-2002 (from 5.4% to 1.6%), and this trend did not begin until the year of the AW ban. On a year-to-year basis, AW traces generally increased less or declined by more than other gun traces. Moreover, in years when tracing volume declined – that is, years when changes in reporting practices were least likely to distort the data – traces of AWs fell 3 to 6 times faster than gun traces in general. The drop in AW use seemed most apparent for APs and LCMM rifles (banned in 1998). Inferences were less clear for domestic ARs, but assessment of those guns is complicated by the possible substitution of post-ban legal variations.

6.3. Local Analyses of Guns Recovered By Police

Due to concerns over the validity of national ATF tracing data for investigating the types of guns used in crime, we sought to confirm the preceding findings using local data on guns recovered by police. To this end, we examined data from half a dozen localities and time periods.

- All guns recovered by the Baltimore Police Department from 1992 to 2000 (N=33,933)
- All guns recovered by the Metro-Dade Police Department (Miami and Dade County, Florida) from 1990 to 2000 (N=39,456)
- All guns recovered by the St. Louis Police Department from 1992 to 2003 (N=34,143)
- All guns recovered by the Boston Police Department (as approximated by trace requests submitted by the Department to ATF) from 1991 to 1993 and 2000 to 2002 (N=4,617)⁴⁷

2002 focuses on guns both recovered and traced in the same year because it is likely that some guns recovered in 2002 had not yet been traced by the spring of 2003 when this database was created. Using only guns recovered and traced in the same year should mitigate this bias.

⁴⁷ The Boston Police Department has been tracing guns comprehensively since 1991 (Kennedy et al., 1996). However, we encountered difficulties in identifying Boston Police Department traces for several years in the mid-1990s. For this reason, we chose to contrast the 1991 to 1993 period with the 2000 to 2002 period.

- Guns recovered during murder investigations in Milwaukee County from 1991 to 1998 (N=592)⁴⁸
- Guns linked to serious crimes in Anchorage and other parts of Alaska and submitted to state firearm examiners for evidentiary testing from 1987 to 2000 (N=900)⁴⁹

The selection of these particular locations and samples reflects data availability.⁵⁰ The locations were not selected randomly, and some of the samples are small for conducting trend analysis of relatively rare events (i.e., AW recoveries). Accordingly, we must use caution in generalizing the results to other places. However, the data sources reflect a wide geographic range and cover post-ban periods extending through at least the latter 1990s (and typically through the year 2000 or beyond). To the extent that the results are similar across these jurisdictions, therefore, we can have more confidence that they reflect national patterns.

In each jurisdiction, we examined pre-post changes in recoveries of AWs (focusing on the domestic AW group defined earlier) and substitution of post-ban AW models for the banned models. Where possible, we conducted separate analyses of all AW recoveries and those linked specifically to violent crimes.⁵¹ We also differentiated between AP and AR trends using the larger databases from Baltimore, Miami, and St. Louis. But since most of these databases do not extend more than two years beyond 1998, we do not present analyses specifically for LCMM rifles.

Key summary results are summarized in Table 6-2, while more detailed results from each site appear at the end of the chapter in Tables 6-3 through 6-6 and Figures 6-2 through 6-6.⁵² The number of AW recoveries declined by 28% to 82% across these

⁴⁸ The data are described in reports from the Medical College of Wisconsin (Hargarten et al., 1996; 2000) and include guns used in the murders and other guns recovered at the crime scenes. Guns are recovered in approximately one-third of Milwaukee homicide cases.

⁴⁹ The data include guns submitted by federal, state, and local agencies throughout the state. Roughly half come from the Anchorage area. Guns submitted by police to the state lab are most typically guns that were used in major crimes against persons (e.g. murder, attempted murder, assault, robbery).

⁵⁰ We contacted at least 20 police departments and crime labs in the course of our data search, focusing much of our attention on police departments participating in ATF's Youth Crime Gun Interdiction Initiative (YCGII) (ATF, 1997; 1999). Departments participating in the YCGII submit data to ATF on all guns that they recover. Though the YCGII did not begin until 1996 (well after the implementation of the AW ban), we suspected that these departments would be among those most likely to have electronically-stored gun data potentially extending back in time to before the ban. Unfortunately, most of these departments either did not have their gun data in electronic format or could not provide data for other reasons (e.g., resource constraints). In the course of our first AW study (Roth and Koper, 1997), we contacted many other police departments that also did not have adequate data for the study.

⁵¹ All of the Milwaukee and Anchorage analyses were limited to guns involved in murders or other serious crimes. Despite evidence of a decline, AW recoveries linked to violence were too rare in Boston to conduct valid test statistics.

⁵² We omitted guns recovered in 1994 from both the pre and post-ban counts because the speculative price increases for AWs that occurred in 1994 (see previous section and Roth and Koper, 1997, Chapter 4) raise questions about the precise timing of the ban's impact on AW use during that year, thereby clouding the designation of the intervention point. This is particularly a concern for the Baltimore analysis due to a

locations and time periods, but the discussion below focuses on changes in AWs as a share of crime guns in order to control for general trends in gun crime and gun seizures. Prior to the ban, AWs ranged from about 1% of guns linked to violent crimes in St. Louis to nearly 6% of guns recovered in Milwaukee murder cases.⁵³

AWs dropped as share of crime guns in all jurisdictions after the ban. Reductions ranged from a low of 17% in Milwaukee (based on guns linked to homicides) to a high of 72% in Boston (based on all crime guns) but were generally between 32% and 40%.^{54, 55} A decline in the use of AWs relative to other guns was generally apparent whether examining all AW recoveries or just those linked to violent crimes.⁵⁶ An exception was in St. Louis, where

state AP ban that took effect a few months prior to the federal AW ban.

⁵³ These figures should be treated as approximations of the prevalence of AWs. On the one hand, the numbers may underestimate the prevalence of AWs to a small degree because they are based on only the domestic AW group defined earlier. Based on analysis of national ATF gun tracing data, we estimated previously that the domestic AW group accounts for 82% of AWs used in crime (Roth and Koper, 1997, Chapter 5). To further test the reliability of this assessment, we investigated the prevalence of all banned AW models among guns recovered in Baltimore using an ATF list of all guns defined as AWs under the 1994 Crime Act criteria (118 model and caliber combinations). We chose the Baltimore database because it provides a complete inventory of guns recovered by police in that city during the study period and, having been maintained by crime lab personnel, is particularly thorough with regard to make and model identifications. Though there was some ambiguity in classifying a small number of AK-type semiautomatic rifles (there are many civilian variations of the AK-47 rifle, some of which were legal under the 1994 legislation), our examination suggested that the domestic AW group accounted for approximately 90% of the AWs recovered in Baltimore. (In addition, including all AWs had virtually no effect on the pre-post changes in AW use in Baltimore.) But as discussed previously, the counts could also overstate AW use to some degree because imprecision in the identification of gun models in some data sources may have resulted in some legalized firearms being counted as banned AWs.

⁵⁴ The AW counts for Miami also include Interdynamics KG9 and KG99 models. These models were produced during the early 1980s and were forerunners to the Intratec models (ATF restricted the KG9 during the early 1980s because it could be converted too easily to fully automatic fire). These weapons were very rare or non-existent in most of the local data sources, but they were more common in Miami, where Interdynamics was formerly based. Including these guns increased the AW count in Miami by about 9% but did not affect pre-post changes in AW recoveries.

⁵⁵ State AW legislation passed in Maryland and Massachusetts could have had some impact on AW trends in Baltimore and Boston, respectively. Maryland implemented an AP ban, similar in coverage to the federal AW ban, in June 1994 (Maryland has also required background checks for retail sales of a broader list of state-defined AWs since 1989), and Massachusetts implemented additional legislation on federally-defined AWs in late 1998. The timing and scope of these laws make them largely redundant with the federal ban, so they should not unduly complicate inferences from the analysis. However, Maryland forbids additional transfers of grandfathered APs, and Massachusetts has imposed additional requirements for possession and transfer of LCMs and guns accepting LCMs. Both states also have enhanced penalties for certain crimes involving APs, LCMs, and/or guns accepting LCMs. Hence, the ban on AWs was arguably strengthened in Baltimore and Boston, relative to the other jurisdictions under study. This does not appear to have affected trends in AW use in Baltimore, which were very similar to those found in the other study sites. However, use of AWs and combined use of AWs and post-ban AW substitutes declined more in Boston than in any other study site. Although the trends in Boston could reflect ongoing, post-2000 reductions in use of AWs and similar weapons (Boston was one of the only study sites from which we obtained post-2000 data), it is possible that the Massachusetts legislation was also a contributing factor.

⁵⁶ There may be some inconsistency across jurisdictions in the identification of guns associated with violent crimes. In Miami, for example, 28% of the guns had an offense code equal to "other/not listed," and this percentage was notably higher for the later years of the data series.

Table 6-2. Pre-Post Changes in Assault Weapons As a Share of Recovered Crime Guns For Selected Localities and Time Periods: Summary Results (Total Number of Assault Weapons for Pre and Post Periods in Parentheses) ^a

Locality and Time Period	AWs	AWs (Linked to Violence)	APs	ARs	AWs and Post-Ban Substitutes
Baltimore (all recoveries) pre=1992-1993, post=1995-2000	-34% *** (425)	-41% ** (75)	-35% *** (383)	-24% (42)	-29% *** (444)
Miami-Dade (all recoveries) pre=1990-1993, post=1995-2000	-32% *** (733)	-39% *** (101)	-40% *** (611)	37% * (115)	-30% *** (746)
St. Louis (all recoveries) pre=1992-1993, post=1995-2003	-32% *** (306)	1% (28)	-34% *** (274)	10% (32)	-24% ** (328)
Boston (all recoveries) pre=1991-1993, post=2000-2002	-72% *** (71)	N/A	N/A	N/A	-60% *** (76)
Milwaukee (recoveries in murder cases) pre=1991-1993, post=1995-1998	N/A	-17% (28)	N/A	N/A	2% (31)
Anchorage, AK (recoveries in serious crimes) pre=1987-1993, post=1995-2000	N/A	-40% (24)	N/A	N/A	-40% (24)

a. Based on Intratec group, SWD group, AR-15 group, and Calico and Feather models. See the text for additional details about each sample and Tables 6-3 through 6-6 for more detailed results from each locality.

* Statistically significant change at chi-square p level < .1

** Statistically significant change at chi-square p level < .05

*** Statistically significant change at chi-square p level < .01

AWs declined as share of all guns but not of guns linked to violent crimes, though the latter test was based on rather small samples.

These reductions were not due to any obvious pre-ban trends (see Figures 6-2 through 6-6 at the end of the chapter). On the contrary, AW recoveries reached a peak in most of these jurisdictions during 1993 or 1994 (Boston, which is not shown in the graphs due to missing years, was an exception). We tested changes in AW prevalence using simple chi-square tests since there were no observable pre-existing time trends in the data. Due to the small number of AWs in some of these samples, these changes were not all statistically significant. Nonetheless, the uniformity of the results is highly suggestive, especially when one considers the consistency of these results with those found in the national ATF tracing analysis.

The changes in Tables 6-2 through 6-6 reflect the average decline in recoveries of AWs during the post-ban period in each locality. However, some of these figures may understate reductions to date. In several of the localities, the prevalence of AWs among crime guns was at, or close to, its lowest mark during the most recent year analyzed (see Figures 6-2 through 6-6 at the end of the chapter), suggesting that AW use continues to decline. In Miami, for example, AWs accounted for 1.7% of crime guns for the whole 1995 to 2000 period but had fallen to 1% by 2000. Further, the largest AW decline was recorded in Boston, one of two cities for which data extended beyond the year 2000 (however, this was not the case in St. Louis, the other locality with post-2000 data).

Breakouts of APs and ARs in Baltimore, Miami, and St. Louis show that the decline in AW recoveries was due largely to APs, which accounted for the majority of AWs in these and almost all of the other localities (the exception was Anchorage, where crimes with rifles were more common, as a share of gun crimes, than in the other sites). Pre-post changes in recoveries of the domestic AR group weapons, which accounted for less than 1% of crime guns in Baltimore, Miami, and St. Louis, were inconsistent. AR recoveries declined after the ban in Baltimore but increased in St. Louis and Miami. As discussed previously, however, the AR figures may partly reflect the substitution of post-ban, legalized versions of these rifles, thus overstating post-ban use of the banned configurations. Further, trends for these particular rifles may not be indicative of those for the full range of banned rifles, including the various foreign rifles banned by the 1994 law and the import restrictions of 1989 and 1998 (e.g., see the ATF gun tracing analysis of LCMM rifles).⁵⁷

⁵⁷ As discussed in the last chapter, our research design focused on common AWs that were likely to be most affected by the 1994 ban as opposed to earlier regulations (namely, the 1989 import ban) or other events (e.g., company closings or model discontinuations prior to 1994). However, an auxiliary analysis with the Baltimore data revealed a statistically meaningful drop in recoveries of all ARs covered by the 1994 legislation (not including the LCMM rifles) that was larger than that found for just the domestic group ARs discussed in the text. Similarly, an expanded AR analysis in Miami showed that total AR recoveries declined after the ban, in contrast to the increase found for the domestic group ARs. (Even after expanding the analysis, ARs still accounted for no more than 0.64% of crime guns before the ban in both locations. As with the domestic AR group, there are complexities in identifying banned versus non-banned versions of some of the other ARs, so these numbers are approximations.) Consequently, a more nuanced view of AR trends may be that AR use is declining overall, but this decline may be due largely to the 1989 import

Finally, the overall decline in AW use was only partially offset by substitution of the post-ban legalized models. Even if the post-ban models are counted as AWs, the share of crime guns that were AWs still fell 24% to 60% across most jurisdictions. The exception was Milwaukee where recoveries of a few post-ban models negated the drop in banned models in a small sample of guns recovered during murder investigations.⁵⁸

6.4. Summary

Consistent with predictions derived from the analysis of market indicators in Chapter 5, analyses of national ATF gun tracing data and local databases on guns recovered by police in several localities have been largely consistent in showing that criminal use of AWs, while accounting for no more than 6% of gun crimes even before the ban, declined after 1994, independently of trends in gun crime. In various places and times from the late 1990s through 2003, AWs typically fell by one-third or more as a share of guns used in crime.^{59, 60} Some of the most recent, post-2000 data suggest

restrictions that predated the AW ban. It is not yet clear that there has been a decline in the most common ARs prohibited exclusively by the 1994 ban.

⁵⁸ This was not true when focusing on just those guns that were used in the incident as opposed to all guns recovered during the investigations. However, the samples of AWs identified as murder weapons were too small for valid statistical tests of pre-post changes.

⁵⁹ These findings are also supported by prior research in which we found that reported thefts of AWs declined 7% in absolute terms and 14% as a fraction of stolen guns in the early period following the ban (i.e., late 1994 through early 1996) (Koper and Roth, 2002a, p. 21). We conducted that analysis to account for the possibility that an increase in thefts of AWs might have offset the effect of rising AW prices on the availability of AWs to criminals. Because crimes with AWs appear to have declined after the ban, the theft analysis is not as central to the arguments in this paper.

⁶⁰ National surveys of state prisoners conducted by the federal Bureau of Justice Statistics show an increase from 1991 to 1997 in the percentage of prisoners who reported having used an AW (Beck et al., 1993; Harlow, 2001). The 1991 survey (discussed in Chapter 3) found that 2% of violent gun offenders had carried or used an AW in the offense for which they were sentenced (calculated from Beck et al. 1993, pp. 18,33). The comparable figure from the 1997 survey was nearly 7% (Harlow, 2001, pp.3, 7).

Although these figures appear contrary to the patterns shown by gun recovery data, there are ambiguities in the survey findings that warrant caution in such an interpretation. First, the definition of an AW (and most likely the respondents' interpretation of this term) was broader in the 1997 survey. For the 1991 survey, respondents were asked about prior ownership and use of a "...military-type weapon, such as an Uzi, AK-47, AR-15, or M-16" (Beck et al., 1993, p. 18), all of which are ARs or have AR variations. The 1997 survey project defined AWs to "...include the Uzi, TEC-9, and the MAC-10 for handguns, the AR-15 and AK-47 for rifles, and the 'Street Sweeper' for shotguns" (Harlow, 2001, p. 2). (Survey codebooks available from the Inter-University Consortium for Political and Social Research also show that the 1997 survey provided more detail and elaboration about AWs and their features than did the 1991 survey, including separate definitions of APs, ARs, and assault shotguns.)

A second consideration is that many of the respondents in the 1997 survey were probably reporting criminal activity prior to or just around the time of the ban. Violent offenders participating in the survey, for example, had been incarcerated nearly six years on average at the time they were interviewed (Bureau of Justice Statistics, 2000, p. 55). Consequently, the increase in reported AW use may reflect an upward trend in the use of AWs from the 1980s through the early to mid 1990s, as well as a growing recognition of these weapons (and a greater tendency to report owning or using them) stemming from publicity about the AW issue during the early 1990s.

Finally, we might view the 1997 estimate skeptically because it is somewhat higher than that from most other sources. Nevertheless, it is within the range of estimates discussed earlier and could reflect a

reductions as high as 70%.⁶¹ This trend has been driven primarily by a decline in the use of APs, which account for a majority of AWs used in crime. AR trends have been more varied and complicated by the substitution of post-ban guns that are very similar to some banned ARs. More generally, however, the substitution of post-ban AW-type models with fewer military features has only partially offset the decline in banned AWs.

These findings raise questions as to the whereabouts of surplus AWs, particularly APs, produced just prior to the ban. Presumably, many are in the hands of collectors and speculators holding them for their novelty and value.⁶² Even criminal possessors may be more sensitive to the value of their AWs and less likely to use them for risk of losing them to police.

Finally, it is worth noting the ban has not completely eliminated the use of AWs, and, despite large relative reductions, the share of gun crimes involving AWs is similar to that before the ban. Based on year 2000 or more recent data, the most common AWs continue to be used in up to 1.7% of gun crimes.

somewhat higher use of AWs among the subset of offenders who are most active and/or dangerous; recall that the highest estimate of AW use among the sources examined in this chapter came from a sample of guns recovered during murder investigations in Milwaukee (also see the discussion of offender surveys and AWs in Chapter 3).

⁶¹ Developing a national estimate of the number of AW crimes prevented by the ban is complicated by the range of estimates of AW use and changes therein derived from different data sources. Tentatively, nonetheless, it appears the ban prevents a few thousand crimes with AWs annually. For example, using 2% as the best estimate of the share of gun crimes involving AWs prior to the ban (see Chapter 3) and 40% as a reasonable estimate of the post-ban drop in this figure implies that almost 2,900 murders, robberies, and assaults with AWs were prevented in 2002 (this assumes that 1.2% of the roughly 358,000 gun murders, gun robberies, and gun assaults reported to police in 2002 [see the *Uniform Crime Reports*] involved AWs but that 2% would have involved AWs had the ban not been in effect). Even if this estimate is accurate, however, it does not mean the ban prevented 2,900 gun crimes in 2002; indeed, the preceding calculation assumes that offenders prevented from using AWs committed their crimes using other guns. Whether forcing such weapon substitution can reduce the number of persons wounded or killed in gun crimes is considered in more detail in Chapter 9.

⁶² The 1997 national survey of state prisoners discussed in footnote 60 found that nearly 49% of AW offenders obtained their gun from a “street” or illegal source, in contrast to 36% to 42% for other gun users (Harlow, 2001, p. 9). This could be another sign that AWs have become harder to acquire since the ban, but the data cannot be used to make an assessment over time.

Table 6-3. Trends in Police Recoveries of Domestic Assault Weapons in Baltimore, 1992-2000^a

	<u>Pre-Ban Period</u>	<u>Post-Ban Period</u>	<u>Change</u>
<u>A. All Recoveries</u>	Jan. 1992-Dec. 1993	Jan. 1995-Dec. 2000	
Total AWs	135	290	
Annual Mean	67.5	48.33	-28%
AW's as % of Guns	1.88%	1.25%	-34%**
APs	123	260	
Annual Mean	61.5	43.33	-30%
APs as % of Guns	1.71%	1.12%	-35%**
ARs	12	30	
Annual Mean	6	5	-17%
ARs as % of Guns	0.17%	0.13%	-24%
Total AWs and Substitutes	135	309	
Annual Mean	67.5	51.5	-24%
AWs/Subs as % of Guns	1.88%	1.33%	-29%**
<u>B. Recoveries Linked to Violent Crimes^b</u>			
Total AWs	28	47	
Annual Mean	14	7.83	-44%
AWs as % of Violent Crime Guns	2.1%	1.24%	-41%*

a. Domestic assault weapons include Intratec group, SWD group, AR-15 group, and Calico and Feather models.

b. Murders, assaults, and robberies

* Chi-square p level < .05 (changes in percentages of guns that were AWs/APs/ARs/AW-subs were tested for statistical significance).

** Chi-square p level < .01 (changes in percentages of guns that were AWs/APs/ARs/AW-subs were tested for statistical significance).

Figure 6-2. Police Recoveries of Assault Weapons in Baltimore, 1992-2000

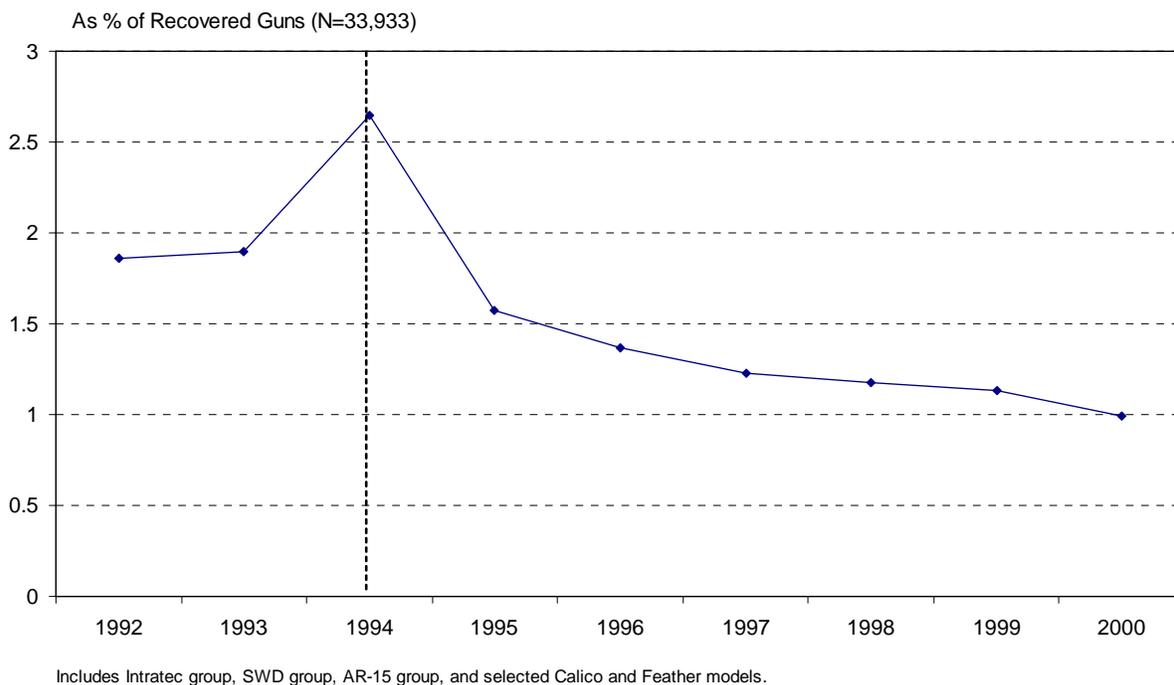


Table 6-4. Trends in Police Recoveries of Domestic Assault Weapons in Miami (Metro-Dade), 1990-2000 ^a

	<u>Pre-Ban Period</u>	<u>Post-Ban Period</u>	<u>Change</u>
<u>A. All Recoveries</u>	Jan. 1990-Dec. 1993	Jan. 1995-Dec. 2000	
Total AWs	403	330	
Annual Mean	100.75	55	-45%
AW's as % of Guns	2.53%	1.71%	-32%***
APs	355	256	
Annual Mean	88.75	42.67	-52%
APs as % of Guns	2.23%	1.33%	-40%***
ARs	43	72	
Annual Mean	10.75	12	12%
ARs as % of Guns	0.27%	0.37%	37%*
Total AWs and Substitutes	403	343	
Annual Mean	100.75	57.17	-43%
AWs/Subs as % of Guns	2.53%	1.78%	-30%***
<u>B. Recoveries Linked to Violent Crimes ^b</u>			
Total AWs	69	32	
Annual Mean	17.25	5.33	-69%
AWs as % of Violent Crime Guns	2.28%	1.39%	-39%**

a. Domestic assault weapons include Intratec group, SWD group, AR-15 group, and Calico and Feather models.

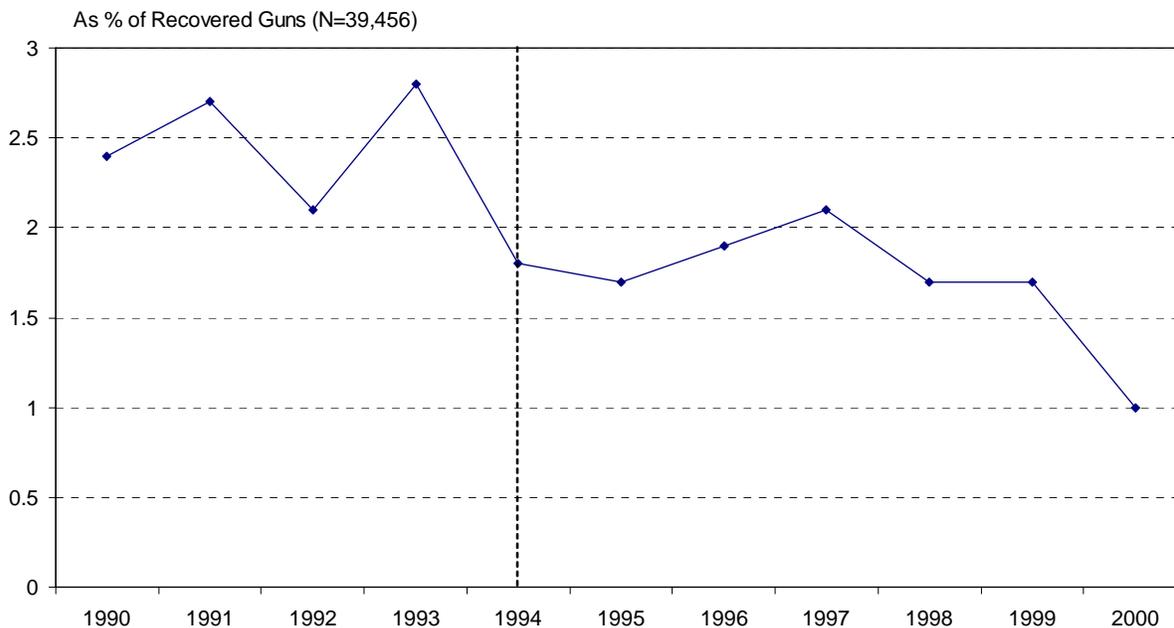
b. Murders, assaults, and robberies

* Chi-square p level < .1 (changes in percentages of guns that were AWs/APs/ARs/AW-subs were tested for statistical significance)

** Chi-square p level < .05 (changes in percentages of guns that were AWs/APs/ARs/AW-subs were tested for statistical significance)

*** Chi-square p level < .01 (changes in percentages of guns that were AWs/APs/ARs/AW-subs were tested for statistical significance)

Figure 6-3. Police Recoveries of Assault Weapons in Miami (Metro-Dade), 1990-2000



Includes Intratec group, SWD group, AR-15 group, and selected Calico and Feather models.

Table 6-5. Trends in Police Recoveries of Domestic Assault Weapons in St. Louis, 1992-2003 ^a

	<u>Pre-Ban Period</u>	<u>Post-Ban Period</u>	<u>Change</u>
<u>A. All Recoveries</u>	Jan. 1992-Dec. 1993	Jan. 1995-Dec. 2003	
Total AWs	94	212	
Annual Mean	47	23.56	-50%
AW's as % of Guns	1.33%	0.91%	-32%**
APs	87	187	
Annual Mean	43.5	20.78	-52%
APs as % of Guns	1.23%	0.81%	-34%**
ARs	7	25	
Annual Mean	3.5	2.78	-21%
ARs as % of Guns	0.1%	0.11%	10%
Total AWs and Substitutes	94	234	
Annual Mean	47	26	-45%
AWs/Subs as % of Guns	1.33%	1.01%	-24%*
<u>B. Recoveries Linked to Violent Crimes ^b</u>			
Total AWs	8	20	
Annual Mean	4	2.2	-45%
AWs as % of Violent Crime Guns	0.8%	0.81%	1%

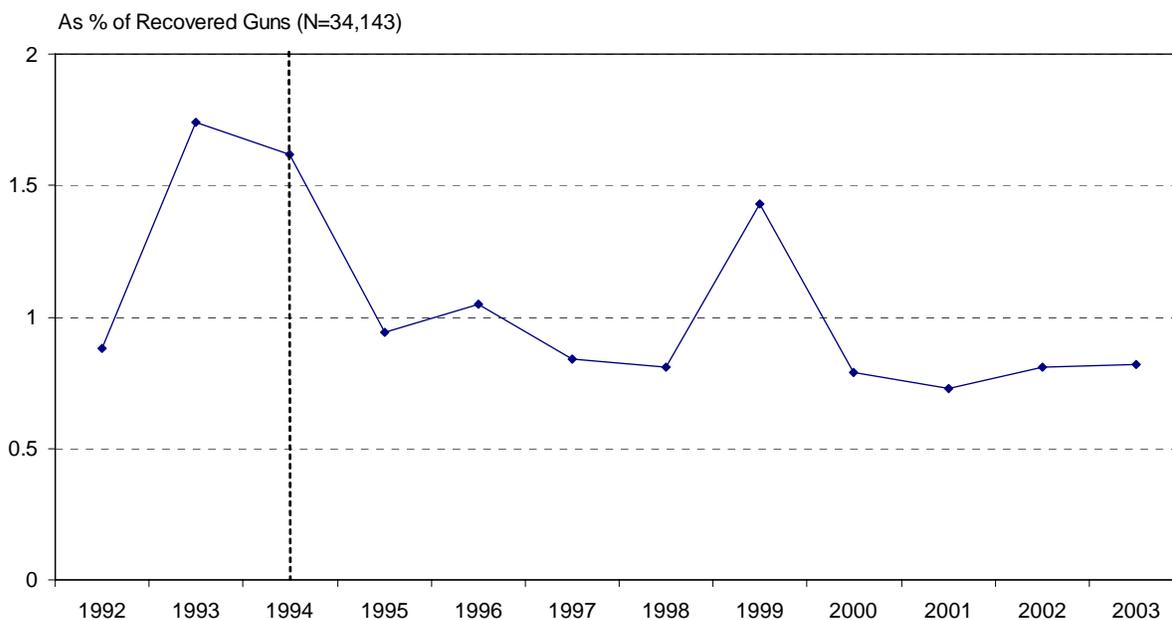
a. Domestic assault weapons include Intratec group, SWD group, AR-15 group, and Calico and Feather models.

b. Murders, assaults, and robberies

* Chi-square p level < .05 (changes in percentages of guns that were AWs/APs/ARs/AW-substitutes were tested for statistical significance)

** Chi-square p level < .01 (changes in percentages of guns that were AWs/APs/ARs/AW-substitutes were tested for statistical significance)

Figure 6-4. Police Recoveries of Assault Weapons in St. Louis, 1992-2003



Includes Intratec group, SWD group, AR-15 group, and selected Calico and Feather models.

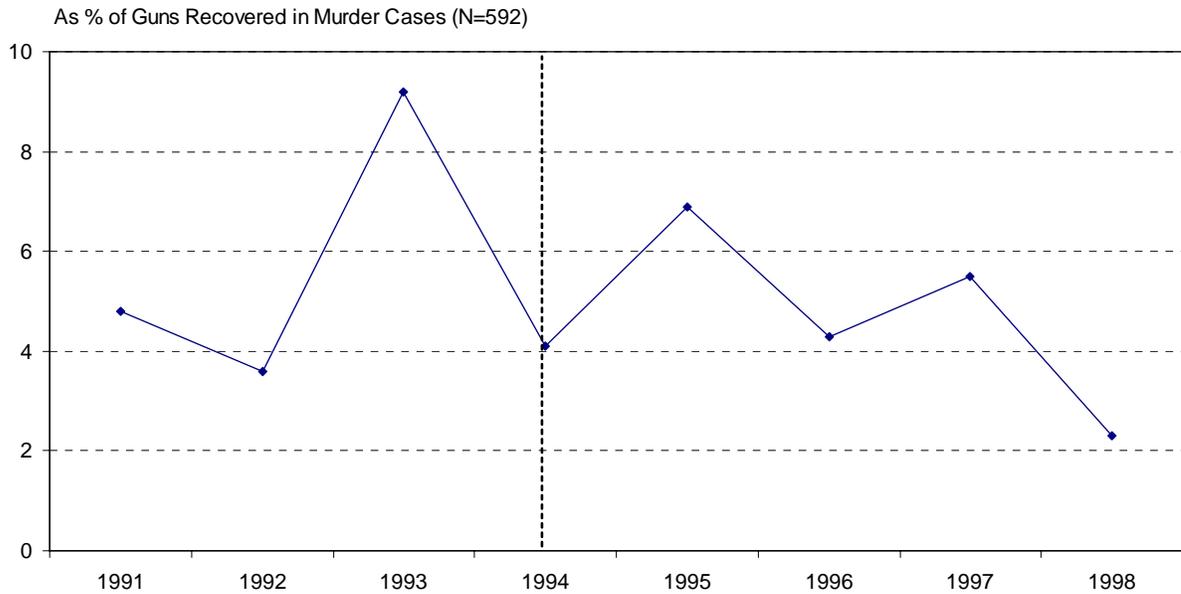
Table 6-6. Trends in Police Recoveries of Domestic Assault Weapons in Boston, Milwaukee, and Anchorage (Alaska) ^a

	<u>Pre-Ban Period</u>	<u>Post-Ban Period</u>	<u>Change</u>
<u>Boston</u>	Jan. 1991-Dec. 1993	Jan. 2000-Dec. 2002	
(All Gun Traces)			
AWs	60	11	
Annual Mean	20	3.7	-82%
AWs as % of Guns	2.16%	0.6%	-72%*
AWs and Substitutes	60	16	
Annual Mean	20	5.3	-74%
AWs/Subs as % of Guns	2.16%	0.87%	-60%*
<u>Milwaukee</u>	Jan. 1991-Dec. 1993	Jan. 1995-Dec. 1998	
(Guns Recovered in Murder Cases)			
AWs	15	13	
Annual Mean	5	3.25	-35%
AWs as % of Guns	5.91%	4.91%	-17%
AWs and Substitutes	15	16	
Annual Mean	5	4	-20%
AWs/Subs as % of Guns	5.91%	6.04%	2%
<u>Anchorage</u>	Jan. 1987-Dec. 1993	Jan. 1995-Dec. 2000	
(Guns Tested for Evidence)			
AWs	16	8	
Annual Mean	2.29	1.33	-42%
AW's as % of Guns	3.57%	2.13%	-40%
AWs and Substitutes	N/A	N/A	

a. Domestic assault weapons include Intratec group, SWD group, AR-15 group, and Calico and Feather models.

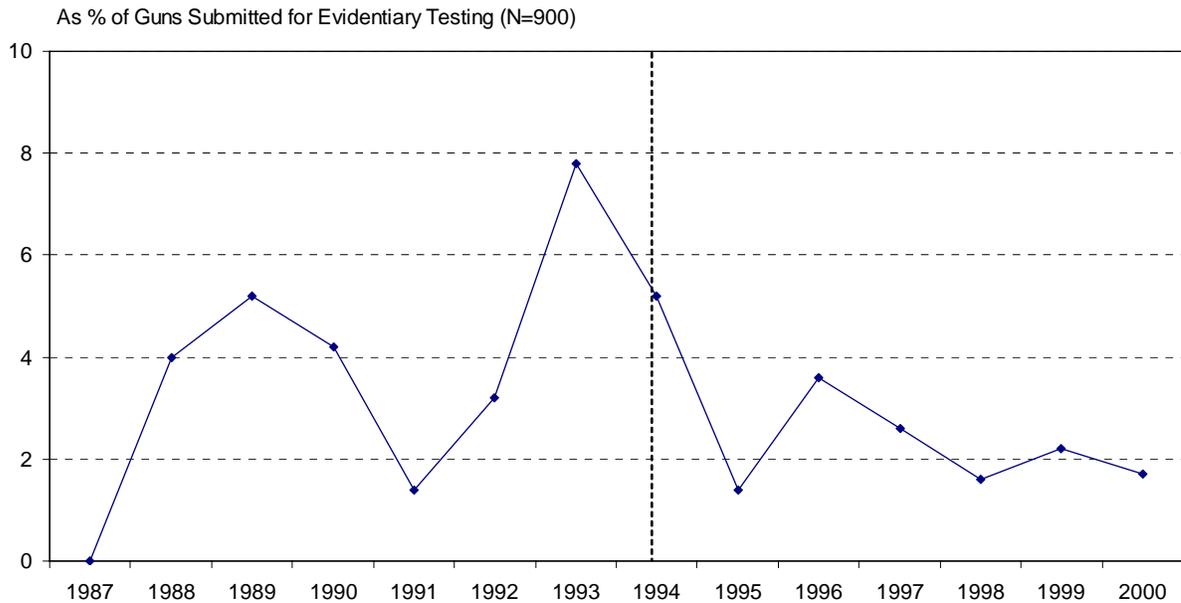
* Chi-square p level < .01 (changes in percentages of guns that were AWs/AW-substitutes were tested for statistical significance)

Figure 6-5. Assault Weapons Recovered in Milwaukee County Murder Cases, 1991-1998



Includes Intratec group, SWD group, AR-15 group, and selected Calico and Feather models.

Figure 6-6. Police Recoveries of Assault Weapons in Anchorage (Alaska), 1987-2000



Includes Intratec group, SWD group, AR-15 group, and selected Calico and Feather models.

7. MARKET INDICATORS FOR LARGE CAPACITY MAGAZINES: PRICES AND IMPORTATION

The previous chapters examined the AW-LCM ban's impact on the availability and criminal use of AWs. In this chapter and the next, we consider the impact of the ban's much broader prohibition on LCMs made for numerous banned and non-banned firearms. We begin by studying market indicators. Our earlier study of LCM prices for a few gun models revealed that prices rose substantially during 1994 and into 1995 (Roth and Koper, 1997, Chapter 4). Prices of some LCMs remained high into 1996, while others returned to pre-ban levels or oscillated more unpredictably. The price increases may have reduced LCM use at least temporarily in the short-term aftermath of the ban, but we could not confirm this in our prior investigation.

7.1. Price Trends for Large Capacity Magazines

For this study, we sought to approximate longer term trends in the prices at which users could purchase banned LCMs throughout the country. To that end, we analyzed quarterly data on the prices of LCMs advertised by eleven gun and magazine distributors in *Shotgun News*, a national gun industry publication, from April 1992 to December 1998.⁶³ Those prices are available to any gun dealer, and primary market retailers generally re-sell within 15% of the distributors' prices.⁶⁴ The distributors were chosen during the course of the first AW study (Roth and Koper, 1997) based on the frequency with which they advertised during the April 1992 to June 1996 period. For each quarterly period, project staff coded prices for one issue from a randomly selected month. We generally used the first issue of each selected month based on a preliminary, informal assessment suggesting that the selected distributors advertised more frequently in those issues. In a few instances, first-of-month issues were unavailable to us or provided too few observations, so we substituted other issues.⁶⁵ Also, we were unable to obtain *Shotgun News* issues for the last two quarters of 1996. However, we aggregated the data annually to study price trends, and the omission of those quarters did not appear to affect the results (this is explained further below).

We ascertained trends in LCM prices by conducting hedonic price analyses,

⁶³ The *Blue Book of Gun Values*, which served as the data source for the AW price analysis, does not contain ammunition magazine prices.

⁶⁴ According to gun market experts, retail prices track wholesale prices quite closely (Cook et al., 1995, p. 71). Retail prices to eligible purchasers generally exceed wholesale (or original-purchase) prices by 3% to 5% in the large chain stores, by about 15% in independent dealerships, and by about 10% at gun shows (where overhead costs are lower).

⁶⁵ The decision to focus on first-of-month issues was made prior to data collection for price analysis update. For the earlier study (Roth and Koper, 1997), project staff coded data for one or more randomly selected issues of every month of the April 1992 to June 1996 period. For this analysis, we utilized data from only the first-of-month issues selected at random during the prior study. If multiple first-of-month issues were available for a given quarter, we selected one at random or based on the number of recorded advertisements. If no first-of-month issue was available for a given quarter, we selected another issue at random from among those coded during the first study.

similar to those described in the AW price analysis (Chapter 5), in which we regressed inflation-adjusted LCM prices (logged) on several predictors: magazine capacity (logged), gun make (for which the LCM was made), year of the advertisement, and distributor. We cannot account fully for the meaning of significant distributor effects. They may represent unmeasured quality differentials in the merchandise of different distributors, or they may represent other differences in stock volume or selling or service practices between the distributors.⁶⁶ We included the distributor indicators when they proved to be significant predictors of advertised price. In addition, we focused on LCMs made for several of the most common LCM-compatible handguns and rifles, rather than try to model the differences in LCM prices between the several hundred miscellaneous makes and models of firearms that were captured in the data. Finally, for both the handgun and rifle models, we created and tested seasonal indicator variables to determine if their incorporation would affect the coefficient for 1996 (the year with winter/spring data only), but they proved to be statistically insignificant and are not shown in the results below.⁶⁷

7.1.1. Large Capacity Magazines for Handguns

The handgun LCM analysis tracks the prices of LCMs made for Intratec and Cobray (i.e., SWD) APs and non-banned semiautomatic pistols made by Smith and Wesson, Glock, Sturm Ruger, Sig-Sauer, Taurus, and Beretta (each of the manufacturers in the former group produces numerous models capable of accepting LCMs). In general, LCMs with greater magazine capacities commanded higher prices, and there were significant price differentials between LCMs made for different guns and sold by different distributors (see Table 7-1). Not surprisingly, LCMs made for Glock handguns were most expensive, followed by those made for Beretta and Sig-Sauer firearms.

Turning to the time trend indicators (see Table 7-1 and Figure 7-1), prices for these magazines increased nearly 50% from 1993 to 1994, and they rose another 56% in 1995. Prices declined somewhat, though not steadily, from 1996 to 1998. Nevertheless, prices in 1998 remained 22% higher than prices in 1994 and nearly 80% higher than those in 1993.

⁶⁶ For example, one possible difference between the distributors may have been the extent to which they sold magazines made of different materials (e.g., steel, aluminum, etc.) or generic magazines manufactured by companies other than the companies manufacturing the firearms for which the magazines were made. For example, there were indications in the data that 3% of the handgun LCMs and 10% of the AR-15 and Mini-14 rifle LCMs used in the analyses (described below) were generic magazines. We did not control for these characteristics, however, because such information was often unclear from the advertisements and was not recorded consistently by coders.

⁶⁷ Project staff coded all LCM advertisements by the selected distributors. Therefore, the data are inherently weighted. However, the weights are based on the frequency with which the different LCMs were advertised (i.e., the LCMs that were advertised most frequently have the greatest weight in the models) rather than by production volume.

Table 7-1. Regression of Handgun and Rifle Large Capacity Magazine Prices on Annual Time Indicators, 1992-1998, Controlling for Gun Makes/Models and Distributors

	Handgun LCMs (n=1,277)		Rifle LCMs (n=674)	
	Estimate	T value	Estimate	T value
Constant	-1.79	-12.74***	-4.10	-19.12***
1992	-0.19	-2.11**	-0.48	-4.20***
1993	-0.38	-6.00***	-0.55	-6.14***
1995	0.44	6.88***	-0.25	-2.64***
1996	0.29	4.05***	-0.12	-0.93
1997	0.36	6.33***	-0.31	-3.68***
1998	0.20	3.51***	-0.44	-5.19***
Rounds (logged)	0.26	5.73***	0.84	15.08***
Cobray	-0.36	-4.15***		
Glock	0.41	8.15***		
Intratec	-0.40	-4.18***		
Ruger	-0.42	-7.79***		
Smith&Wesson	-0.08	-1.71*		
Sig-Sauer	0	-0.09		
Taurus	-0.31	-6.10***		
AK-type			-0.25	-3.15***
Colt AR-15			0.14	1.68*
Ruger Mini-14			-0.08	-0.92
Distributor 1	-0.72	-16.38***	-0.35	-5.15***
Distributor 2	-0.15	-0.97	-0.83	-5.24***
Distributor 3	-0.16	-3.93***	0.19	2.69***
Distributor 4	-0.55	-5.72***	0.16	0.80
Distributor 5	-0.07	-1.79*	-0.18	-2.65***
Distributor 6	-0.53	-1.23	-0.12	-0.32
Distributor 7	-1.59	-3.70***	-0.10	-0.91
Distributor 8			0.14	0.70
Distributor 9	-0.91	-12.52***	-0.48	-4.00***
F statistic	58.76		21.22	
(p value)	<.0001		<.0001	
Adj. R-square	0.51		0.38	

Year indicators are interpreted relative to 1994, and distributors are interpreted relative to distributor 10.

Handgun makes are relative to Beretta and rifle models are relative to SKS.

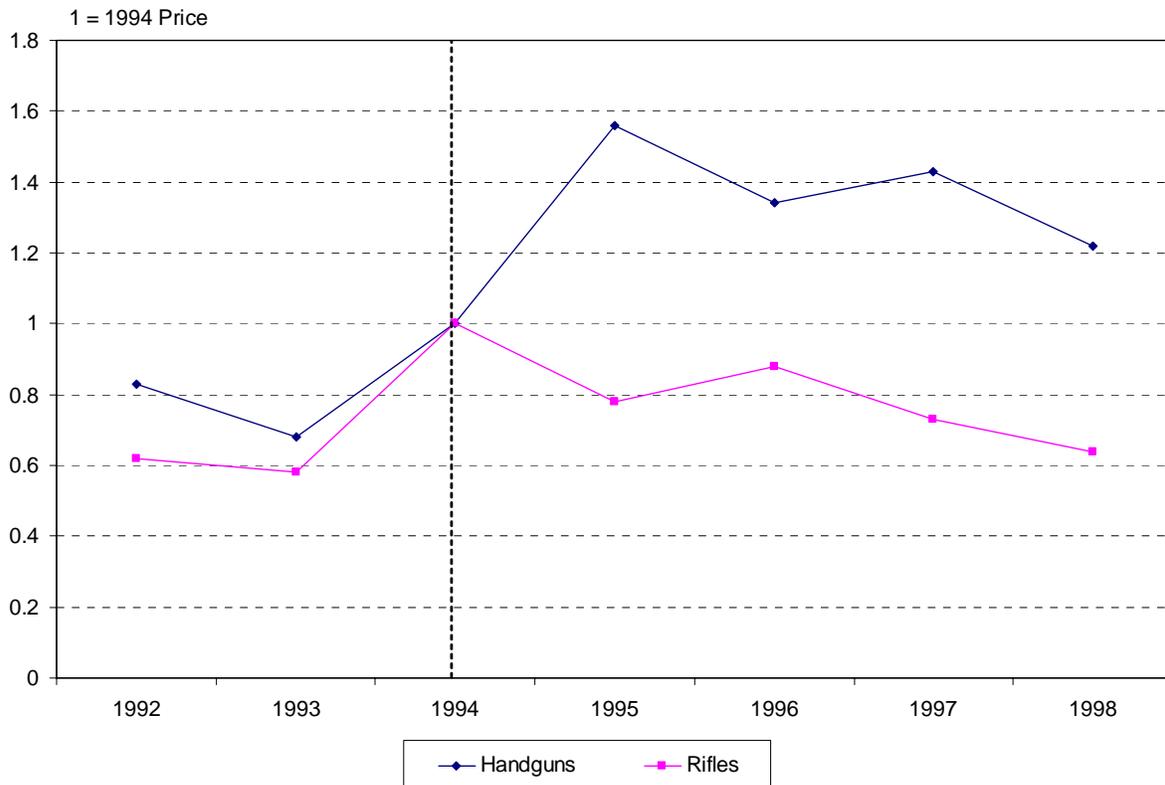
* Statistically significant at $p \leq .10$.

** Statistically significant at $p \leq .05$.

*** Statistically significant at $p \leq .01$.

EB000339

Figure 7-1. Annual Price Trends for Large Capacity Magazines, 1992-1998



Based on 1,277 sampled ads for LCMs fitting models of 8 handgun makers and 674 sampled ads for LCMs fitting 4 rifle model groups.

7.1.2. Large Capacity Magazines for Rifles

We approximated trends in the prices of LCMs for rifles by modeling the prices of LCMs manufactured for AR-15, Mini-14, SKS,⁶⁸ and AK-type rifle models (including various non-banned AK-type models). As in the handgun LCM model, larger LCMs drew higher prices, and there were several significant model and distributor effects. AR-15 magazines tended to have the highest prices, and magazines for AK-type models had the lowest prices (Table 7-1).

Like their handgun counterparts, prices for rifle LCMs increased over 40% from 1993 to 1994, as the ban was debated and implemented (see Table 7-1 and Figure 7-1). However, prices declined over 20% in 1995. Following a rebound in 1996, prices moved downward again during 1997 and 1998. Prices in 1998 were over one third lower than the peak prices of 1994 and were comparable to pre-ban prices in 1992 and 1993.

⁶⁸ The SKS is a very popular imported rifle (there are Russian and Chinese versions) that was not covered by either the 1989 AR import ban or the 1994 AW ban. However, importation of SKS rifles from China was discontinued in 1994 due to trade restrictions.

7.2. Post-Ban Importation of Large Capacity Magazines

ATF does not collect (or at least does not publicize) statistics on production of LCMs. Therefore, we cannot clearly document pre-ban production trends. Nevertheless, it seems likely that gun and magazine manufacturers boosted their production of LCMs during the debate over the ban, just as AW makers increased production of AWs. Regardless, gun industry sources estimated that there were 25 million LCMs available as of 1995 (including aftermarket items for repairing magazines or converting them to LCMs) (Gun Tests, 1995, p. 30).

Moreover, the supply of LCMs continued to grow even after the ban due to importation of foreign LCMs that were manufactured prior to the ban (and thus grandfathered by the LCM legislation), according to ATF importation data.⁶⁹ As shown in Table 7-2, nearly 4.8 million LCMs were imported for commercial sale (as opposed to law enforcement uses) from 1994 through 2000, with the largest number (nearly 3.7 million) arriving in 1999.⁷⁰ During this period, furthermore, importers received permission to import a total of 47.2 million LCMs; consequently, an additional 42 million LCMs may have arrived after 2000 or still be on the way, based on just those approved through 2000.^{71, 72}

To put this in perspective, gun owners in the U.S. possessed 25 million firearms that were equipped with magazines holding 10 or more rounds as of 1994 (Cook and Ludwig, 1996, p. 17). Therefore, the 4.7 million LCMs imported in the U.S. from 1994 through 2000 could conceivably replenish 19% of the LCMs that were owned at the time of the ban. The 47.2 million approved during this period could supply nearly 2 additional LCMs for all guns that were so equipped as of 1994.

7.3. Summary and Interpretations

Prices of LCMs for handguns rose significantly around the time of the ban and, despite some decline from their peak levels in 1995, remained significantly higher than pre-ban prices through at least 1998. The increase in LCM prices for rifles proved to be more temporary, with prices returning to roughly pre-ban levels by 1998.⁷³

⁶⁹ To import LCMs into the country, importers must certify that the magazines were made prior to the ban. (The law requires companies to mark post-ban LCMs with serial numbers.) As a practical matter, however, it is hard for U.S. authorities to know for certain whether imported LCMs were produced prior to the ban.

⁷⁰ The data do not distinguish between handgun and rifle magazines or the specific models for which the LCMs were made. But note that roughly two-thirds of the LCMs imported from 1994 through 2000 had capacities between 11 and 19 rounds, a range that covers almost all handgun LCMs as well as many rifle LCMs. It seems most likely that the remaining LCMs (those with capacities of 20 or more rounds) were primarily for rifles.

⁷¹ The statistics in Table 7-2 do not include belt devices used for machine guns.

⁷² A caveat to the number of approved LCMs is that importers may overstate the number of LCMs they have available to give themselves leeway to import additional LCMs, should they become available.

⁷³ A caveat is that we did not examine prices of smaller magazines, so the price trends described here may not have been entirely unique to LCMs. Yet it seems likely that these trends reflect the unique impact of the ban on the market for LCMs.

Table 7-2. Large Capacity Magazines Imported into the United States or Approved For Importation for Commercial Sale, 1994-2000

<u>Year</u>	<u>Imported</u>	<u>Approved</u>
1994	67,063	77,666
1995	3,776	2,066,228
1996	280,425	2,795,173
1997	99,972	1,889,773
1998	337,172	20,814,574
1999	3,663,619	13,291,593
2000	346,416	6,272,876
<i>Total</i>	<i>4,798,443</i>	<i>47,207,883</i>

Source: Firearms and Explosives Imports Branch, Bureau of Alcohol, Tobacco, Firearms, and Explosives. Counts do not include “links” (belt devices) or imports for law enforcement purposes.

The drop in rifle LCM prices between 1994 and 1998 may have due to the simultaneous importation of approximately 788,400 grandfathered LCMs, most of which appear to have been rifle magazines (based on the fact that nearly two-thirds had capacities over 19 rounds), as well as the availability of U.S. military surplus LCMs that fit rifles like the AR-15 and Mini-14. We can also speculate that demand for LCMs is not as great among rifle consumers, who are less likely to acquire their guns for defensive or criminal purposes.

The pre-ban supply of handgun LCMs may have been more constricted than the supply of rifle LCMs for at least a few years following the ban, based on prices from 1994 to 1998. Although there were an estimated 25 million LCMs available in the U.S. as of 1995, some major handgun manufacturers (including Ruger, Sig Sauer, and Glock) had or were close to running out of new LCMs by that time (Gun Tests, 1995, p. 30). Yet the frequency of advertisements for handgun LCMs during 1997 and 1998, as well as the drop in prices from their 1995 peak, suggests that the supply had not become particularly low. In 1998, for example, the selected distributors posted a combined total of 92 LCM ads per issue (some of which may have been for the same make, model, and capacity combinations) for just the handguns that we incorporated into our model.⁷⁴ Perhaps the

⁷⁴ Project staff found substantially more advertisements per issue for 1997 and 1998 than for earlier years. For the LCMs studied in the handgun analysis, staff recorded an average of 412 LCM advertisements per year (103 per issue) during 1997 and 1998. For 1992-1996, staff recorded an average of about 100 ads per year (25 per issue) for the same LCMs. A similar but smaller differential existed in the volume of ads for the LCMs used in the rifle analysis. The increase in LCM ads over time may reflect changes in supply and

demand for enhanced firepower among handgun consumers, who are more likely to acquire guns for crime or defense against crime, was also a factor (and perhaps a large one) putting a premium on handgun LCMs.

Although we might hypothesize that high prices depressed use of handguns with LCMs for at least a few years after the ban, a qualification to this prediction is that LCM use may be less sensitive to prices than is use of AWs because LCMs are much less expensive than the firearms they complement and therefore account for a smaller fraction of users' income (e.g., see Friedman, 1962). To illustrate, TEC-9 APs typically cost \$260 at retail during 1992 and 1993, while LCMs for the TEC-9, ranging in capacity from 30 to 36 rounds, averaged \$16.50 in *Shotgun News* advertisements (and probably \$19 or less at retail) during the same period. So, for example, a doubling of both gun and LCM prices would likely have a much greater impact on purchases of TEC-9 pistols than purchases of LCMs for the TEC-9. Users willing and able to pay for a gun that accepts an LCM are most likely willing and able to pay for an LCM to use with the gun.

Moreover, the LCM supply was enhanced considerably by a surge in LCM imports that occurred after the period of our price analysis. During 1999 and 2000, an additional 4 million grandfathered LCMs were imported into the U.S., over two-thirds of which had capacities of 11-19 rounds, a range that covers almost all handgun LCMs (as well as many rifle LCMs). This may have driven prices down further after 1998.

In sum, market indicators yield conflicting signs on the availability of LCMs. It is perhaps too early to expect a reduction in crimes with LCMs, considering that tens of millions of grandfathered LCMs were available at the time of the ban, an additional 4.8 million – enough to replenish one-fifth of those owned by civilians – were imported from 1994 through 2000, and that the elasticity of demand for LCMs may be more limited than that of firearms. And if the additional 42 million foreign LCMs approved for importation become available, there may not be a reduction in crimes with LCMs anytime in the near future.

demand for LCMs during the study period, as well as product shifts by distributors and perhaps changes in ad formats (e.g., ads during the early period may have been more likely to list magazines by handgun model without listing the exact capacity of each magazine, in which case coders would have been more likely to miss some LCMs during the early period). Because the data collection effort for the early period was part of a larger effort that involved coding prices in *Shotgun News* for LCMs and numerous banned and non-banned firearms, it is also possible that coders were more likely to miss LCM ads during that period due to random factors like fatigue or time constraints.

8. CRIMINAL USE OF LARGE CAPACITY MAGAZINES AFTER THE BAN

Assessing trends in criminal use of LCMs is difficult. There is no national data source on crime guns equipped with LCMs (ATF national tracing data do not include information about magazines recovered with traced firearms), and, based on our contacts with numerous police departments over the course of this study and the first AW study, it seems that even those police departments that maintain electronic databases on recovered firearms do not typically record the capacity of the magazines with which the guns are equipped.^{75,76} Indeed, we were unable to acquire sufficient data to examine LCM use for the first AW study (Roth and Koper, 1997).

For the current study, we obtained four data sources with which to investigate trends in criminal use of LCMs. Three of the databases utilized in the AW analysis – those from Baltimore, Milwaukee, and Anchorage – contained information about the magazines recovered with the guns (see the descriptions of these databases in Chapter 6). Using updated versions of these databases, we examined all LCM recoveries in Baltimore from 1993 through 2003, recoveries of LCMs in Milwaukee murder cases from 1991 to 2001, and recoveries of LCMs linked to serious crimes in Anchorage (and other parts of Alaska) from 1992 through 2002.⁷⁷ In addition, we studied records of guns and magazines submitted to the Jefferson Regional Forensics Lab in Louisville, Kentucky from 1996 through 2000. This lab of the Kentucky State Police services law enforcement agencies throughout roughly half of Kentucky, but most guns submitted to the lab are from the Louisville area. Guns examined at the lab are most typically those associated with serious crimes such as murders, robberies, and assaults.

The LCM analyses and findings were not as uniform across locations as were those for AWs. Therefore, we discuss each site separately. As in the AW analysis, we emphasize changes in the percentage of guns equipped with LCMs to control for overall trends in gun crime and gun recoveries. Because gun crime was falling during the latter 1990s, we anticipated that the number of guns recovered with LCMs might decline independently of the ban's impact. (Hereafter, we refer to guns equipped with LCMs as LCM guns.)

⁷⁵ For the pre-ban period, one can usually infer magazine capacity based on the firearm model. For post-ban recoveries, this is more problematic because gun models capable of accepting LCMs may have been equipped with grandfathered LCMs or with post-ban magazines designed to fit the same gun but holding fewer rounds.

⁷⁶ As for the AW analysis in Chapter 6, we utilize police data to examine trends in criminal use of LCMs. The reader is referred to the general discussion of police gun seizure data in Chapter 6.

⁷⁷ Findings presented in our 2002 interim report (Koper and Roth, 2002b) indicated that LCM use had not declined as of the late 1990s. Therefore, we sought to update the LCM analyses where possible for this version of the report.

8.1. Baltimore

In Baltimore, about 14% of guns recovered by police were LCM guns in 1993. This figure remained relatively stable for a few years after the ban but had dropped notably by 2002 and 2003 (Figure 8-1). For the entire post-ban period (1995-2003), recoveries of LCM guns were down 8% relative to those of guns with smaller magazines (Table 8-1, panel A), a change of borderline statistical significance. Focusing on the most recent years, however, LCM gun recoveries were 24% lower in 2002 and 2003 than during the year prior to the ban, a difference that was clearly significant (Table 8-1, panel B).^{78,79,80} This change was attributable to a 36% drop in LCM handguns (Table 8-1, panel C). LCM rifles actually increased 36% as a share of crime guns, although they still accounted for no more than 3% in 2002 and 2003 (Table 8-1, panel D).⁸¹

Yet there was no decline in recoveries of LCM guns used in violent crimes (i.e., murders, shootings, robberies, and other assaults). After the ban, the percentage of violent crime guns with LCMs generally oscillated in a range consistent with the pre-ban level (14%) and hit peaks of roughly 16% to 17% in 1996 and 2003 (Figure 8-1).⁸² Whether comparing the pre-ban period to the entire post-ban period (1995-2003) or the most recent years (2002-2003), there was no meaningful decline in LCM recoveries linked to violent crimes (Table 8-2, panels A and B).⁸³ Neither violent uses of LCM

⁷⁸ Data on handgun magazines were also available for 1992. An auxiliary analysis of those data did not change the substantive inferences described in the text.

⁷⁹ The Maryland AP ban enacted in June 1994 also prohibited ammunition magazines holding over 20 rounds and did not permit additional sales or transfers of such magazines manufactured prior to the ban. This ban, as well as the Maryland and federal bans on AWs that account for many of the guns with magazines over 20 rounds, may have contributed to the downward trend in LCMs in Baltimore, but only 2% of the guns recovered in Baltimore from 1993 to 2000 were equipped with such magazines.

⁸⁰ All comparisons of 1993 to 2002-2003 in the Baltimore data are based on information from the months of January through November of each year. At the time we received these data, information was not yet available for December 2003, and preliminary analysis revealed that guns with LCMs were somewhat less likely to be recovered in December than in other months for years prior to 2003. Nevertheless, utilizing the December data for 1993 and 2002 did not change the substantive inferences. We did not remove December data from the comparisons of 1993 and the full post-ban period because those comparisons seemed less likely to be influenced by the absence of one month of data.

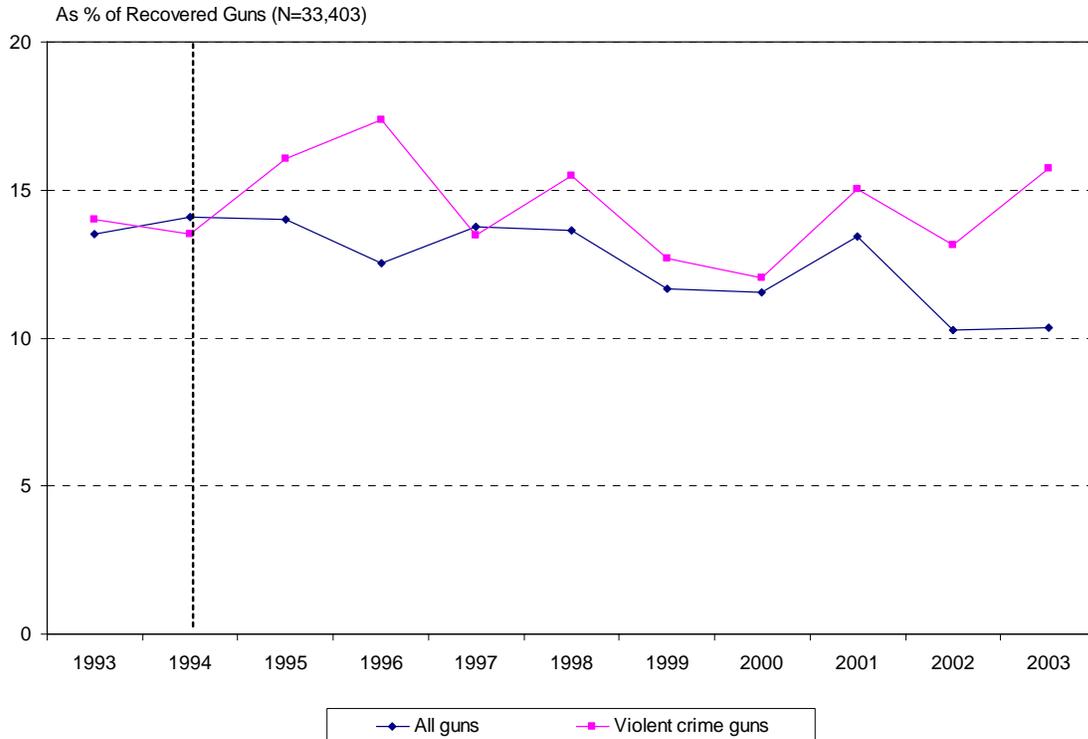
⁸¹ This increase may have been due largely to a general increase in rifle seizures. LCM rifles actually dropped as a percentage of all rifle recoveries from 1993 to 2002-2003, suggesting that recoveries of LCM rifles were increasing less than recoveries of other rifles.

⁸² For 1996, 45% of all records and 24% of those linked to violent crimes had missing data for magazine capacity (due to temporary changes in operational procedures in the Baltimore crime lab). For other years, missing data rates were no more than 6%. Based on those cases for which data were available, the share of guns with LCMs in 1996 was comparable to that in other years, particularly when examining all gun recoveries. At any rate, the analyses focusing on 1993, 2002, and 2003 reinforce the findings of those that include the 1996 data.

⁸³ The ammunition capacity code in the Baltimore data usually reflected the full capacity of the magazine and weapon, but sometimes reflected the capacity of the magazine only. (For instance, a semiautomatic with a 10-round magazine and the ability to accept one additional round in the chamber might have been coded as having a capacity of 10 or 11.) Informal assessment suggested that capacity was more likely to reflect the exact capacity of the magazine in the early years of the database and more likely to reflect the full capacity of the gun and magazine in later years. For the main runs presented in the text and tables, guns were counted as having LCMs if the coded capacity was greater than 11 rounds. This ensured that LCMs were not overestimated, but it potentially understated LCM prevalence, particularly for the earlier

handguns or LCM rifles had declined appreciably by 2002-2003 (Table 8-2, panels C and D). Hence, the general decline in LCM recoveries may reflect differences in the availability and use of LCMs among less serious offenders, changes in police practices,⁸⁴ or other factors.

Figure 8-1. Police Recoveries of Guns Equipped With Large Capacity Magazines in Baltimore, 1993-2003



years. However, coding the guns as LCM weapons based on a threshold of 10 (i.e., a coded capacity over 10 rounds) in 1993 and a threshold of 11 (i.e., a coded capacity over 11 rounds) for 2002-2003 did not change the inferences of the violent crime analysis. Further, this coding increased the pre-ban prevalence of LCMs by very little (about 4% in relative terms).

⁸⁴ During the late 1990s, for example, Baltimore police put greater emphasis on detecting illegal gun carrying (this statement is based on prior research and interviews the author has done in Baltimore as well as the discussion in Center to Prevent Handgun Violence, 1998). One can hypothesize that this effort reduced the fraction of recovered guns with LCMs because illegal gun carriers are probably more likely to carry smaller, more concealable handguns that are less likely to have LCMs.

Table 8-1. Trends in All Police Recoveries of Firearms Equipped With Large Capacity Magazines, Baltimore, 1993-2003

	<u>Pre-Ban Period</u>	<u>Post-Ban Period</u>	<u>Change</u>
<u>A. All LCM Guns</u>	Jan.-Dec. 1993	Jan. 1995-Nov. 2003	
Total	473	3703	
Annual Mean	473	445.86 ^a	-6%
LCM Guns as % of All Guns	13.51%	12.38%	-8%*
<u>B. All LCM Guns</u>	Jan.-Nov. 1993	Jan.-Nov. 2002-2003	
Total	430	626	
Annual Mean	430	313	-27%
LCM Guns as % of All Guns	13.47%	10.3%	-24%***
<u>C. LCM Handguns</u>	Jan.-Nov. 1993	Jan.-Nov. 2002-2003	
Total	359	440	
Annual Mean	359	220	-39%
LCM Handguns as % of All Guns	11.25%	7.24%	-36%***
<u>D. LCM Rifles</u>	Jan.-Nov. 1993	Jan.-Nov. 2002-2003	
LCM Rifles	71	183	
Annual Mean	71	91.5	29%
LCM Rifles as % of All Guns	2.22%	3.01%	36%**

a. Annual average calculated without 1996 and 2003 (to correct for missing months or missing magazine data).

* Chi-square p level < .10 (changes in percentages of guns equipped with LCMs were tested for statistical significance)

** Chi-square p level < .05 (changes in percentages of guns equipped with LCMs were tested for statistical significance)

*** Chi-square p level < .01 (changes in percentages of guns equipped with LCMs were tested for statistical significance)

Table 8-2. Trends in Police Recoveries of Firearms Equipped With Large Capacity Magazines in Violent Crime Cases, Baltimore, 1993-2003

	<u>Pre-Ban Period</u>	<u>Post-Ban Period</u>	<u>Change</u> ^a
<u>A. All LCM Guns</u>	Jan.-Dec. 1993	Jan. 1995-Nov. 2003	
Total	87	711	
Annual Mean	87	81.86 ^b	-6%
LCM Guns as % of All Guns	14.01%	14.44%	3%
<u>B. All LCM Guns</u>	Jan.-Nov. 1993	Jan.-Nov. 2002-2003	
Total	79	104	
Annual Mean	79	52	-34%
LCM Guns as % of All Guns	13.96%	13.65%	-2%
<u>C. LCM Handguns</u>	Jan.-Nov. 1993	Jan.-Nov. 2002-2003	
Total	62	81	
Annual Mean	62	40.5	-35%
LCM Handguns as % of All Guns	10.95%	10.63%	-3%
<u>D. LCM Rifles</u>	Jan.-Nov. 1993	Jan.-Nov. 2002-2003	
LCM Rifles	17	23	
Annual Mean	17	11.5	-32%
LCM Rifles as % of All Guns	3%	3.02%	1%

a. Changes in the percentages of guns with LCMs were statistically insignificant in chi-square tests.

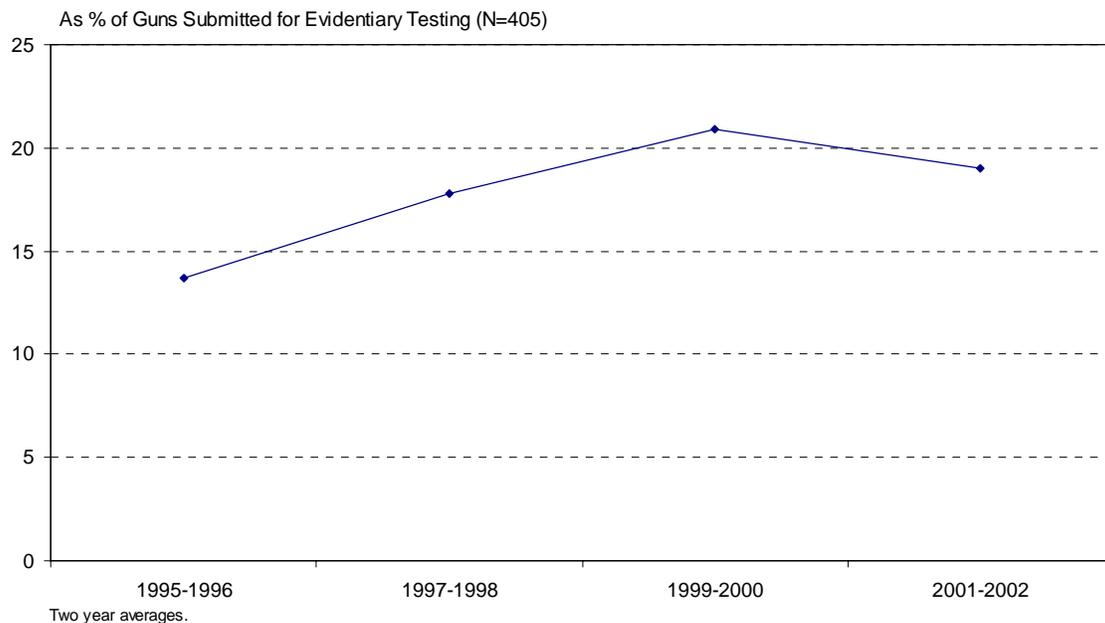
b. Annual average calculated without 1996 and 2003 (to correct for missing months or missing magazine data).

8.2. Anchorage

In the Alaska database, magazine capacity was recorded only for guns recovered during the post-ban years, 1995 through 2002. However, we estimated pre-ban use of LCM handguns by identifying handgun models inspected during 1992 and 1993 that were manufactured with LCMs prior to the ban.⁸⁵ This permitted an assessment of pre-post changes in the use of LCM handguns.

As shown in Figure 8-2 (also see Table 8-3, panel A), LCM guns rose from 14.5% of crime guns in 1995-1996 to 24% in 2000-2001 (we present two-year averages because the sample are relatively small, particularly for the most recent years) and averaged about 20% for the entire post-ban period. LCM handguns drove much of this trend, but LCM rifles also increased from about 3% of crime guns in 1995-96 to 11% in 2000-2001.

Figure 8-2. Police Recoveries of Guns Equipped With Large Capacity Magazines in Anchorage (Alaska), 1995-2002



⁸⁵ To make these determinations, we consulted gun catalogs such as the *Blue Book of Gun Values* and *Guns Illustrated*.

Table 8-3. Trends in Police Recoveries of Firearms Equipped With Large Capacity Magazines in Violent Crime Cases, Anchorage (Alaska), 1992-2002 ^a

	<u>Pre-Ban Period</u>	<u>Post-Ban Period</u>	<u>Change ^b</u>
<u>A. All LCM Guns</u>	N/A	Jan. 1995-Dec. 2002	
Total		80	
Annual Mean		10	N/A
LCM Guns as % of All Guns		19.75%	N/A
<u>B. LCM Handguns</u>	Jan. 1992-Dec. 1993	Jan. 1995-Dec. 2002	
Total	17	57	
Annual Mean	8.5	7.13	-16%
LCM Handguns as % All Handguns	26.15%	22.35%	-15%
<u>C. LCM Handguns</u>	Jan. 1992-Dec. 1993	Jan. 2001-Dec. 2002	
Total	17	10	
Annual Mean	8.5	5	-41%
LCM Handguns as % of All Handguns	26.15%	19.23%	-26%

a. Based on guns submitted to State Police for evidentiary testing.

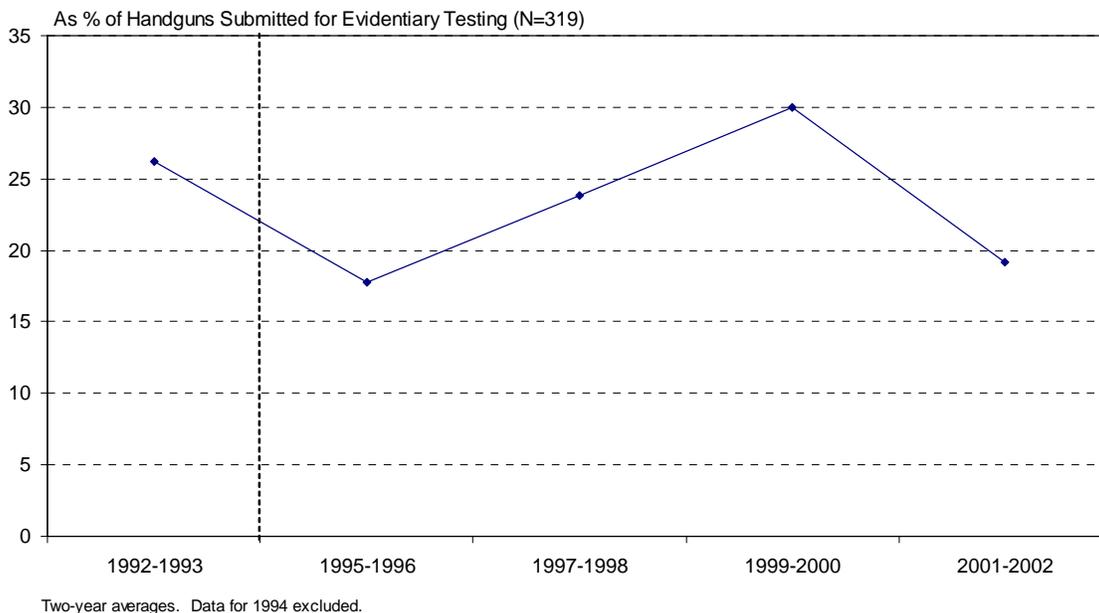
b. Changes in the percentages of guns equipped with LCMs were statistically insignificant in chi-square tests.

Investigation of pre-post changes for handguns revealed an inconsistent pattern (Figure 8-3). LCM handguns dropped initially after the ban, declining from 26% of handguns in 1992-1993 to 18% in 1995-1996. However, they rebounded after 1996, reaching a peak of 30% of handguns in 1999-2000 before declining to 19% in 2001-2002.

For the entire post-ban period, the share of handguns with LCMs was about 15% lower than in the pre-ban period (Table 8-3, panel B). By the two most recent post-ban years (2001-2002), LCM use had dropped 26% from the pre-ban years (Table 8-3, panel C). These changes were not statistically significant, but the samples of LCM handguns were rather small for rigorous statistical testing. Even so, it seems premature to conclude

that there has been a lasting reduction in LCM use in Alaska. LCM use in 2001-2002 was somewhat higher than that immediately following the ban in 1995-1996, after which there was a substantial rebound. Considering the inconsistency of post-ban patterns, further follow-up seems warranted before making definitive conclusions about LCM use in Alaska.

Figure 8-3. Police Recoveries of Handguns Equipped With Large Capacity Magazines in Anchorage (Alaska), 1992-2002



8.3. Milwaukee

LCM guns accounted for 21% of guns recovered in Milwaukee murder investigations from 1991 to 1993 (Table 8-4, panel A). Following the ban, this figure rose until reaching a plateau of over 36% in 1997 and 1998 (Figure 8-4). On average, the share of guns with LCMs grew 55% from 1991-1993 to 1995-1998, a trend that was driven by LCM handguns (Table 8-4, panels A and B).⁸⁶ LCM rifles held steady at between 4% and 5% of the guns (Table 8-4, panel C).

We also analyzed a preliminary database on 48 guns used in murders during 2000 and 2001 (unlike the 1991-1998 database, this database did not include information on other guns recovered during the murder investigations). About 11% of these guns were LCM guns, as compared to 19% of guns used in murders from 1991 to 1993 (analyses not shown). However, nearly a quarter of the 2000-2001 records were missing information on magazine capacity.⁸⁷ Examination of the types and models of guns with

⁸⁶ LCM guns also increased as share of guns that were used in the murders (the full sample results discussed in the text include all guns recovered during the investigations).

⁸⁷ Magazine capacity was missing for less than 4% of the records in earlier years.

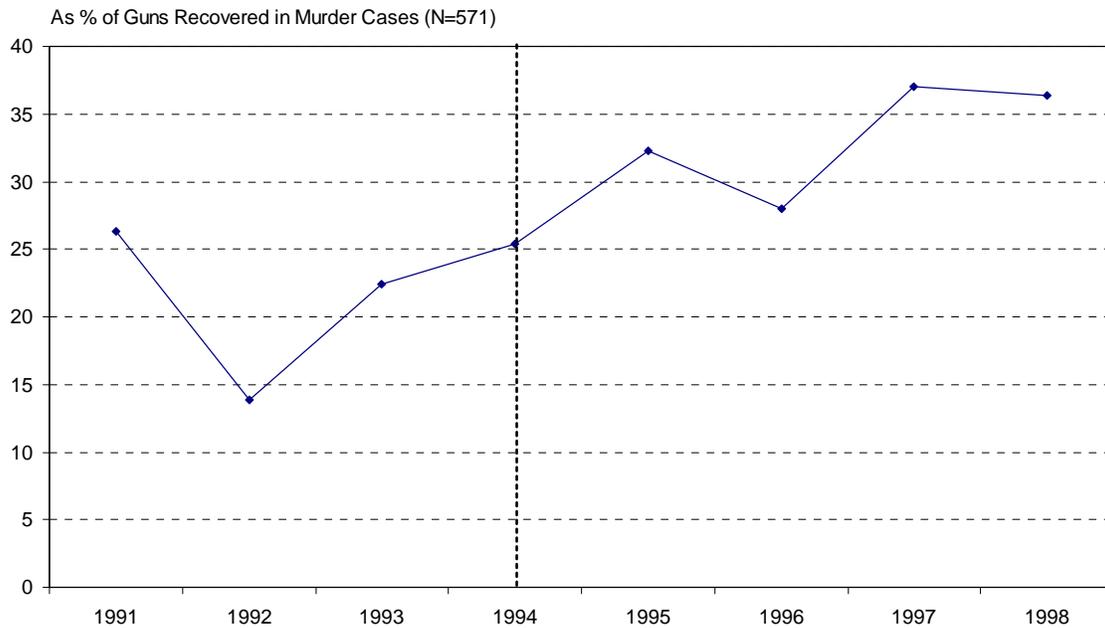
unidentified magazines suggested that as many as 17% of guns used in murders during 2000 and 2001 may have been LCM guns (based on all those that either had LCMs, were models sold with LCMs prior to the ban, or were unidentified semiautomatics). While this still suggests a drop in LCM use from the peak levels of the late 1990s (26% of guns used in murders from 1995 to 1998 had LCMs), it is not clear that LCM use has declined significantly below pre-ban levels.

Table 8-4. Trends in Police Recoveries of Firearms Equipped With Large Capacity Magazines in Murder Cases, Milwaukee County, 1991-1998

	<u>Pre-Ban Period</u>	<u>Post-Ban Period</u>	<u>Change</u>
	Jan. 1991-Dec. 1993	Jan. 1995-Dec. 1998	
<u>A. All LCM Guns</u>			
Total	51	83	
Annual Mean	17	20.75	22%
LCM Guns as % of All Guns	20.9%	32.42%	55%*
<u>B. LCM Handguns</u>			
Total	40	71	
Annual Mean	13.33	17.75	33%
LCM Handguns as % of All Guns	16.39%	27.73%	69%*
<u>C. LCM Rifles</u>			
Total	11	12	
Annual Mean	3.67	3	-18%
LCM Rifles as % of All Guns	4.51%	4.69%	4%

* Chi-square p level < .01 (changes in percentages of guns equipped with LCMs were tested for statistical significance)

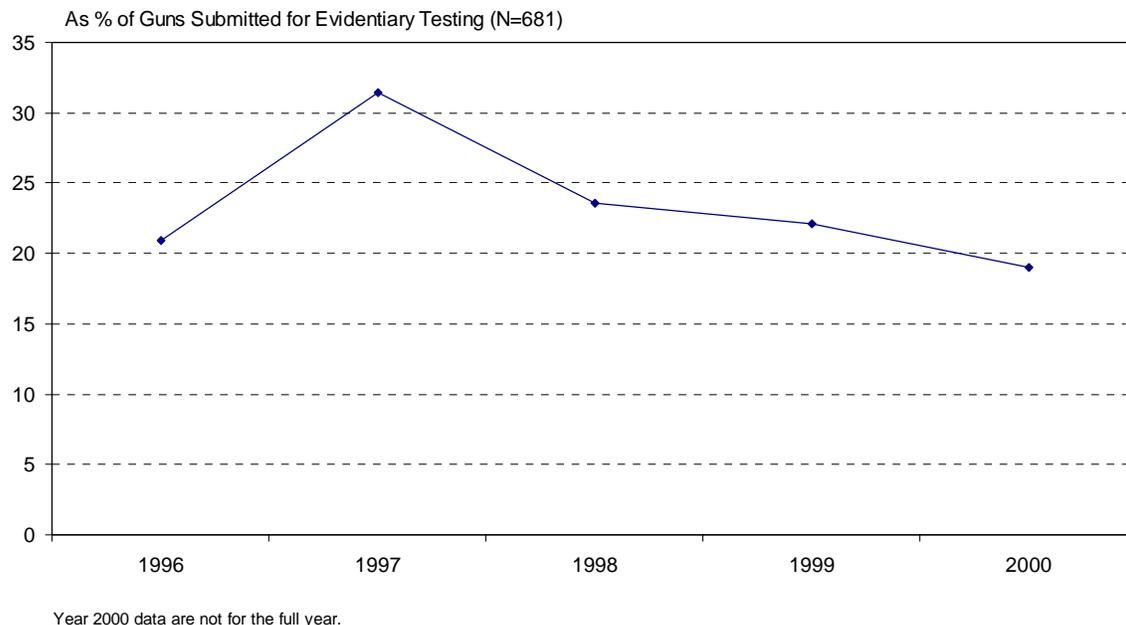
Figure 8-4. Recoveries of Guns Equipped With Large Capacity Magazines in Milwaukee County Murder Cases, 1991-1998



8.4. Louisville

The Louisville LCM data are all post-ban (1996-2000), so we cannot make pre-post comparisons. Nonetheless, the share of crime guns with LCMs in Louisville (24%) was within the range of that observed in the other cities during this period. And similar to post-ban trends in the other sites, LCM recoveries peaked in 1997 before leveling off and remaining steady through the year 2000 (Figure 8-5). LCM rifles dropped 21% as a share of crime guns between 1996 and 2000 (analyses not shown), but there were few in the database, and they never accounted for more than 6.2% of guns in any year.

Figure 8-5. Police Recoveries of Guns Equipped With Large Capacity Magazines in Louisville (Kentucky), 1996-2000



8.5. Summary

Despite a doubling of handgun LCM prices between 1993 and 1995 and a 40% increase in rifle LCM prices from 1993 to 1994, criminal use of LCMs was rising or steady through at least the latter 1990s, based on police recovery data from four jurisdictions studied in this chapter. These findings are also consistent with an earlier study finding no decline in seizures of LCM guns from juveniles in Washington, DC in the year after the ban (Koper, 2001).⁸⁸ Post-2000 data, though more limited and inconsistent, suggest that LCM use may be dropping from peak levels of the late 1990s but provide no definitive evidence of a drop below pre-ban levels.⁸⁹ These trends have been driven primarily by LCM handguns, which are used in crime roughly three times as

⁸⁸ From 1991 to 1993, 16.4% of guns recovered from juveniles in Washington, DC had LCMs (14.2% had LCMs in 1993). In 1995, this percentage increased to 17.1%. We did not present these findings in this chapter because the data were limited to guns recovered from juveniles, the post-ban data series was very short, and the gun markets supplying DC and Baltimore are likely to have much overlap (Maryland is a leading supplier of guns to DC – see ATF, 1997; 1999).

⁸⁹ We reran selected key analyses with the Baltimore, Milwaukee, and Louisville data after excluding .22 caliber guns, some of which could have been equipped with attached tubular magazines that are exempted from the LCM ban, and obtained results consistent with those reported in the text. It was possible to identify these exempted magazines in the Anchorage data. When they were removed from Anchorage's LCM count, the general pattern in use of banned LCMs was similar to that presented in the main 1995-2002 analysis: guns with banned LCMs rose, reaching a peak of 21% of crime guns in 1999-2000, before declining slightly to 19% in 2001-2002.

often as LCM rifles. Nonetheless, there has been no consistent reduction in the use of LCM rifles either.

The observed patterns are likely due to several factors: a hangover from pre-ban growth in the production and marketing of LCM guns (Cook and Ludwig, 1997, pp. 5-6; Wintemute, 1996);⁹⁰ the low cost of LCMs relative to the firearms they complement, which seems to make LCM use less sensitive to prices than is firearm use;⁹¹ the utility that gun users, particularly handgun users, attach to LCMs; a plentiful supply of grandfathered LCMs, likely enhanced by a pre-ban surge in production (though this has not been documented) and the importation of millions of foreign LCMs since the ban;⁹² thefts of LCM firearms (see Roth and Koper, 1997, Chapter 4); or some combination of these factors.⁹³ However, it is worth noting that our analysis did not reveal an upswing in use of LCM guns following the surge of LCM importation in 1999 (see the previous chapter). It remains to be seen whether recent imports will have a demonstrable effect on patterns of LCM use.

Finally, we must be cautious in generalizing these results to the nation because they are based on a small number of non-randomly selected jurisdictions. Nonetheless, the consistent failure to find clear evidence of a pre-post drop in LCM use across these geographically diverse locations strengthens the inference that the findings are indicative of a national pattern.

⁹⁰ To illustrate this trend, 38% of handguns acquired by gun owners during 1993 and 1994 were equipped with magazines holding 10 or more rounds, whereas only 14% of handguns acquired before 1993 were so equipped (Cook and Ludwig, 1997, pp. 5-6).

⁹¹ Although elevated post-ban prices did not suppress use of LCMs, a more subtle point is that LCM use rose in most of these locations between 1995 and 1998, as LCM prices were falling from their peak levels of 1994-1995. Therefore, LCM use may have some sensitivity to price trends.

⁹² However, we do not have the necessary data to determine if LCMs used in crime after the ban were acquired before or after the ban.

⁹³ In light of these considerations, it is conceivable that the ban slowed the rate of growth in LCM use, accelerated it temporarily (due to a pre-ban production boom), or had no effect. We do not have the data necessary to examine this issue rigorously. Moreover, the issue might be regarded as somewhat superfluous; the more critical point would seem to be that nearly a decade after the ban, LCM use has still not declined demonstrably below pre-ban levels.

9. THE CONSEQUENCES OF CRIMES WITH ASSAULT WEAPONS AND LARGE CAPACITY MAGAZINES

One of the primary considerations motivating passage of the ban on AWs and LCMs was a concern over the perceived dangerousness of these guns and magazines. In principal, semiautomatic weapons with LCMs enable offenders to fire high numbers of shots rapidly, thereby potentially increasing both the number of person wounded per gunfire incident (including both intended targets and innocent bystanders) and the number of gunshot victims suffering multiple wounds, both of which would increase deaths and injuries from gun violence. Ban advocates also argued that the banned AWs possessed additional features conducive to criminal applications.

The findings of the previous chapters suggest that it is premature to make definitive assessments of the ban's impact on gun violence. Although criminal use of AWs has declined since the ban, this reduction was offset through at least the late 1990s by steady or rising use of other guns equipped with LCMs. As argued previously, the LCM ban has greater potential for reducing gun deaths and injuries than does the AW ban. Guns with LCMs – of which AWs are only a subset – were used in up to 25% of gun crimes before the ban, whereas AWs were used in no more than 8% (Chapter 3). Furthermore, an LCM is arguably the most important feature of an AW. Hence, use of guns with LCMs is probably more consequential than use of guns with other military-style features, such as flash hiders, folding rifle stocks, threaded barrels for attaching a silencers, and so on.⁹⁴

This is not to say that reducing use of AWs will have no effect on gun crime; a decline in the use of AWs does imply fewer crimes with guns having particularly large magazines (20 or more rounds) and other military-style features that could facilitate some crimes. However, it seems that any such effects would be outweighed, or at least

⁹⁴ While it is conceivable that changing features of AWs other than their magazines might prevent some gunshot victimizations, available data provide little if any empirical basis for judging the likely size of such effects. Speculatively, some of the most beneficial weapon redesigns may be the removal of folding stocks and pistol grips from rifles. It is plausible that some offenders who cannot obtain rifles with folding stocks (which make the guns more concealable) might switch to handguns, which are more concealable but generally cause less severe wounds (e.g. see DiMaio, 1985). However, such substitution patterns cannot be predicted with certainty. Police gun databases rarely have information sufficiently detailed to make assessments of changes over time in the use of weapons with specific features like folding stocks. Based on informal assessments, there was no consistent pattern in post-ban use of rifles (as a share of crime guns) in the local databases examined in the prior chapters (also see the specific comments on LCM rifles in the previous chapters).

Pistol grips enhance the ability of shooters to maintain control of a rifle during rapid, “spray and pray” firing (e.g., see Violence Policy Center, 2003). (Heat shrouds and forward handgrips on APs serve the same function.) While this feature may prove useful in military contexts (e.g., firefights among groups at 100 meters or less – see data of the U.S. Army's Operations Research Office as cited in Violence Policy Center, 2003), it is unknown whether civilian attacks with semiautomatic rifles having pistol grips claim more victims per attack than do those with other semiautomatic rifles. At any rate, most post-ban AR-type rifles still have pistol grips. Further, the ban does not count a stock thumbhole grip, which serves the same function as a pistol grip (e.g., see the illustration of LCMM rifles in Chapter 2), as an AR feature.

obscured, by the wider effects of LCM use, which themselves are likely to be small at best, as we argue below.⁹⁵

Because offenders can substitute non-banned guns and small magazines for banned AWs and LCMs, there is not a clear rationale for expecting the ban to reduce assaults and robberies with guns.⁹⁶ But by forcing AW and LCM offenders to substitute non-AWs with small magazines, the ban might reduce the number of shots fired per gun attack, thereby reducing both victims shot per gunfire incident and gunshot victims sustaining multiple wounds. In the following sections, we consider the evidence linking high-capacity semiautomatics and AWs to gun violence and briefly examine recent trends in lethal and injurious gun violence.

9.1. The Spread of Semiautomatic Weaponry and Trends in Lethal and Injurious Gun Violence Prior to the Ban

Nationally, semiautomatic handguns grew from 28% of handgun production in 1973 to 80% in 1993 (Zawitz, 1995, p. 3). Most of this growth occurred from the late 1980s onward, during which time the gun industry also increased marketing and production of semiautomatics with LCMs (Wintemute, 1996). Likewise, semiautomatics grew as a percentage of crime guns (Koper, 1995; 1997), implying an increase in the average firing rate and ammunition capacity of guns used in crime.⁹⁷

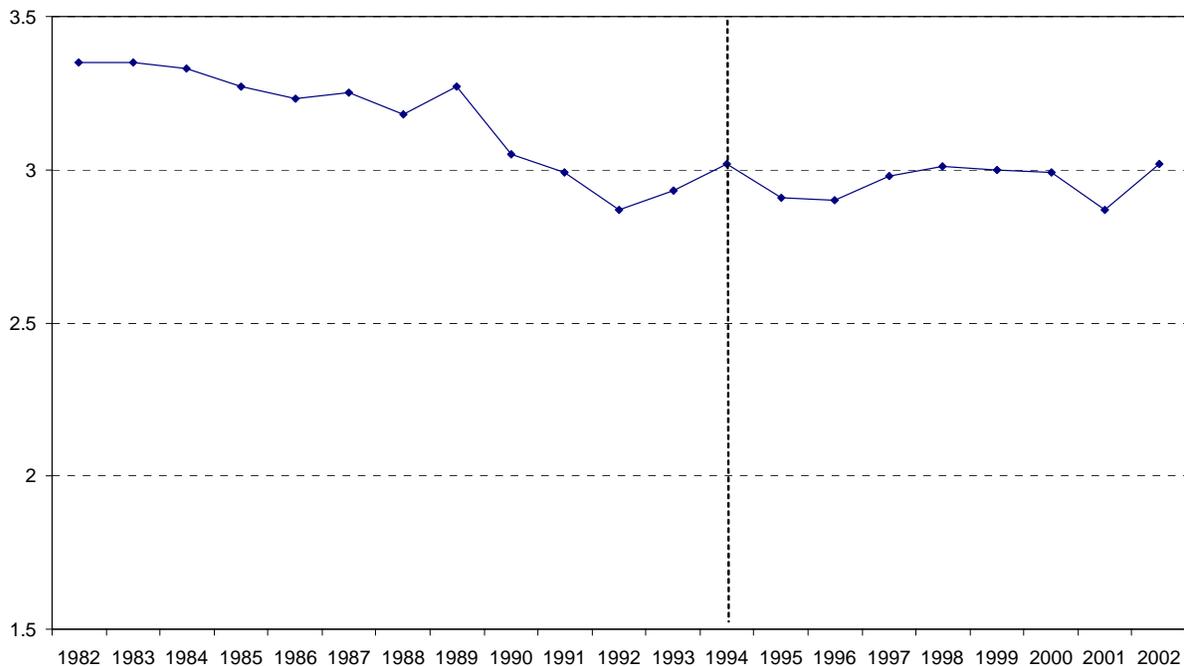
⁹⁵ On a related note, a few studies suggest that state-level AW bans have not reduced crime (Koper and Roth, 2001a; Lott, 2003). This could be construed as evidence that the federal AW ban will not reduce gunshot victimizations without reducing LCM use because the state bans tested in those studies, as written at the time, either lacked LCM bans or had LCM provisions that were less restrictive than that of the federal ban. (New Jersey's 1990 AW ban prohibited magazines holding more than 15 rounds. AP bans passed by Maryland and Hawaii prohibited magazines holding more than 20 rounds and pistol magazines holding more than 10 rounds, respectively, but these provisions did not take effect until just a few months prior to the federal ban.) However, it is hard to draw definitive conclusions from these studies for a number of reasons, perhaps the most salient of which are the following: there is little evidence on how state AW bans affect the availability and use of AWs (the impact of these laws is likely undermined to some degree by the influx of AWs from other states, a problem that was probably more pronounced prior to the federal ban when the state laws were most relevant); studies have not always examined the effects of these laws on gun homicides and shootings, the crimes that are arguably most likely to be affected by AW bans (see discussion in the main text); and the state AW bans that were passed prior to the federal ban (those in California, New Jersey, Hawaii, Connecticut, and Maryland) were in effect for only three months to five years (two years or less in most cases) before the imposition of the federal ban, after which they became largely redundant with the federal legislation and their effects more difficult to predict and estimate.

⁹⁶ One might hypothesize that the firepower provided by AWs and other semiautomatics with LCMs emboldens some offenders to engage in aggressive behaviors that prompt more shooting incidents. On the other hand, these weapons might also prevent some acts of violence by intimidating adversaries, thus discouraging attacks or resistance. We suspect that firepower does influence perceptions, considering that many police departments have upgraded their weaponry in recent years – often adopting semiautomatics with LCMs – because their officers felt outgunned by offenders. However, hypotheses about gun types and offender behavior are very speculative, and, pending additional research on such issues, it seems prudent to focus on indicators with stronger theoretical and empirical foundations.

⁹⁷ Revolvers, the most common type of non-semiautomatic handgun, typically hold only 5 or 6 rounds (and sometimes up to 9). Semiautomatic pistols, in contrast, hold ammunition in detachable magazines that, prior to the ban, typically held 5 to 17 bullets and sometimes upwards of 30 (Murtz et al., 1994).

The impact of this trend is debatable. Although the gun homicide rate rose considerably during the late 1980s and early 1990s (Bureau of Justice Statistics, 1994, p. 13), the percentage of violent gun crimes resulting in death was declining (see Figure 9-1 and the related discussion in section 9.3). Similarly, the percentage of victims killed or wounded in handgun discharge incidents declined from 27% during the 1979-1987 period to 25% for the 1987-1992 period (calculated from Rand, 1990, p. 5; 1994, p. 2) as semiautomatics were becoming more common crime weapons.⁹⁸ On the other hand, an increasing percentage of gunshot victims died from 1992 to 1995 according to hospital data (Cherry et al., 1998), a trend that could have been caused in part by a higher number of gunshot victims with multiple wounds (also see McGonigal et al., 1993). Most notably, the case fatality rate for assaultive gunshot cases involving 15 to 24-year-old males rose from 15.9% in late 1993 to 17.5% in early 1995 (p. 56).

Figure 9-1. Percentage of Violent Gun Crimes Resulting in Death (National), 1982-2002



Based on gun homicides, gun robberies, and gun assaults reported in the Uniform Crime Reports and Supplemental Homicide Reports.

⁹⁸ A related point is that there was a general upward trend in the average number of shots fired by offenders in gunfights with New York City police from the late 1980s through 1992 (calculated from Goehl, 1993, p. 51). However, the average was no higher during this time than during many years of the early 1980s and 1970s.

Some researchers have inferred links between the growing use of semiautomatics in crime and the rise of both gun homicides and bystander shootings in a number of cities during the late 1980s and early 1990s (Block and Block, 1993; McGonigal et al., 1993; Sherman et al., 1989; Webster et al., 1992). A study in Washington, DC, for example, reported increases in wounds per gunshot victim and gunshot patient mortality during the 1980s that coincided with a reported increase in the percentage of crime guns that were semiautomatics (Webster et al., 1992).

Nevertheless, changes in offender behavior, coupled with other changes in crime guns (e.g., growing use of large caliber handguns – see Caruso et al., 1999; Koper, 1995; 1997; Wintemute, 1996), may have been key factors driving such trends. Washington, DC, for example, was experiencing an exploding crack epidemic at the time of the aforementioned study, and this may have raised the percentage of gun attacks in which offenders had a clear intention to injure or kill their victims. Moreover, studies that attempted to make more explicit links between the use of semiautomatic firearms and trends in lethal gun violence via time series analysis failed to produce convincing evidence of such links (Koper, 1995; 1997). However, none of the preceding research related specific trends in the use of AWs or LCMs to trends in lethal gun violence.

9.2. Shots Fired in Gun Attacks and the Effects of Weaponry on Attack Outcomes

The evidence most directly relevant to the potential of the AW-LCM ban to reduce gun deaths and injuries comes from studies examining shots fired in gun attacks and/or the outcomes of attacks involving different types of guns. Unfortunately, such evidence is very sparse.

As a general point, the faster firing rate and larger ammunition capacities of semiautomatics, especially those equipped with LCMs, have the potential to affect the outcomes of many gun attacks because gun offenders are not particularly good shooters. Offenders wounded their victims in no more than 29% of gunfire incidents according to national, pre-ban estimates (computed from Rand, 1994, p. 2; also see estimates presented later in this chapter). Similarly, a study of handgun assaults in one city revealed a 31% hit rate per shot, based on the sum totals of all shots fired and wounds inflicted (Reedy and Koper, 2003, p. 154). Other studies have yielded hit rates per shot ranging from 8% in gunfights with police (Goehl, 1993, p. 8) to 50% in mass murders (Kleck, 1997, p. 144). Even police officers, who are presumably certified and regularly re-certified as proficient marksman and who are almost certainly better shooters than are average gun offenders, hit their targets with only 22% to 39% of their shots (Kleck, 1991, p. 163; Goehl, 1993). Therefore, the ability to deliver more shots rapidly should raise the likelihood that offenders hit their targets, not to mention innocent bystanders.⁹⁹

⁹⁹ However, some argue that this capability is offset to some degree by the effects of recoil on shooter aim, the limited number of shots fired in most criminal attacks (see below), and the fact that criminals using non-semiautomatics or semiautomatics with small magazines usually have the time and ability to deliver multiple shots if desired (Kleck, 1991, pp. 78-79).

A few studies have compared attacks with semiautomatics, sometimes specifically those with LCMs (including AWs), to other gun assaults in terms of shots fired, persons hit, and wounds inflicted (see Tables 9-1 and 9-2). The most comprehensive of these studies examined police reports of attacks with semiautomatic pistols and revolvers in Jersey City, New Jersey from 1992 through 1996 (Reedy and Koper, 2003), finding that use of pistols resulted in more shots fired and higher numbers of gunshot victims (Table 9-1), though not more gunshot wounds per victim (Table 9-2).¹⁰⁰ Results implied there would have been 9.4% fewer gunshot victims overall had semiautomatics not been used in any of the attacks. Similarly, studies of gun murders in Philadelphia (see McGonigal et al., 1993 in Table 9-1) and a number of smaller cities in Pennsylvania, Ohio, and Iowa (see Richmond et al., 2003 in Table 9-2) found that attacks with semiautomatics resulted in more shots fired and gunshot wounds per victim. An exception is that the differential in shots fired between pistol and revolver cases in Philadelphia during 1990 did not exist for cases that occurred in 1985, when semiautomatics and revolvers had been fired an average of 1.6 and 1.9 times, respectively. It is not clear whether the increase in shots fired for pistol cases from 1985 to 1990 was due to changes in offender behavior, changes in the design or quality of pistols (especially an increase in the use of models with LCMs – see Wintemute, 1996), the larger sample for 1990, or other factors.

¹⁰⁰ But unlike other studies that have examined wounds per victim (see Table 9-2), this study relied on police reports of wounds inflicted rather than medical reports, which are likely to be more accurate.

Table 9-1. Shots Fired and Victims Hit in Gunfire Attacks By Type of Gun and Magazine

Data Source	Measure	Outcome
Gun attacks with semiautomatic pistols and revolvers, Jersey City, 1992-1996 ^a	Shots Fired	Avg. = 3.2 – 3.7 (n=165 pistol cases) * Avg. = 2.3 – 2.6 (n=71 revolver cases) *
Gun homicides with semiautomatic pistols and revolvers, Philadelphia, 1985 and 1990 ^b	Shots Fired	Avg. = 1.6 (n=21 pistol cases, 1985) Avg. = 1.9 (n=57 revolver cases, 1985) Avg. = 2.7 (n=95 pistol cases, 1990) Avg. = 2.1 (n=108 revolver cases, 1990)
Gun attacks with semiautomatic pistols and revolvers, Jersey City, 1992-1996 ^a	Victims Hit	Avg. = 1.15 (n=95 pistol cases) * Avg. = 1.0 (n=40 revolver cases) *
Mass shootings with AWs, semiautomatics having LCMs, or other guns, 6+ dead or 12+ shot, United States, 1984-1993 ^c	Victims Hit	Avg. = 29 (n=6 AW/LCM cases) Avg. = 13 (n=9 non-AW/LCM cases)
Self-reported gunfire attacks by state prisoners with AWs, other semiautomatics, and non-semiautomatic firearms, United States, 1997 or earlier ^d	% of Attacks With Victims Hit	19.5% (n=72 AW or machine gun cases) 22.3% (n=419 non-AW, semiautomatic cases) 23.3% (n=608 non-AW, non-semiautomatic cases)

a. Reedy and Koper (2003)

b. McGonigal et al. (1993)

c. Figures calculated by Koper and Roth (2001a) based on data presented by Kleck (1997, p. 144)

d. Calculated from Harlow (2001, p. 11). (Sample sizes are based on unpublished information provided by the author of the survey report.)

* Pistol/revolver differences statistically significant at p<.05 (only Reedy and Koper [2003] and Harlow [2001] tested for statistically significant differences). The shots fired ranges in Reedy and Koper are based on minimum and maximum estimates.

Table 9-2. Gunshot Wounds Per Victim By Type of Gun and Magazine

Data Source	Measure	Outcome
Gun attacks with semiautomatic pistols and revolvers, Jersey City, 1992-1996 ^a	Gunshot Wounds	Avg. = 1.4 (n=107 pistol victims) Avg. = 1.5 (n=40 revolver victims)
Gun homicides with semiautomatic pistols and revolvers, Iowa City (IA), Youngstown (OH), and Bethlehem (PA), 1994-1998 ^b	Gunshot Wounds	Avg. = 4.5 total (n=212 pistol victims)* Avg. = 2.9 entry Avg. = 2.0 total (n=63 revolver victims)* Avg. = 1.5 entry
Gun homicides with assault weapons (AWs), guns having large capacity magazines (LCMs), and other firearms, Milwaukee, 1992-1995 ^c	Gunshot Wounds	Avg. = 3.23 (n=30 LCM victims) ** Avg. = 3.14 (n=7 AW victims) Avg. = 2.08 (n=102 non-AW/LCM victims)**

a. Reedy and Koper (2003)

b. Richmond et al. (2003)

c. Roth and Koper (1997, Chapter 6)

* Pistol/revolver differences statistically significant at p<.01.

** The basic comparison between LCM victims and non-AW/LCM victims was moderately significant (p<.10) with a one-tailed test. Regression results (with a slightly modified sample) revealed a difference significant at p=.05 (two-tailed test). Note that the non-LCM group included a few cases involving non-banned LCMs (.22 caliber attached tubular devices).

Also, a national survey of state prisoners found that, contrary to expectations, offenders who reported firing on victims with AWs and other semiautomatics were no more likely to report having killed or injured victims than were other gun offenders who reported firing on victims (Table 9-1). However, the measurement of guns used and attack outcomes were arguably less precise in this study, which was based on offender self-reports, than in other studies utilizing police and medical reports.¹⁰¹

Attacks with AWs or other guns with LCMs may be particularly lethal and injurious, based on very limited evidence. In mass shooting incidents (defined as those in which at least 6 persons were killed or at least 12 were wounded) that occurred during the decade preceding the ban, offenders using AWs and other semiautomatics with LCMs (sometimes in addition to other guns) claimed an average of 29 victims in comparison to an average of 13 victims for other cases (Table 9-1). (But also see the study discussed in the preceding paragraph in regards to victims hit in AW cases.)

Further, a study of Milwaukee homicide victims from 1992 through 1995 revealed that those killed with AWs were shot 3.14 times on average, while those killed with any

¹⁰¹ See the discussion of self-reports and AW use in Chapter 3.

gun having an LCM were shot 3.23 times on average (Table 9-2). In contrast, victims shot with guns having small magazines had only 2.1 wounds on average. If such a wound differential can be generalized to other gun attacks – if, that is, both fatal and non-fatal LCM gunshot victims are generally hit one or more extra times – then LCM use could have a considerable effect on the number of gunshot victims who die. To illustrate, the fatality rate among gunshot victims in Jersey City during the 1990s was 63% higher for those shot twice than for those shot once (26% to 16%) (Koper and Roth, 2001a; 2001b). Likewise, fatality rates are 61% higher for patients with multiple chest wounds than for patients with a single chest wound (49% to 30.5%), based on a Washington, DC study (Webster et al., 1992, p. 696).

Similar conclusions can also be inferred indirectly from the types of crimes involving LCM guns. To illustrate, handguns associated with gunshot victimizations in Baltimore (see the description of the Baltimore gun and magazine data in the preceding chapter) are 20% to 50% more likely to have LCMs than are handguns associated with other violent crimes, controlling for weapon caliber (Table 9-3). This difference may be due to higher numbers of shots and hits in crimes committed with LCMs, although it is also possible that offenders using LCMs are more likely to fire on victims. But controlling for gunfire, guns used in shootings are 17% to 26% more likely to have LCMs than guns used in gunfire cases resulting in no wounded victims (perhaps reflecting higher numbers of shots fired and victims hit in LCM cases), and guns linked to murders are 8% to 17% more likely to have LCMs than guns linked to non-fatal gunshot victimizations (perhaps indicating higher numbers of shots fired and wounds per victim in LCM cases).¹⁰² These differences are not all statistically significant, but the pattern is consistent. And as discussed in Chapter 3, AWs account for a larger share of guns used in mass murders and murders of police, crimes for which weapons with greater firepower would seem particularly useful.

¹⁰² Cases with and without gunfire and gunshot victims were approximated based on offense codes contained in the gun seizure data (some gunfire cases not resulting in wounded victims may not have been identified as such, and it is possible that some homicides were not committed with the guns recovered during the investigations). In order to control for caliber effects, we focused on 9mm and .38 caliber handguns. Over 80% of the LCM handguns linked to violent crimes were 9mm handguns. Since all (or virtually all) 9mm handguns are semiautomatics, we also selected .38 caliber guns, which are close to 9mm in size and consist almost entirely of revolvers and derringers.

The disproportionate involvement of LCM handguns in injury and death cases is greatest in the comparisons including both 9mm and .38 caliber handguns. This may reflect a greater differential in average ammunition capacity between LCM handguns and revolvers/derringers than between LCM handguns and other semiautomatics. The differential in fatal and non-fatal gunshot victims may also be due to caliber effects; 9mm is generally a more powerful caliber than .38 based on measures like kinetic energy or relative stopping power (e.g., see DiMaio, 1985, p. 140; Warner 1995, p. 223; Wintemute, 1996, p. 1751).

Table 9-3. Probabilities That Handguns Associated With Murders, Non-Fatal Shootings, and Other Violent Crimes Were Equipped With Large Capacity Magazines in Baltimore, 1993-2000

<u>Handgun Sample</u>	<u>% With LCM</u>	<u>% Difference (#2 Relative to #1)</u>
A. Handguns Used in Violent Crimes With and Without Gunshot Injury		
1) 9mm and .38: violence, no gunshot victims	23.21%	
2) 9mm and .38: violence with gunshot victims	34.87%	50%*
1) 9mm: violence, no gunshot victims	52.92%	
2) 9mm: violence with gunshot victims	63.24%	20%*
B. Handguns Used in Gunfire Cases With and Without Gunshot Injury		
1) 9mm and .38: gunfire, no gunshot victims	27.66%	
2) 9mm and .38: gunfire with gunshot victims	34.87%	26%
1) 9mm: gunfire, no gunshot victims	54.17%	
2) 9mm: gunfire with gunshot victims	63.24%	17%
C. Handguns Used in Fatal Versus Non-Fatal Gunshot Victimizations		
1) 9mm and .38: non-fatal gunshot victims	32.58%	
2) 9mm and .38: homicides	38.18%	17%
1) 9mm: non-fatal gunshot victims	61.14%	
2) 9mm: homicides	66.04%	8%

* Statistically significant difference at p<.01 (chi-square).

The findings of the preceding studies are subject to numerous caveats. There were few if any attempts to control for characteristics of the actors or situations that might have influenced weapon choices and/or attack outcomes.¹⁰³ Weapons data were typically missing for substantial percentages of cases. Further, many of the comparisons in the tables were not tested for statistical significance (see the notes to Tables 9-1 and 9-2).¹⁰⁴

Tentatively, nonetheless, the evidence suggests more often than not that attacks with semiautomatics, particularly those equipped with LCMs, result in more shots fired, leading to both more injuries and injuries of greater severity. Perhaps the faster firing rate and larger ammunition capacities afforded by these weapons prompt some offenders to fire more frequently (i.e., encouraging what some police and military persons refer to as a “spray and pray” mentality). But this still begs the question of whether a 10-round limit on magazine capacity will affect the outcomes of enough gun attacks to measurably reduce gun injuries and deaths.

¹⁰³ In terms of offender characteristics, recall from Chapter 3 that AP buyers are more likely than other gun buyers to have criminal histories and commit subsequent crimes. This does not seem to apply, however, to the broader class of semiautomatic users: handgun buyers with and without criminal histories tend to buy pistols in virtually the same proportions (Wintemute et al., 1998b), and youthful gun offenders using pistols and revolvers have very comparable criminal histories (Sheley and Wright, 1993b, p. 381). Further, semiautomatic users, including many of those using AWs, show no greater propensity to shoot at victims than do other gun offenders (Harlow, 2001, p. 11; Reedy and Koper, 2003). Other potential confounders to the comparisons in Tables 9-1 and 9-2 might include shooter age and skill, the nature of the circumstances (e.g., whether the shooting was an execution-style shooting), the health of the victim(s), the type of location (e.g., indoor or outdoor location), the distance between the shooter and intended victim(s), the presence of multiple persons who could have been shot intentionally or accidentally (as bystanders), and (in the mass shooting incidents) the use of multiple firearms.

¹⁰⁴ Tables 9-1 and 9-2 present the strongest evidence from the available studies. However, there are additional findings from these studies and others that, while weaker, are relevant. Based on gun model information available for a subset of cases in the Jersey City study, there were 12 gunfire cases involving guns manufactured with LCMs before the ban (7 of which resulted in wounded victims) and 94 gunfire cases involving revolvers or semiautomatic models without LCMs. Comparisons of these cases produced results similar to those of the main analysis: shot fired estimates ranged from 2.83 to 3.25 for the LCM cases and 2.22 to 2.6 for the non-LCM cases; 1.14 victims were wounded on average in the LCM gunshot cases and 1.06 in the non-LCM gunshot cases; and LCM gunshot victims had 1.14 wound on average, which, contrary to expectations, was less than the 1.47 average for other gunshot victims.

The compilation of mass shooting incidents cited in Table 9-1 had tentative shots fired estimates for 3 of the AW-LCM cases and 4 of the other cases. The AW-LCM cases averaged 93 shots per incident, a figure two and a half times greater than the 36.5 shot average for the other cases.

Finally, another study of firearm mass murders found that the average number of victims killed (tallies did not include others wounded) was 6 in AW cases and 4.5 in other cases (Roth and Koper, 1997, Appendix A). Only 2 of the 52 cases studied clearly involved AWs (or very similar guns). However, the make and model of the firearm were available for only eight cases, so additional incidents may have involved LCMs; in fact, at least 35% of the cases involved unidentified semiautomatics. (For those cases in which at least the gun type and firing action were known, semiautomatics outnumbered non-semiautomatics by 6 to 1, perhaps suggesting that semiautomatics are used disproportionately in mass murders.)

9.2.1. Will a 10-Round Magazine Limit Reduce Gunshot Victimization?

Specific data on shots fired in gun attacks are quite fragmentary and often inferred indirectly, but they suggest that relatively few attacks involve more than 10 shots fired.¹⁰⁵ Based on national data compiled by the FBI, for example, there were only about 19 gun murder incidents a year involving four or more victims from 1976 through 1995 (for a total of 375) (Fox and Levin, 1998, p. 435) and only about one a year involving six or more victims from 1976 through 1992 (for a total of 17) (Kleck, 1997, p. 126). Similarly, gun murder victims are shot two to three times on average according to a number of sources (see Table 9-2 and Koper and Roth, 2001a), and a study at a Washington, DC trauma center reported that only 8% of all gunshot victims treated from 1988 through 1990 had five or more wounds (Webster et al., 1992, p. 696).

However, counts of victims hit or wounds inflicted provide only a lower bound estimate of the number of shots fired in an attack, which could be considerably higher in light of the low hit rates in gunfire incidents (see above).¹⁰⁶ The few available studies on shots fired show that assailants fire less than four shots on average (see sources in Table 9-1 and Goehl, 1993), a number well within the 10-round magazine limit imposed by the AW-LCM ban, but these studies have not usually presented the full distribution of shots fired for all cases, so it is usually unclear how many cases, if any, involved more than 10 shots.

An exception is the aforementioned study of handgun murders and assaults in Jersey City (Reedy and Koper, 2003). Focusing on cases for which at least the type of handgun (semiautomatic, revolver, derringer) could be determined, 2.5% of the gunfire cases involved more than 10 shots.¹⁰⁷ These incidents – all of which involved pistols – had a 100% injury rate and accounted for 4.7% of all gunshot victims in the sample (see Figure 9-2). Offenders fired a total of 83 shots in these cases, wounding 7 victims, only 1 of whom was wounded more than once. Overall, therefore, attackers fired over 8 shots

¹⁰⁵ Although the focus of the discussion is on attacks with more than 10 shots fired, a gun user with a post-ban 10-round magazine can attain a firing capacity of 11 shots with many semiautomatics by loading one bullet into the chamber before loading the magazine.

¹⁰⁶ As a dramatic example, consider the heavily publicized case of Amadou Diallo, who was shot to death by four New York City police officers just a few years ago. The officers in this case fired upon Diallo 41 times but hit him with only 19 shots (a 46% hit rate), despite his being confined in a vestibule. Two of the officers reportedly fired until they had emptied their 16-round magazines, a reaction that may not be uncommon in such high-stress situations. In official statistics, this case will appear as having only one victim.

¹⁰⁷ The shots fired estimates were based on reported gunshot injuries, physical evidence (for example, shell casings found at the scene), and the accounts of witnesses and actors. The 2.5% figure is based on minimum estimates of shots fired. Using maximum estimates, 3% of the gunfire incidents involved more than 10 shots (Reedy and Koper, 2003, p. 154).

A caveat to these figures is that the federal LCM ban was in effect for much of the study period (which spanned January 1992 to November 1996), and a New Jersey ban on magazines with more than 15 rounds predated the study period. It is thus conceivable that these laws reduced attacks with LCM guns and attacks with more than 10 shots fired, though it seems unlikely that the federal ban had any such effect (see the analyses of LCM use presented in the previous chapter). Approximately 1% of the gunfire incidents involved more than 15 shots.

for every wound inflicted, suggesting that perhaps fewer persons would have been wounded had the offenders not been able to fire as often.¹⁰⁸

Figure 9-2. Attacks With More Than 10 Shots Fired

Jersey City Handgun Attacks, 1992-1996

- **2.5% - 3% of gunfire incidents involved 11+ shots**
 - **3.6% - 4.2% of semiauto pistol attacks**
- **100% injury rate**
- **Produced 4.7% of all gunshot wound victims**
- **8.3 shots per gunshot wound**

Based on data reported by Reedy and Koper (2003). Injury statistics based on the 2.5% of cases involving 11+ shots by minimum estimate.

Caution is warranted in generalizing from these results because they are based on a very small number of incidents (6) from one sample in one city. Further, it is not known if the offenders in these cases had LCMs (gun model and magazine information was very limited); they may have emptied small magazines, reloaded, and continued firing. But subject to these caveats, the findings suggest that the ability to deliver more than 10 shots without reloading may be instrumental in a small but non-trivial percentage of gunshot victimizations.

On the other hand, the Jersey City study also implies that eliminating AWs and LCMs might only reduce gunshot victimizations by up to 5%. And even this estimate is probably overly optimistic because the LCM ban cannot be expected to prevent all incidents with more than 10 shots. Consequently, any effects from the ban (should it be extended) are likely to be smaller and perhaps quite difficult to detect with standard statistical methods (see Koper and Roth, 2001a), especially in the near future, if recent patterns of LCM use continue.

9.3. Post-Ban Trends in Lethal and Injurious Gun Violence

Having established some basis for believing the AW-LCM ban could have at least a small effect on lethal and injurious gun violence, is there any evidence of such an effect to date? Gun homicides plummeted from approximately 16,300 in 1994 to 10,100 in 1999, a reduction of about 38% (see the Federal Bureau of Investigation's *Uniform Crime*

¹⁰⁸ These figures are based on a supplemental analysis not contained in the published study. We thank Darin Reedy for this analysis.

Reports). Likewise, non-fatal, assaultive gunshot injuries treated in hospitals nationwide declined one-third, from about 68,400 to under 46,400, between 1994 and 1998 (Gotsch et al., 2001, pp. 23-24). Experts believe numerous factors contributed to the recent drop in these and other crimes, including changing drug markets, a strong economy, better policing, and higher incarceration rates, among others (Blumstein and Wallman, 2000). Attributing the decline in gun murders and shootings to the AW-LCM ban is problematic, however, considering that crimes with LCMs appear to have been steady or rising since the ban. For this reason, we do not undertake a rigorous investigation of the ban's effects on gun violence.¹⁰⁹

But a more casual assessment shows that gun crimes since the ban have been no less likely to cause death or injury than those before the ban, contrary to what we might expect if crimes with AWs and LCMs had both declined. For instance, the percentage of violent gun crimes resulting in death has been very stable since 1990 according to national statistics on crimes reported to police (see Figure 9-1 in section 9.1).¹¹⁰ In fact, the percentage of gun crimes resulting in death during 2001 and 2002 (2.94%) was slightly higher than that during 1992 and 1993 (2.9%).

Similarly, neither medical nor criminological data sources have shown any post-ban reduction in the percentage of crime-related gunshot victims who die. If anything, this percentage has been higher since the ban, a pattern that could be linked in part to more multiple wound victimizations stemming from elevated levels of LCM use. According to medical examiners' reports and hospitalization estimates, about 20% of gunshot victims died nationwide in 1993 (Gotsch et al., 2001). This figure rose to 23% in 1996, before declining to 21% in 1998 (Figure 9-3).¹¹¹ Estimates derived from the Uniform Crime Reports and the Bureau of Justice Statistics' annual National Crime Victimization Survey follow a similar pattern from 1992 to 1999 (although the ratio of fatal to non-fatal cases is much higher in these data than that in the medical data) and also show a considerable increase in the percentage of gunshot victims who died in 2000 and 2001 (Figure 9-3).¹¹² Of course, changes in offender behavior or other changes in crime

¹⁰⁹ In our prior study (Koper and Roth 2001a; Roth and Koper, 1997, Chapter 6), we estimated that gun murders were about 7% lower than expected in 1995 (the first year after the ban), adjusting for pre-existing trends. However, the very limited post-ban data available for that study precluded a definitive judgment as to whether this drop was statistically meaningful (see especially Koper and Roth, 2001a). Furthermore, that analysis was based on the assumption that crimes with both AWs and LCMs had dropped in the short-term aftermath of the ban, an assumption called into question by the findings of this study. It is now more difficult to credit the ban with any of the drop in gun murders in 1995 or anytime since. We did not update the gun murder analysis because interpreting the results would be unavoidably ambiguous. Such an investigation will be more productive after demonstrating that the ban has reduced crimes with both AWs and LCMs.

¹¹⁰ The decline in this figure during the 1980s was likely due in part to changes in police reporting of aggravated assaults in recent decades (Blumstein, 2000). The ratio of gun murders to gun robberies rose during the 1980s, then declined and remained relatively flat during the 1990s.

¹¹¹ Combining homicide data from 1999 with non-fatal gunshot estimates for 2000 suggests that about 20% of gunshot victimizations resulted in death during 1999 and 2000 (Simon et al., 2002).

¹¹² The SHR/NCVS estimates should be interpreted cautiously because the NCVS appears to undercount non-fatal gunshot wound cases by as much as two-thirds relative to police data, most likely because it fails to represent adequately the types of people most likely to be victims of serious crime (i.e., young urban males who engage in deviant lifestyles) (Cook, 1985). Indeed, the rate of death among gunshot victims

weaponry (such as an increase in shootings with large caliber handguns) may have influenced these trends. Yet it is worth noting that multiple wound shootings were elevated over pre-ban levels during 1995 and 1996 in four of five localities examined during our first AW study, though most of the differences were not statistically significant (Table 9-4, panels B through E).

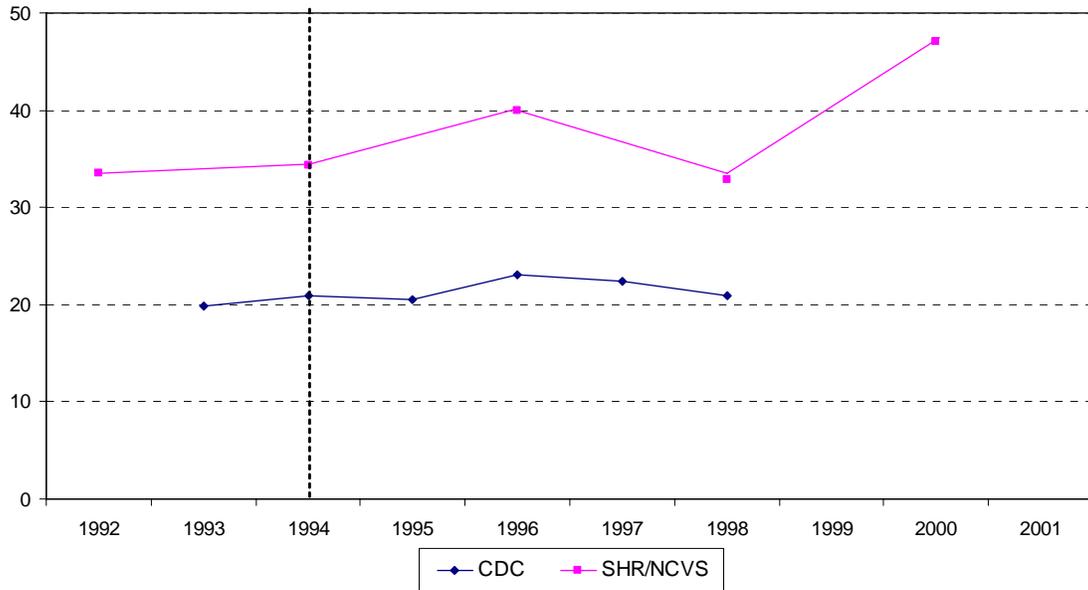
Another potential indicator of ban effects is the percentage of gunfire incidents resulting in fatal or non-fatal gunshot victimizations. If attacks with AWs and LCMs result in more shots fired and victims hit than attacks with other guns and magazines, we might expect a decline in crimes with AWs and LCMs to reduce the share of gunfire incidents resulting in victims wounded or killed. Measured nationally with UCR and NCVS data, this indicator was relatively stable at around 30% from 1992 to 1997, before rising to about 40% from 1998 through 2000 (Figure 9-4).¹¹³ Along similar lines, multiple victim gun homicides remained at relatively high levels through at least 1998, based on the national average of victims killed per gun murder incident (Table 9-4, panel A).¹¹⁴

appears much higher in the SHR/NCVS series than in data compiled from medical examiners and hospitals (see the CDC series in Figure 9-3). But if these biases are relatively consistent over time, the data may still provide useful insights into trends over time.

¹¹³ The NCVS estimates are based on a compilation of 1992-2002 data recently produced by the Inter-University Consortium for Political and Social Research (ICPSR study 3691). In 2002, only 9% of non-fatal gunfire incidents resulted in gunshot victimizations. This implies a hit rate for 2002 that was below pre-ban levels, even after incorporating gun homicide cases into the estimate. However, the 2002 NCVS estimate deviates quite substantially from earlier years, for which the average hit rate in non-fatal gunfire incidents was 24% (and the estimate for 2001 was 20%). Therefore, we did not include the 2002 data in our analysis. We used two-year averages in Figures 9-3 and 9-4 because the annual NCVS estimates are based on very small samples of gunfire incidents. The 2002 sample was especially small, so it seems prudent to wait for more data to become available before drawing conclusions about hit rates since 2001.

¹¹⁴ We thank David Huffer for this analysis.

Figure 9-3. Percentage of Gunshot Victimization Resulting in Death (National), 1992-2001



SHR/NCVS series based on two-year averages from the Supplemental Homicide Reports and National Crime Victimization Survey. CDC series based on homicide and hospitalization data from the Centers for Disease Control (reported by Gotsch et al. 2001).

Table 9-4. Short-Term, Post-Ban Changes in the Lethality and Injuriousness of Gun Violence: National and Local Indicators, 1994-1998^a

Measure and Location	Pre-Ban Period	Post-Ban Period	Change
A. Victims Per Gun Homicide Incident (National)	Jan. 1986-Sept. 1994 1.05 (N=106,668)	Oct. 1994-Dec. 1998 1.06 (N=47,511)	1%**
B. Wounds per Gun Homicide Victim: Milwaukee County	Jan. 1992-Aug. 1994 2.28 (N=282)	Sept. 1994-Dec. 1995 2.52 (N=136)	11%
C. Wounds Per Gun Homicide Victim: Seattle (King County)	Jan. 1992-Aug. 1994 2.08 (N=184)	Sept. 1994-Jun. 1996 2.46 (N=91)	18%
D. Wounds Per Gunshot Victim: Jersey City (NJ)	Jan. 1992-Aug. 94 1.42 (N=125)	Sept. 1994-Jun. 1996 1.39 (N=137)	-2%
E. % of Gun Homicide Victims With Multiple Wounds: San Diego County	Jan. 1992-Aug. 1994 41% (N=445)	Sept. 1994-Jun. 1996 43% (N=223)	5%
F. % of Non-Fatal Gunshot Victims With Multiple Wounds: Boston	Jan. 1992-Aug. 1994 18% (N=584)	Sept. 1994-Dec. 1995 24% (N=244)	33%*

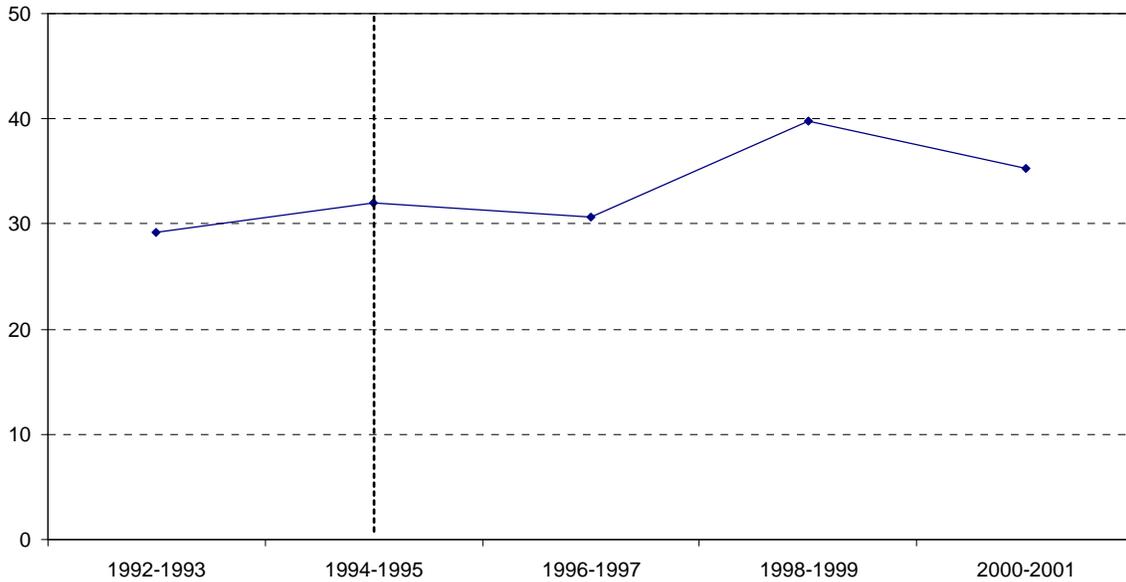
a. National victims per incident figures based on unpublished update of analysis reported in Roth and Koper (1997, Chapter 5). Gunshot wound data are taken from Roth and Koper (1997, Chapter 6) and Koper and Roth (2001a). Wound data are based on medical examiners' reports (Milwaukee, Seattle, San Diego), hospitalization data (Boston), and police reports (Jersey City).

* Chi-square p level < .1.

** T-test p level < .01.

If anything, therefore, gun attacks appear to have been more lethal and injurious since the ban. Perhaps elevated LCM use has contributed to this pattern. But if this is true, then the reverse would also be true – a reduction in crimes with LCMs, should the ban be extended, would reduce injuries and deaths from gun violence.

Figure 9-4. Percentage of Gunfire Cases Resulting in Gunshot Victimizations (National), 1992-2001



Based on two-year averages from the Supplemental Homicide Reports and National Crime Victimization Survey.

9.4. Summary

Although the ban has been successful in reducing crimes with AWs, any benefits from this reduction are likely to have been outweighed by steady or rising use of non-banned semiautomatics with LCMs, which are used in crime much more frequently than AWs. Therefore, we cannot clearly credit the ban with any of the nation’s recent drop in gun violence. And, indeed, there has been no discernible reduction in the lethality and injuriousness of gun violence, based on indicators like the percentage of gun crimes resulting in death or the share of gunfire incidents resulting in injury, as we might have expected had the ban reduced crimes with both AWs and LCMs.

However, the grandfathering provision of the AW-LCM ban guaranteed that the effects of this law would occur only gradually over time. Those effects are still unfolding and may not be fully felt for several years into the future, particularly if foreign, pre-ban LCMs continue to be imported into the U.S. in large numbers. It is thus premature to make definitive assessments of the ban’s impact on gun violence.

Having said this, the ban's impact on gun violence is likely to be small at best, and perhaps too small for reliable measurement. AWs were used in no more than 8% of gun crimes even before the ban. Guns with LCMs are used in up to a quarter of gun crimes, but it is not clear how often the outcomes of gun attacks depend on the ability to fire more than 10 shots (the current limit on magazine capacity) without reloading.

Nonetheless, reducing crimes with AWs and especially LCMs could have non-trivial effects on gunshot victimizations. As a general matter, hit rates tend to be low in gunfire incidents, so having more shots to fire rapidly can increase the likelihood that offenders hit their targets, and perhaps bystanders as well. While not entirely consistent, the few available studies contrasting attacks with different types of guns and magazines generally suggest that attacks with semiautomatics – including AWs and other semiautomatics with LCMs – result in more shots fired, persons wounded, and wounds per victim than do other gun attacks. Further, a study of handgun attacks in one city found that about 3% of gunfire incidents involved more than 10 shots fired, and those cases accounted for nearly 5% of gunshot victims. However, the evidence on these matters is too limited (both in volume and quality) to make firm projections of the ban's impact, should it be reauthorized.

10. LOOKING TO THE FUTURE: RESEARCH RECOMMENDATIONS AND SPECULATION ABOUT THE CONSEQUENCES OF REAUTHORIZING, MODIFYING, OR LIFTING THE ASSAULT WEAPONS BAN

In this chapter, we discuss future lines of inquiry that would be informative whether or not the AW-LCM ban is renewed in September 2004. We then offer some brief thoughts about the possible consequences of reauthorizing the ban, modifying it, or allowing it to expire.

10.1. Research Recommendations and Data Requirements

10.1.1. An Agenda for Assault Weapons Research and Recommendations for Data Collection by Law Enforcement

The effects of the AW-LCM ban have yet to be fully realized; therefore, we recommend continued study of trends in the availability and criminal use of AWs and LCMs. Even if the ban is lifted, longer-term study of crimes with AWs and LCMs will inform future assessment of the consequences of these policy shifts and improve understanding of the responses of gun markets to gun legislation more generally.¹¹⁵

Developing better data on crimes with LCMs is especially important. To this end, we urge police departments and their affiliated crime labs to record information about magazines recovered with crime guns. Further, we recommend that ATF integrate ammunition magazine data into its national gun tracing system and encourage reporting of magazine data by police departments that trace firearms.

As better data on LCM use become available, more research is warranted on the impacts of AW and LCM trends (which may go up or down depending on the ban's fate) on gun murders and shootings, as well as levels of death and injury per gun crime. Indicators of the latter, such as victims per gunfire incident and wounds per gunshot victim, are useful complementary outcome measures because they reflect the mechanisms through which use of AWs and LCMs is hypothesized to affect gun deaths and injuries.¹¹⁶ Other potentially promising lines of inquiry might relate AW and LCM use to mass murders and murders of police, crimes that are very rare but appear more likely to involve AWs (and perhaps LCMs) and to disproportionately affect public perceptions.¹¹⁷

¹¹⁵ Establishing time series data on primary and secondary market prices and production or importation of various guns and magazines of policy interest could provide benefits for policy researchers. Like similar statistical series maintained for illegal drugs, such price and production series would be valuable instruments for monitoring effects of policy changes and other influences on markets for various weapons.

¹¹⁶ However, more research is needed on the full range of factors that cause variation in these indicators over time and between places.

¹¹⁷ Studying these crimes poses a number of challenges, including modeling of rare events, establishing the reliability and validity of methods for measuring the frequency and characteristics of mass murders (such as through media searches; see Duwe, 2000, Roth and Koper, 1997, Appendix A), and controlling for factors like the use of bullet-proof vests by police.

Finally, statistical studies relating AW and LCM use to trends in gun violence should include statistical power analysis to ensure that estimated models have sufficient ability to detect small effects, an issue that has been problematic in some of our prior time series research on the ban (Koper and Roth, 2001a) and is applicable more generally to the study of modest, incremental policy changes.

Research on aggregate trends should be complemented by more incident-based studies that contrast the dynamics and outcomes of attacks with different types of guns and magazines, while controlling for relevant characteristics of the actors and situations. Such studies would refine predictions of the change in gun deaths and injuries that would follow reductions in attacks with AWs and LCMs. For instance, how many homicides and injuries involving AWs and LCMs could be prevented if offenders were forced to substitute other guns and magazines? In what percentage of gun attacks does the ability to fire more than ten rounds without reloading affect the number of wounded victims or determine the difference between a fatal and non-fatal attack? Do other AW features (such as flash hiders and pistol grips on rifles) have demonstrable effects on the outcomes of gun attacks? Studies of gun attacks could draw upon police incident reports, forensic examinations of recovered guns and magazines, and medical and law enforcement data on wounded victims.

10.1.2. Studying the Implementation and Market Impacts of Gun Control

More broadly, this study reiterates the importance of examining the implementation of gun policies and the workings of gun markets, considerations that have been largely absent from prior research on gun control. Typical methods of evaluating gun policies involve statistical comparisons of total or gun crime rates between places and/or time periods with and without different gun control provisions. Without complimentary implementation and market measures, such studies have a “black box” quality and may lead to misleading conclusions. For example, a time series study of gun murder rates before and after the AW-LCM ban might find that the ban has not reduced gun murders. Yet the interpretation of such a finding would be ambiguous, absent market or implementation measures. Reducing attacks with AWs and LCMs may in fact have no more than a trivial impact on gun deaths and injuries, but any such impact cannot be realized or adequately assessed until the availability and use of the banned guns and magazines decline appreciably. Additionally, it may take many years for the effects of modest, incremental policy changes to be fully felt, a reality that both researchers and policy makers should heed. Similar implementation concerns apply to the evaluation of various gun control policies, ranging from gun bans to enhanced sentences for gun offenders.

Our studies of the AW ban have shown that the reaction of manufacturers, dealers, and consumers to gun control policies can have substantial effects on demand and supply for affected weapons both before and after a law’s implementation. It is important to study these factors because they affect the timing and form of a law’s impact

on the availability of weapons to criminals and, by extension, the law's impact on gun violence.

10.2. Potential Consequences of Reauthorizing, Modifying, or Lifting the Assault Weapons Ban

10.2.1. Potential Consequences of Reauthorizing the Ban As Is

Should it be renewed, the ban might reduce gunshot victimizations. This effect is likely to be small at best and possibly too small for reliable measurement. A 5% reduction in gunshot victimizations is perhaps a reasonable upper bound estimate of the ban's potential impact (based on the only available estimate of gunshot victimizations resulting from attacks in which more than 10 shots were fired), but the actual impact is likely to be smaller and may not be fully realized for many years into the future, particularly if pre-ban LCMs continue to be imported into the U.S. from abroad. Just as the restrictions imposed by the ban are modest – they are essentially limits on weapon accessories like LCMs, flash hiders, threaded barrels, and the like – so too are the potential benefits.¹¹⁸ In time, the ban may be seen as an effective prevention measure that stopped further spread of weaponry considered to be particularly dangerous (in a manner similar to federal restrictions on fully automatic weapons). But that conclusion will be contingent on further research validating the dangers of AWs and LCMs.

10.2.2. Potential Consequences of Modifying the Ban

We have not examined the specifics of legislative proposals to modify the AW ban. However, we offer a few general comments about the possible consequences of such efforts, particularly as they relate to expanding the range of the ban as some have advocated (Halstead, 2003, pp. 11-12).

¹¹⁸ But note that although the ban's impact on gunshot victimizations would be small in percentage terms and unlikely to have much effect on the public's fear of crime, it could conceivably prevent hundreds of gunshot victimizations annually and produce notable cost savings in medical care alone. To help place this in perspective, there were about 10,200 gun homicides and 48,600 non-fatal, assault-related shootings in 2000 (see the FBI's *Uniform Crime Reports* for the gun homicide estimate and Simon et al. [2002] for the estimate of non-fatal shootings). Reducing these crimes by 1% would have thus prevented 588 gunshot victimizations in 2000 (we assume the ban did not actually produce such benefits because the reduction in AW use as of 2000 was outweighed by steady or rising levels of LCM use). This may seem insubstantial compared to the 342,000 murders, assaults, and robberies committed with guns in 2000 (see the *Uniform Crime Reports*). Yet, gunshot victimizations are particularly costly crimes. Setting aside the less tangible costs of lost lives and human suffering, the lifetime medical costs of assault-related gunshot injuries (fatal and non-fatal) were estimated to be about \$18,600 per injury in 1994 (Cook et al., 1999). Therefore, the lifetime costs of 588 gun homicides and shootings would be nearly \$11 million in 1994 dollars (the net medical costs could be lower for reasons discussed by Cook and Ludwig [2000] but, on the other hand, this estimate does not consider other governmental and private costs that Cook and Ludwig attribute to gun violence). This implies that small reductions in gunshot victimizations sustained over many years could produce considerable long-term savings for society. We do not wish to push this point too far, however, considering the uncertainty regarding the ban's potential impact.

Gun markets react strongly merely to debates over gun legislation. Indeed, debate over the AW ban's original passage triggered spikes upwards of 50% in gun distributors' advertised AW prices (Roth and Koper, 1997, Chapter 4). In turn, this prompted a surge in AW production in 1994 (Chapter 5). Therefore, it seems likely that discussion of broadening the AW ban to additional firearms would raise prices and production of the weapons under discussion. (Such market reactions may already be underway in response to existing proposals to expand the ban, but we have not investigated this issue.) Heightened production levels could saturate the market for the weapons in question, depressing prices and delaying desired reductions in crimes with the weapons, as appears to have happened with banned ARs.

Mandating further design changes in the outward features of semiautomatic weapons (e.g., banning weapons having any military-style features) may not produce benefits beyond those of the current ban. As noted throughout this report, the most important feature of military-style weapons may be their ability to accept LCMs, and this feature has been addressed by the LCM ban and the LCMM rifle ban. Whether changing other features of military-style firearms will produce measurable benefits is unknown.

Finally, curbing importation of pre-ban LCMs should help reduce crimes with LCMs and possibly gunshot victimizations. Crimes with LCMs may not decline substantially for quite some time if millions of LCMs continue to be imported into the U.S.

10.2.3. Potential Consequences of Lifting the Ban

If the ban is lifted, it is likely that gun and magazine manufacturers will reintroduce AW models and LCMs, perhaps in substantial numbers.¹¹⁹ In addition, AWs grandfathered under the 1994 law may lose value and novelty, prompting some of their lawful owners to sell them in secondary markets, where they may reach criminal users. Any resulting increase in crimes with AWs and LCMs might increase gunshot victimizations, though this effect could be difficult to discern statistically.

It is also possible, and perhaps probable, that new AWs and LCMs will eventually be used to commit mass murder. Mass murders garner much media attention, particularly when they involve AWs (Duwe, 2000). The notoriety likely to accompany mass murders if committed with AWs and LCMs, especially after these guns and magazines have been deregulated, could have a considerable negative impact on public perceptions, an effect that would almost certainly be intensified if such crimes were committed by terrorists operating in the U.S.

¹¹⁹ Note, however, that foreign semiautomatic rifles with military features, including the LCMM rifles and several rifles prohibited by the 1994 ban, would still be restricted by executive orders passed in 1989 and 1998. Those orders stem from the sporting purposes test of the Gun Control Act of 1968.

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EXHIBIT D
To
Declaration of Christopher S. Koper in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction

REDUCING GUN VIOLENCE IN AMERICA

Informing Policy with
Evidence and Analysis

Edited by

DANIEL W. WEBSTER
and **JON S. VERNICK**

Foreword by

MICHAEL R. BLOOMBERG



Reducing Gun Violence in America

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*To victims of gun violence a
to those who work daily
to reduce it*

America's Experience with the Federal Assault Weapons Ban, 1994–2004

Key Findings and Implications

Christopher S. Koper

In 1994, the federal government imposed a ten-year ban on military-style semi-automatic firearms and ammunition-feeding devices holding more than ten rounds of ammunition. This legislation, commonly known as the federal assault weapons ban, was intended in the broadest sense to reduce gunshot victimizations by limiting the national stock of semi-automatic firearms with large ammunition capacities and other features conducive to criminal uses. Reflecting America's general political divisions over the issue of gun control, the debate over the law was highly contentious. Ten years later, Congress allowed the ban to expire.

More recently, there have been growing calls for a reexamination of the assault weapons issue. This debate has been fueled by a series of mass shooting incidents involving previously banned firearms or magazines. Since 2007, for example, there have been at least 11 incidents in which offenders using

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assault weapons or other semi-automatics with magazines larger than 10 rounds have wounded or killed eight or more people (Violence Policy Center 2012). Some of the most notorious of these incidents have been a 2007 shooting on the college campus of Virginia Tech that left 33 dead and 17 wounded; a 2011 shooting in an Arizona parking lot that killed 6 and wounded 13, including Congresswoman Gabrielle Giffords; a 2012 shooting in an Aurora, Colorado, movie theatre that left 12 dead and 58 wounded; and, most recently, a shooting in a Newtown, Connecticut, elementary school that left 26 victims dead, 20 of whom were children (an additional victim was killed elsewhere).

To help inform the new dialogue on this issue, this essay examines America's experience with the 1994 assault weapons law. During the course of the ban, the National Institute of Justice (NIJ) funded a series of studies on the law's impacts for the U.S. Department of Justice and the U.S. Congress (Koper 2004; Koper and Roth 2001, 2002; Roth and Koper 1997, 1999). I present highlights from those studies, with an emphasis on findings from the final evaluation reported in 2004 (Koper 2004). These studies sought to assess the law's impacts on (1) the availability of assault weapons (AWs) and large-capacity magazines (LCMs) as measured by price and production (or importation) indices in legal markets; (2) trends in criminal uses of AWs and LCMs; and (3) trends in the types of gun crimes that seemed most likely to be affected by changes in the use of AWs and LCMs. (The latter two issues are emphasized in this summary.) Finally, the research team examined studies of gun attacks more generally in order to estimate the ban's potential to produce longer-term reductions in shootings.

In summary, the ban had mixed effects in reducing crimes with the banned weaponry because of various exemptions and loopholes in the legislation. The ban did not appear to affect gun crime during the time it was in effect, but some evidence suggests it may have modestly reduced gunshot victimizations had it remained in place for a longer period. The ban's most important provision was arguably its prohibition on ammunition magazines holding more than 10 rounds. Policymakers considering a new version of the ban might particularly focus on this aspect of the previous legislation and reconsider the exemptions and loopholes that undermined the effectiveness of the original ban.

Provisions of the Assault Weapons Ban

Enacted on September 13, 1994, Title XI, Subtitle A of the Violent Crime Control and Law Enforcement Act of 1994 imposed a ten-year ban on the “manufacture, transfer, and possession” of certain semi-automatic firearms designated as assault weapons. The AW ban did not prohibit all semi-automatics; rather, it was directed at semi-automatics having features that appear to be useful in military and criminal applications but unnecessary in shooting sports or self-defense. Examples of such features include pistol grips on rifles, flash hiders, folding rifle stocks, threaded barrels for attaching silencers, and the ability to accept ammunition magazines holding large numbers of bullets. The law specifically prohibited 18 models and variations by name (e.g., the Intratec TEC-9 pistol and the Colt AR-15 rifle), as well as revolving cylinder shotguns (see Koper 2004, 5). This list included a number of foreign rifles that the federal government had banned from importation into the country beginning in 1989 (e.g., Avtomat Kalashnikov models). In addition, the ban contained a generic “features test” provision that generally prohibited other semi-automatic firearms having two or more military-style features, as described in Table 12.1. In total, the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) identified 118 model and caliber variations that met the AW criteria established by the ban.

The law also banned “copies or duplicates” of the named gun makes and models, but federal authorities emphasized exact copies. Relatively cosmetic changes, such as removing a flash hider or bayonet mount, were thus sufficient to transform a banned weapon into a legal substitute. In this sense, the law is perhaps best understood not as a gun ban but as a law that restricted weapon accessories. A number of gun manufacturers began producing modified, legal versions of some of the banned guns, though not all of these substitute weapons proved as popular as the banned versions.¹ In other respects (e.g., type of firing mechanism, ammunition fired, and the ability to accept a detachable magazine), the banned AWs did not differ from other legal semi-automatic weapons.

The other major component of the assault weapons legislation was a ban on most ammunition-feeding devices holding more than 10 rounds of ammunition (referred to as large-capacity magazines).² The LCM ban was arguably the most important part of the assault weapons law for two reasons. First, an LCM is the most functionally important feature of an AW-type firearm. As noted by the U.S. House of Representatives, most prohibited AWs came equipped with magazines holding 30 rounds and could accept magazines holding as

Table 12.1 Features test of the federal assault weapons ban

Weapon category	Military-style features (2 or more qualified a firearm as an assault weapon)
Semi-automatic pistols accepting detachable magazines	<ol style="list-style-type: none"> 1) ammunition magazine that attaches outside the pistol grip 2) threaded barrel capable of accepting a barrel extender, flash hider, forward handgrip, or silencer 3) heat shroud attached to or encircling the barrel 4) weight of more than 50 ounces unloaded 5) semiautomatic version of a fully automatic weapon
Semi-automatic rifles accepting detachable magazines	<ol style="list-style-type: none"> 1) folding or telescoping stock 2) pistol grip that protrudes beneath the firing action 3) bayonet mount 4) flash hider or a threaded barrel designed to accommodate one 5) grenade launcher
Semi-automatic shotguns	<ol style="list-style-type: none"> 1) folding or telescoping stock 2) pistol grip that protrudes beneath the firing action 3) fixed magazine capacity over 5 rounds 4) ability to accept a detachable ammunition magazine

many as 50 or 100 rounds (United States Department of the Treasury 1998, 14). Removing LCMs from these weapons thus greatly limits their firepower.

Second, the reach of the LCM ban was much broader than that of the AW ban because many semi-automatics that were not banned by the AW provision could accept LCMs. Approximately 40 percent of the semi-automatic handgun models and a majority of the semi-automatic rifle models that were being manufactured and advertised prior to the ban were sold with LCMs or had a variation that was sold with an LCM (calculated from Murtz and the Editors of Gun Digest 1994). Still others could accept LCMs made for other firearms and/or by other manufacturers. A national survey of gun owners in 1994 found that 18% of all civilian-owned firearms and 21% of civilian-owned handguns were equipped with magazines having 10 or more rounds (Cook and Ludwig 1996, 17). The AW provision did not affect most LCM-compatible guns, but the LCM provision limited the capacities of their magazines to 10 rounds.

The AW ban also contained important exemptions. AWs and LCMs manufactured before the effective date of the ban were “grandfathered” and thus legal to own and transfer. Though not precise, estimates suggest there were

upward of 1.5 million privately owned AWs in the United States when the ban took effect (American Medical Association Council on Scientific Affairs 1992; Cox Newspapers 1989, 1; Koper 2004, 10). Gun owners in America possessed an estimated 25 million guns that were equipped with LCMs or 10-round magazines in 1994 (Cook and Ludwig 1996, 17), and gun industry sources estimated that, including aftermarket items for repairing and extending magazines, there were at least 25 million LCMs available in the United States as of 1995 (Gun Tests 1995, 30). Moreover, an additional 4.8 million pre-ban LCMs were imported into the country from 1994 through 2000 under the grandfathering exemption, with the largest number arriving in 1999. During this same period, importers were also authorized to import another 42 million pre-ban LCMs that may have arrived after 2000.

Criminal Use of Assault Weapons and Large-Capacity Magazines Prior to the Ban

During the 1980s and early 1990s, AWs and other semi-automatic firearms equipped with LCMs were involved in a number of highly publicized mass shootings that raised public concern about the accessibility of high-powered, military-style weaponry and other guns capable of rapidly discharging high numbers of bullets (Cox Newspapers 1989; Kleck 1997, 124-126, 144; Lenett 1995; Violence Policy Center 2012). Perhaps most notably, AWs or other semi-automatics with LCMs were used in 6, or 40%, of 15 particularly severe mass shooting incidents between 1984 and 1993 that resulted in at least 6 deaths or at least 12 killed or wounded (Kleck, 1997, 124-126, 144). Early studies of AWs, though sometimes based on limited and potentially unrepresentative data, also suggested that AWs recovered by police were often associated with drug trafficking and organized crime (Cox Newspapers 1989, 4; also see Roth and Koper 1997, chap. 5), fueling a perception that AWs were guns of choice among drug dealers and other particularly violent groups. These events intensified concern over AWs and other semi-automatics with LCMs and helped spur the 1989 federal import ban on selected semi-automatic rifles (implemented by executive order) and the passage of the 1994 federal AW ban (the states of California, New Jersey, Connecticut, Hawaii, and Maryland also passed AW legislation between 1989 and 1994).

Looking at the nation's gun crime problem more broadly, numerous studies of AW-type weapons conducted prior to the federal ban found that AWs

typically accounted for up to 8% of guns used in crime, depending on the specific AW definition and data source used (e.g., see Beck et al. 1993; Hargarten et al. 1996; Hutson, Anglin, and Pratts 1994; Hutson et al. 1995; McGonigal et al. 1993; New York State Division of Criminal Justice Services 1994; Roth and Koper 1997, chap. 2; Zawitz 1995). A compilation of 38 sources indicated that AWs accounted for about 2% of crime guns on average (Kleck 1997, 112, 141–143). Similarly, the most common AWs prohibited by the 1994 federal ban accounted for between 1% and 6% of guns used in crime according to most of several national and local data sources examined for the NIJ-funded studies summarized here (Koper 2004, 15).

As with crime guns in general, the majority of AWs used in crime were assault pistols rather than assault rifles. Among AWs reported by police to ATF during 1992 and 1993, for example, assault pistols outnumbered assault rifles by a ratio of three to one.

The relative rarity of AW use in crime can be attributed to a number of factors. Many of these models are long guns, which are used in crime much less often than handguns. Also, as noted, a number of the rifles named in the 1994 law were banned from importation into the United States in 1989. Further, AWs in general are more expensive and more difficult to conceal than the types of handguns that are used most frequently in crime.

Criminal use of guns equipped with LCMs had not been studied as extensively as criminal use of AWs at the time of the ban. However, the overall use of guns with LCMs, which is based on the combined use of AWs and non-banned guns with LCMs, is much greater than the use of AWs alone. Based on data examined for this and a few prior studies, guns with LCMs were used in roughly 13% to 26% of most gun crimes prior to the ban, though they appeared to be used in 31% to 41% of gun murders of police (see summary in Koper 2004, 18; also see Adler et al. 1995; Fallis 2011; New York Division of Criminal Justice Services 1994).

The Ban's Effects on Crimes with Assault Weapons and Large-Capacity Magazines

Although there was a surge in production of AW-type weapons as Congress debated the ban in 1994, the law's restriction of the new AW supply and the interest of collectors and speculators in these weapons helped to drive prices higher for many AWs (notably assault pistols) through the end of the 1990s

Table 12.2 Assault weapons as a percentage of guns recovered by police

City	Pre-ban	Post-ban	% change
Baltimore, MD	1.88% (1992-1993)	1.25% (1995-2000)	-34%
Boston, MA	2.16% (1991-1993)	0.6% (2000-2002)	-72%
Miami, FL	2.53% (1990-1993)	1.71% (1995-2000)	-32%
St. Louis, MO	1.33% (1992-1993)	0.91% (1995-2003)	-32%
Anchorage, AK	3.57% (1987-1993)	2.13% (1995-2000)	-40%
Milwaukee, WI	5.91% (1991-1993)	4.91% (1995-1998)	-17%

Note: Figures for Baltimore, Boston, Miami, and St. Louis are based on all recovered guns. Figures for Anchorage and Milwaukee are based on, respectively, guns tested for evidence and guns recovered in murder cases. Changes in Baltimore, Boston, Miami, and St. Louis were statistically significant at $p < .05$. See Koper (2004) for further details about the data and analyses.

and appeared to make them less accessible and/or affordable to criminal users.³ Analyses of several national and local databases on guns recovered by police indicated that crimes with AWs declined following the ban.

To illustrate, the share of gun crimes involving the most commonly used AWs declined by 17% to 72% across six major cities examined for this study (Baltimore, Miami, Milwaukee, Boston, St. Louis, and Anchorage), based on data covering all or portions of the 1995-2003 post-ban period (Table 12.2). (The number of AW recoveries also declined by 28% to 82% across these locations and time periods; the discussion here focuses on changes in AWs as a share of crime guns in order to control for general trends in gun crime and gun seizures.) Similar patterns were found in a national analysis of recovered guns reported by law enforcement agencies around the country to ATF for investigative gun tracing.⁴ The percentage of gun traces that were for AWs fell 70% between 1992-1993 and 2001-2002 (from 5.4% to 1.6%), though the interpretation of these data was complicated by changes that occurred during this time in gun tracing practices (see Koper 2004 for further discussion).

The decline in crimes with AWs was due primarily to a reduction in the use of assault pistols. Assessment of trends in the use of assault rifles was complicated by the rarity of crimes with such rifles and by the substitution in some cases of post-ban rifles that were very similar to the banned models. In general, however, the decline in AW use was only partially offset by substitution of post-ban AW-type models. Even counting the post-ban models as AWs, the share of crime guns that were AWs fell 24% to 60% across most of the local

jurisdictions studied. Patterns in the local data sources also suggested that crimes with AWs were becoming increasingly rare as the years passed.

The decline in crimes with AWs appeared to have been offset throughout at least the late 1990s by steady or rising use of other semi-automatics equipped with LCMs. Assessing trends in LCM use was difficult because there is no national data source on crimes with LCMs and few contacted jurisdictions maintained such information. It was possible, nonetheless, to examine trends in the use of guns with LCMs in four jurisdictions: Baltimore, Milwaukee, Anchorage, and Louisville (KY). Across the different samples analyzed from these cities (some databases included all recovered guns and some included only guns associated with particular crimes), the share of guns with an LCM generally varied from 14% to 26% prior to the ban. In all four jurisdictions, the share of crime guns equipped with LCMs rose or remained steady through the late 1990s (Table 12.3). These trends were driven primarily by handguns with LCMs, which were used in crime roughly three times as often as rifles with LCMs (though crimes with rifles having LCMs also showed no general decline). Generalizing from such a small number of jurisdictions must be done very cautiously, but the consistency of the findings across these geographically diverse locations strengthens the inference that they reflected a national pattern.

Failure to reduce LCM use for at least several years after the ban was likely because of the immense stock of exempted pre-ban magazines, which, as noted, was enhanced by post-ban imports. The trend in crimes with LCMs may have been changing by the early 2000s, but the available data were too limited and inconsistent to draw clear inferences (post-2000 data were available for only two of the four study sites).

Table 12.3 Guns with large-capacity magazines as a percentage of guns recovered by police (selected years)

City	Pre-ban	Late 1990s	Early 2000s
Baltimore, MD	14.0% (1993)	15.5% (1998)	15.7% (2003)
Anchorage, AK	26.2% (1992–1993)	30.0% (1999–2000)	19.2% (2001–2002)
Milwaukee, WI	22.4% (1993)	36.4% (1998)	N/A
Louisville, KY	N/A	20.9 (1996)	19.0% (2000)

Note: Figures for Baltimore and Milwaukee are based on, respectively, guns associated with violent crimes and with murders. Figures for Anchorage and Louisville are based on guns submitted for evidentiary testing. The Anchorage figures are based on handguns only. See Koper (2004) for further details about the data and analyses.

A later media investigation of LCM use in Richmond, Virginia, suggests that the ban may have had a more substantial impact on the supply of LCMs to criminal users by the time it expired in 2004. In that city, the share of recovered guns with LCMs generally varied between 18% and 20% from 1994 through 2000 but fell to 10% by 2004 (Fallis 2011). It is not clear whether the Richmond results represented a wider national or even regional trend. (The data from this study also show that after the ban was lifted, the share of Richmond crime guns with an LCM rose to 22% by 2008.)

The Ban's Impacts on Gun Violence

Because offenders could substitute non-banned guns and small magazines for banned AWs and LCMs, there was not a clear rationale for expecting the ban to reduce assaults and robberies with guns. But by forcing this weapon substitution, it was conceivable that the ban would reduce the number and severity of shooting deaths and injuries by reducing the number of shots fired in gun attacks (thus reducing the number of victims per gunfire incident and the share of gunshot victims sustaining multiple wounds). Based on this logic, the research team examined several indicators of trends in the lethality and injuriousness of gun violence for different portions of the 1995–2002 post-ban period. These included national-level analyses of gun murders, the percentage of violent gun crimes resulting in death, the share of gunfire cases resulting in wounded victims, the percentage of gunshot victimizations resulting in death, and the average number of victims per gun homicide incident. For selected localities, the team also examined trends in wounds per gunshot victim or the percentage of gunshot victims sustaining multiple wounds.

On balance, these analyses showed no discernible reduction in the lethality or injuriousness of gun violence during the post-ban years (see Koper 2004, Koper and Roth 2001, and Roth and Koper 1997). Nationally, for example, the percentage of violent gun crimes resulting in death (based on gun homicides, gun assaults, and gun robberies reported to the Uniform Crime Reports) was the same for the period 2001–2002 (2.9%) as it was for the immediate pre-ban period 1992–1993 (Koper 2004, 82, 92). Accordingly, it was difficult to credit the ban with contributing to the general decline in gun crime and gun homicide that occurred during the 1990s.

However, the ban's exemption of millions of pre-ban AWs and LCMs meant that the effects of the law would occur only gradually. Those effects were still

unfolding when the ban was lifted and may not have been fully realized until several years beyond that, particularly if importation of foreign, pre-ban LCMs had continued in large numbers. In light of this, it was impossible to make definitive assessments of the ban's impact on gun violence.

It was also difficult to judge the ban's effects on the more specific problem of mass shootings. The research team attempted to assess changes in mass shootings during the first few years of the ban, but this effort was hampered by the difficulty of counting these incidents (results can be sensitive to the definitions and data sources used) and identifying the specific types of guns and magazines used in them (Roth and Koper 1997, app. A). There is no national data source that provides detailed information on the types of guns and magazines used in shooting incidents or that provides full counts of victims killed and wounded in these attacks. Studying mass shootings in particular poses a number of challenges with regard to defining these events, establishing the validity and reliability of methods for measuring their frequency and characteristics (particularly if done through media searches, as is often necessary), and modeling their trends, as they are particularly rare events (e.g., see Duwe 2000; Roth and Koper 1997, app. A).

Nonetheless, the issue of mass shootings continues to be a catalyst to the debate surrounding AW legislation. A recent media compilation of 62 mass shooting incidents that involved the death of four or more people over the period 1982–2012, for instance, suggests that 25% of the guns used in these attacks were AW-type weapons (these were not precisely defined) and another 48% were other types of semi-automatic handguns (Follman, Aronsen, and Pan 2012). Continuing improvements in media search tools and greater attention to the types of guns and magazines used in multiple-victim attacks may improve prospects for examining this issue more rigorously in future studies.

Assessing the Potential Long-Term Effects of Banning Assault Weapons and Large-Capacity Magazines

Although available evidence is too limited to make firm projections, it suggests that the ban may have reduced shootings slightly had it remained in place long enough to substantially reduce crimes with both LCMs and AWs. A small number of studies suggest that gun attacks with semi-automatics—including AWs and other guns equipped with LCMs—tend to result in more shots fired, more persons wounded, and more wounds inflicted per victim

than do attacks with other firearms (see reviews in Koper 2004; Koper and Roth 2001; also see McGonigal et al. 1993; Richmond et al. 2003; Reedy and Koper 2003; Roth and Koper 1997). For example, in mass shooting incidents that resulted in at least 6 deaths or at least 12 total gunshot victims from 1984 through 1993, offenders who clearly possessed AWs or other semi-automatics with LCMs (sometimes in addition to other guns) wounded or killed an average of 29 victims in comparison to an average of 13 victims wounded or killed by other offenders (see Koper and Roth's [2001] analysis of data compiled by Kleck [1997, 144]).

Similarly, a study of handgun attacks in Jersey City, New Jersey, during the 1990s found that the average number of victims wounded in gunfire incidents involving semi-automatic pistols was in general 15% higher than in those involving revolvers (Reedy and Koper 2003). The study also found that attackers using semi-automatics to fire more than 10 shots were responsible for nearly 5% of the gunshot victims in the sample. Used as a tentative guide, this implies that the LCM ban could have eventually produced a small reduction in shootings overall, perhaps up to 5%, even if some gun attackers had the foresight to carry more than one small magazine (or more than one firearm) and the time and poise to reload during an attack.

Effects of this magnitude might be difficult to measure reliably, but they could nonetheless yield significant societal benefits. Consider that in 2010 there were 11,078 gun homicides in the United States and another 53,738 non-fatal assault-related shootings according to the federal Centers for Disease Control and Prevention (see the CDC's web-based injury statistics query and reporting system at <http://www.cdc.gov/injury/wisqars/index.html>). At these levels, reducing shootings by just 1% (arguably a reasonable ballpark estimate for the long-term impact of substantially reducing AW and LCM use) would amount to preventing about 650 shootings annually. The lifetime medical costs of assault-related gunshot injuries (fatal and nonfatal) were estimated to be about \$18,600 per injury in 1994 (Cook et al. 1999). Adjusting for inflation, this amounts to \$28,894 in today's dollars. Moreover, some estimates suggest that the full societal costs of gun violence—including medical, criminal justice, and other government and private costs (both tangible and intangible)—could be as high as \$1 million per shooting (Cook and Ludwig 2000). Hence, reducing shootings by even a very small margin could produce substantial long-term savings for society, especially as the shootings prevented accrue over many years.

Lessons and Implications from the 1994 Ban

Studies of America's previous assault weapons ban provide a number of lessons that can inform future policymaking. A new law similar to the old ban will have little impact on most gun crimes, but it may prevent some shootings, particularly those involving high numbers of shots and victims. It may thus help to reduce the number and severity of mass shooting incidents as well as produce a small reduction in shootings overall.

The most important feature of the previous ban was the prohibition on large-capacity ammunition magazines. A large magazine is arguably the most critical feature of an assault weapon, and restrictions on magazines have the potential to affect many more gun crimes than do those on military-style weapons. Restrictions focused on magazine capacity may also have a greater chance of gaining sufficient public and political support for passage than would new restrictions on assault weapons, though current polling suggests that both measures are supported by three-quarters of non-gun owners and nearly half of gun owners (Barry et al., in this volume). To enhance the potential impact of magazine restrictions, policymakers might also consider limiting magazine capacity to fewer than 10 rounds for all or selected weapons (for example, lower limits might be set for magazines made for semi-automatic rifles).⁵ It is unknown whether further restrictions on the outward features of semi-automatic weapons, such as banning weapons having any military-style features, will produce measurable benefits beyond those of restricting magazine capacity.

Policymakers must also consider the implications of any grandfathering provisions in new legislation. Assessing the political and practical difficulties of registering all assault weapons and large magazines or establishing turn-in or buyback programs for them is beyond the scope of this essay. Policymakers should note, however, that it may take many years to attain substantial reductions in crimes with banned weapons and/or magazines if a new law exempts the existing stock (which has likely grown considerably since the time of the original ban). Policies regarding exemptions must also explicitly address the status of imported guns and magazines.

Past experience further suggests that public debate on reinstating the ban or crafting a new one will raise prices and production of the guns and magazines likely to be affected. This could temporarily saturate the market for the guns and magazines in question (particularly if close substitutes emerge) and delay desired reductions in crimes with some categories of the banned weap-

only (this appeared to happen with assault rifles that were banned by the 1994 law and may have contributed as well to the observed trends in use of large magazines).

A new ban on assault weapons and/or large-capacity magazines will certainly not be a panacea for America's gun violence problem nor will it stop all mass shootings. However, it is one modest measure that, like federal restrictions on fully automatic weapons and armor-piercing ammunition, can help to prevent the further spread of particularly dangerous weaponry.

NOTES

1. In general, the AW ban did not apply to semi-automatics possessing no more than one military-style feature listed under the ban's features test provision. Note, however, that firearms imported into the country still had to meet the "sporting purposes test" established under the federal Gun Control Act of 1968. In 1989, ATF determined that foreign semi-automatic rifles having any one of a number of named military features (including those listed in the features test of the 1994 AW ban) fail the sporting purposes test and cannot be imported into the country. In 1998, the ability to accept an LCM made for a military rifle was added to the list of disqualifying features. Consequently, it was possible for foreign rifles to pass the features test of the federal AW ban but not meet the sporting purposes test for imports (U.S. Department of the Treasury 1998).

2. Technically, the ban prohibited any magazine, belt, drum, feed strip, or similar device that has the capacity to accept more than 10 rounds of ammunition or which can be readily converted or restored to accept more than 10 rounds of ammunition. The ban exempted attached tubular devices capable of operating only with .22 caliber rimfire (i.e., low velocity) ammunition.

3. See Koper (2004), Koper and Roth (2002), and Roth and Koper (1997) for more extensive discussions of the ban's impacts on prices and production of AWs, non-banned firearms, and LCMs.

4. A gun trace is an investigation into the sales history of a firearm (e.g., see ATF 2000).

5. To support the formulation and evaluation of policy in this area, there are also a number of research needs worth noting. For one, it is important to develop better data on crimes with guns having LCMs. Policymakers should thus encourage police agencies to record information about magazines recovered with crime guns. Likewise, ATF should consider integrating ammunition magazine data into its national gun tracing system and encourage reporting of magazine data by police agencies that trace firearms. Second, there is a need for more studies that contrast the outcomes of attacks with different types of guns and magazines. Such studies would help to refine predictions of the change in gun deaths and injuries that would follow reductions in attacks with firearms having large-capacity magazines.

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EXHIBIT E

Declaration of Christopher S. Koper in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

The Washington Post

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CORRECTION TO THIS ARTICLE

An earlier version of this story incorrectly reported the limit on the capacity of gun magazines in Maryland. The limit is 20. This version has been corrected.

Va. data show drop in criminal firepower during assault gun ban

By David S. Fallis and James V. Grimaldi
Washington Post Staff Writers
Sunday, January 23, 2011; 9:17 AM

The number of guns with high-capacity magazines seized by Virginia police dropped during a decade-long federal prohibition on assault weapons, but the rate has rebounded sharply since the ban was lifted in late 2004, [according to a Washington Post analysis](#).

More than 15,000 guns equipped with high-capacity magazines - defined under the lapsed federal law as holding 11 or more bullets - have been seized by Virginia police in a wide range of investigations since 1993, the data show.

The role of high-capacity magazines in gun crime was thrust into the national spotlight two weeks ago when 22-year-old [Jared Lee Loughner allegedly opened fire](#) with a semiautomatic handgun outside a Tucson grocery store, killing six and wounding 13, including Rep. Gabrielle Giffords (D-Ariz.). Authorities say Loughner used a legally purchased 9mm Glock 19 handgun with a 31-round clip and was tackled while changing magazines.

Of the seized Virginia weapons, 2,000 had magazines with a capacity of 30 or more bullets. Some states still limit magazine capacity. California, for example, limits them to 10 and Maryland to 20.

Last year in Virginia, guns with high-capacity magazines amounted to 22 percent of the weapons recovered and reported by police. In 2004, when the ban expired, the rate had reached a low of 10 percent. In each year since then, the rate has gone up.

"Maybe the federal ban was finally starting to make a dent in the market by the time it ended," said Christopher Koper, head of research at the Police Executive Research Forum, who [studied the assault weapons ban](#) for the National Institute of Justice, the research arm of the Justice Department.

Congress is considering legislation to reinstitute the assault weapon ban's prohibition on high-capacity magazines, a measure strongly opposed by gun rights advocates.

The analysis of the [Virginia records, obtained under the state's public information](#) law, provides a rare window into the firepower of guns used in crimes. The Bureau of Alcohol, Tobacco, Firearms and Explosives, which traces guns for local police agencies and regulates the firearms industry, does not track magazine sizes. Academic researchers said they were unaware of any other comprehensive study of firearms magazines.

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The pattern in Virginia "may be a pivotal piece of evidence" that the assault weapons ban eventually had an impact on the proliferation of high-capacity magazines on the streets, said Garen Wintemute, [head of the Violence Prevention Research Program](#) at the University of California at Davis.

"Many people, me included, were skeptical about the chances that the magazine ban would make a difference back in 1994," Wintemute said. "But what I am seeing here is that after a few years' lag time the prevalence of high-capacity magazines was declining. The increase since the ban's repeal is quite striking."

Guns with high-capacity magazines have appeared in Virginia crimes ranging from the mundane to the murderous. The Post found that 200 guns with high-capacity magazines figured in Virginia homicides, including these incidents:

- In Richmond in 2003, Michael Antoine Wilson, 21, used his semiautomatic rifle with its 30-round magazine to shoot his 17-year-old girlfriend to death in front of children and relatives. Then he went to a nearby convenience store, killed two workers and stole a van before turning the gun on himself.
- In Roanoke in 2004, Marcus Jerome Nance, 22, used his legally purchased 9mm Glock 17 handgun with a high-capacity magazine to spray 33 bullets into a crowd that had gathered outside a Roanoke gas station after a nightclub closing, killing one and wounding two.
- In Newport News last year, Antonio Johnson, 34, began shooting at police during a traffic stop with a 9mm semiautomatic handgun outfitted with a 15-round magazine. "Subject shot police officer and then killed himself with weapon," state records say.

In the Arizona shootings, Loughner allegedly used a Glock 19 that he had legally purchased at a Tucson sporting goods store in November. The gun's capacity allowed Loughner to squeeze off more than 30 shots without reloading, authorities said.

The federal assault weapons ban from late 1994 through late 2004 prohibited the manufacturing of magazines capable of holding more than 10 rounds. But the act permitted the sale of magazines manufactured before the ban.

The federal prohibition was spurred by a mass killing in 1989 in Stockton, Calif., where Patrick Edward Purdy, 24, a mentally unbalanced drug addict, fired 110 shots from an AK-47 into a schoolyard, killing five children and wounding 29 others and a teacher. He used a 75-round rotary clip and a 35-round banana clip, one of four he was carrying.

New legislative interest

Rep. Carolyn McCarthy (N.Y.) and 57 other Democrats proposed legislation last week to ban the sale or transfer of high-capacity magazines, no matter when they were manufactured. McCarthy's husband and five others were killed in 1993 on the Long Island Rail Road by a gunman armed with a semiautomatic pistol and four 15-round magazines. He fired 30 shots before being subdued while changing magazines.

The bill's [prospects are considered slim](#) in the Republican-controlled House. In the Senate, the National Rifle Association says it has a solid [50-senator pro-gun block](#) that could delay any legislation.

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The NRA has announced its opposition to proposals that limit magazine capacity.

"These magazines are standard equipment for self-defense handguns and other firearms owned by tens of millions of Americans," according to a statement on its politics Web page, and in a letter circulating to members of Congress. "Law-abiding private citizens choose them for many reasons, including the same reason police officers do: to improve their odds in defensive situations."

The firearms industry also opposes the proposal. "The tragedy in Tucson was not about firearms, ammunition or magazine capacity," said Ted Novin, a spokesman for the National Shooting Sports Foundation, a gun industry group. "It was about the actions of a madman. Period."

The analysis by The Post is possible because of a little-known database of guns seized in Virginia. The database, called the Criminal Firearms Clearinghouse, has information on more than 100,000 firearms recovered by more than 200 local police departments since 1993. A federal [law in 2003, known as the Tiahrt Amendment](#) after the congressman who sponsored it, banned the release of federal data on guns recovered in crimes.

[Last year, The Post mined the database](#) to pierce the secrecy imposed by Congress on federal gun-tracing records. The analysis found that a fraction of licensed dealers in Virginia sell most of guns later seized by police. The vast majority of the guns in the database were confiscated because of illegal-possession charges. But thousands were swept up in the wake of assaults, robberies and shootings.

Two months before the ban expired in September 2004, Marcus Nance bought an extended magazine and a 9mm Glock 17 handgun at [a Roanoke gun store](#). Three nights later, down the street from the store, Nance opened fire on a crowded parking lot after arguing and fighting with people in the crowd.

A police officer called to investigate a disturbance heard shots and saw Nance holding a gun at arm's length and firing "randomly into the mass of people" before shooting several rounds into the air.

A police car's dashboard camera recorded the jackhammer sound of gunfire. In a car parked nearby, police found a Glock gun box and two boxes of ammunition, one of them partially empty.

Police went to the gun shop and confirmed that Nance had bought the handgun (\$555), a laser sight (\$380) and two extended magazines (\$135), paying cash in an entirely legal transaction. Police noted: "The magazines in question were manufactured before 1994 and not considered prohibited."

Nance, who said he had been attacked by members of the crowd and shot in self-defense, was convicted of second-degree murder and is in prison.

The 2004 study

Koper's 108-page 2004 study for the National Institute of Justice found the ban on assault weapons had mixed results.

"Assault weapons were rarely used in gun crimes even before the ban," he said in the report. But he also concluded that the prohibition on high-capacity magazines might have affected public safety, because such magazines allow shooters to inflict more damage.

"Tentatively I was able to show that guns associated with large-capacity magazines tended to be associated with more serious crimes, more serious outcomes," he said.

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Some gun rights activists argue that a ban on high-capacity magazines would violate the Second Amendment right to bear arms. One prominent gun rights activist who takes a less absolute position is Robert A. Levy, chairman of the Cato Institute. He is also the [lawyer who brought the case](#) that overturned D.C.'s handgun ban.

But Levy said the government would need to prove that such a ban was effective.

"The burden is on the government, not on the individual to show that the regulation isn't unduly intrusive," Levy said.

Colin Goddard, a lobbyist for the Brady Campaign to Prevent Gun Violence and a victim of the [2007 Virginia Tech shootings](#), said the high-capacity ban could save lives. The Virginia Tech shooter, Seung Hui Cho, used several 15-round magazines to fire 174 shots and kill 32 people in the worst gun-related mass murder by an individual in U.S. history.

"When you double and triple the amount of the clip size, you don't double or triple the number of deer you kill, you double and triple the amount of innocent people who are killed in shootings like this," said Goddard, 25, who was shot four times by Cho.

Bradley A. Buckles, ATF director from 1999 to 2004, said bureau officials advised Congress to focus on high-capacity magazines, which were "completely unregulated" and had almost no sporting purpose.

"The whole thing with magazine capacity came out of ATF," Buckles said. "It wasn't so much guns, but it was firepower. What made them more deadly than a hunting rifle was the fact that you could have a 20-round, 30-round clip, when most hunting rifles wouldn't have more than five rounds."

Buckles said lawmakers should have extended the ban on high-capacity magazines in 2004. Banning them now, he said, just puts everyone back at square one.

"There are so many millions of them out there, it probably wouldn't make any immediate difference over the course of 20 years," Buckles said. "It is not a short-term solution to anything."

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Research editor Alice Crites and staff writer Sari Horwitz contributed to this story.

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EXHIBIT F

Declaration of Christopher S. Koper in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

The Washington Post

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Data indicate drop in high-capacity magazines during federal gun ban

By [David S. Fallis](#), Published: January 10, 2013

During the 10-year federal ban on assault weapons, the percentage of firearms equipped with high-capacity magazines seized by police agencies in Virginia dropped, only to rise sharply once the restrictions were lifted in 2004, according to an analysis by The Washington Post.

The White House is leading a push to reinstate a national ban on large-capacity magazines and assault weapons after a gunman armed with an AR-15 and 30-round magazines killed 20 children and seven adults in Connecticut. Vice President Biden has been holding advisory meetings to hammer out a course of action that will address the issue of the larger magazines, which under the lapsed federal ban were those that held 11 or more rounds of ammunition.

In Virginia, The Post found that the rate at which police recovered firearms with high-capacity magazines — mostly handguns and, to a smaller extent, rifles — began to drop around 1998, four years into the ban. It hit a low of 9 percent of the total number of guns recovered the year the ban expired, 2004.

The next year, the rate began to climb and continued to rise in subsequent years, reaching 20 percent in 2010, according to the analysis of a little-known Virginia database of guns recovered by police. In the period The Post studied, police in Virginia recovered more than 100,000 firearms, more than 14,000 of which had high-capacity magazines.

Researchers see impact

To some researchers, the snapshot in Virginia suggests that the federal ban may have started to curb the widespread availability of the larger magazines.

“I was skeptical that the ban would be effective, and I was wrong,” said Garen Wintemute, head of the Violence Prevention Research Program at the University of California at Davis School of Medicine. The database analysis offers “about as clear an example as we could ask for of evidence that the ban was working.”

The analysis is based on an examination of the Criminal Firearms Clearinghouse, a database obtained from state police under Virginia’s public information law. The data, which were [first studied by The Post in 2011](#), offer a rare glimpse into the size of the magazines of guns seized during criminal investigations. The Bureau of Alcohol, Tobacco, Firearms and Explosives, which traces guns and regulates the industry, tracks details about the guns seized after crimes but not the magazine size.

The initial Post analysis was prompted by a mass shooting in Tucson. Jared Lee Loughner — armed with a legally purchased 9mm semiautomatic handgun and a 33-round magazine — opened fire outside a grocery store, killing six people and wounding 13, including Rep. Gabrielle Giffords (D-Ariz.).

In the following two years, a succession of mass shootings has occurred, including several in which the gunmen reportedly had high-capacity magazines.

At the Dec. 14 shooting in Newtown, Conn., the gunman was [reported to have been armed](#) with two handguns, an AR-15 rifle and numerous 30-round magazines. He killed himself at the scene. The guns were legally purchased by his mother.

The federal ban that expired in 2004 prohibited the manufacture of magazines capable of holding more than 10 rounds. But the law permitted the sale of magazines manufactured before the ban. By some estimates, 25 million of the large-capacity magazines were still on the market in 1995.

Many semiautomatic rifles and semiautomatic handguns accept magazines of various sizes. Larger magazines increase a gun’s firepower, enabling more shots before reloading.

The Virginia database analyzed by The Post lists about three-quarters of guns recovered by police, missing the rest because some agencies failed to report their recoveries to the state. The database contains details about more than 100,000 guns recovered by 200 police departments in a wide range of investigations from 1993 through August 2010, when The Post last obtained it.

In recent weeks, The Post conducted additional analysis into the type of guns confiscated with large-capacity magazines. The guns included Glock and TEC-9 handguns and Bushmaster rifles. Most had magazines ranging from 11 to 30 rounds.

Of 14,478 guns equipped with large-capacity magazines that were confiscated by police, more than 87 percent — 12,664 — were classified as semiautomatic pistols. The remainder were mostly semiautomatic rifles.

The Post also identified and excluded from the counts more than 1,000 .22-caliber rifles with large-capacity tubular magazines, which were not subject to the ban.

In Virginia, handguns outfitted with large-capacity magazines saw the biggest fluctuation during and after the ban.

In 1997, three years into the ban, police across the state reported seizing 944 handguns with large-capacity magazines. In 2004, the year the ban ended, they confiscated 452. In 2009, the last full year for which data were available, the number had rebounded to 986 handguns, analysis showed.

Of these, the single biggest group were handguns equipped with 15-round magazines, accounting overall for 4,270 firearms over the 18 years.

Effect hard to measure

Nationwide, researchers who studied the federal ban had difficulty determining its effect, in part because weapons and magazines manufactured before the ban could still be sold and in part because most criminals do not use assault weapons.

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Christopher Koper, who studied the ban's effect for the National Institute of Justice, the research arm of the Justice Department, noted in a [2004 report](#) that the "success in reducing criminal use of the banned guns and magazines has been mixed."

He found that gun crimes involving assault weapons declined between 17 and 72 percent in the six cities covered in the study — Anchorage, Baltimore, Boston, Miami, Milwaukee and St. Louis. But he said he found no decline in crimes committed with other guns with large-capacity magazines, most likely "due to the immense stock of exempted pre-ban magazines."

Koper's study tracked guns through 2003. He said that The Post's findings, which looked at magazine capacity of guns recovered in Virginia before and after 2003, suggests that "maybe the federal ban was finally starting to make a dent in the market by the time it ended."

Koper, now an associate professor of criminology at George Mason University, also noted the ban on high-capacity magazines might improve public safety because larger magazines enable shooters to inflict more damage.

The use of high-capacity magazines is a contentious point in the gun debate.

"Anyone who's thought seriously about armed self-defense knows why honest Americans — private citizens and police alike — choose magazines that hold more than 10 rounds. Quite simply, they improve good people's odds in defensive situations," Chris W. Cox, the executive director of the National Rifle Association's legislative institute wrote in a [piece posted online](#). He called the ban a "dismal failure."

The federal prohibition on high-capacity magazines and assault weapons was spurred in part by the 1989 mass killing in Stockton, Calif. Patrick Edward Purdy, a mentally unbalanced drug addict, fired 110 rounds from an AK-47 into a schoolyard, killing five children and wounding 29 others and a teacher. Purdy used a 75-round drum magazine and a 35-round banana clip, one of four he carried.

Some states still limit magazine size. Maryland limits the size to 20 rounds; California limits it to 10. Connecticut, the location of Sandy Hook Elementary School, does not.

After Giffords's shooting, [Rep. Carolyn McCarthy](#) (N.Y.) and other Democrats proposed legislation to ban the sale or transfer of high-capacity magazines. McCarthy's husband and five others were killed in 1993 on the Long Island Rail Road by a gunman armed with a semiautomatic pistol and four 15-round magazines. He fired 30 shots before being subdued as he swapped magazines.

In the wake of the Newtown shooting, President Obama and lawmakers urged that a ban on assault weapons and high-capacity magazines be made permanent.

The NRA and the National Shooting Sports Foundation, a gun industry group, have historically opposed any restrictions on magazine capacity. The NRA did not respond to requests for comment, and the sports foundation declined to comment.

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EB000412

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SAFETY, FRANK GRGURINA, in his official
10 capacity

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION
14

15 LEONARD FYOCK,
16 SCOTT HOCHSTETLER,
WILLIAM DOUGLAS,
17 DAVID PEARSON, BRAD SEIFERS, and
ROD SWANSON,

18 Plaintiffs,

19 v.

20 THE CITY OF SUNNYVALE, THE
MAYOR OF SUNNYVALE,
21 ANTHONY SPITALERI in his official
capacity, THE CHIEF OF THE
22 SUNNYVALE DEPARTMENT OF
PUBLIC SAFETY, FRANK GRGURINA,
23 in his official capacity, and DOES 1-10

24 Defendants.
25

Case No. 13-cv-05807 RMW

**DECLARATION OF ANTHONY SPITALERI
IN SUPPORT OF SUNNYVALE’S
OPPOSITION TO PLAINTIFFS’ MOTION
FOR PRELIMINARY INJUNCTION**

Date: February 21, 2014
Time: 9:00 a.m.
Location: San Jose Courthouse
Courtroom 6 – 4th Floor
280 South 1st Street
San Jose, CA 95113

26 I, Anthony Spitaleri, declare as follows:

27 1. I served as Mayor of the City of Sunnyvale from January 10, 2012 through January
28 7, 2014. I had previously served as Mayor of Sunnyvale from January 2008 through January

EB000413

1 2010. I served on the Sunnyvale City Council from January 2006 through January 2014.

2 2. For 36 years I was a firefighter with the Palo Alto Fire Department, before retiring
3 as Captain.

4 3. I have sat for years on the National League of Cities’ Public Safety and Crime
5 Prevention Policy and Advocacy Committee. I was also a member of the League of California
6 Cities’ Public Safety Committee and Home Land Security Sub-Committee.

7 4. As a mayor with a long background in public safety, I became concerned with the
8 potential for gun violence in the City of Sunnyvale, particularly after the mass shootings in
9 Newtown and other cities around the country. Although Sunnyvale is not known for having high
10 incidences of crime, the mass shootings in Newtown and other small municipalities demonstrated
11 that these tragedies can hit any city, without regard to its size, location, or history of crime.
12 Prompted by the incident in Newtown, I became increasingly interested in steps that could be
13 taken to prevent a similar tragedy from occurring in Sunnyvale.

14 5. After Newtown, I became aware of the growing efforts of cities throughout
15 California and the U.S. to take local action that could supplement federal and state regulations
16 with the goal of stopping preventable deaths caused by gun violence. Some of these cities
17 included San Francisco, Los Angeles and Sacramento.

18 6. As I understand it, one commonality of many of the mass shootings of recent years
19 is the use of high powered, rapid fire assault weapons that utilize large capacity ammunition
20 magazines (“LCMs”), which are capable of wreaking substantial amounts of lethal damage in
21 brief bursts of violence.

22 7. I and the Sunnyvale City Council considered several measures to address this
23 issue, some of which were borrowed from ordinances that had been successfully implemented in
24 other California cities. Ultimately, four provisions were put to Sunnyvale voters as “Measure C.”
25 They are:

- 26 a. A requirement that lost or stolen guns be reported within forty-eight hours.
- 27 b. A requirements that residents safely store their weapons.
- 28 c. A ban on the possession of LCMs; and

EB000414

1 d. A requirement that merchants keep ammunition sales logs.

2 8. A true and correct copy of the proposed ordinance that led to the passage of
3 Measure C — containing the complete text of Measure C — is attached hereto as Exhibit 1.

4 9. On November 5, 2013, Measure C, passed with 66.55% of the Sunnyvale voters
5 voting “yes.”

6 10. As noted in the proposed ordinance that led to the passage of Measure C, the City
7 of Sunnyvale determined that violence caused by the intentional and accidental misuse of guns
8 constitutes a “clear and present danger to the populace” and found that “sensible gun safety
9 measures provide some relief from that danger and are of benefit to the entire community.”

10 11. I believe that Measure C constitutes one such sensible gun safety measure and that
11 it will benefit the community of the City of Sunnyvale and promote public safety. In putting
12 Measure C on the ballot, the Sunnyvale City Council was similarly guided by its concern for the
13 threat to public safety posed by LCMs.

14 12. As I understand it, only the ban on LCMs is at issue in this case. This provision
15 limits the ammunition magazines that residents may possess to those that can hold no more than
16 10 rounds, subject to certain exceptions. The provision allows individuals possessing LCMs a
17 90-day grace period before the ban goes into effect.

18 13. We selected the ban on possession of LCM’s in order to reduce the threat of a
19 mass shooting and the risk to law enforcement personnel posed by weapons that use these LCMs.
20 We believed that given the narrow loophole in California law allowing possession (but not
21 manufacture, sale or transfer) of LCMs, the most effective way to achieve this goal of reducing
22 the threat of injury and death posed by LCMs was to ban their possession in our city (subject to
23 certain exceptions, including for law enforcement).

24 14. I declare under penalty of perjury under the laws of the State of California that
25 the foregoing is true and correct. Executed this 29th day of January, 2014, in Sunnyvale,
26 California.

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By: Anthony (Tony) Spitaleri
Anthony Spitaleri

EXHIBIT 1
To
DECLARATION OF ANTHONY
SPITALERI IN SUPPORT OF
SUNNYVALE'S OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION

EXHIBIT "A" TO RESOLUTION NO. 606-13

**PROPOSED ORDINANCE TO AMEND
THE CITY OF SUNNYVALE MUNICIPAL CODE
ESTABLISHING GUN SAFETY REGULATIONS**

The City Council of the City of Sunnyvale, on its own motion, submits to the electors the following proposed ordinance to amend the Municipal Code of the City of Sunnyvale. The City Council has called a Special Municipal Election to be held on Tuesday, November 5, 2013, for the purpose of voting on the proposed amendments.

The proposed ordinance to amend the Municipal Code of the City of Sunnyvale follows the statement of the measure; it is set out in full.

CITY OF SUNNYVALE MEASURE ____

Shall the City of Sunnyvale adopt a gun safety ordinance to require: 1) reporting to police, within 48 hours, known loss or theft of a firearm; 2) storing firearms in residences in a locked container or disabling them with a trigger lock when not in the owner’s immediate possession; 3) prohibiting the possession of ammunition magazines capable of holding more than 10 rounds, with certain exceptions; and 4) logging and tracking of ammunition sales within the City of Sunnyvale?

Yes _____
No _____

If Measure ____ carries, an ordinance amending the Municipal Code of the City of Sunnyvale shall be adopted, adding new Sections 9.44.030, 9.44.040, 9.44.050, 9.44.060 to Chapter 9.44, entitled “Firearms,” which reads as follows:

AN ORDINANCE AMENDING CHAPTER 9.44 (FIREARMS) OF THE SUNNYVALE MUNICIPAL CODE TO ADD GUN SAFETY MEASURES

WHEREAS, the People of the City of Sunnyvale find that the violence and harm caused by and resulting from both the intentional and accidental misuse of guns constitutes a clear and present danger to the populace, and find that sensible gun safety measures provide some relief from that danger and are of benefit to the entire community; and

WHEREAS, the People of the City of Sunnyvale find that laws that provide for safe storage of guns in homes, that require a gun owner to report a stolen or lost gun, that prohibit the possession of ammunition magazines capable of holding more than ten rounds unless circumstances warrant such possession, and that require record-keeping relating to the sale of ammunition constitute sensible gun safety regulations because they are not unduly burdensome for gun owners, they aid law enforcement officers in their duties, and they offer some protection to all members of the community.

EB000418

NOW THEREFORE, THE PEOPLE OF THE CITY OF SUNNYVALE DO ORDAIN AS FOLLOWS:

SECTION 1. SMC §§9.44.030, 9.44.040, 9.44.050, 9.44.060. ADDED.

Sunnyvale Municipal Code Title IX (Public Peace, Safety or Welfare), Chapter 9.44 (Firearms), is amended to add four new Sections to read as follows:

9.44.030. Duty to report theft or loss of firearms.

Any person who owns or possesses a firearm (as defined in Penal Code Section 16520 or as amended) shall report the theft or loss of the firearm to the Sunnyvale Department of Public Safety within forty-eight (48) hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, whenever: (1) the person resides in the City of Sunnyvale; or (2) the theft or loss of the firearm occurs in the City of Sunnyvale.

9.44.040. Safe storage of firearms.

Except when carried on his or her person, or in his or her immediate control and possession, no person shall keep a firearm (as defined in Penal Code Section 16520 or as amended) in any residence owned or controlled by that person unless the firearm is stored in a locked container, or the firearm is disabled with a trigger lock that is listed on the California Department of Justice’s list of approved firearms safety devices.

9.44.050. Possession of large-capacity ammunition magazines prohibited.

(a) No person may possess a large-capacity magazine in the City of Sunnyvale whether assembled or disassembled. For purposes of this section, “large-capacity magazine” means any detachable ammunition feeding device with the capacity to accept more than ten (10) rounds, but shall not be construed to include any of the following:

- (1) A feeding device that has been permanently altered so that it cannot accommodate more than ten (10) rounds; or
- (2) A .22 caliber tubular ammunition feeding device; or
- (3) A tubular magazine that is contained in a lever-action firearm.

(b) Any person who, prior to the effective date of this section, was legally in possession of a large-capacity magazine shall have ninety (90) days from such effective date to do either of the following without being subject to prosecution:

- (1) Remove the large-capacity magazine from the City of Sunnyvale; or
- (2) Surrender the large-capacity magazine to the Sunnyvale Department of Public Safety for destruction; or
- (3) Lawfully sell or transfer the large-capacity magazine in accordance with Penal Code Section 12020.

(c) This section shall not apply to the following:

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- (1) Any federal, state, county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties;
- (2) Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to possess a large-capacity magazine and does so while acting within the course and scope of his or her duties;
- (3) A forensic laboratory or any authorized agent or employee thereof in the course and scope or his or her duties;
- (4) Any entity that operates an armored vehicle business pursuant to the laws of the state, and an authorized employee of such entity, while in the course and scope of his or her employment for purposes that pertain to the entity's armored vehicle business;
- (5) Any person who has been issued a license or permit by the California Department of Justice pursuant to Penal Code Sections 18900, 26500-26915, 31000, 32315, 32650, 32700-32720, or 33300, when the possession of a large capacity magazine is in accordance with that license or permit;
- (6) A licensed gunsmith for purposes of maintenance, repair or modification of the large capacity magazine;
- (7) Any person who finds a large capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the large capacity magazine no longer than is reasonably necessary to deliver or transport the same to a law enforcement agency;
- (8) Any person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds fewer than 10 rounds of ammunition is compatible with the firearm and the person possesses the large capacity magazine solely for use with that firearm.
- (9) Any retired peace officer holding a valid, current Carry Concealed Weapons (CCW) permit issued pursuant to the California Penal Code.

9.44.060. Ammunition Sales.

- (a) It is unlawful for any person to engage in the business of selling, leasing, or otherwise transferring firearm ammunition within the City of Sunnyvale except in compliance with this code.
- (b) Definitions:
 - (1) "Ammunition" means any cartridge or encasement containing a bullet or projectile, propellant, or explosive charge, and a primer which is used in the operation of a firearm.
 - (2) "Ammunition vendor" means any person engaged in the business of selling, leasing, or otherwise transferring firearm ammunition.
 - (3) "Person" means a natural person, association, partnership, firm, corporation, or other entity.
- (c) Every ammunition vendor shall maintain an ammunition sales log which records all ammunition sales made by the vendor. The transferee shall provide, and the ammunition vendor shall record on the ammunition sales log, at the time of sale, all of the following information for each sale of firearms ammunition:
 - (1) The name, address, and date of birth of the transferee;
 - (2) The date of the sale;

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- (3) The transferee's driver's license number, state identification card number, passport number, or other valid government-issued photographic identification;
- (4) The brand, type, and quantity of firearms ammunition transferred;
- (5) The identity of the person transferring the firearms ammunition on behalf of the ammunition vendor;
- (6) The transferee's signature and right thumbprint.

(d) The ammunition sales log shall be recorded on a form approved by the Director of Public Safety. All ammunition sales logs shall be kept at the location of the firearms ammunition sale for a period of not less than two years from the date of the sale. Ammunition sales logs shall be open to reasonable inspection by peace officers at all times the ammunition vendor is regularly open for business.

(e) No person shall knowingly provide false, inaccurate, or incomplete information to an ammunition vendor for the purpose of purchasing firearms ammunition. No ammunition vendor shall knowingly make a false, inaccurate, or incomplete entry in any ammunition sales log, nor shall any ammunition vendor refuse any reasonable inspection of an ammunition sales log subject to inspection.

SECTION 2. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The People of the City of Sunnyvale hereby declare that they would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

EB000421

1 Roderick M. Thompson (State Bar No. 96192)
rthompson@fbm.com
2 Anthony P. Schoenberg (State Bar No. 203714)
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3 Rochelle L. Woods (State Bar No. 282415)
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6 Facsimile: (415) 954-4480

7 Attorneys for Defendants
8 THE CITY OF SUNNYVALE, THE MAYOR OF
SUNNYVALE, ANTHONY SPITALERI in his
official capacity, THE CHIEF OF THE
9 SUNNYVALE DEPARTMENT OF PUBLIC
SAFETY, FRANK GRGURINA, in his official
10 capacity

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

15 LEONARD FYOCK,
16 SCOTT HOCHSTETLER,
WILLIAM DOUGLAS,
17 DAVID PEARSON, BRAD SEIFERS, and
ROD SWANSON,

18 Plaintiffs,

19 v.

20 THE CITY OF SUNNYVALE, THE
MAYOR OF SUNNYVALE,
21 ANTHONY SPITALERI in his official
capacity, THE CHIEF OF THE
22 SUNNYVALE DEPARTMENT OF
PUBLIC SAFETY, FRANK GRGURINA,
23 in his official capacity, and DOES 1-10

24 Defendants.

Case No. 13-cv-05807 RMW

**DECLARATION OF JAMES E.
YURGEALITIS IN SUPPORT OF
SUNNYVALE'S OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Date: February 21, 2014
Time: 9:00 a.m.
Location: San Jose Courthouse
Courtroom 6 – 4th Floor
280 South 1st Street
San Jose, CA 95113

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1 I, James E. Yurgealitis, declare as follows:

2 1. I am currently Self Employed as a Legal and Forensic Consultant providing
3 Criminal Case Reviews, Forensic Case Reviews and Technical Firearms Consulting, Testing and
4 Training Services to Corporations, Legal Counsel and the Public Sector. During my previous 26
5 year career as a Federal Law Enforcement Officer I have been recognized, and testified as, an
6 expert witness in numerous local, state and federal courts. I have toured numerous firearms and
7 ammunition manufacturer’s facilities both in the United States and overseas. I maintain a personal
8 library of firearms and ammunition related books and periodicals and maintain contact with other
9 recognized experts in the field. My final assignment in government service was as Senior Special
10 Agent / Program Manager for Forensic Services for the Bureau of Alcohol, Tobacco, Firearms
11 and Explosives (ATF), U.S. Department of Justice, a position I held for nine (9) years. During
12 that time I was responsible for all Bureau firearms and forensic firearms related training and
13 research at the ATF National Laboratory Center in Ammendale, Maryland.

14 2. My credentials, training, background and experience are stated in my curriculum
15 vitae, a true and correct copy of which is attached as Exhibit A. My credentials, training,
16 background and experience as an expert witness are detailed on my Statement of Qualifications, a
17 true and correct copy of which is attached as Exhibit B.

18 3. I have been provided with, and have reviewed, a copy of the documents submitted
19 by the Plaintiff(s) relative to Case No. 13-cv-05807 RMW in United States District Court for the
20 Northern District of California, San Jose Division. I have also been provided with, and have
21 reviewed, a copy of The City of Sunnyvale, California, Municipal Ordinance 9.44.050, (the
22 “Ordinance”) wherein the possession and use of “ammunition feeding devices” or “magazines”
23 with a capacity of more than ten (10) Ammunition Cartridges or “rounds” is prohibited.

24 4. The specific capacity limitation in the Ordinance addresses “Detachable
25 Magazines”. Detachable Magazines are ammunition feeding devices not permanently integrated
26 or fixed to the firearm receiver or frame. Common types of firearms which utilize detachable
27 magazines include Semi Automatic Pistols, Semi Automatic Rifles, Bolt Action Rifles, Semi
28 Automatic Shotguns, Bolt Action Shotguns and Machineguns.

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5. Detachable Magazines are, can be, and have been manufactured with varying capacities. The operation (or cycle of fire) of any firearm designed and manufactured to accept a detachable magazine will function regardless of the capacity of the magazine itself. For example modern firearms such as the Beretta Model 92 Semi Automatic Pistol and the AR- 15 Type Semi Automatic Rifles will function as designed whether the operator utilizes a magazine limited to ten (10) rounds or one of greater capacity. Generally speaking, any firearm capable of accepting a detachable "Large Capacity Magazine" as defined under the Ordinance will readily accept a magazine with a maximum capacity of ten (10) rounds. This includes the vast majority of Handguns and Shoulder Fired firearms so designed and manufactured.

6. Following the enactment of California Penal Code Section 32310 regulating the Manufacture, Import or Sale of Large Capacity Magazines, numerous Firearm Manufacturers have produced firearms compliant with the legislation. For example Smith and Wesson currently markets specific models of AR-15 type rifles and Semi Automatic pistols compliant with California Law(s). Beretta, Glock, Colt, Sturm Ruger, Sigarms and numerous other manufacturers have produced and marketed specific models of firearms in California after minor changes to their design or component parts. In general firearm magazines with a maximum capacity of ten (10) rounds have been mass produced since the mid 1990's and are readily available to the public.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 28th day of January, 2014, in Sparks, Maryland.

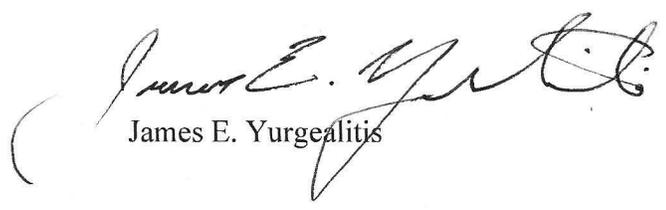

James E. Yurgealitis

EXHIBIT A

To

DECLARATION OF JAMES E.
YURGEALITIS IN SUPPORT OF
SUNNYVALE'S OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION

James E. Yurgealitis

P.O. Box 331
New Freedom, Pennsylvania 17349
24 Hour Mobile: (443) 452-7248
Email: jyurgealitis@gmail.com

SUMMARY:

Currently self employed as a Legal and Forensic Consultant providing Criminal Case Reviews, Forensic Analysis Reviews and Technical Firearms Consulting, Testing and Training Services to Corporations, Legal Counsel and the Public Sector

EDUCATION:

B.A., Political Science and Psychology, St. John Fisher College, Rochester, New York – May 1985

PROFESSIONAL EXPERIENCE:

December 2003 to December 2012: Senior Special Agent / Program Manager for Forensic Services ATF National Laboratory Center (NLC), Beltsville, Maryland. U. S Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

Directed the administration and management of ATF's Forensic Training Programs to include the National Firearms Examiner Academy (NFEA) a 12 month training program for State and Local Forensic Firearm Examiner Trainees. Also managed two additional forensic training programs. Administered a \$1M + budget in accordance with strict ATF and National Institute of Justice (NIJ) guidelines and reporting requirements. Responsible for oversight of all Forensic Firearms related research at the NLC. Supervised a full and part time cadre of fifty two (52) instructors and administrative personnel. Maintained liaison with commercial firearms and ammunition manufacturers and subject matter experts and ensure that lesson plans and curriculum reflected the latest technical developments in firearms manufacture, forensics and their application to federal and state law. Applied for, received and managed in excess of \$2M in external grants to facilitate uninterrupted delivery of training during internal budget shortfalls. Detailed to the Department of Homeland Security Command Center in 2005 with overall responsibility to coordinate and direct Federal, State and Local Law Enforcement assets during and following Hurricanes "Irene" and "Katrina" and again in 2010 for "Andrew" and "Danielle".

June 1997 - December 2003: Special Agent / Violent Crime Coordinator, ATF Baltimore Field Division, Baltimore, Maryland

Responsible for management of ATF's "Project Disarm", a joint law enforcement initiative between ATF, The United States Attorney's office for the District of Maryland (USAO), the Baltimore City Police Department, the Baltimore City States Attorney's Office and the Maryland State Police. Duties included reviewing over 400 state and local firearms related arrests annually for subsequent referral to the USAO and Federal Prosecution. Managed a caseload of 75 – 100 criminal cases annually. Responsible for selection, referral, follow - up investigation and subsequent indictment and prosecution of armed career criminals. Testified in front of Federal Grand Juries in excess of 75 times annually. Was recognized, and testified, as an expert witness in the Identification, Operability and origin of Firearms and Ammunition in three Federal Judicial Districts. Toured over 25 firearms and ammunition manufacturing facilities in Europe and the United States.

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June 1990 – June 1997:

Special Agent, ATF Baltimore Field Division, Baltimore, Maryland

Served in various capacities as a street-level Special Agent. Acted as Group Supervisor and Assistant Special Agent in Charge on numerous occasions. Served on the Washington – Baltimore High Intensity Drug Trafficking Area (HIDTA) task force from 1995 – 1999. Investigated armed narcotics trafficking organizations, seized assets, authored and executed Federal and state search and arrest warrants, conducted surveillance, interviews / interrogations, testified in Federal and state courts as a fact witness, purchased firearms, explosives and narcotics while in an undercover capacity, investigated fatal bombings and arsons, firearms trafficking, alcohol and tobacco trafficking, homicide, fraud and gun store burglaries. Also while detailed for 8 months as the Public Information Officer authored press releases, provided interviews to local and national print and television media outlets and made presentations to local and national public and special interest groups and associations.

April 1989 – June 1990 and July 1986 – March 1987: Special Agent, United States Department of State, Diplomatic Security Service (DSS), Washington Field Office, Rosslyn, VA

Conducted investigations of violations of Federal Law under the department's purview to include Passport and Visa Fraud, Illegal trafficking of restricted firearms and war materials to prohibited countries, human trafficking, seized assets, authored and executed State, local and Federal Arrest and Search Warrants, testified in Federal Court as a fact witness, detailed on an as needed basis to the Dignitary Protection Division as Agent in Charge of multiple protective details for visiting and resident foreign dignitaries, temporarily assigned to support Physical and Personal Protective Security in various U.S. Embassies overseas on an as needed basis, detailed to the Secretary of State Protective Division on an as needed basis to supervise "jump team" agents assigned to augment the permanent protective detail overseas and domestically.

March 1987-February 1989: Special Agent, DSS, Secretary of State Protective Division, Washington, DC

Served in various capacities as Acting Agent in Charge, Acting Shift Leader, Lead Advance Agent and Shift Agent. Responsibilities included close personal protection of the Secretary of State both domestically and overseas, extensive foreign travel to facilitate and prepare security arrangements for overseas visits to include Presidential Summit meetings, liaison with foreign host government officials to plan and solicit assistance with security arrangements, supervision of "jump team" agents temporarily assigned to augment the detail, liaison with U.S Government Intelligence Agencies, other Federal, State and Local Law Enforcement Agencies to identify and protect against potential threats to the Secretary of State.

CLEARANCES:

Top Secret since March 1986 valid through February 2015. Numerous prior SCI Clearances.

TEACHING EXPERIENCE:

Instructed at the Federal Law Enforcement Training Center (FLETC), both recruit and in service training for ATF and other Federal Law Enforcement Agencies

Instructed at the International Law Enforcement Academy (ILEA) in Budapest, Hungary

Instructed for numerous State, local and / or regional law enforcement agencies both in the United States, Canada and Central America.

EB000427

EXHIBIT B

To

**DECLARATION OF JAMES E.
YURGEALITIS IN SUPPORT OF
SUNNYVALE'S OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

**Qualifications of James E. Yurgealitis
Independent Legal and Forensic Consultant**

I, James E. Yurgealitis, being duly sworn, depose and state:

- 1.) That I was previously employed as a Senior Special Agent / Program Manager with the Bureau of Alcohol, Tobacco Firearms & Explosives, (ATF) United States Department of Justice, and had been so employed since 1990. Prior to 1990 I was employed as a Special Agent with the Bureau of Diplomatic Security, (DSS) United States Department of State and had been so employed since 1986.
- 2.) I have a Bachelor of Arts Degree in Political Science and Psychology from St. John Fisher College, Rochester, New York.
- 3.) I am a graduate of the Federal Law Enforcement Training Center, Glynco, Georgia, the Criminal Investigator Training Program, Bureau of Diplomatic Security New Agent Training, and the Bureau of ATF New Agent Training Program.
- 4.) I have completed the Firearms Interstate Nexus Training Program conducted by the Firearms Technology Branch, ATF Headquarters, Washington, D.C.
- 5.) I have completed both Advanced Interstate and European Nexus Training conducted by ATF in conjunction with several domestic and European firearm manufacturers.
- 6.) I have testified in excess of 200 times before Federal Grand Juries regarding the classification, operability, and commerce of firearms and / or ammunition.
- 7.) I have previously qualified as an expert witness regarding the origin, operability / classification and interstate movement of firearms and ammunition in U.S. District Court for the District of Maryland, U.S. District Court for the District of Delaware and the Circuit Court For Baltimore City, Maryland.
- 8.) I have conducted regular training for local, state and federal law enforcement agencies both domestically and overseas regarding firearms classification, operability and firearms statutes.
- 9.) I maintain a personal library of books, printed material and documents that relate to the field of firearms, ammunition, and firearms classification, attend local and national trade shows and professional association meetings, and regularly review periodicals relating to firearms and ammunition.
- 10.) I attend trade shows, maintain contact with, and regularly consult with other persons, to include published authors and recognized experts in the origin, identification and classification of firearms and ammunition.
- 11.) I have, during my tenure with ATF, personally examined in excess of five thousand

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Qualifications Of James E. Yurgealitis contd.

firearms to determine their origin and classification and operability, and to facilitate the tracing of those firearms.

I have toured production facilities for numerous firearms and ammunition manufacturers. The tours were conducted by corporate historians, corporate officers, or production engineering personnel.

Domestic Firearm Manufacturers:

Bushmaster Firearms, Ilion, NY, USA
Colt, New Haven CT, USA (4x)
H&R 1871 Inc., Chicopee, MA, USA (2x)
Marlin, North Haven CT, USA (4x)
O.F. Mossberg & Sons, North Haven, CT, USA (4x)
Remington Firearms, Ilion, NY, USA
Savage Arms Inc., Westfield, MA, USA (4x)
Sig-Sauer / SIGARMS Inc., Exeter, NH, USA (3x)
Smith and Wesson, Springfield, MA, USA (4x)
Sturm Ruger, Newport, NH, USA (4x)
Yankee Hill Machining, Florence, MA, USA

Foreign Firearm Manufacturers:

Carl Walther GmbH, Ulm, Germany
Ceska Zbrojovka (CZ), Uhersky Brod, Czech Republic
Fegarmy (FEG), Budapest, Hungary
F.N Herstal S.A., Herstal, Belgium
Glock GmbH, Deutsch-Wagram, Austria
Heckler & Koch GmbH, Oberndorf au Neckar, Germany
J.P. Sauer & Sohn GmbH, Eckernforde, Germany

Domestic Ammunition Manufacturers:

Fiocchi Ammunition, Ozark, MO, USA
PMC, Boulder City, NV, USA
Remington, Lonoke, AR, USA (4x)
Sierra, Sedalia, MO, USA
Starline Brass, Sedalia, MO, USA

European Proof Houses

Beschussamt Ulm, (Ulm Proofhouse) Ulm, Germany
Beschusstelle Eckernforde, (Eckernforde Proofhouse) Eckernforde, Germany
Czech Republic Proofhouse, Uhersky Brod, Czech Republic
Liege Proofhouse, Liege, Belgium

Qualifications Of James E. Yurgealitis contd.

I have been allowed regular access to the following reference collections:

Bureau of Alcohol, Tobacco Firearms and Explosives Reference Collection, Martinsburg, West Virginia, USA consisting of 5,000+ firearms

Liege Proofhouse, Liege, Belgium consisting of 1,000+ ammunition cartridges

Springfield Armory National Historic Site Firearms Collection, Springfield, MA, USA consisting of 10,000+ Firearms

Smithsonian Institution (Museum of American History) Firearms Reference Collection Washington, DC, USA, consisting of 4000+ firearms

Wertechische Studiensammlung des BWB, (Federal Defense Procurement Bureau Museum) Koblenz, Germany consisting of 10,000+ Firearms

I have toured the following museums:

Heeresgeschichtliches Museum, (Museum of Military History), Vienna, Austria

Hungarian Military Museum, Budapest, Hungary

Springfield Armory National Historic Site, Springfield, MA, USA

United States Air Force Museum, Dayton, OH, USA

United States Army Ordnance Museum, Aberdeen Proving Ground, Aberdeen, MD, USA

United States Military Academy Museum, West Point, NY, USA

United States Naval Academy Museum, Annapolis, MD, USA

Wertechische Studiensammlung des BWB, (Federal Defense Procurement Bureau Museum) Koblenz, Germany

Membership in Professional Organizations:

Member, International Ammunition Association (IAA)

Technical Advisor (pending approval), Association of Firearm and Toolmark Examiners (AFTE)

Member, Federal Law Enforcement Officers Association (FLEOA)

1 Roderick M. Thompson (State Bar No. 96192)
rthompson@fbm.com
2 Anthony P. Schoenberg (State Bar No. 203714)
aschoenberg@fbm.com
3 Rochelle L. Woods (State Bar No. 282415)
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4 Farella Braun + Martel LLP
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5 San Francisco, CA 94104
Telephone: (415) 954-4400
6 Facsimile: (415) 954-4480

7 Attorneys for Defendants
8 THE CITY OF SUNNYVALE, THE MAYOR OF
SUNNYVALE, ANTHONY SPITALERI in his
official capacity, THE CHIEF OF THE
9 SUNNYVALE DEPARTMENT OF PUBLIC
SAFETY, FRANK GRGURINA, in his official
10 capacity

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

15 LEONARD FYOCK,
16 SCOTT HOCHSTETLER,
WILLIAM DOUGLAS,
17 DAVID PEARSON, BRAD SEIFERS, and
ROD SWANSON,
18 Plaintiffs,

19 v.

20 THE CITY OF SUNNYVALE, THE
MAYOR OF SUNNYVALE,
21 ANTHONY SPITALERI in his official
capacity, THE CHIEF OF THE
22 SUNNYVALE DEPARTMENT OF
PUBLIC SAFETY, FRANK GRGURINA,
23 in his official capacity, and DOES 1-10
24 Defendants.

Case No. 13-cv-05807 RMW

**DECLARATION OF RODERICK M.
THOMPSON IN SUPPORT OF
SUNNYVALE'S OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Date: February 21, 2014
Time: 9:00 a.m.
Location: San Jose Courthouse
Courtroom 6 – 4th Floor
280 South 1st Street
San Jose, CA 95113

26 I, Roderick M. Thompson, declare as follows:

27 1. I am licensed to practice law in the state of California and am a partner at the law
28 firm of Farella Braun + Martel LLP, counsel for the City of Sunnyvale; the former Mayor of

1 Sunnyvale, Anthony Spitaleri, in his official capacity; and the Chief of the Sunnyvale Department
2 of Public Safety, Frank Grgurina, in his official capacity (“Defendants” or the “City”). I have
3 personal knowledge of the matters stated herein and if called and sworn as a witness, I could and
4 would competently testify to the facts set forth herein.

5 2. Attached as Exhibit 1 is a true and correct copy of California Statutes, 1999, Ch.
6 129.

7 3. Attached as Exhibit 2 is a true and correct copy of *Mass Shootings in the United*
8 *States involving High-Capacity Ammunition Magazines* from the Violence Policy Center.

9 4. Attached as Exhibit 3 is a true and correct copy of an article, Blair, *et al.*, “Active
10 Shooter Events from 2000 to 2012” from the FBI Law Enforcement Bulletin, dated January 2014,
11 available at <http://leb.fbi.gov/2014/january/active-shooter-events-from-2000-to-2012>.

12 5. Attached as Exhibit 4 is a true and correct copy of a presentation from the Mayors
13 Against Illegal Guns, *Analysis of Recent Mass Shootings*, September 2013.

14 6. Attached as Exhibit 5 are true and correct copies of various news articles
15 downloaded from Westlaw New Room regarding media accounts where a shooter was subdued or
16 tackled while reloading.

17 7. Attached as Exhibit 6 is a true and correct copy of a memorandum from the
18 Department of The Treasury, *Report and Recommendation of the Importability of Certain*
19 *Semiautomatic Rifles*, dated July 6, 1989.

20 8. Attached as Exhibit 7 is a true and correct copy of a study by the Department of
21 The Treasury, *Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles*, April
22 1998.

23 9. Attached as Exhibit 8 is a true and correct copy of House of Representatives
24 Report No. 103-489 (1994).

25 10. Attached as Exhibit 9 is a true and correct copy of a website printout of Santa
26 Clara County Election Results from November 5, 2013, available at
27 http://results.enr.clarityelections.com/CA/Santa_Clara/49877/123386/Web01/en/summary.html.

28 11. Attached as Exhibit 10 is a true and correct copy of a report, *The Militarization of*
EB000433

1 *the U.S. Civilian Firearms Market*, by Violence Policy Center, June 2011.

2 12. Attached as Exhibit 11 is a true and correct copy of the written testimony of
3 Laurence H. Tribe submitted to the Senate Judiciary Committee, February 12, 2013.

4 13. Attached as Exhibit 12 are true and correct copies of excerpts of Gary Kleck, *Point*
5 *Blank: Guns & Violence in America*, 1991 (2d ed. 2009).

6 14. Attached as Exhibit 13 is a true and correct copy of a web reprint of Claude
7 Werner, *The Armed Citizen: A Five-Year Analysis*, printed on December 20, 2013, available at
8 [www.gunssavelives.net/self-defense/analysis-of-five-years-of-armed-encounters-with-data-](http://www.gunssavelives.net/self-defense/analysis-of-five-years-of-armed-encounters-with-data-tables/)
9 [tables/](http://www.gunssavelives.net/self-defense/analysis-of-five-years-of-armed-encounters-with-data-tables/).

10 15. Attached as Exhibit 14 is a true and correct copy of an excerpt of Massad Ayoob,
11 *Gun Digest Book of Concealed Carry*, 2012 Krause Publications (2d Ed.).

12 16. Attached as Exhibit 15 is a true and correct copy of a U.S. Department of Justice,
13 Bureau of Alcohol, Tobacco, Firearms and Explosives report, *ATF Study on the Importability of*
14 *Certain Shotguns*, January 2011.

15 17. Attached as Exhibit 16 is a true and correct copy of a report by the U.S.
16 Department of The Treasury, *Study on the Sporting Suitability of Modified Semiautomatic Assault*
17 *Rifles*, April 1998.

18 18. Attached as Exhibit 17 is a true and correct copy of Brian J. Siebel, Brady Center
19 to Prevent Gun Violence, *Assault Weapons: Mass Produced Mayhem*, October 2008.

20 19. Attached as Exhibit 18 is a true and correct copy of an excerpt of Municipal Code
21 of Chicago, §§ 8-20-010. 8-20-075.

22 20. Attached as Exhibit 19 is a true and correct copy of the Statement of Professors of
23 Constitutional Law: The Second Amendment and the Constitutionality of the Proposed Gun
24 Violence Prevention Legislation, January 30, 2013.

25 21. Attached as Exhibit 20 is a true and correct copy of a news article, *Woman*
26 *Wrestled Fresh Ammo Clip From Tucson Shooter as He Tried to Reload*, January 9, 2011, Kevin
27 Dolak, ABCNews website page, printed on January 10, 2014, available at
28 <http://abcnews.go.com/Politics/patricia-maisch-describes-stopping-gunman->

EB000434

1 reloading/story?id=12577933.

2 22. Attached as Exhibit 21 is a true and correct copy of a news article, *Sandy Hook's*
3 *Shooter's Pause May Have Aided Students Escape*, December 23, 2012, Edmund Mahony, The
4 Courant website page, printed on January 10, 2014, available at [http://articles.courant.com/2012-](http://articles.courant.com/2012-12-23/news/hc-ianza-gunjam-20121222_1_rifle-school-psychologist-classroom)
5 [12-23/news/hc-ianza-gunjam-20121222_1_rifle-school-psychologist-classroom](http://articles.courant.com/2012-12-23/news/hc-ianza-gunjam-20121222_1_rifle-school-psychologist-classroom).

6 23. Attached as Exhibit 22 is a true and correct copy of the City and County of San
7 Francisco's Opposition to Plaintiffs' Motion for Preliminary Injunction (Dkt. 34), dated January
8 16, 2014, in *San Francisco Veteran Police Officers, et al. v. The City and County of San*
9 *Francisco, et al.*, Case No. CV 13-5351 WHA (N.D. Cal.).

10 24. Attached as Exhibit 23 is a true and correct copy of Brief for Professional
11 Historians and Law Professors Saul Cornell, Paul Finkleman, Stanley Katz, and David T. Konig
12 as *Amici Curiae* in Support of Appellees, dated September 20, 2010 in *Heller v. District of*
13 *Colombia*, D.C. Circuit, Case No. 10-7036.

14 25. Attached as Exhibit 24 is a true and correct copy of 2002 Maryland Session Laws
15 Ch. 26 (H.B. 11).

16 26. Attached as Exhibit 25 is a true and correct copy of N.Y.S. AB No. 11535 (2000).

17 27. Attached as Exhibit 26 is a true and correct copy of the City of Rochester, New
18 York, City Code, Chapter 47: Dangerous Articles, as adopted by the Rochester City Council 11-
19 25-1941.

20 28. Attached as Exhibit 27 is a true and correct copy of Francis Clines, *Death on the*
21 *L.I.R.R.: The Rampage; Gunman in a Train Aisle Passes Out Death*, New York Times, December
22 9, 1993.

23 29. Attached as Exhibit 28 is a true and correct copy of Dennis A. Henigan, *The Heller*
24 *Paradox*, 56 UCLA L. Rev. 1171, 1197-98 (2009).

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed January 29, 2014, at San Francisco, California.

/s/ Roderick M. Thompson
Roderick M. Thompson

EXHIBIT 1

To

**Declaration of Roderick M. Thompson in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction**

1999-2000 REGULAR SESSION

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(3) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(4) One firearm transaction shall be reported on each record of sale document. For purposes of this subdivision, a "transaction" means a single sale, loan, or transfer of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(e) The dealer or salesperson making a sale shall ensure that all required information has been obtained from the purchaser. The dealer and all salespersons shall be informed that incomplete information will delay sales.

(f) As used in this section, the following definitions shall control:

(1) "Purchaser" means the purchaser or transferee of a firearm or the person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

WEAPONS—LARGE CAPACITY MAGAZINES—SENTENCES

CHAPTER 129

S.B. No. 23

AN ACT to amend Sections 245, 12001, 12020, 12022, 12022.5, 12280, 12285, and 12289 of, and to add Sections 12079 and 12276.1 to, the Penal Code, relating to firearms.

[Filed with Secretary of State July 19, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 23, Perata. Firearms: assault weapons.

(1) Existing law makes it a misdemeanor for any person to manufacture, cause to be manufactured, import into this state, keep or offer for sale, give, lend, or possess specified weapons and explosives.

This bill would make it a misdemeanor or a felony, beginning January 1, 2000, for any person, except as provided, to manufacture, import into the state, keep or offer for sale, give, or lend any large-capacity magazine. A large-capacity magazine would be defined to mean any ammunition feeding device with the capacity to accept more than 10 rounds. By expanding the definition of, and increasing the penalty for, a crime, this bill imposes a state-mandated local program.

(2) Existing law requires imposition of a longer term of imprisonment on any person convicted of assault with a deadly weapon, and for enhanced terms of imprisonment for a person convicted of a felony, if that person was either armed with, or personally used, an assault weapon or machinegun, as defined, in the commission of, or attempted commission of that felony.

Existing law makes it a crime to engage in specified activities regarding assault weapons and regulates the lawful possession of those weapons. Existing law defines the term "assault weapon" by, among other things, designating a list of specified semiautomatic firearms.

Additions or changes indicated by underline; deletions by asterisks * * *

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This bill would further define the term "assault weapon" by providing descriptive definitions concerning the capacity and function of the weapon. These expanded definitions would specifically apply to the above-mentioned increased term and enhancement provisions and to related provisions. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(3) Existing law makes it a crime, punishable either as a felony or a misdemeanor, for any person to possess any assault weapon, as defined. However, if a person charged with a first-time violation of that offense presents proof that he or she lawfully possessed the assault weapon within a specified period, and has since registered the weapon or relinquished it, the offense is punishable as an infraction, if the person has also complied with specified conditions. Existing law also provides a period of forgiveness to persons in possession of an assault weapon during a specified period under specified conditions. In addition, existing law exempts specified law enforcement agencies from the prohibition against possession, purchase, or sale of assault weapons.

This bill would make it an infraction, punishable by a fine up to \$500, for a first-time violation of the above-mentioned offense, if the offender was found in possession of no more than 2 firearms in compliance with specified provisions and proves that he or she lawfully possessed the assault weapon prior to the date it was defined as an assault weapon under the proposed provision set forth in (2). This bill would also add an additional period of forgiveness for persons in possession of assault weapons, as defined, pursuant to the proposed provision set forth in (2), to extend to the one-year period after the weapon was defined as an assault weapon under that proposed provision. By defining a new crime, this bill would impose a state-mandated local program. The bill would also exempt certain additional off-duty and certain retired law enforcement personnel from the prohibition against possession, purchase, or sale of assault weapons.

(4) Existing law requires any person who lawfully possesses an assault weapon, as defined, prior to specified periods, to register that weapon with the Department of Justice, within a specified period of time.

This bill would require any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to the proposed provision mentioned in (2) above, to register the weapon within one year of the effective date of that provision.

(5) Existing law requires the Department of Justice to conduct a public education and notification program regarding the registration of assault weapons, the limited forgiveness period of the registration requirement and the consequences of nonregistration.

This bill would require that the public education and notification program include the new definition of assault weapons discussed in paragraph (2) above.

(6) The bill would state legislative intent.

(7) The bill would provide that its provisions are severable.

(8) This bill would incorporate additional changes in Section 12020 of the Penal Code proposed by SB 359, to be operative if SB 359 and this bill are both enacted and become effective on or before January 1, 2000, and this bill is enacted last.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 245 of the Penal Code is amended to read:

245. (a)(1) Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(2) Any person who commits an assault upon the person of another with a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than six months and not exceeding one year, or by both a fine not exceeding ten thousand dollars (\$10,000) and imprisonment.

(3) Any person who commits an assault upon the person of another with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276 or 12276.1, shall be punished by imprisonment in the state prison for 4, 8, or 12 years.

(b) Any person who commits an assault upon the person of another with a semiautomatic firearm shall be punished by imprisonment in the state prison for three, six, or nine years.

(c) Any person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years.

(d)(1) Any person who commits an assault with a firearm upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) Any person who commits an assault upon the person of a peace officer or firefighter with a semiautomatic firearm and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(3) Any person who commits an assault with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276 or 12276.1, upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for 6, 9, or 12 years.

(e) When a person is convicted of a violation of this section in a case involving use of a deadly weapon or instrument or firearm, and the weapon or instrument or firearm is owned by that person, the court shall order that the weapon or instrument or firearm be deemed a nuisance, and it shall be confiscated and disposed of in the manner provided by Section 12028.

(f) As used in this section, "peace officer" refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

SEC. 2. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. These terms also include any device that has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this title, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) For purposes of Sections 12070, 12071, and paragraph (7) of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section 12072, the term "firearm" does not include an

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unloaded firearm that is defined as an "antique firearm" in Section 921(a)(16) of Title 18 of the United States Code.

(f) Nothing shall prevent a device defined as a "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term "BB device" means any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun.

(h) As used in this title, "wholesaler" means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

"Wholesaler" shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071, 12072, or 12084, "application to purchase" means any of the following:

(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

(2) The initial completion of the LEFT by the purchaser, transferee, or person being loaned the firearm as required by subdivision (d) of Section 12084.

(3) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be "loaded" whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term "any firearm" may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(l) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

(m) Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this title shall include two copies of the applicant's fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

(n) As used in this chapter, a "personal handgun importer" means an individual who meets all of the following criteria:

(1) He or she is not a person licensed pursuant to Section 12071.

(2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(3) He or she is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) He or she is the owner of a pistol, revolver, or other firearm capable of being concealed upon the person.

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(5) He or she acquired that pistol, revolver, or other firearm capable of being concealed upon the person outside of California.

(6) He or she moves into this state on or after January 1, 1998, as a resident of this state.

(7) He or she intends to possess that pistol, revolver, or other firearm capable of being concealed upon the person within this state on or after January 1, 1998.

(8) The pistol, revolver, or other firearm capable of being concealed upon the person was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.

(9) He or she, while a resident of this state, had not previously reported his or her ownership of that pistol, revolver, or other firearm capable of being concealed upon the person to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.

(10) The pistol, revolver, or other firearm capable of being concealed upon the person is not a firearm that is prohibited by subdivision (a) of Section 12020.

(11) The pistol, revolver, or other firearm capable of being concealed upon the person is not an assault weapon, as defined in Section 12276 or 12276.1.

(12) The pistol, revolver, or other firearm capable of being concealed upon the person is not a machinegun, as defined in Section 12200.

(13) The person is 18 years of age or older.

(o) For purposes of paragraph (6) of subdivision (n):

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.

(2) In the case of members of the armed forces of the United States, residency shall be deemed to be established when he or she was discharged from active service in this state.

SEC. 3. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag * * *.

(2) Commencing January 1, 2000, manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine.

(3) Carries concealed upon his or her person any explosive substance, other than fixed ammunition * * *.

(4) Carries concealed upon his or her person any dirk or dagger * * *.

However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.29) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

Additions or changes indicated by underline; deletions by asterisks * * *

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by regular, salaried, full-time members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

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(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred to in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed, or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

(16) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(18) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

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(19) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(20) The sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large capacity magazine by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(21) The sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Section 12071.

(22) The loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(A) The person being loaned the large-capacity magazine is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

(B) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited and the person who lends the large-capacity magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

(23) The importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the large-capacity magazine previously lawfully possessed in the state.

(24) The lending or giving of any large-capacity magazine to a person licensed pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(25) The return to its owner of any large-capacity magazine by a person specified in paragraph (24).

(26) The importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 12079, when those activities are in accordance with the terms and conditions of that permit.

(27) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by entities that operate armored vehicle businesses pursuant to the laws of this state.

(28) The lending of large-capacity magazines by the entities specified in paragraph (27) to their authorized employees, while in the course and scope of their employment for purposes that pertain to the entity's armored vehicle business.

(29) The return of those large-capacity magazines to those entities specified in paragraph (27) by those employees specified in paragraph (28).

(c)(1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which

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a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a "fléchette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(7) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a "ballistic knife" means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(9) As used in this section, a "camouflaging firearm container" means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

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(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a "shuriken" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an "unconventional pistol" means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2½ inches.

(14) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an "undetectable firearm" means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

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Additions or changes indicated by underline; deletions by asterisks * * *

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(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(23) As used in this section, a "multiburst trigger activator" means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, "large-capacity magazine" means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds nor shall it include any .22 caliber tube ammunition feeding device.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 3.5. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag * * * :

(2) Commencing January 1, 2000, manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine.

(3) Carries concealed upon his or her person any explosive substance, other than fixed ammunition * * * :

(4) Carries concealed upon his or her person any dirk or dagger * * * .

However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.29) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

Additions or changes indicated by underline; deletions by asterisks * * *

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(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by * * * peace officer members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties and the peace officer has completed a training course in the use of these weapons certified by the Commission on Peace Officer Standards and Training.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

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Additions or changes indicated by underline; deletions by asterisks * * *

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(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred to in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed * * * or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

(16) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(18) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

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(19) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(20) The sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large capacity magazine by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(21) The sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Section 12071.

(22) The loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(A) The person being loaned the large-capacity magazine is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

(B) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited and the person who lends the large-capacity magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

(23) The importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the large-capacity magazine previously lawfully possessed in the state.

(24) The lending or giving of any large-capacity magazine to a person licensed pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(25) The return to its owner of any large-capacity magazine by a person specified in paragraph (24).

(26) The importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 12079, when those activities are in accordance with the terms and conditions of that permit.

(27) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by entities that operate armored vehicle businesses pursuant to the laws of this state.

(28) The lending of large-capacity magazines by the entities specified in paragraph (27) to their authorized employees, while in the course and scope of their employment for purposes that pertain to the entity's armored vehicle business.

(29) The return of those large-capacity magazines to those entities specified in paragraph (27) by those employees specified in paragraph (28).

(c)(1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which

a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a "fléchette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(7) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a "ballistic knife" means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(9) As used in this section, a "camouflaging firearm container" means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

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(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a "shuriken" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an "unconventional pistol" means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2½ inches.

(14) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an "undetectable firearm" means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

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Additions or changes indicated by underline; deletions by asterisks * * *

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(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(23) As used in this section, a "multiburst trigger activator" means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, "large-capacity magazine" means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds nor shall it include any .22 caliber tube ammunition feeding device.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 4. Section 12022 of the Penal Code is amended to read:

12022. (a)(1) Except as provided in subdivisions (c) and (d), any person who is armed with a firearm in the commission or attempted commission of a felony shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one year, unless the arming is an element of the offense of which he or she was convicted. This additional term shall apply to any person who is a principal in the commission or attempted commission of a felony if one or more of the principals is armed with a firearm, whether or not the person is personally armed with a firearm.

(2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if the firearm is an assault weapon, as defined in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, the additional term described in this subdivision shall be three years whether or not the arming is an element of the offense of which he or she was convicted. The additional term provided in this paragraph shall apply to any person who is a principal in the commission or attempted commission of a felony if one or more of the principals is armed with an assault weapon or machinegun whether or not the person is personally armed with an assault weapon or machinegun.

(b)(1) Any person who personally uses a deadly or dangerous weapon in the commission or attempted commission of a felony shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one year, unless use of a deadly or dangerous weapon is an element of the offense of which he or she was convicted.

(2) If the person described in paragraph (1) has been convicted of carjacking or attempted carjacking, the additional term shall be one, two, or three years.

(3) When a person is found to have personally used a deadly or dangerous weapon in the commission or attempted commission of a felony as provided in this subdivision and the weapon is owned by that person, the court shall order that the weapon be deemed a nuisance and disposed of in the manner provided in Section 12028.

Additions or changes indicated by underline; deletions by asterisks * * *

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(c) Notwithstanding the enhancement set forth in subdivision (a), any person who is personally armed with a firearm in the commission or attempted commission of a violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall, upon conviction of that offense and in addition and consecutive to the punishment prescribed for that offense of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for three, four, or five years in the court's discretion. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

(d) Notwithstanding the enhancement set forth in subdivision (a), any person who is not personally armed with a firearm who, knowing that another principal is personally armed with a firearm, is a principal in the commission or attempted commission of an offense specified in subdivision (c), shall, upon conviction of that offense, be punished by an additional term of one, two, or three years in the court's discretion. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

(e) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

(f) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in subdivision (c) or (d) in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

SEC. 5. Section 12022.5 of the Penal Code is amended to read:

12022.5. (a)(1) Except as provided in subdivisions (b) and (c), any person who personally uses a firearm in the commission or attempted commission of a felony shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for 3, 4, or 10 years, unless use of a firearm is an element of the offense of which he or she was convicted.

(2) If the person described in paragraph (1) has been convicted of carjacking or attempted carjacking, the additional term shall be 4, 5, or 10 years. The court shall order imposition of the middle term unless there are circumstances in aggravation or mitigation. The court shall state its reasons for its enhancement choice on the record at the time of sentencing.

(b)(1) Notwithstanding subdivision (a), any person who is convicted of a felony or an attempt to commit a felony, including murder or attempted murder, in which that person discharged a firearm at an occupied motor vehicle which caused great bodily injury or death to the person of another, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the sentence prescribed for the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for 5, 6, or 10 years.

(2) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, in the commission or attempted commission of a felony, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the sentence prescribed for the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for 5, 6, or 10 years.

(c) Notwithstanding the enhancement set forth in subdivision (a), any person who personally uses a firearm in the commission or attempted commission of a violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall, upon conviction of that offense and in addition and consecutive to the punishment prescribed for the offense of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for 3, 4, or 10 years in the court's discretion. The court shall order the imposition of the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record.

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Additions or changes indicated by underline; deletions by asterisks * * *

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(d) The additional term provided by this section may be imposed in cases of assault with a firearm under paragraph (2) of subdivision (a) of Section 245, or assault with a deadly weapon which is a firearm under Section 245, or murder if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury or death.

(e) When a person is found to have personally used a firearm, an assault weapon, or a machinegun in the commission or attempted commission of a felony as provided in this section and the firearm, assault weapon, or machinegun is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(f) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

SEC. 6. Section 12079 is added to the Penal Code, to read:

12079. (a) Upon a showing that good cause exists, the Department of Justice may issue permits for the possession, transportation, or sale between a person licensed pursuant to Section 12071 and an out-of-state client, of large capacity magazines.

(b) For purposes of this section, "large capacity magazine" shall have the same meaning as that set forth in paragraph (25) of subdivision (c) of Section 12020.

SEC. 7. Section 12276.1 is added to the Penal Code, to read:

12276.1. (a) Notwithstanding Section 12276, "assault weapon" shall also mean any of the following:

(1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and any one of the following:

(A) A pistol grip that protrudes conspicuously beneath the action of the weapon.

(B) A thumbhole stock.

(C) A folding or telescoping stock.

(D) A grenade launcher or flare launcher.

(E) A flash suppressor.

(F) A forward pistol grip.

(2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds.

(3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

(4) A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following:

(A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.

(B) A second handgrip.

(C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel.

(D) The capacity to accept a detachable magazine at some location outside of the pistol grip.

(5) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds.

(6) A semiautomatic shotgun that has both of the following:

(A) A folding or telescoping stock.

(B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.

(7) A semiautomatic shotgun that has the ability to accept a detachable magazine.

(8) Any shotgun with a revolving cylinder.

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(b) "Assault weapon" does not include any antique firearm.

(c) The following definitions shall apply under this section:

(1) "Magazine" shall mean any ammunition feeding device.

(2) "Capacity to accept more than 10 rounds" shall mean capable of accommodating more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

(3) "Antique firearm" means any firearm manufactured prior to January 1, 1899.

(d) This section shall become operative January 1, 2000.

SEC. 8. Section 12280 of the Penal Code is amended to read:

12280. (a)(1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, and in subdivisions (c) and (d), any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in a county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to the date it was specified as an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm * * * specified by Section 12276 or 12276.5 pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars (\$500), but not less than three hundred fifty dollars (\$350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) A first-time violation of subdivision (b) shall be an infraction punishable by a fine of up to five hundred dollars (\$500), if the person was found in possession of no more than two firearms in compliance with subdivision (c) of Section 12285 and the person meets all of the following conditions:

(1) The person proves that he or she lawfully possessed the assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(2) The person is not found in possession of a firearm specified as an assault weapon pursuant to Section 12276 or Section 12276.5.

(3) The person has not previously been convicted of violating this section.

(4) The person was found to be in possession of the assault weapons within one year following the end of the one-year registration period established pursuant to subdivision (a) of Section 12285.

(5) The person has since registered the firearms and any other lawfully obtained firearms defined by Section 12276.1, pursuant to Section 12285, except as provided for by this section, or relinquished them pursuant to Section 12288.

(d) Firearms seized pursuant to subdivision (c) shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(e) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

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Additions or changes indicated by underline; deletions by asterisks * * *

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(f) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the * * * Youth and Adult Corrections Agency, the Department of the California Highway Patrol, district attorneys' offices, Department of Fish and Game, Department of Parks and Recreation, or the military or naval forces of this state or of the United States for use in the discharge of their official duties * * * .

(g) Subdivision (b) shall not prohibit the possession or use of assault weapons by sworn peace officer members of those agencies * * * specified in subdivision (f) for law enforcement purposes, whether on or off duty.

(h) Subdivisions (a) and (b) shall not prohibit the sale or transfer of assault weapons by an entity specified in subdivision (f) to a person, upon retirement, who retired as a sworn officer from that entity.

(i) Subdivision (b) shall not apply to the possession of an assault weapon by a retired peace officer who received that assault weapon pursuant to subdivision (h).

(j) Subdivision (b) shall not apply to the possession of an assault weapon, as defined in Section 12276, by any person during the 1990 calendar year, * * * during the 90-day period immediately after the date it was specified as an assault weapon pursuant to Section 12276.5, or during the one-year period after the date it was defined as an assault weapon pursuant to Section 12276.1, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, * * * if the weapon is specified as an assault weapon pursuant to Section 12276, or prior to the date it was specified as an assault weapon pursuant to Section 12276.5, or prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(3) The person is otherwise in compliance with this chapter.

(k) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (f).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(l) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i) which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(m) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i), if the assault weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(n) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon pursuant to this chapter who lends that assault weapon to another if all the following apply:

(A) The person to whom the assault weapon is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon is lent remains in the presence of the registered possessor of the assault weapon.

(C) The assault weapon is possessed at any of the following locations:

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(i) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon to the registered possessor which is lent by the same pursuant to paragraph (1).

(o) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (n).

(p) Subdivisions (a) and (b) shall not apply to the possession and importation of an assault weapon into this state by a nonresident if all of the following conditions are met:

(1) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon.

(2) The competition or match is conducted on the premises of one of the following:

(i) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(3) The match or competition is sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(4) The assault weapon is transported in accordance with Section 12026.1 or 12026.2.

(5) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(q) Subdivision (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12286.

(2) A person who has a permit to possess an assault weapon issued pursuant to Section 12286 when he or she is acting in accordance with Section 12285 or 12286.

(r) Subdivisions (a) and (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12285.

(2) A person acting in accordance with Section 12286 or 12290.

(s) Subdivision (b) shall not apply to the registered owner of an assault weapon possessing that firearm in accordance with subdivision (c) of Section 12285.

(t) Subdivision (a) shall not apply to the importation into this state of an assault weapon by the registered owner of that assault weapon, if it is in accordance with the provisions of subdivision (c) of Section 12285.

(u) As used in this chapter, the date a firearm is * * * an assault weapon * * * is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (b) of that section.

SEC. 9. Section 12285 of the Penal Code is amended to read:

12285. (a) Any person who lawfully possesses an assault weapon, as defined in Section 12276, prior to June 1, 1989, shall register the firearm by January 1, 1991, and any person who lawfully possessed an assault weapon prior to the date it was specified as an assault

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Additions or changes indicated by underline; deletions by asterisks * * *

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weapon pursuant to Section 12276.5 shall register the firearm within 90 days * * * with the Department of Justice pursuant to those procedures that the department may establish. Except as provided in subdivision (a) of Section 12280, any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276.1, and which was not specified as an assault weapon under Section 12276 or 12276.5, shall register the firearm within one year of the effective date of Section 12276.1, with the department pursuant to those procedures that the department may establish. The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information that the department may deem appropriate. The department may charge a fee for registration of up to twenty dollars (\$20) per person but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(b)(1) Except as provided in paragraph (2), no assault weapon possessed pursuant to this section may be sold or transferred on or after January 1, 1990, to anyone within this state other than to a licensed gun dealer, as defined in subdivision (c) of Section 12290, or as provided in Section 12288. Any person who (A) obtains title to an assault weapon registered under this section or that was possessed pursuant to subdivision (g) or (i) of Section 12280 by bequest or intestate succession, or (B) lawfully possessed a firearm subsequently declared to be an assault weapon pursuant to Section 12276.5, or subsequently defined as an assault weapon pursuant to Section 12276.1, shall, within 90 days, render the weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, or remove the weapon from this state. A person who lawfully possessed a firearm that was subsequently declared to be an assault weapon pursuant to Section 12276.5 may alternatively register the firearm within 90 days of the declaration issued pursuant to subdivision (f) of Section 12276.5.

(2) A person moving into this state, otherwise in lawful possession of an assault weapon, shall do one of the following:

(A) Prior to bringing the assault weapon into this state, that person shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

(B) The person shall cause the assault weapon to be delivered to a licensed gun dealer, as defined in subdivision (c) of Section 12290, in this state in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. If the person obtains a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that assault weapon to the person. If the licensed gun dealer, as defined in subdivision (c) of Section 12290, is prohibited from delivering the assault weapon to a person pursuant to this paragraph, the dealer shall possess or dispose of the assault weapon as allowed by this chapter.

(c) A person who has registered an assault weapon under this section may possess it only under any of the following conditions unless a permit allowing additional uses is first obtained under Section 12286:

(1) At that person's residence, place of business, or other property owned by that person, or on property owned by another with the owner's express permission.

(2) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(3) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(4) While on the premises of a shooting club which is licensed pursuant to the Fish and Game Code.

(5) While attending any exhibition, display, or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law

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enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(6) While on publicly owned land if the possession and use of a firearm described in Section 12276 or 12276.1 is specifically permitted by the managing agency of the land.

(7) While transporting the assault weapon between any of the places mentioned in this subdivision, or to any licensed gun dealer, as defined in subdivision (c) of Section 12290, for servicing or repair pursuant to subdivision (b) of Section 12290, if the assault weapon is transported as required by Section 12026.1.

(d) No person who is under the age of 18 years, no person who is prohibited from possessing a firearm by Section 12021 or 12021.1, and no person described in Section 8100 or 8103 of the Welfare and Institutions Code may register or possess an assault weapon.

(e) The department's registration procedures shall provide the option of joint registration for assault weapons owned by family members residing in the same household.

(f) For 90 days following January 1, 1992, a forgiveness period shall exist to allow persons specified in subdivision (b) of Section 12280 to register with the Department of Justice assault weapons that they lawfully possessed prior to June 1, 1989.

(g) Any person who registered a firearm as an assault weapon pursuant to the provisions of law in effect prior to January 1, 2000, where the assault weapon is thereafter defined as an assault weapon pursuant to Section 12276.1, shall be deemed to have registered the weapon for purposes of this chapter and shall not be required to reregister the weapon pursuant to this section.

(h) Any person who registers his or her assault weapon during the 90-day forgiveness period described in subdivision (f), and any person whose registration form was received by the Department of Justice after January 1, 1991, and who was issued a temporary registration prior to the end of the forgiveness period, shall not be charged with a violation of subdivision (b) of Section 12280, if law enforcement becomes aware of that violation only as a result of the registration of the assault weapon. This subdivision shall have no effect upon persons charged with a violation of subdivision (b) of Section 12280 of the Penal Code prior to January 1, 1992, provided that law enforcement was aware of the violation before the weapon was registered.

SEC. 10. Section 12287 of the Penal Code is amended to read:

12287. (a) The Department of Justice may, upon a finding of good cause, issue permits for the manufacture of assault weapons to federally licensed manufacturers of firearms for the sale to, purchase by, or possession of assault weapons by, any of the following:

- (1) The agencies listed in subdivision (f) of Section 12280.
- (2) Entities and persons who have been issued permits pursuant to Section 12286.
- (3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.
- (4) Federal law enforcement and military agencies.
- (5) Law enforcement and military agencies of other states.
- (6) Foreign governments and agencies approved by the United States State Department.

(b) Application for the permits, the keeping and inspection thereof, and the revocation of permits shall be undertaken in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

SEC. 11. Section 12289 of the Penal Code is amended to read:

12289. (a) The Department of Justice shall conduct a public education and notification program regarding the registration of assault weapons * * * and the definition of the weapons set forth in Section 12276.1. The public education and notification program shall include outreach to local law enforcement agencies and utilization of public service announcements in a variety of media approaches, to ensure maximum publicity of the limited forgiveness period of the registration requirement specified in subdivision (f) of Section 12285 and the consequences of nonregistration. The department shall develop posters describing

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gunowners' responsibilities under this chapter which shall be posted in a conspicuous place in every licensed gun store in the state during the forgiveness period.

(b) Any costs incurred by the Department of Justice to implement this section which cannot be absorbed by the department shall be funded from the Dealers' Record of Sale Special Account, as set forth in subdivision (d) of Section 12076, upon appropriation by the Legislature.

SEC. 12. It was the original intent of the Legislature in enacting Chapter 19 of the Statutes of 1989 to ban all assault weapons, regardless of their name, model number, or manufacture. It is the purpose of this act to effectively achieve the Legislature's intent to prohibit all assault weapons.

SEC. 13. If any phrase, clause, sentence, section, or provision of this act or application thereof is held invalid as to any person or circumstance, such invalidity shall not affect any other phrase, clause, sentence, section, provision, or application of this act, that can be given effect without the invalid phrase, clause, sentence, section, provision, or application and to this end the provisions of the act are declared to be severable.

SEC. 14. Section 3.5 of this bill incorporates amendments to Section 12020 of the Penal Code proposed by this bill and SB 359. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12020 of the Penal Code, and (3) this bill is enacted after SB 359, in which case Section 12020 of the Penal Code, as amended by SB 359, shall remain operative only until the operative date of this bill, at which time Section 3.5 of this bill shall become operative, and Section 3 of this bill shall not become operative.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

FINANCIAL INSTITUTIONS—TRUST COMPANIES—INVESTMENTS

CHAPTER 130

A.B. No. 459

AN ACT to amend Section 1561.1 of the Financial Code, relating to investments.

[Filed with Secretary of State July 20, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 459, Ackerman. Trust companies: investments.

Existing law authorizes a trust company to invest or reinvest in the securities or other interests of any fund for which the trust company or its affiliate is providing specified investment or management services. The trust company is required to provide written notice to certain persons at least 30 days prior to an initial investment.

This bill instead requires that notice to be provided within 30 days before or after the initial investment.

The people of the State of California do enact as follows:

SECTION 1. Section 1561.1 of the Financial Code is amended to read:

1561.1. (a) As used in this section:

(1) "Fund" means any investment company registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), as amended from time to time.

Additions or changes indicated by underline; deletions by asterisks * * *

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EXHIBIT 2
To
Declaration of Roderick M. Thompson in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction

Violence Policy Center



1730 Rhode Island Avenue, NW 202.822.8200 voice
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Mass Shootings in the United States Involving High-Capacity Ammunition Magazines



Columbine shooter armed with Intratec TEC-DC9 assault pistol equipped with high-capacity ammunition magazine

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Santa Monica, California June 7, 2013 Shooter: John Zawahri	6 dead, (including shooter)	AR-type assault rifle built from parts	40 30-round magazines
Sandy Hook Elementary School Newtown, Connecticut December 14, 2012 Shooter: Adam Lanza	28 dead, (including shooter)	Bushmaster assault rifle, 10mm Glock pistol, 9mm Sig Sauer pistol	30-round magazines
Century Aurora 16 movie theater Aurora, Colorado July 20, 2012 Shooter: James Holmes	12 dead, 58 wounded	Smith & Wesson M&P15 assault rifle, .40 Glock pistol, Remington 12 gauge shotgun	100-round magazine

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
IHOP Carson City, Nevada September 6, 2011 Shooter: Eduardo Sencion	5 dead, (including shooter), seven wounded	MAK-90 assault rifle (illegally converted to full- auto)	20- and 30-round magazines
Safeway parking lot Tucson, Arizona January 8, 2011 Shooter: Jared Loughner	6 dead, 13 wounded	Glock 19 pistol	Two 31-round magazines Two 15-round magazines
Shreveport, Louisiana August 16, 2010 Shooter: Marcus Donte Reed	3 dead	Assault weapon	30-round magazine
Hartford Distributors Manchester, Connecticut August 3, 2010 Shooter: Omar Thornton	9 dead (including shooter), 2 wounded	Sturm, Ruger SR9 pistol	High-capacity magazine (capacity unstated)
ABB, Inc. St. Louis, Missouri January 7, 2010 Shooter: Timothy Hendron	4 dead (including shooter), 5 wounded	Romarm AK-47 assault rifle, Tristar 12 gauge shotgun, Hi-Point .40 pistol	Two "banana-style" high- capacity magazines (capacity not stated)
Fort Hood Fort Hood, Texas November 5, 2009 Shooter: Nidal Hasan	13 dead, 34 wounded	FN Five-seven 5.7mm pistol	30- and 20-round magazines
LA Fitness Center Collier, Pennsylvania August 4, 2009 Shooter: George Sodini	4 dead (including shooter), nine wounded	Two 9mm pistols, .45 pistol, .32 pistol	30-round magazines
American Civic Association Binghamton, New York April 3, 2009 Shooter: Jiverly Wong	14 dead (including shooter), 4 wounded	9mm Beretta handgun, .45 handgun	30-round magazine
Alabama, multiple locations March 10, 2009 Shooter: Michael McLendon	11 dead (including shooter)	Two assault rifles	High-capacity magazines taped together
Walt Lou Trailer Park Stafford, Virginia May 5, 2008 Shooter: Aaron Poseidon Jackson	4 dead (including shooter)	WASR-10 assault rifle, Smith & Wesson .38 revolver	30-round magazines

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Northern Illinois University DeKalb, Illinois February 14, 2008 Shooter: Steven Phillip Kazmierczak	6 dead (including shooter), 21 wounded	Glock19 9mm pistol, Hi-Point 380, Remington12 gauge Sportsman 48 shotgun	33- and 15-round magazines
Westroads Mall Omaha, Nebraska December 5, 2007 Shooter: Robert Hawkins	9 dead (including shooter), 5 wounded	WASR-10 assault rifle	Two 30-round magazines taped together
Virginia Tech Blacksburg, Virginia April 16, 2007 Shooter: Seung-Hui Cho	33 dead (including shooter), 17 wounded	Glock 19 pistol, Walther P22 pistol	15-round magazines
Hunting Camp Birchwood, Wisconsin November 21, 2004 Shooter: Chai Vang	6 dead, 3 wounded	SKS assault rifle	20-round magazine
Edgewater Technology Inc. Wakefield, Massachusetts December 26, 2000 Shooter: Michael McDermott	7 dead	AK-47 assault rifle, 12 gauge pump- action shotgun	60-round, large-capacity feeding device
Xerox Honolulu, Hawaii November 2, 1999 Shooter: Byran Uyesugi	7 dead	Glock 17 9mm pistol	Three 15-round magazines
Wedgewood Baptist Church Fort Worth, Texas September 15, 1999 Shooter: Larry Gene Ashbrook	8 dead (including shooter), 7 wounded	Sturm, Ruger P85 9mm pistol, .380 pistol	Three 15-round magazines
Columbine High School Littleton, Colorado April 20, 1999 Shooters: Eric Harris and Dylan Klebold	15 dead (including shooters), 23 wounded	Intratec TEC-DC9 assault pistol, Hi-Point 9mm Carbine, Savage 67H pump- action shotgun, Savage 311-D 12- gauge shotgun	High-capacity magazines (capacity unstated)

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Thurston High School Springfield, Oregon May 21, 1998 Shooter: Kip Kinkel	4 dead, 22 wounded	9mm Glock pistol, .22 Sturm Ruger rifle, .22 Sturm Ruger pistol	50-round magazine
Westside Middle School Jonesboro, Arkansas March 24, 1998 Shooters: Andrew Golden and Mitchell Johnson	5 dead, 10 wounded	M-1 rifle, Remington .30-06 rifle, various handguns	15-round magazine
Connecticut State Lottery Headquarters Newington, Connecticut March 6, 1998 Shooter: Matthew Beck	5 dead (including shooter)	Glock 9mm pistol	19-round magazine
Caltrans Maintenance Yard Orange, California December 18, 1997 Shooter: Arturo Reyes Torres	5 dead (including shooter), 2 wounded	AK-47 assault rifle	Five 30-round magazines
DC Police Headquarters Washington, DC November 22, 1994 Shooter: Bennie Lee Lawson	4 dead (including shooter), 1 wounded	Cobray M-11 assault pistol	Extended magazine
Fairchild Air Force Base hospital Spokane, Washington June 20, 1994 Shooter: Dean Mellberg	5 dead (including shooter), 23 wounded	MAK-90 assault rifle	75-round drum magazine
Long Island Railroad Long Island, New York December 7, 1993 Shooter: Colin Ferguson	6 dead, 19 wounded	Sturm, Ruger P-89 9mm pistol	Four 15-round magazines
Pettit & Martin Law Offices San Francisco, California July 1, 1993 Shooter: Gian Luigi Ferri	9 dead (including shooter), 6 wounded	Two Intratec TEC-DC9 assault pistols, .45 pistol	40- to 50-round magazines

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
CIA Headquarters Langley, Virginia January 25, 1993 Shooter: Mir Aimal Kasi	2 dead, 3 wounded	AK-47 assault rifle	30-round magazine
Luby's Cafeteria Killeen, Texas October 16, 1991 Shooter: George Hennard	24 dead (including shooter), 20 wounded	Sturm, Ruger P-89 9mm pistol, Glock 9mm pistol	17- and 15-round magazines
General Motors Acceptance Corp. Jacksonville, Florida June 18, 1990 Shooter: James Pough	10 dead (including shooter), 4 wounded	M-1 rifle, .38 revolver	30-round magazines
Standard Gravure Corporation Louisville, Kentucky September 14, 1989 Shooter: Joseph Wesbecker	9 dead (including shooter), 12 wounded	AK-47 assault rifle, 2 MAC-11 assault pistols, .38 revolver, Sig Sauer 9mm pistol	30-round magazines
Cleveland Elementary School Stockton, California January 17, 1989 Shooter: Patrick Purdy	6 dead (including shooter), 30 wounded	AK-47 assault rifle, Taurus 9mm pistol, unidentified pistol	75-round drum magazine
Palm Bay shopping center Palm Bay, Florida April 23, 1987 Shooter: William Cruse	6 dead (including 2 police officers)	Sturm, Ruger Mini-14 assault rifle	Five 30-round magazines
McDonald's San Ysidro, California July 18, 1984 Shooter: James Huberty	22 dead (including shooter), 19 wounded	Uzi Carbine, Browning 9mm pistol, Winchester 1200 pump-action 12-gauge shotgun	25-round magazine

EXHIBIT 3
To
Declaration of Roderick M. Thompson in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction



FBI Law Enforcement Bulletin

Home • 2014 • January • Active Shooter Events from 2000 to 2012

Active Shooter Events from 2000 to 2012

By J. Pete Blair, Ph.D., M. Hunter Martindale, M.S., and Terry Nichols, M.S.



1/7/2014

On April 20, 1999, two Columbine High School students killed twelve classmates and a teacher in Littleton, Colorado. The shooters committed suicide before officers entered the school to intervene. Outrage on the part of the public and deep introspection by the police produced massive changes in law enforcement response to ongoing acts of violence.[1] Unfortunately, active shooter events (ASEs) have continued to occur. Recent tragedies have happened at the Century 21 Movie Theater in Aurora, Colorado, and Sandy Hook Elementary School in Newtown, Connecticut. Out of 70 people shot in Aurora, Colorado, 12 eventually died. Twenty first graders, six staff members, and the shooter's mother were murdered in Newtown. Even more recently, employees at the Washington Navy Yard in the District of Columbia were attacked. Twelve people were killed in this attack. All four of these events drew national attention.

Such high-profile events put a substantial amount of pressure on law enforcement officials to respond effectively; however, solid empirical information is needed if law enforcement administrators are to develop effective policies and procedures regarding these events. The goal of this article is to provide such information along with the authors' insights into what these data tell us about an effective active shooter response.

Although not an exhaustive review of each incident, this evaluation identified a steady rise in incidents, as well as a consistent increase in the number of those shot and killed. The data establish that officers must have the equipment with them to engage the shooter to end the threat and must be prepared to administer medical assistance to the wounded before emergency medical services (EMS) arrive.

In addition, though officers responded quickly (i.e., median time 3 minutes), shooters inflicted devastating damage beforehand. This adds to the growing evidence that citizens must have insight on how to respond. The FBI's support for strong citizen awareness, detailed in the "Run, Hide, Fight" protocol, is endorsed by all other federal agencies. [2] The data establish that when prepared, the potential victims themselves can stop the shooter.

METHODOLOGY

Dr. Blair is the director of research for the Advanced Law Enforcement Rapid Response Training Center and an associate professor of criminal justice at Texas State University, San Marcos.



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Search Strategy

The federal government defines an active shooter as “an individual actively engaged in killing or attempting to kill people in a confined and populated area, typically through the use of firearms.”³ For this study ASEs were located via a systematic search strategy.⁴ Public records were searched using a variety of search terms to locate news stories from 2000 to 2012 involving potential ASEs in the United States. Incidents identified from these searches then were evaluated to see if they met the following criteria: The event had to involve one or more persons engaged in killing or attempting to kill multiple people in an area occupied by multiple unrelated individuals—at least one of the victims must be unrelated to the shooter. The primary motive in these incidents appears to be mass murder; that is, the shooting is not a by-product of an attempt to commit another crime. While many gang-related shootings could fall within this category, they were excluded from this study because gang-related shootings are not considered ASEs by law enforcement. A total of 110 active shooter events were identified through this process.

Mr. Nichols retired as a commander from the San Marcos, Texas, Police Department and is the assistant director of the Advanced Law Enforcement Rapid Response Training Center.



To check the completeness of the list, the authors checked the events identified during the search process against other lists/collections of ASEs. In no case did the authors find an event (that met their definition) in another list that they had not found via the public records search. While the authors believe that the search strategy produced an accurate list of ASEs, it, of course, is possible that they missed an event.

Data

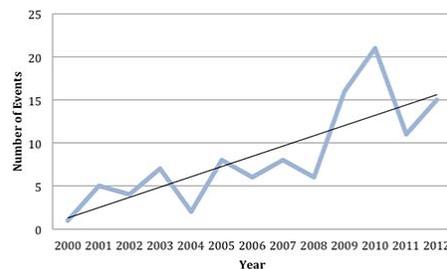
Sources used to collect information about the events included reports from the investigating agencies, the supplemental homicide reports (SHRs) produced by the FBI, and news stories. Not all sources of data were available for all events. The most current data from SHRs only cover up to 2010. For this reason it was not possible to use SHRs for events that occurred in 2011 and 2012. Recent events generally are under ongoing investigations, and the investigating agencies do not release these reports. Therefore, events that occurred during 2011 and 2012 were coded from the most recent news reports.

For the events that occurred between 2000 and 2010, agency reports were obtained through Freedom of Information Act (FOIA) requests. Out of these 84 events identified between 2000 and 2010, 42 agencies (50 percent) supplied the requested information. Forty-six of the 84 events (55 percent) were located in the SHRs. News reports were available for all 110 events. When data were available from multiple sources, the agreement between the sources was high. Two coders also coded the events to ensure reliability. Their agreement with each other was high.

FINDINGS

A discussion will cover the increasing frequency of ASEs and the number of people killed. Next, information about the shooters will be presented. Finally, how the events concluded will be described.

Figure 1. Active Shooter Events by Year

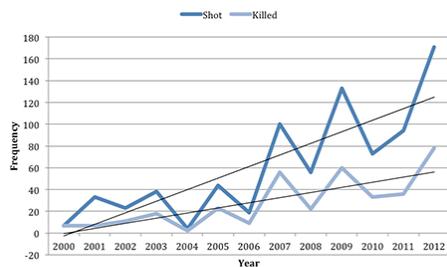


Characteristics of Events

Frequency

Figure 1 presents the frequency of ASEs by year. The dotted trendline shows a definite increase over the past 12 years. In fact, the number of events drastically increased following 2008. The rate at which these events occurred went from approximately 1 every other month between 2000 and 2008 (5 per year) to more than 1 per month between 2009 and 2012 (almost 16 per year). The authors’ tracking also indicates that this increased rate has continued into 2013—more specifically, there were 15 events. While it is possible that this increase is an artifact of the search strategy (perhaps, archiving of the news reports has improved in recent years), the authors believe that the observed rise represents a real increase in the number of events in recent years. Figure 2 shows the number of people shot and the number of people killed for each year. Here again the trend line shows a definite increase. The authors’ tracking indicated that there were 72 people shot and 39 killed in 2013.

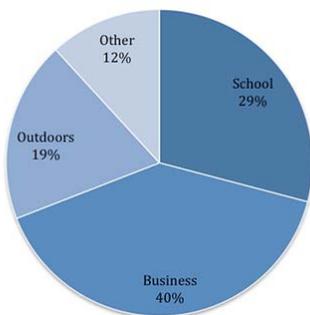
Figure 2. Number of People Shot and Killed Per Year



Location

Figure 3 illustrates the primary location of ASEs. Business locales (e.g., retail stores, office buildings, and factories/warehouses) were the most frequently attacked locations. Schools, both K-12 and institutions of higher education, were the second-most attacked locations at 29 percent. Approximately 1 out of 5 ASEs occurred in outdoor environments. The other category includes places, like military bases and churches, that did not fit into one of the other categories. It also is worthwhile to note that 18 percent of the attackers went mobile during their attacks; that is, the perpetrator started at one location and then moved to another while still actively attacking. Most frequently, attackers simply walked to another nearby location, but in some cases they used an automobile to move between more distant attack sites.

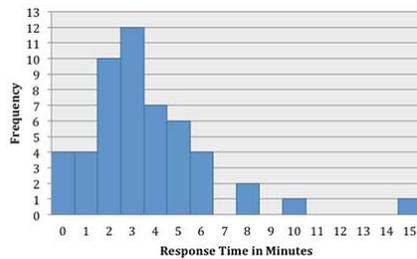
Figure 3. Location of Attacks



Police Response Time

Figure 4 shows police response time for these events. This information was not available for more than half of the cases identified. For the 51 cases that included the data, the median response time was 3 minutes—fast by law enforcement standards.

Figure 4. Police Response Time

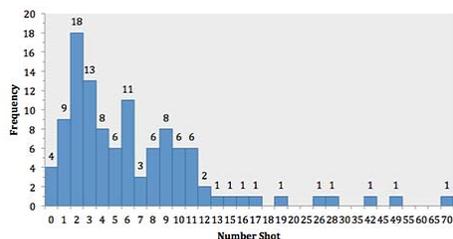


Number Shot

Figure 5 depicts the number of people shot per event—the median is five. It should be noted that if the shooter is shot, the authors do not include the shooter in their counts of the number of people shot or killed. As can be seen in the figure, most of the events are clustered on the left side and do not

right-hand side of the figure. It also is worth noting that in the five largest-casualty events (Northern Illinois University in DeKalb; Sandy Hook Elementary School; Fort Hood Army Base, Killeen, Texas; Virginia Polytechnic and State University in Blacksburg; and the Century 21 Theater) the police were on scene in about 3 minutes; yet, a substantial number of people still were shot and injured or killed.

Figure 5. Number Shot Per Event



Characteristics of the Shooter

Shooter Profile

Single shooters conducted all attacks between 2000 to 2012 that the authors identified. Shooters did not fit a specific profile. While most (94 percent) of the shooters were male, some were female. They also came from different racial and ethnic categories. The youngest shooter in the data set was 13, and the oldest was 88. Again, no clear profile based upon the demographics of the shooter was observed.

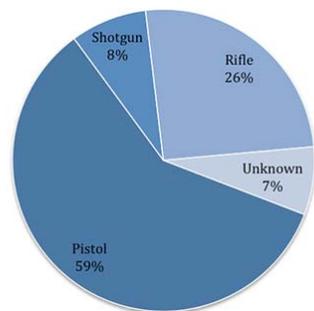
Relationship Between Shooter and Victims

The shooter did not have any apparent connection (such as being a current or former student/employee) with the attack location in 45 percent of events. In 55 percent of the incidents, the shooter did have a connection with the attack location.

Shooter Equipment

Figure 6 shows the most powerful weapon that shooters brought to the attack site. In about 60 percent of the attacks the most powerful weapon used was a pistol. In 8 percent it was a shotgun, and the most powerful weapon used was a rifle in about 25 percent of the cases. Shooters brought multiple weapons in about one-third of the attacks. Perpetrators brought improvised explosive devices (IEDs) to the attack site in 3 percent of the cases and wore body armor in 5 percent.

Figure 6. Most Powerful Weapon Used



Resolution of the Event

Conclusion of All Incidents

Figure 7 depicts how the attacks ended. Six media accounts for events ending in 2011 and 2012 did not explicitly state how the incidents concluded; therefore, these events were excluded from the flowchart. If the incident ended before law enforcement officers arrived on scene, it is depicted to the left of the centerline. Events that ended after the police arrived are depicted to the right of the centerline. Approximately half of the events (49 percent) ended before law enforcement arrived on scene. This points to the phenomenal speed with which these incidents occur.

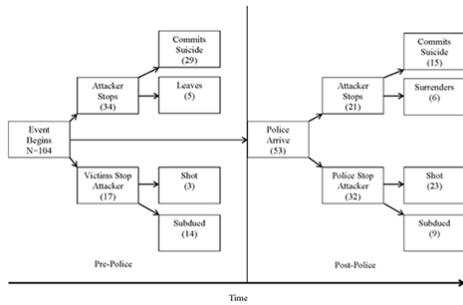
Of the cases that ended before the police arrived, 67 percent (34) ended with attackers stopping themselves via suicide (29 cases) or by leaving the scene (5 cases). In the other 33 percent (17) of the cases that ended before the police arrived, the potential victims at the scene stopped the shooter themselves. Most commonly they physically subdued the attacker (14 cases), but 3 cases involved people at the scene shooting the perpetrator to end the attack.

ASEs still were ongoing when law enforcement arrived in 51 percent (53) of the cases. Of these, attackers stopped themselves when law enforcement arrived in 21 cases (40 percent). Most commonly the attacker committed suicide (15 cases), but there were 6 cases in which the perpetrator surrendered to the arriving police.

Law enforcement officers used force to stop perpetrators 60 percent of the time (32 cases) when the attack still was ongoing at the time of their arrival. Most commonly they shot the attacker (23 cases). In 9 cases responding officers subdued the attacker with means other than a firearm.

In 8 (7 percent) of the cases the authors examined, the attacker shot the responding officers. If only the shootings that were active at the time that the police arrived are considered (53—those to the right of the centerline), then officers were shot in 15 percent of events ongoing at the time of their arrival. That makes an active shooter call among the most dangerous in law enforcement.

Figure 7. Event Resolution



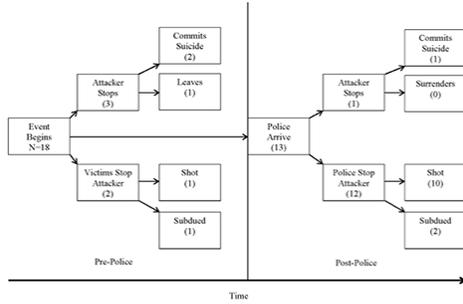
Solo Officer Response

Initially, training programs and departments instructed their officers to form teams before entering a structure to seek out an attacker. Teams offer the responding officers a variety of advantages, but they also take time to assemble. As time went by, agencies began to weigh the advantages and disadvantages of smaller teams and even solo officer entry into the attack location. Many departments now authorize officers to make solo entry into locations where an ASE is occurring.

The authors also sought to assess how events that included solo officer entry unfolded. In many cases, solo officer entry was a difficult item to code. Police and media reports often did not contain enough information to determine whether a solo officer entry was conducted; nonetheless, the authors identified 18 cases that they confidently believe involved solo officer entry. The resolution of the cases is presented in figure 8. During solo officer entries, the event likely would be ongoing, and the officers probably would use force to stop the attacker. This most likely was a product of these officers arriving on scene and entering the attack site quickly—the median response time was 3 minutes for all events and 2 minutes for those involving solo officers.

In total, 13 of the 18 events (72 percent) still were ongoing when solo officers arrived on scene. Of these 13 incidents, law enforcement personnel either shot or physically subdued the shooter 12 times. Solo officers were also more likely to be injured during the event. Three of the 18 solo officers (17 percent) were shot. If only cases ongoing at the time of solo officer entry (13) were considered, officers were shot 23 percent of the time. Solo officer entries provide faster response, but also increase the danger to the officer.

Figure 8. Event Resolution for Solo Officer Entries



TRAINING AND EQUIPMENT IMPLICATIONS

Prepared to Use Force

The authors have seen discussions on message boards—even in training classes—where officers suggest the only training needed to respond to ASEs is to get to the scene quickly. The belief is that most events will be over, or suspects will kill themselves. While it is true that 1) 49 percent of the events end before officers arrive and 2) suspects kill themselves after the police arrive 14 percent of the time, responding officers used force to stop the attack in 31 percent of the ASEs assessed. This 1 in 3 chance of having to use force makes it clear that simply training officers to show up is not enough. Officers must learn the tactical skills needed to successfully resolve these events. Because not all events occur indoors (18 percent happen outdoors), officers must be trained to operate in both environments. Indoor (i.e., close-quarters) battle tactics are not suitable in outdoor environments, and using them outdoors can be fatal.

Being prepared to use force also means having the equipment needed to act effectively. The data clearly support equipping officers with patrol rifles. Many ASE sites involve open spaces or long hallways that create engagement distances beyond the ability of most officers to effectively engage a suspect with a pistol. Add this to the possibility that the officers may have to place precision fire on a suspect while avoiding hitting fleeing or injured victims, and the need for patrol rifles is clear.

equivalent to what they will face if they go in harm's way.

Because shooters often carry rifles and frequently shoot at officers in these events, law enforcement personnel should wear body armor that can protect them from rifle fire. This means that officers should be equipped with ballistic plates. Most of the rifle rounds used by active shooters can be stopped with type III plates, but some shooters have fired rounds that would be stopped only by type IV plates. Many of the commercially available plate carriers also have attachment points that can be used to carry other equipment, which proves useful during ASEs. This allows the plate carrier to serve as a "go bag" in addition to providing enhanced protection.

Some agencies recommend the use of ballistic shields in ASEs. The danger inherent in these events argues for increased protection, but that generally comes with a tradeoff. For instance, most shields are designed to be used with pistols, which would require the officer to give up the ballistic advantage of a rifle. Also, man-portable shields currently are not rated to stop rifle fire. In the roughly 1 of 4 events where the shooter is armed with a rifle, a shield would not provide additional protection.

Ready to Provide Medical Assistance

During the confusion of an ASE, it is common for different descriptions of the shooter to be phoned into 911 or communicated to responding officers. This often creates a situation where, even though the police have found the body of or dealt with a shooter directly, they cannot be certain that this was the only shooter. Additionally, it is common for people to continue to call in reports of people with guns after the shooter has been dealt with. In some cases, this is caused by a lag between observation and reporting. The person calling saw the actual shooter, fled, and then reported what he or she saw several minutes later. In others, the caller has seen police officers responding in plain clothes or nontraditional uniforms and mistaken the officers for attackers. In yet other cases, the callers are simply wrong. Regardless of the cause of the confusion, the officers on scene often must engage in a systematic search of the attack location to confirm that there is not another shooter. In a large attack site, this search can take hours.

This creates a problem for those wounded and in need of medical care because most EMS providers will not enter a scene until it is declared "secure" or "cold." Securing the scene can take hours. During this time, victims may bleed to death or go into shock and die. To combat this problem, national organizations have endorsed the Rescue Task Force (RTF) concept.^[5] This involves having EMS personnel enter attack sites to stabilize and rapidly remove the injured, while a ballistic or explosive threat still may exist. EMS personnel operating in RTFs wear body armor and are provided security by law enforcement personnel. This concept represents a significant improvement in EMS response to ASEs, but it undoubtedly will take substantial time to implement nationwide.

Even with faster EMS response, responding officers will face situations where they can save the lives of victims by quickly applying proper hemorrhage control techniques after the immediate threat has been dealt with. Additionally, in a mass-casualty event, the number of wounded may overwhelm the capabilities of responding EMS personnel. Recognizing that the primary objective of a responding officer is to neutralize the threat, if officers have some medical training, they may be in a position to aid the injured and possibly save lives.^[6] This training currently is available, and the authors strongly recommend that all law enforcement officers receive it to maximize their ability to help those injured during these horrible events.^[7]

Obviously, if officers are going to be trained to provide medical aid, they need equipment to provide this aid. Numerous wound care kits are commercially available and easily can be attached to a plate carrier. Also, the authors suggest that all officers carry tourniquets. Tourniquets are useful for stopping extremity bleeding, whether it is caused by a gunshot wound or other trauma. In numerous cases across the country, officers have saved not only the lives of other officers but also civilians by applying a tourniquet.

Civilians Trained to React

Police have, generally, done an excellent job responding to active shooter events quickly. Despite the dramatic improvement in police response since the Columbine High School shooting incident, attacks that result in high numbers of casualties continue. The five highest casualty events since 2000 happened despite police arriving on scene in about 3 minutes. Clearly, fast and effective police response comprises only part of the answer to limiting the damage done during these attacks.

Also important are the actions that civilians take to protect themselves during the 3 or more minutes that it takes the police to arrive. Civilians need to be trained about what to do if one of these attacks occurs. A variety of resources are available at no cost. Federal agencies, including both the FBI and the Department of Homeland Security, Federal Emergency Management Agency, endorse the use of the teaching technique of Run, Hide, Fight to explain to civilians how they can protect themselves and others around them.^[8] Police departments and the communities they serve should work together to implement this training.

CONCLUSION

The frequency of active shooter events has increased in recent years. These incidents also have generated a substantial amount of public concern. The authors hope that the data provided in this article will provide police administrators with the information they need to form sound, evidence-based best practices in responding to these events and that these best practices will help save lives.

Endnotes

[1] J.P. Blair, T. Nichols, D. Burns, and J.R. Currutt, *Active Shooter Events and Response* (Boca Raton, FL: CRC Press, 2013).

[2] Federal Bureau of Investigation, Critical Incident Response Group, "Active Shooter/Mass Casualty Events," <http://www.fbi.gov/about-us/cirg/active-shooter-and-mass-casualty-incidents> (accessed November 22, 2013).

[3] Federal Bureau of Investigation, Critical Incident Response Group, "Active Shooter Event: Quick Reference Guide," <http://www.fbi.gov/about-us/cirg/active-shooter-and-mass-casualty-incidents/active-shooter-tent-card-090513.pdf> (accessed November 22, 2013).

[4] Ibid.

[5] Department of Homeland Security, Federal Emergency Management Agency, U.S. Fire Administration, "Fire/Emergency Medical Services Department Operational Considerations and Guide for Active Shooter and Mass Casualty Incidents," http://www.usfa.fema.gov/downloads/pdf/publications/active_shooter_guide.pdf (accessed November 26, 2013); International Association of Fire Fighters, "IAFF Position Statement: Active Shooter Events," http://www.iaff.org/Comm/PDFs/IAFF_Active_Shooter_Position_Statement.pdf (accessed November 26, 2013); Joint Committee to Create a National Policy to Enhance Survivability From Mass Casualty Shooting Events, "Improving Survival from Active Shooter Events: The Hartford Consensus," <http://www.naemi.org/Libraries/Trauma%20Resources/Hartford%20Consensus%20Document%20Final%2004-8-13.sfb> (accessed November 26, 2013); Joint Committee to Create a National Policy to Enhance Survivability From Mass Casualty Shooting Events, "Active Shooter and Intentional Mass-Casualty Events: The Hartford Consensus II," <http://bulletin.facs.org/2013/03/hartford-consensus-ii/> (accessed November 26, 2013); and Joint Committee to Create a National Policy to Enhance Survivability From Mass Casualty Shooting Events, "Improving Survival from Active Shooter Events: The Hartford Consensus."

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[6] Joint Committee to Create a National Policy to Enhance Survivability From Mass Casualty Shooting Events, "Improving Survival from Active Shooter Events: The Hartford Consensus."

[7] For additional information, see the standards developed by the Committee for Tactical Emergency Casualty Care at c-tecc.org (accessed November 26, 2013).

[8] Federal Bureau of Investigation, Critical Incident Response Group, "Active Shooter/Mass Casualty Events"; and Ready Houston, <http://www.readyhoustontx.gov/videos.html#hf> (accessed November 26, 2013).

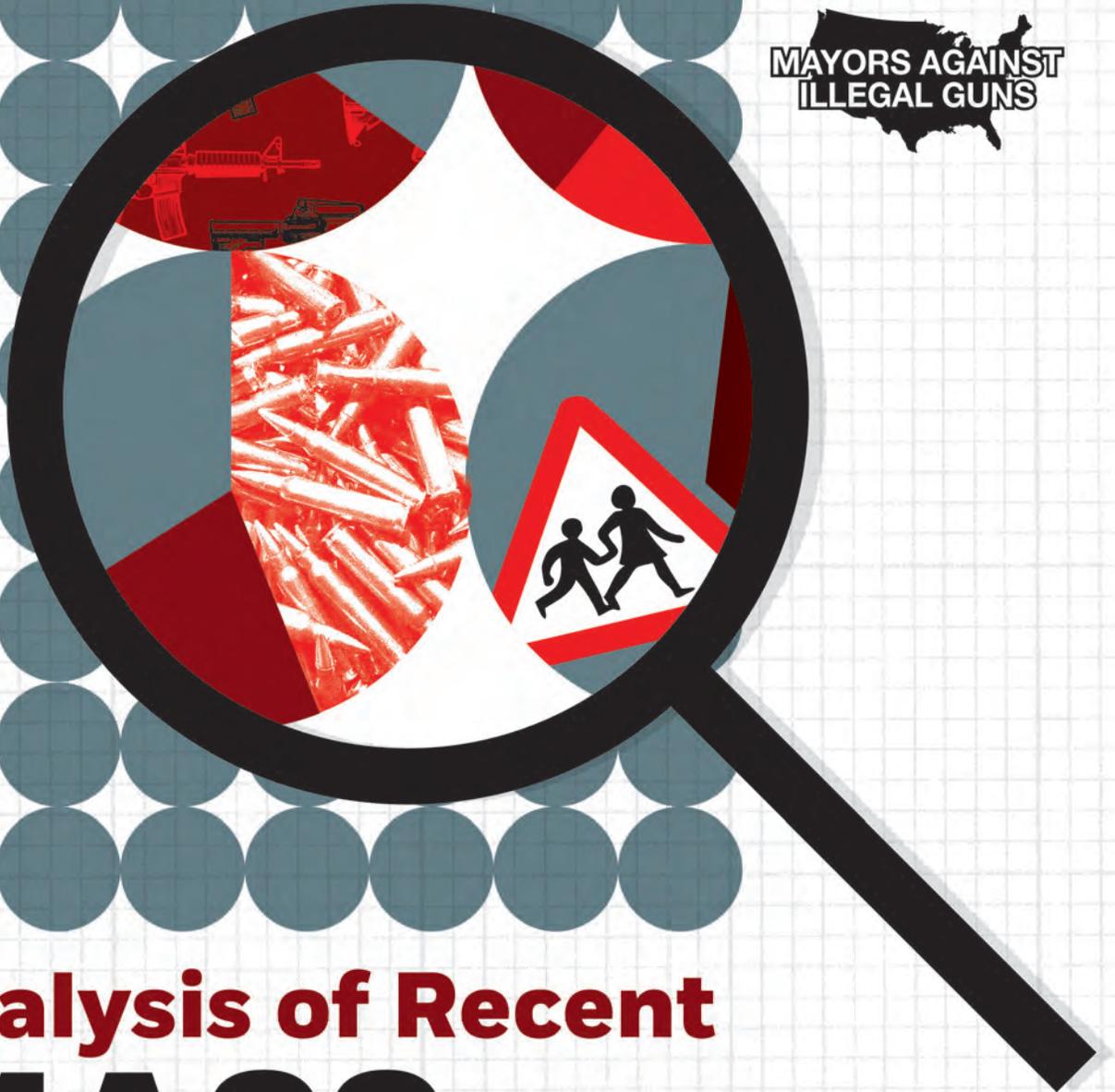
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EXHIBIT 4
To
Declaration of Roderick M. Thompson in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction

September 2013



Analysis of Recent

MASS SHOOTINGS



ANALYSIS OF RECENT MASS SHOOTINGS

Mayors Against Illegal Guns conducted a comprehensive analysis of every mass shooting between January 2009 and September 2013 that was identifiable through FBI data and media reports. This report describes the **93 MASS SHOOTINGS — ALMOST TWO PER MONTH — THAT OCCURRED IN 35 STATES** in the nearly five-year period. Each description includes the location of the shooting, number of people killed and/or injured, and information on the shooter, gun(s), ammunition, and gun purchase, where available.

The FBI defines “mass shooting” as any incident where at least four people were murdered with a gun. Mayors Against Illegal Guns reviewed mass shootings in the FBI’s Supplementary Homicide Reports from 2009-2011, the most recent data available, and searched the media for further details about these incidents as well as for mass shootings that occurred in 2012 and 2013.

This survey includes every shooting we identified in which at least four people were murdered with a gun. And the findings reveal a different portrait of mass shootings in America than conventional wisdom might suggest:

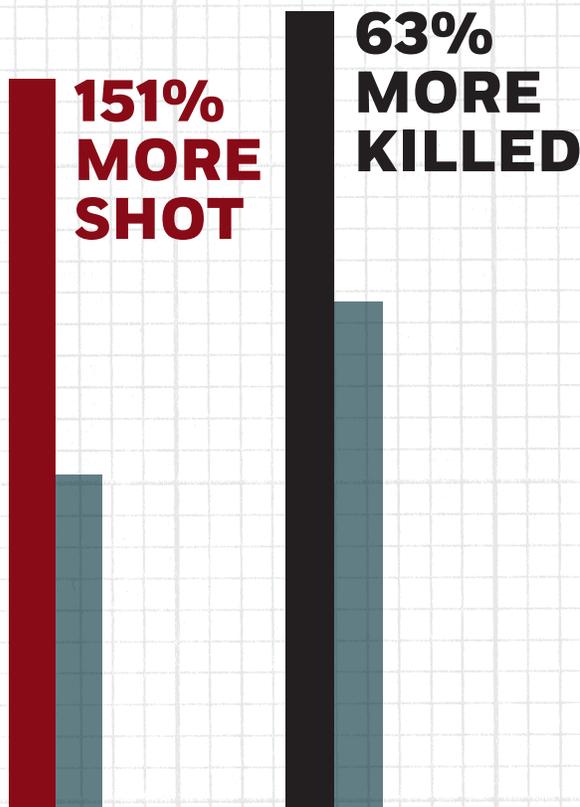


Analysis of Recent MASS SHOOTINGS



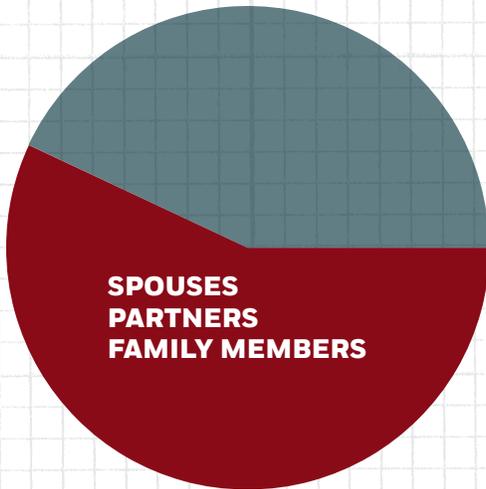
Mass shootings

represent a small share of total U.S. firearm homicides. Less than one percent of gun murder victims recorded by the FBI in 2010 were killed in incidents with four or more victims.



Assault weapons or high-capacity magazines

were used in at least 14 of the incidents (15%). These incidents resulted in an average of 14.4 total people shot — 151% more people shot than in other incidents (5.7) — and 7.8 deaths — 63% more deaths than in other incidents (4.8).



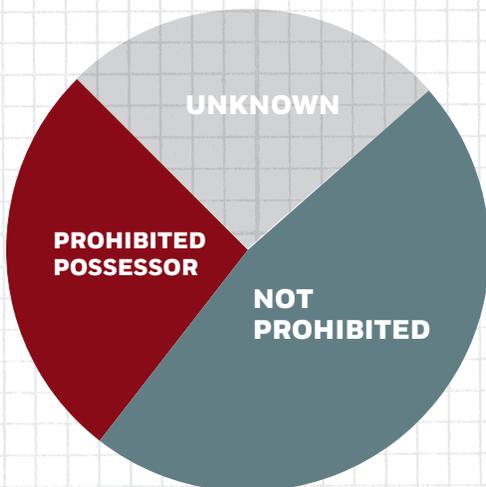
Domestic or family violence

There was a noteworthy connection between mass shooting incidents and domestic or family violence. In at least 53 of the cases (57%), the shooter killed a current or former spouse or intimate partner or other family member, and in at least 17 incidents the shooter had a prior domestic violence charge.



Mental health

We did not find evidence that any of the shooters were prohibited from possessing guns by federal law because they had been adjudicated mentally ill or involuntarily committed for treatment. In 10 of the 93 incidents (11%), we found evidence that concerns about the mental health of the shooter had been brought to the attention of a medical practitioner, school official or legal authority prior to the shooting.

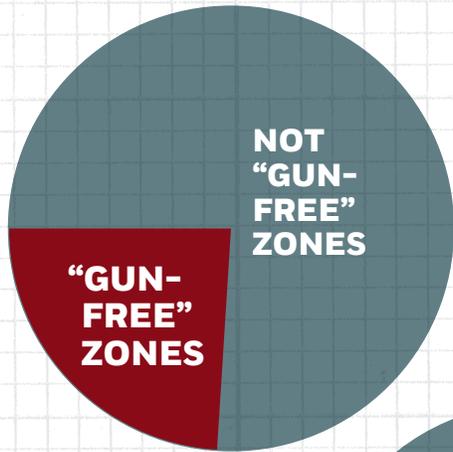


Role of prohibited possessors

Certain categories of people, including felons, certain domestic abusers, and people adjudicated mentally ill are prohibited by federal law from possessing guns. We had sufficient evidence to judge whether the shooter was a prohibited gun possessor in 75 of the 93 incidents (81%). Of those 75 incidents, 32 (43%) involved a prohibited possessor, and 43 (57%) did not.

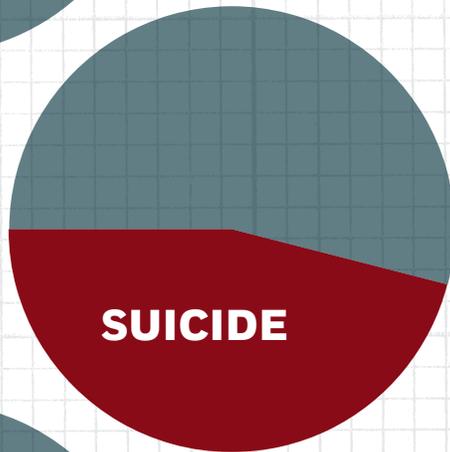


Analysis of Recent MASS SHOOTINGS



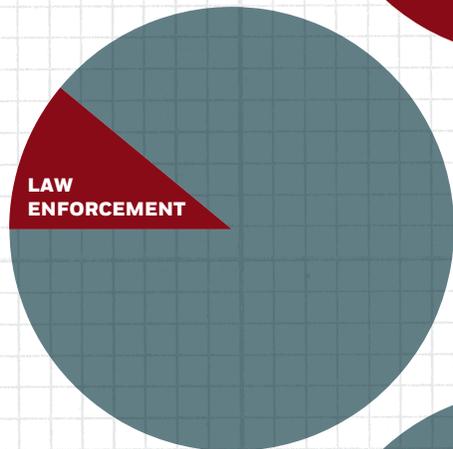
"Gun-free" zones

Sixty-two of the 93 incidents (67%) took place wholly in private residences. Of the 31 incidents in public spaces, at least 17 took place wholly or in part where concealed guns could be lawfully carried. All told, no more than 14 of the shootings (15%) took place entirely in public spaces that were so-called "gun-free zones."



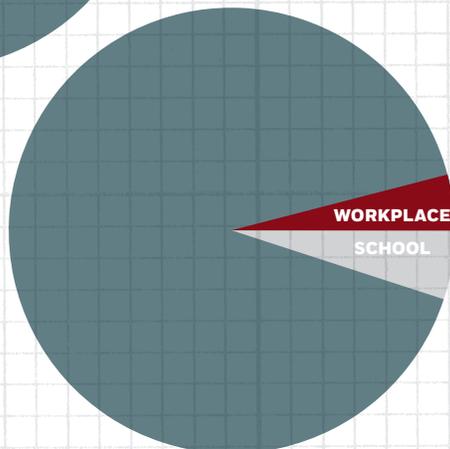
Suicide

In 40 of the 93 incidents (43%), the shooter committed suicide during the incident.



Law enforcement

In 13 of the 93 shootings (14%), law enforcement or military officers were targeted in the shooting or killed or injured responding to it.



Workplace and school shootings

Four of the 93 shootings (4%) occurred at the shooter's current or former workplace. Four of the 93 shooting incidents (4%) took place in schools, including primary, secondary, and college campuses.



MASS SHOOTING INCIDENTS JANUARY 2009–SEPTEMBER 2013 (in reverse chronological order)

Washington, D.C., 9/16/2013: The alleged shooter, who was a civilian contractor and former non-combat military, killed twelve and wounded three more in an attack on Building 197 at the Navy Yard.

- **SHOOTER NAME:** Aaron Alexis, 34
- **GUN DETAILS:** The shooter arrived with a shotgun and also obtained a handgun from one a security guard that he killed.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Two days before the incident the shooter passed a National Instant Criminal Background Check System (NICS) at the licensed gun dealer Sharpshooters in Lorton, VA, and purchased the shotgun.
- **PROHIBITING CRITERIA:** The shooter had been arrested at least three times including: in September 2010 in Fort Worth, Texas for shooting a firearm into a neighbor’s apartment; in August 2008 in Dekalb County, Georgia for disorderly conduct; and in 2004 in Seattle, Washington for shooting out the tires of another man’s vehicle. But court records do not indicate he was convicted in any of these cases, and this record did not prohibit him from buying guns. He had also received treatment for mental health conditions at two VA hospitals beginning in August, 2013 following an incident where he called Newport Rhode Island Police to report hearing voices. But these incidents did not rise to the level of prohibiting from buying guns. And during his military service he was reportedly cited on at least eight occasions for misconduct ranging from traffic tickets and showing up late for work to insubordination, extended absences from work, and disorderly conduct. On account of this the Navy sought to offer him a “general discharge” but he was ultimately honorably discharged through the early-enlisted transition program in January 2011.
- **NOT A GUN-FREE ZONE:** There were armed guards at the Washington Navy Yard, and the shooter was familiar with the premises, so he did not select it as a target on the presumption he would not faced armed resistance. In fact, the shooter reportedly used a gun that he took from a guard after killing him.

Crab Orchard, TN, 9/11/2013: Bennett and his girlfriend Moser killed a woman and three teenagers, apparently during an attempted robbery during a marijuana exchange. The victims’ bodies were discovered in a car parked along the side of the road in the Renegade Mountain resort community near Crossville.

- **SHOOTER NAME:** Jacob Allen Bennett, 26 and Brittany Lina Yvonn Moser, 25
- **GUN DETAILS:** Handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Bennett was prohibited from possessing firearms. In 2010 he received a 6-year prison sentence for charges of theft, forgery, and possession of a handgun during a felony, but was pardoned on March 4, 2013. The Cumberland County sheriff’s office estimated they had previously arrested Bennett



Analysis of Recent MASS SHOOTINGS

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five times.

- **NOT A GUN-FREE ZONE:** We could find no evidence that permit holders were prohibited from carrying guns in this area. In Tennessee, concealed weapons would be prohibited only if the county or municipality declared itself a gun-free zone.

Oklahoma City, OK, 8/14/13: The shooter killed four of his relatives including an infant inside of their family home.

- **SHOOTER NAME:** Daniel Green, 40
- **GUN DETAILS:** .380 semiautomatic handgun
- **AMMO DETAILS:** A box of .380 handgun ammunition was found in the vehicle when the shooter was arrested.
- **GUN ACQUIRED:** One of the victims owned a .380 semiautomatic handgun and kept it hidden in the attic.
- **PROHIBITING CRITERIA:** Green's father told police in an affidavit that his son was schizophrenic, but there is no evidence that Green had been adjudicated mentally ill or had a criminal history that would prohibit gun ownership.

Dallas, TX, 08/07/2013: The gunman shot and killed his girlfriend and her daughter, and injured two others; and then in a separate attack shot and killed his estranged wife and her daughter, and injured another two people. He also detonated an explosive but it did not harm anyone.

- **SHOOTER NAME:** Erbie Lee Bowser, 44
- **GUN DETAILS:** .380 pistol
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter's estranged wife had obtained a protective order against Bowser in February 2011, citing family violence, and he was later arrested for violating the order. The order seems to have expired in February 2012, but would likely have been prohibiting while it was in place. A criminal conviction for domestic violence, which would also likely have been prohibiting, was expunged from his record after he completed a court program for veterans in the summer of 2012. Bowser was a veteran, but he had not served in combat — making him ineligible to enter the program. He apparently lied about his military history in order to enter the program.

Clarksburg, WV, 07/26/2013: According to a criminal complaint, the shooter was trying to collect \$10,000 two men owed him for drugs when one of them aimed a handgun at him. He stripped the man of the weapon and used it to kill them both; he then shot and killed a father-son newspaper delivery team that happened to be outside the house.

- **SHOOTER NAME:** Sidney Muller, 27
- **GUN DETAILS:** 9mm Beretta
- **AMMO DETAILS:** Unknown

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- **GUN ACQUIRED:** Gun apparently belonged to one of the victims
- **PROHIBITING CRITERIA:** The shooter had been convicted previously for driving under the influence and had been arrested for driving with a suspended license, but was not criminally prohibited from possessing a gun. The shooter was also a veteran of the U.S. Marine Corps and his lawyers indicated he had scored four out of five in Post-Traumatic Stress Disorder testing and had been diagnosed as bipolar. He was reportedly in treatment at the local VA hospital. But there is no evidence his mental illness rose to the level of prohibiting him from possessing guns.

Hialeah, FL, 7/16/13: The shooter killed the two managers of his building, a bystander across the street, and three more occupants before police killed him in a standoff.

- **SHOOTER NAME:** Pedro Alberto Vargas, 42
- **GUN DETAILS:** Glock 17 9mm semiautomatic pistol
- **AMMO DETAILS:** Hundreds of additional rounds were found in Vargas' apartment following the incident.
- **GUN ACQUIRED:** Vargas obtained a concealed weapons permit after completing a two-hour training and four-hour safety course in the fall of 2010 at the Florida Gun Center in Hialeah. In October 2010 he passed a background check and purchased a Glock 17, which was used in the shootings.
- **PROHIBITING CRITERIA:** The shooter had developed a pattern of anonymously harassing his former co-workers online, and was confronted about it three days before the shooting. But there is no evidence Vargas was prohibited from owning a gun.

Santa Monica, CA, 6/7/13: The shooter killed his father and brother, burned down their house, and shot and wounded a passing driver who tried to intervene. He then carjacked another vehicle and made the driver transport him to Santa Monica College, firing at a city bus and police cruiser along the way, injuring three. Once on the college's campus, he shot and killed three people outside and fired 70 rounds at students in the library before he was shot and killed by police.

- **SHOOTER NAME:** John Zawahri, 23
- **GUN DETAILS:** The shooter was armed with a .223 caliber AR-15 assault rifle that did not have a serial number; this type of rifle is prohibited in California. A .44 caliber "black powder" revolver that had been converted to fire .45 caliber rounds and three "Zip Guns," which are illegal to possess, were also recovered.
- **AMMO DETAILS:** The shooter was carrying a duffel bag containing approximately 1,300 rounds of ammunition. He was armed with approximately forty 30-round .223 magazines, which are illegal to purchase, sell, or transfer in the state of California.
- **GUN ACQUIRED:** The assault rifle, high-capacity magazines, and several components to modify the firearms may have been shipped from outside California. The firearms were not registered to the shooter or to his family members.
- **PROHIBITING CRITERIA:** The shooter had a history of mental health issues and had previously been held for a short-term psychiatric evaluation, which would have prohibited him from accessing or possessing a firearm for five years, but the prohibition expired in 2011. The shooter had attempted to buy a firearm in 2011, but a letter from the Department of Justice discovered in his bedroom after the shooting indicated that he had not been eligible to purchase it at that time, likely because of this hospitalization.



Fernley, NV, 05/13/2013: On May 10th, the shooter killed a couple in their home and stole \$3,500 in cash and jewelry. Three days later, he killed two more people and stole a firearm and their vehicle, and then shot and killed another person later that day.

- **SHOOTER NAME:** Jeremiah Bean, 25
 - **GUN DETAILS:** NEF Co. Model R92 .22 caliber handgun. The shooter also stole a Smith & Wesson from one of his victims.
 - **AMMO DETAILS:** Unknown
 - **GUN ACQUIRED:** Unknown
 - **PROHIBITING CRITERIA:** The shooter had been previously convicted for felony charges of burglary and grand larceny, and finished his parole in December 2012. This criminal record likely prohibited him from possessing firearms.
-

Waynesville, IN, 5/11/13: The alleged shooter killed four people in a home where methamphetamine was subsequently discovered, leading police to believe the crime was drug-related.

- **SHOOTER NAME:** Samuel Earl Sallee, 55
 - **GUN DETAILS:** A Ruger 10/22 .22 caliber rifle was recovered.
 - **GUN ACQUIRED:** Unknown
 - **PROHIBITING CRITERIA:** The alleged shooter, who had been at the location of the homicides just hours before the bodies were discovered, was taken into custody two days after the shooting. He was prohibited from possessing firearms due to several prior felony convictions including for intimidation, drunk driving (on multiple occasions), receipt of stolen property, and battery. Although authorities delayed in charging the shooter with a crime while they tried to determine a motive for the homicides, they charged him with illegal firearm possession.
-

Ottawa, KS, 04/28/2013: The shooter raped and killed a woman, as well as killing her 18-month old daughter and two men who were with her at a farm in eastern Kansas.

- **SHOOTER NAME:** Kyle Flack, 27
 - **GUN DETAILS:** Unknown
 - **AMMO DETAILS:** Unknown
 - **GUN ACQUIRED:** Unknown
 - **PROHIBITING CRITERIA:** In 2005 the shooter was convicted of attempted murder in the 2nd degree, having shot a man five times with a pistol, but he only served two years of a five-year sentence and was paroled in July 2009. He was required to register as a violent offender until 2024 and was prohibited from buying guns. His mother also sought mental health treatment on his behalf; her concerns were dismissed, but Flack ultimately submitted to a mental health evaluation.
-

Manchester, IL, 4/24/13: The shooter broke into a home and killed the grandmother of a child and four of her family members including two young children, apparently related to a cus-



tody dispute over his 3-year-old daughter. The shooter was subsequently killed in a gunfight with law enforcement.

- **SHOOTER NAME:** Rick Odell Smith, 43
- **GUN DETAILS:** All of the victims were killed with a Winchester 20-gauge pump-action shotgun. A .270 Bolt Action Winchester rifle and Ruger carbine rifle were also recovered.
- **PROHIBITING CRITERIA:** The shooter had been previously convicted for felony reckless homicide, which would likely have prohibited from possessing guns, along with drug possession and writing bad checks.

Federal Way, WA, 4/21/13: The shooter killed his girlfriend inside the apartment they shared and then fatally shot two men in a nearby parking lot. When a neighbor called 911, the shooter broke down the man's door with a shotgun and killed him. He was subsequently shot and killed by police.

- **SHOOTER NAME:** Dennis Clark III, 27
- **GUN DETAILS:** .40 caliber semi-automatic handgun and a pistol grip Mossberg 500 pump shotgun. Federal Way Police report that Clark had a permit to carry a concealed weapon and was the registered owner of at least two firearms, including the handgun he used in the shooting.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Clark had no criminal convictions but in 2002 had used a BB gun to shoot a girl in the buttocks and back after she broke up with him, resulting in a fourth-degree assault charge that was dismissed. He was charged with misdemeanor criminal trespass in 2003. And in March 2009 he was charged with harming a police dog but the case was dismissed.

Akron, OH, 4/18/13: The shooters killed four people inside a townhouse; the initial motive for the crime was reportedly robbery.

- **SHOOTER NAME:** Derrick Brantley, 21 and Deshanon Haywood, 21
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** One shooter, Brantley, was free on bond awaiting trial on felony charges of heroin trafficking. The other, Haywood, was paroled from prison in February 2012 after serving part of a two-year sentence for cocaine trafficking and heroin possession. He immediately violated his parole and was sentenced to 45 days of house arrest. Both were likely prohibited from possessing firearms by their criminal histories.

Herkimer, NY, 04/13/2013: The shooter killed two people and critically wounded one at John's Barber Shop and then killed two more people at Gaffey's Fast Lube, a car care facility. He was killed by responding officers.



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- **SHOOTER NAME:** Kurt Myers, 64
- **GUN DETAILS:** According to the police superintendent, Myers used a shotgun. Additional guns and ammunition were found by emergency crews after Myers set fire to the apartment.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no reason to believe Myers was prohibited him from possessing a gun. He was arrested in 1973 for drunk driving
- **NOT A GUN-FREE ZONE:** Gaffey's Fast Lube does not have a specific policy prohibiting guns and allows permit holders to carry concealed weapons on the premises. John's Barbershop did not reopen following the shooting but the owner of a neighboring business did not recall the barbershop having any explicit firearm policy or ban, which would have been required to prohibit customers from carrying guns on the premises.

Albuquerque, NM, 1/19/13: The shooter killed his parents and three siblings in their home. He then loaded a van with guns and ammunition with the intent to kill his girlfriend's family and die in a shootout at Wal-Mart, according to court documents. Instead, he spent the next day with his girlfriend and her family and went to a church he regularly attended, where he was arrested for murder after speaking with the pastor.

- **SHOOTER NAME:** Nehemiah Griego, 15
- **GUN DETAILS:** AR-15 assault rifle, .22 rifle, and two shotguns
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The guns had been legally purchased by his parents.
- **PROHIBITING CRITERIA:** As a juvenile, the shooter was prohibited from purchasing firearms, but it was lawful for him to possess long guns like those used in the incident.

Tulsa, OK, 1/7/13: During a robbery the shooters bound the hands of four women in an apartment at the Fairmont Terrace complex and shot each one in the head. The 3-year-old son of one of the victims was in the apartment at the time of the incident but was unharmed.

- **SHOOTER NAME:** Cedric Dwayne Poore, 39 and James Stanford Poore, 32
- **GUN DETAILS:** .40 caliber pistol
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Both shooters had extensive criminal histories: Cedric Poore received a 35-year prison sentences in 1995 for armed robbery and James Poore received a 12-year sentence in 2000 for armed robbery with a firearm. Both were released in 2011, but likely remained prohibited from possessing firearms.

EB000488

Newtown, CT (Sandy Hook Elementary School), 12/14/12: The shooter killed his



mother in her home and then traveled to a nearby elementary school where he shot twenty-eight people, killing twenty-six of them, including twenty children, before killing himself.

- **SHOOTER NAME:** Adam Peter Lanza, 20
- **GUN DETAILS:** A Bushmaster .223 assault-style rifle was used in the attack at the elementary school. A 10mm Glock handgun, a 9mm SIG Sauer handgun, and a shotgun were also recovered at the crime scene.
- **AMMO DETAILS:** Lanza was carrying multiple high-capacity clips, reportedly enough ammunition to kill nearly every student at school.
- **GUN ACQUIRED:** The guns were legally registered to Lanza's mother, who he shot and killed earlier in the day and with whom he lived.
- **PROHIBITING CRITERIA:** Under Connecticut law, Lanza would have been prohibited from possessing handguns because he had not reached the legal age, 21. However, he would not have been prohibited from possessing a long gun like the Bushmaster rifle used in the shooting. Lanza's mental health was also scrutinized after the shooting, and while his social isolation had been noted, we did not find evidence that concerns had been brought to the attention of a public authority.

Tule River Reservation, CA, 12/8/2012: The shooter killed his mother and two uncles in the travel trailer where they lived and injured his young son; he then shot his two daughters, one fatally, while fleeing with them from the police. The gunman died after a shootout with police in which he also shot himself in the head.

- **SHOOTER NAME:** Hector Celaya, 31
- **GUN DETAILS:** .38 caliber revolver
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Celaya had been imprisoned in 2008 for an assault and battery charge and was prohibited from having weapons as a condition of three years' probation. It is likely that this criminal record prohibited him from possessing firearms. He was subsequently arrested multiple times for driving while intoxicated, and was due in court in January 2013 to face a misdemeanor drug possession charge.

Detroit, MI, 12/4/2012: Three adults and one minor were shot to death in a house on the east side of the city before a fire broke out, apparently set by the shooter. There are no reports of arrests or suspects.

- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The assailants are unknown.

Northridge, CA, 12/02/2012: The shooter arrived at an unlicensed boarding house on Devonshire street, reportedly in search of his girlfriend, and after a dispute shot and killed four people



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outside.

- **SHOOTER NAME:** Ka Pasasouk, 31
- **GUN DETAILS:** semiautomatic handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter was prohibited from possessing guns, having been convicted for car theft and felony robbery. While on probation in September 2012, he was arrested again for possession of methamphetamine. According to the district attorney, a prosecutor then released him on probation over the objection of probation officials, who believed he posed a threat to the safety of the community.
- **NOT A GUN-FREE ZONE:** Permit holders were not prohibited from carrying guns in this area.

New Town, ND, 11/18/2012: The shooter murdered a woman and her three grandchildren in their home on Fort Berthold Indian Reservation. When confronted by police he stabbed himself in the neck and died of his injuries.

- **SHOOTER NAME:** Kalcie Eagle, 21
- **GUN DETAILS:** .25-06 hunting rifle
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The rifle did not belong to the shooter; police speculated that it may have belonged to a family member.
- **PROHIBITING CRITERIA:** In March 2012, Eagle was arrested in a stolen pickup truck after a high-speed chase with police. He pled guilty to felony unauthorized use of a vehicle, and was sentenced to a year in jail, with more than three years of supervised probation and more than \$45,000 in fines and restitution. Because of this offense, he was likely prohibited from possessing a firearm.

Minneapolis, MN, 9/27/12: The shooter killed six people and injured two at a signage business, from which he was fired earlier in the day, before killing himself.

- **SHOOTER NAME:** Andrew John Engeldinger, 36
- **GUN DETAILS:** Glock 9mm semiautomatic handgun
- **AMMO DETAILS:** Engeldinger fired at least 46 bullets during the shooting. At his home, police recovered packaging for 10,000 rounds of ammunition.
- **GUN ACQUIRED:** Engeldinger purchased the gun used in the shooting one year before at KGS Guns and Ammo in Minneapolis after passing a background check and obtaining a permit-to-purchase. Around the same time, Engeldinger purchased another, similar handgun that police recovered when searching his home.
- **PROHIBITING CRITERIA:** Engeldinger had a concealed carry permit and was not prohibited from possessing a gun. But his family suspected he had paranoid schizophrenia and two years before the shooting they reached out on his behalf to the National Alliance on Mental Illness. Engeldinger did not pursue treatment.
- **ONLINE CONNECTION:** According to Minneapolis Police, Engeldinger may have purchased some or all of his stockpiled ammunition online from out-of-state dealers.

EB000490



Oak Creek, WI, 8/5/12: The shooter killed six people at a Sikh temple and injured three others, including a responding police officer, before killing himself.

- **SHOOTER NAME:** Wade Michael Page, 40
- **GUN DETAILS:** 9mm semiautomatic handgun
- **AMMO DETAILS:** Page reportedly bought three 19-round magazines when he purchased the gun.
- **GUN ACQUIRED:** Page acquired the gun at a local gun shop a week before the shooting.
- **PROHIBITING CRITERIA:** Page was involved with the white supremacist movement but he does not appear to have been prohibited from purchasing a gun. He received a discharge from the army “under other than honorable conditions” and was demoted from sergeant to specialist, but this did not affect his access to firearms. Federal officials investigated Page’s ties to supremacist groups more than once prior to the shooting, but did not collect enough evidence to open an investigation.
- **NOT A GUN-FREE ZONE:** Nothing restricted the possession of a firearm on the property. Wisconsin state law permits people to carry their guns in temples and other places of worship unless there is a sign or they have been personally notified that carrying firearms is prohibited by the property owner or occupant. Amardeep Kaleka, whose father founded the temple and was killed during the attack, confirmed that there was no such sign on the property.

Aurora, Co, 7/20/12: The shooter killed twelve and wounded fifty-eight in an attack on a suburban movie theater during a midnight screening of Batman.

- **SHOOTER NAME:** James Holmes, 24
- **GUN DETAILS:** Smith & Wesson AR-15 assault-style rifle, Remington 870 12-gauge shotgun, and two Glock .40 caliber handguns.
- **AMMO DETAILS:** Holmes had a 100-round drum magazine for the AR-15 and reportedly only ceased firing with it when it jammed.
- **GUN ACQUIRED:** Holmes acquired the guns at local gun shops.
- **PROHIBITING CRITERIA:** While a student at the University of Colorado, Holmes was treated by the school psychiatrist, who expressed concern about his behavior and referred him to the university Behavioral Evaluation and Threat Assessment (BETA) team. They took no further action and he was never adjudicated mentally ill.
- **ONLINE CONNECTION:** Holmes purchased over 6,000 rounds of ammunition online.

Newton Falls, OH, 7/6/12: The shooter killed his girlfriend, another couple, and their son in two separate shootings, before being cornered by the police and killing himself.

- **SHOOTER NAME:** Robert Brazzon, 55
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Brazzon had previously pled guilty to felony drug trafficking after police found 47 guns from his home in 1999 (the guns were later returned to Brazzon’s brother and son following a



court petition). But due to Ohio laws that provide for the restoration of felons' firearm rights, it is unclear whether Brazzon was prohibited from possessing firearms at the time of the shooting.

Tempe, AZ, 6/2/2012: The shooter killed his wife and three children inside of their home, then drove the bodies to a location in the Vekol Valley desert, where he lit the car on fire and shot himself. His wife had filed for a divorce earlier in the year but he had not vacated their shared residence. He was also reportedly undergoing treatment for a brain tumor.

- **SHOOTER NAME:** James Butwin, 47
- **GUN DETAILS:** Two guns were recovered in the vehicle, and the caliber of the shells for one matched those found in the house where the murders took place.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that Butwin was prohibited from owning a gun.

Seattle, WA, 5/20/12: The shooter killed five people in a string of neighborhood shootings that began in a coffee shop, and later killed himself.

- **SHOOTER NAME:** Ian Lee Stawicki, 40
- **GUN DETAILS:** At least one Para-Ordnance .45 caliber handgun – some reports say he carried two.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Stawicki legally purchased the weapon used in the shooting in addition to two others.
- **PROHIBITING CRITERIA:** The shooter was a concealed carry permit holder but had a history of mental illness and arrests. He was twice charged with misdemeanor assault but both cases were dismissed when the victims — his girlfriend and brother — refused to testify. Before the shooting, Stawicki's family attempted to have his concealed carry permit revoked. Stawicki's family had become concerned that his mental health had worsened. However, his family was rebuffed by authorities, who said they had no legal basis to revoke Stawicki's permit on claims about Stawicki's behavior alone.

Leivasy, WV, 5/19/2012: The shooter killed a man after a dispute over a debt for drugs, as well as his girlfriend and their two children.

- **SHOOTER NAME:** James Roy Belknap, 27
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In 2007, Belknap pled guilty on charges of conspiracy to deliver cocaine and was sentenced to 5 years in prison. In exchange, prosecutors dismissed a grand jury indictment charging him with murder. He was therefore prohibited from possessing a gun.



Port St. John, FL, 5/15/12: The shooter attacked her four children — ages 12 to 17 — in her home, killing them before shooting and killing herself. An autopsy indicated that she had a blood alcohol level of .16 at the time of the shooting — twice the legal limit.

- **SHOOTER NAME:** Tonya Thomas, 33
- **GUN DETAILS:** Taurus .38 caliber revolver
- **AMMO DETAILS:** She fired 18-hollow-point rounds during the incident, reloading the gun three times.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence she was prohibited from possessing a gun. The shooter was charged with misdemeanor battery in 2002 for striking the father of her children but it was later dropped.

Gilbert, AZ, 5/2/12: The shooter, formerly a member of the U.S. Marine Corps and a founder and leader of a border militia group, shot and killed four people including his girlfriend, before killing himself. At the time of the incident he was running for the office of Pinal County Sheriff.

- **SHOOTER NAME:** Jason Todd (“J.T.”) Ready, 39
- **GUN DETAILS:** At least two handguns and a shotgun were recovered from the scene. Six-armor piercing grenades, which may not legally be possessed by civilians, were also recovered.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that the shooter was prohibited from owning guns, even though he had a record of dangerous behavior. In 1992, he was arrested for damage to property and aggravated assault with a weapon and pled guilty to simple assault, a misdemeanor. He was court-martialed twice during his military service, the second resulting in a bad conduct discharge in 1996. In 2009, a woman filed an order of protection against him, but it was not active at the time of the shooting. Officers had also responded to multiple domestic violence calls from Ready’s home. Indeed, his girlfriend went to police headquarters on February 28, 2012 to make a complaint and report two domestic violence incidents, but she did not go to court to file for an order of protection.

Oakland, CA (Oikos University), 4/2/12: The shooter killed seven people at a Korean Christian college, where he had formerly been a student.

- **SHOOTER NAME:** One L. Goh, 43
- **GUN DETAILS:** .45 caliber handgun
- **AMMO DETAILS:** Goh was armed with four magazines of ammunition, holding 10 rounds each.
- **GUN ACQUIRED:** The gun was purchased legally in California two months before the shooting.
- **PROHIBITING CRITERIA:** None apparent, though Goh was expelled from the school for disciplinary problems.

Norcross, GA, 2/20/12: The shooter returned to a Korean spa from which he’d been kicked out after an altercation, where he shot and killed two of his sisters and their husbands before committing



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ting suicide.

- **SHOOTER NAME:** Jeong Soo Paek, 59
- **GUN DETAILS:** .45 caliber handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Police reported that he acquired the gun legally.
- **PROHIBITING CRITERIA:** Paek does not appear to have been prohibited, although he had allegedly served two months in jail for assaulting his sister six years earlier. In 2006 she applied for a temporary protection order and described his intention to harm himself or others with guns.
- **NOT A GUN-FREE ZONE:** We could find no indication that the property owner forbade possession of a firearm on their property.

Villa Park, IL, 1/17/2012: The shooter killed his girlfriend, her two sons, and her niece while they slept. After leaving the scene of the crime he shot himself and died of his injuries.

- **SHOOTER NAME:** Cedric Anderson, 42
- **GUN DETAILS:** .357 Magnum handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Anderson has several drug-related offenses dating back to 1990, and in 2008 received probation for possessing a firearm without the required license. On December 29, 2011 was convicted of felony heroin possession, and was awaiting sentencing at the time of the massacre. He was therefore prohibited from possessing a gun.

Grapevine, TX, 12/25/11: The shooter killed his estranged wife, two children, and three other family members as they opened their Christmas presents, before killing himself. The shooter's wife had filed for bankruptcy in August 2010 and reportedly separated from him during the proceedings, moving to the apartment complex where the shooting took place.

- **SHOOTER NAME:** Aziz Yazdanpanah, 56
- **GUN DETAILS:** 9mm and .40 caliber handguns
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The 9mm was purchased in 1996 and registered to the shooter.
- **PROHIBITING CRITERIA:** In 1996, the shooter pled guilty to one count of subscribing to a false income tax return, and was fined \$1000 and placed on three years' probation. But police said the 9mm was legally registered to the shooter and there is no evidence that he was otherwise prohibited from purchasing a gun.

Emington, IL, 12/16/2011: The shooter killed her boyfriend and her three children before taking her own life in the backyard of their home.

EB000494

- **SHOOTER NAME:** Sara McMeen, 30



- **GUN DETAILS:** Semi-automatic pistol
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from owning a gun. But she reportedly suffered from bipolar disorder and postpartum depression, and did not take any medication. She also had a family history of mental illness and violence. In 1971, McMeen's father shot and killed his wife with a 12-gauge shotgun. He was found not guilty by reason of insanity, and diagnosed with schizophrenia with suicidal and homicidal tendencies.

Gargatha, VA, 12/15/11: The shooter killed two of his children, their mother, and the man she was living with before killing himself. The shooter was reportedly involved in a custody dispute with the woman at the time of her death.

- **SHOOTER NAME:** Esteban Quintero-Gonzales, 37
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Bay City, TX, 11/30/11: The shooter and his wife argued in their mobile home, and when she exited he shot her three times in the front yard, injuring her, before killing his four children aged 2 to 5 and then killing himself.

- **SHOOTER NAME:** Jose Avila-Alva, 24
- **GUN DETAILS:** .22 caliber revolver
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The handgun was reported stolen in 2010.
- **PROHIBITING CRITERIA:** The shooter was not a legal resident of the U.S., and had been deported to Mexico in 2006 for unlawful entry, which would have prohibited him from purchasing a gun. One week earlier, on November 22, 2011, the shooter's wife filed an assault report against him and was taken to a crisis center by police, but she did not press charges.

Greensboro, NC, 11/20/2011: The shooter shot and injured a married man she had been having an affair with since 2008, injuring him. At some point that morning she also shot four children in her house, including her older son, a niece, a nephew, and a friend, and they all died of their injuries. She then picked up her son from a sleepover, shot and killed him, and turned the gun on herself.

- **SHOOTER NAME:** Mary Ann Holder
- **GUN DETAILS:** .38 caliber handgun



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- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun. The wife of the man the shooter was having an affair with sought a restraining order against her earlier in 2011; the shooter responded by requesting a restraining order against the man and his wife. Both orders had expired.

Liberty, SC, 10/14/11: The shooter killed her ex-husband, two sons, and their step-grandmother. When investigators arrived, she told them one of her sons had committed the homicides and then killed himself, but this story was inconsistent with forensic evidence. Nine days after the shooting she was taken into custody and charged with four counts of homicide. She had reportedly taken out a \$700,000 life insurance policy for her family members with herself named as the beneficiary.

- **SHOOTER NAME:** Susan Diane Hendricks, 48
- **GUN DETAILS:** .380 caliber handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In April 2006, Susan Hendricks shot and killed Doyle “O’Brian” Teague in her home after he had allegedly entered uninvited and threatened her. No charges were filed against Hendricks at the time, and the case was never closed. There is no evidence that she was prohibited from possessing a gun in 2011.

Seal Beach, CA, 10/12/11: The shooter injured one and killed eight at a hair salon, including his ex-wife, before being taken into police custody.

- **SHOOTER NAME:** Scott Evans Dekraai, 41
- **GUN DETAILS:** Dekraai carried 3 handguns – a 9 mm Springfield, a Heckler & Koch .45, and a Smith & Wesson .44 Magnum – and used at least two in the shooting.
- **AMMO DETAILS:** News articles say Dekraai was carrying “extra ammunition” when the shooting began.
- **GUN ACQUIRED:** All three guns were purchased legally and registered in accordance with California law.
- **PROHIBITING CRITERIA:** Dekraai was subject to a restraining order that specifically prohibited him from possessing guns, but the order expired in 2008. Dekraai had been diagnosed with Post Traumatic Stress Disorder, and during a custody suit his ex-wife had filed court papers claiming that he was mentally unstable and had threatened to kill himself or someone else at least once.

Laurel, IN, 9/26/11: The shooter killed a man, the man’s estranged wife, their two children, and a neighbor. The male victim reportedly had sold the addictive pain-reliever Oxycontin to the shooter, and on the day of the murders they had argued over the price.

EB000496

- **SHOOTER NAME:** David E. Ison, 46



- **GUN DETAILS:** A .380 caliber handgun was used in the slayings. Another stolen .380 handgun and an AK-47 were recovered during the investigation.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter had a lengthy criminal record, including a conviction for armed robbery, which would have prohibited him from possessing a gun, and at the time of the murders was on probation for 10 counts of burglary.

Monongalia County, WV, 9/6/2011: The shooter killed five people and injured one before fleeing from the police and then killing himself.

- **SHOOTER NAME:** Shayne Riggleman, 22
- **GUN DETAILS:** A .30-.30 rifle was used. A second rifle and a .22 caliber pistol were also recovered.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In 2008, Riggleman was sentenced to 14 months in prison for armed robbery, an offense that would prohibit him from possessing firearms, though it is possible his rights were restored under West Virginia law. He had also been diagnosed with bipolar disorder and schizophrenia at Chestnut Ridge Hospital and his family had him committed on several occasions.

Carson City, NV (IHOP Shooting), 9/6/2011: The shooter killed four people at an IHOP restaurant, including three National Guard members, before killing himself.

- **SHOOTER NAME:** Eduardo Sencion, 32
- **GUN DETAILS:** A Norinco Mak 90 assault rifle that had been illegally modified into a fully automatic machine gun. A Romarm/Cugir AK-47 type assault rifle and a Glock 26 semiautomatic handgun were also recovered.
- **AMMO DETAILS:** Police recovered 450 rounds of AK-47 ammunition from Sencion's van and "box upon box" of additional ammunition at his home.
- **GUN ACQUIRED:** Five years earlier, the gun had been sold by a private party in California to an unknown buyer.
- **PROHIBITING CRITERIA:** Sencion was taken into protective custody during a mental health commitment in April 2000 but no court order was involved and it remains unclear if a record of the incident was reported to the NICS database.
- **NOT A GUN-FREE ZONE:** IHOP allows individual franchises to determine their own firearm policies, and this franchise allows concealed carrying of firearms on the premises.

Marion County, FL, 8/5/11: The shooter killed the mother of his child in her mother's home, his own 6-year-old sister, and two other acquaintances before setting the building on fire. Court records indicated he had smoked synthetic marijuana laced with cocaine prior to the murders. The gun was not immediately recovered.



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- **SHOOTER NAME:** James Edward Bannister, 31
- **GUN DETAILS:** Believed to be a .38 caliber revolver
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that he had a prohibiting criminal record.

Wheatland, WY, 7/30/11: The shooter killed his three sons and his brother and shot and injured his wife before surrendering to police. His wife later reported he had become upset because he wanted to keep the curtains of their home drawn to prevent the neighbors from looking inside.

- **SHOOTER NAME:** Everett E. Conant III
- **GUN DETAILS:** Two semiautomatic handguns were used in the shooting. A shotgun and a rifle were also recovered.
- **AMMO DETAILS:** Police testified that about 50 rounds were fired during the incident.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The police reported that the shooter did not have a criminal record. There is no evidence to indicate he was prohibited from possessing a gun.

Wagener, SC, 7/3/2011: The shooter apparently went on a murder-suicide rampage, killing his wife, her twin sister, his mother-in-law, and his ex-girlfriend in two different residences before he was confronted by law enforcement and shot himself.

- **SHOOTER NAME:** Kenneth Myers, 47
- **GUN DETAILS:** A 20-gauge shotgun was used in the massacre. Myers owned numerous weapons including an SKS, AK-47, two 9 mm handguns, a .22 caliber revolver, and a .38 caliber snub-nose pistol.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that the shooter was prohibited from owning a gun. However, he reportedly had a history of violence, having threatened his mother-in-law with a rifle. In a suicide note, he blamed his wife's family for contributing to her drug problem.

Grand Prairie, TX, 6/23/11: The shooter killed his wife and four of her family members at his daughter's birthday party before killing himself.

- **SHOOTER NAME:** Tan Do, 35
- **GUN DETAILS:** Reported to be a handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Tan Do had a history of domestic violence. His wife had obtained a protective order against him but had withdrawn it earlier that year against the advice of a prosecutor.

EB000498



Medford, NY, 6/9/11: The shooter killed four people at a pharmacy, Haven Drugs, and stole thousands of hydrocodone pills before fleeing in a vehicle. During the trial he acknowledged that he and his wife were addicted to prescription medication.

- **SHOOTER NAME:** David Laffer
- **GUN DETAILS:** A .45 caliber handgun was used in the shooting. Several other legally registered guns were also recovered from the shooter's home.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The gun was legally registered to the shooter, and there is no evidence he was prohibited from possessing a gun. But five months before the shooting, Suffolk County Detective Kenneth Ripp investigated an identity theft claim made by the shooter's mother, who said the shooter had stolen her debit card. After questioning the shooter and his mother, Ripp advised the Suffolk County Pistol License Bureau that the shooter was dangerous and that his guns should be confiscated. Despite Ripp's report, the guns were not removed.
- **GUN-FREE ZONE:** We could find no evidence that Haven Drugs posted a sign or had a policy prohibiting the carrying of firearms. Current employees declined to comment.

Yuma, AZ, 6/2/11: In a series of separate shootings over a five-hour period, a gunman shot and killed his ex-wife, three of her friends, and her attorney, before killing himself.

- **SHOOTER NAME:** Carey H. Dyess, 73
- **GUN DETAILS:** Handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Dyess's ex-wife alleged there had been domestic abuse and a judge had issued an order of protection against him in 2006, but there is no evidence that he was prohibited from possessing firearms at the time of the shooting.

Ammon, ID, 5/11/11: The shooter killed his two infant children, their mother, and her sister before setting fire to the house and shooting himself. He had separated from the victim several months before the incident, and in the week before the shooting he had sent her harassing text messages.

- **SHOOTER NAME:** Gaylin Leirmoe
- **GUN DETAILS:** .45 caliber handgun
- **AMMO DETAILS:** Eight shots were fired during the shooting.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In October 2009, the shooter was charged with misdemeanor battery for domestic violence with no traumatic injury after hitting his girlfriend — the woman he would ultimately kill — at her birthday celebration. The charges were later dismissed. There is no evidence that he was prohibited from possessing a gun.



- **PROHIBITING CRITERIA:** Loughner had a history of mental illness and drug use. He was rejected from Army enlistment in 2008 after failing a drug test and admitting to drug use on his U.S. Army medical history application form, which should have prohibited Loughner from buying a gun for at least one year. However, Loughner successfully purchased a Harrington & Richardson shotgun in 2009, within a year of his Army rejection. Loughner's purchase of the Glock 19 handgun in 2010 violated the plain intent of federal law, which prohibits someone considered an/to be "unlawful user of or addicted to any controlled substance" from purchasing a gun, but the purchase was still allowed under current enforcement practices. Loughner was also suspended from Pima Community College in 2010 for erratic behavior, and exhibited other signs of mental instability in posts to websites.
- **NOT A GUN-FREE ZONE:** It was lawful to carry a firearm in the area of the shooting. An armed bystander, Joe Zamudio, mistook someone else as the shooter and prepared to fire on him before he was stopped by other bystanders.

Boston, MA, 09/28/10: The shooter killed four and wounded one during a drug-related robbery.

- **SHOOTER NAME:** Edward Washington, 33, and Dwayne Moore, 35, were both charged in the killings. Washington was acquitted. In Moore's first trial, the jury deadlocked 11-1 in favor of his guilt, but he was later convicted in a retrial.
- **GUN DETAILS:** .40 caliber Iberia handgun and 9mm Cobray semiautomatic. The Cobray has not been recovered, but the weapon was identified based on recovered bullets and shell casings.
- **AMMO DETAILS:** 14 rounds fired
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooters were prohibited from possessing guns.
- **NOT A GUN-FREE ZONE:** Any person holding the appropriate license could lawfully carry a firearm in this area. As of 2012 there were an estimated 250,000 concealed weapons permit holders in Massachusetts, and neither state or local law prohibits them from carrying in the city of Boston.

Riviera Beach, FL 9/27/10: The shooter killed his estranged wife and four of his stepchildren in their home, injured one other, and then shot and killed himself.

- **SHOOTER NAME:** Patrick Dell, 41
- **GUN DETAILS:** Handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In May 2010, the shooter's wife obtained a restraining order, which was active at the time of the shooting and would have prohibited him from owning a gun. In December 2009, Dell has also been arrested on felony aggravated assault, and had been convicted of misdemeanor improper exhibition of a dangerous firearm. Police had responded to 34 calls from the household in the four years preceding the shooting. In April 2008, the shooter's wife had taken out another restraining order against Dell for abusive behavior.

Jackson, KY, 9/10/10: The shooter, reportedly enraged at how his wife prepared his eggs, fatally



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shot her, his stepdaughter, and three neighbors. He killed himself when the police arrived.

- **SHOOTER NAME:** Stanley Neace, 47
- **GUN DETAILS:** Shotgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Chicago, IL, 9/2/10: The shooter murdered four individuals execution-style in a garage on South Kildare Avenue. Officials believe he was part of a drug-trafficking crew that had been involved in at least 10 other killings.

- **SHOOTER NAME:** Raul Segura-Rodriguez, 36
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** While the shooter was reportedly an experienced criminal, there is no evidence of convictions that would have prohibited him from possessing a gun.

Lake Havasu City, AZ, 8/29/10: The shooter killed his ex-girlfriend, her boyfriend, and three others while they were celebrating her boyfriend's birthday and took his own life later that night.

- **SHOOTER NAME:** Brian Diez, 26
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The gunman's girlfriend had taken out a restraining order against him earlier that year, which would likely prohibit him from purchasing or possessing a gun.

Buffalo, NY, 8/14/10: The shooter opened fire on a group of people outside a bar, killing four and wounding four others.

- **SHOOTER NAME:** Riccardo McCray, 24
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** McCray had been arrested earlier that year on felony drug charges and the previous year for having a loaded rifle in his car. If he was found guilty of either crime, he would have been prohibited from possessing firearms.
- **NOT A GUN-FREE ZONE:** We could find no indication that it was unlawful to carry a firearm in the area.

EB000502



There are an estimated 100,000 concealed weapon permit holders in New York and other than limiting a person's ability to carry when he is under the influence of drugs or alcohol, Buffalo does not add any additional requirements to state law.

Lanham, MD, 8/6/10: The shooter killed two children, their mother, and their paternal aunt in the home where they resided. Police said the shooter was involved in drug trafficking and the victims owed him money.

- **SHOOTER NAME:** Darrell Lynn Bellard
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that he was prohibited from possessing a gun.

Manchester, CT, 8/3/10: The shooter killed eight coworkers at a beer distributor and wounded two others before killing himself.

- **SHOOTER NAME:** Omar Thornton, 34
- **GUN DETAILS:** Two Ruger SR9 9mm handguns
- **AMMO DETAILS:** The shooter allegedly carried two extra magazines and two extra boxes of ammunition with him to the attack.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no indication that he was prohibited from possessing firearms and the guns he used were registered to him.

Hialeah, FL, 6/6/10: The shooter killed four women, including his wife — who had just separated from him. He injured three others before shooting and killing himself. The shooting occurred in Yoyito-Cafe Restaurant, where the shooter's wife was employed as a waitress, and in the parking lot immediately outside.

- **SHOOTER NAME:** Gerardo Regalado, 38
- **GUN DETAILS:** .45 caliber handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The shooter had a concealed weapons permit.
- **PROHIBITING CRITERIA:** There is no evidence that the shooter was prohibited from owning a gun. However, relatives said the shooter had abused and terrorized women in the past, and had been imprisoned in Cuba for a particularly violent incident, but he did not have a criminal record in the United States.
- **NOT A GUN-FREE ZONE:** We could find no indication that guns were prohibited in this area. Guns are prohibited in Florida restaurants only in areas primarily devoted to the serving of alcohol.



Chicago, IL, 4/14/10: The shooter who had converted to Islam in prison killed his family for not going along with his conversion, fatally shooting his mother, pregnant wife, infant son, and two nieces, and injuring one other.

- **SHOOTER NAME:** James A. Larry, 33
- **GUN DETAILS:** Shotgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Larry was almost certainly prohibited from purchasing a gun, having recently served a prison term for a weapons charge. He had also recently pled no contest to misdemeanor battery against his wife.

Los Angeles, CA, 4/3/10: The shooter killed four and injured two at a San Fernando Valley restaurant after a dispute with other patrons. He was indicted in a separate investigation for engaging in the business of dealing firearms without a license and possession of a firearm with an obliterated serial number, having sold firearms to an informant working for federal agents the previous year.

- **SHOOTER NAME:** Nerses Arthur Galstyan, 28
- **GUN DETAILS:** Unspecified handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Washington, DC, 03/30/10: Three gunmen killed four and wounded five in retaliation for another murder.

- **SHOOTER NAME:** Nathaniel D. Simms, 26; Orlando Carter, 20, and unnamed 14-year-old juvenile.
- **GUN DETAILS:** An AK-47 assault rifle and 9mm and .45-caliber handguns
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The adults were reported to have lengthy criminal histories, which prohibited them from purchasing guns, and the 14-year-old was too young to purchase or own a gun.
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New Orleans, LA, 3/26/10: The shooter killed his ex-girlfriend, her sister, and two children.

- **SHOOTER NAME:** Damian Jordan, 22
- **GUN DETAILS:** Handgun
- **AMMO DETAILS:** Unknown



- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Jordan was likely prohibited from possessing a gun due to a lengthy history of domestic abuse, though he had repeatedly pled down the crimes to simple battery.

Appomattox, VA, 1/19/10: The shooter killed eight family-members and acquaintances and fired at responding police officers – even forcing a helicopter to make an emergency landing – before surrendering. He wore a bulletproof vest during the attack.

- **SHOOTER NAME:** Christopher Speight, 39
- **GUN DETAILS:** High-powered rifle
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter was a concealed carry permit holder and was not prohibited from possessing a gun.

Bellville, TX, 1/16/10: The shooter, angered after a household argument, fatally shot his mother, stepfather, sister, brother and niece.

- **SHOOTER NAME:** Maron Thomas, 20
- **GUN DETAILS:** Handgun and shotgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Madison, WI, 12/3/2009: The shooter killed two women with whom he was involved in paternity cases, along with their daughters, before shooting himself in his car.

- **SHOOTER NAME:** Tyrone Adair, 38
- **GUN DETAILS:** Two handguns were found inside the vehicle where Adair died, one of which matched the caliber of the ammunition used in the murders.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Police report that Adair bought a 9mm gun that was advertised on Craigslist. This gun was likely transferred in a private sale.
- **PROHIBITING CRITERIA:** The shooter was prohibiting from possessing firearms due to an active restraining order involving a third woman. He had also been arrested in March 2009 after a domestic incident, but charges were not filed in that case.

Lakewood, WA, 11/29/09: The shooter killed four police officers in a Tacoma Coffee Shop, eluding police for two days before being killed as he fled. EB000505



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- **SHOOTER NAME:** Maurice Clemmons, 37
- **GUN DETAILS:** When he was killed, he was in possession of the handgun of one of the officers he had killed.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter was prohibited from purchasing a firearm, having been charged with at least 13 felonies across two states. He had posted bail for raping a child just six days before the attack.
- **NOT A GUN-FREE ZONE:** The police officers were armed at the time of the shooting.

Osage, KS, 11/28/09: The shooter killed his estranged wife, her grandmother, and his two daughters in their home.

- **SHOOTER NAME:** James Kahler, 46
- **GUN DETAILS:** Assault rifle
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Kahler was charged with a misdemeanor domestic violence assault in March 2009. If convicted, he would have been prohibited from purchasing a firearm.

Jupiter, FL, 11/26/09: The shooter killed his two twin sisters, his aunt, and his cousin's daughter, and injured two other family members, during a Thanksgiving celebration. He eluded capture for over a month before authorities apprehended him.

- **SHOOTER NAME:** Paul Merhige, 40
- **GUN DETAILS:** He used at least two handguns during the shooting.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Purchased at least six guns (including a .22 caliber handgun and a .40 caliber semi-automatic handgun), a high-powered rifle with a scope, and ammunition from two gun stores in South Florida.
- **PROHIBITING CRITERIA:** The shooter was involuntarily committed to mental health facilities at least three times in the decade before the killing, which prohibited him under federal law from possessing guns. But his records were not submitted to the NICS database. His parents reportedly knew he had ceased taking prescribed psychotropic medication in the weeks leading up the shooting. In addition, his sister Carla Merhige had requested a restraining order against him in 2006, but later withdrew the request. The shooter was able to obtain a concealed weapons permit.

Pearcy, AR, 11/12/09: Three shooters killed five people in their mobile homes and stole wheel rims, televisions, a handgun, and a vehicle. One of the shooters injured a police officer while he was being apprehended several days later.

- **SHOOTER NAME:** Samuel Conway, Marvin Lamar Stringer, and Jeremy Pickney
- **GUN DETAILS:** .22 and .25 caliber handguns

EB000506



- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that the shooters were prohibited from possessing guns.

Oklahoma City, OK, 11/9/2009: The shooter or shooters killed four people in a house before setting the building on fire. Two of the victims were pregnant. The crime was premeditated by two conspirators, and related to drugs they sold for one of the victims. It is unclear whether just one or both of the conspirators were present for the shooting, but both were charged with six counts of murder. Tyner surrendered to authorities a week after the killings. Phillips was arrested in Tulsa in April 2010 after allegedly attempting to sell two guns stolen from a police sergeant's home.

- **SHOOTERS:** David Allen Tyner (pled guilty), 31 and Denny Edward Phillips (pled not guilty), 34
- **GUN DETAILS:** Handgun
- **AMMO DETAILS:** Two types of bullet cases were recovered at the crime scene.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Phillips was prohibited due to a lengthy criminal history including multiple felony convictions. Phillips was convicted in 1996 for assault with a deadly weapon, and other crimes including a jail escape. He was also convicted in 2010 for possession of a firearm by a felon. He was also convicted of aggravated assault and battery. There is no indication that Tyner was prohibited, though he was reportedly a member of a prison gang.

Fort Hood, TX, 11/5/09: The shooter killed thirteen and wounded thirty soldiers during an attack at the Fort Hood army base.

- **SHOOTER NAME:** Nidal Malik Hasan, 39
- **GUN DETAILS:** A FN Five-seven handgun was used in the attack. A Smith and Wesson .357 revolver also recovered.
- **AMMO DETAILS:** Hasan fired at least 220 rounds of ammunition and had 200 rounds in his pocket when he was detained.
- **GUN ACQUIRED:** Purchased legally at a local gun shop, Guns Galore.
- **PROHIBITING CRITERIA:** The shooter had links with terrorist organizations, but being placed on a terror watch list does not prohibit purchase or possession of firearms under current law.

Mount Airy, NC, 11/01/09: The shooter killed four people outside a television store before eventually surrendering to the police.

- **SHOOTER NAME:** Marcos Chavez Gonzalez, 29
- **GUN DETAILS:** Assault rifle.
- **AMMO DETAILS:** Unknown



Analysis of Recent MASS SHOOTINGS

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- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter was a prohibited purchaser, having been convicted of kidnapping a minor in 2002.
- **NOT A GUN-FREE ZONE:** It was lawful to carry a firearm in the area of the shooting.

Lawrenceville, GA, 08/27/09: The shooter killed his girlfriend, his daughter, and two others in a domestic dispute.

- **SHOOTER NAME:** Richard Ringold, 44
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Kansas City, KS, 6/22/09: The shooter killed a woman with whom he had been romantically linked and three others at the house where she was staying. He had argued with the woman and followed her to the house.

- **SHOOTER NAME:** Adrian Burks
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter was prohibited from possessing firearms. He had served 10 years in Kansas prisons for robbery, aggravated assault, and burglary. He also fatally shot a man in March 2009, but he was not charged in the incident, which his cousin later described as “self defense.” In April 2009, he was charged with battery and a criminal threat against the sister of the man he killed and was ordered not to possess firearms.

Middletown, MD, 04/19/09: The shooter killed his wife and three children in their home before committing suicide.

- **SHOOTER NAME:** Christopher Alan Wood, 34
- **GUN DETAILS:** .25-caliber handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.
- **GREEN HILL, AL, 4/7/2009:** The shooter killed his estranged wife, their teenage daughter, and two other relatives one day before his divorce proceedings were scheduled to take place. He then lit the house on fire and shot himself.
- **SHOOTER NAME:** Kevin Garner, 45

EB000508



- **GUN DETAILS:** handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from owning a gun. In divorce documents, however, his wife cited physical and emotional abuse.

Graham, WA, 4/4/2009: After a dispute with his wife in which she told him she was ending their relationship, the shooter returned home and killed his five children. Police believe he then made an unsuccessful attempt to find his wife again and then killed himself in his car.

- **SHOOTER NAME:** James Harrison
- **GUN DETAILS:** Unspecified rifle
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence Harrison was prohibited from possessing a gun. Since 2001 the state had received five complaints about the shooter, including one for abuse in 2007 that stemmed from a slapping incident with one of his children. None of the complaints resulted in a domestic violence conviction. After the shooting, his wife said that she and her children had sustained years of abuse.

Binghamton, NY, 4/3/09: The shooter killed fourteen and wounded four at the American Civic Association where he had been taking English classes before killing himself. He wore a bullet-proof vest during the attack.

- **SHOOTER NAME:** Jiverly A. Wong, 42
- **GUN DETAILS:** 9mm and .45 caliber Beretta handguns.
- **AMMO DETAILS:** Allegedly fired 98 rounds during the attack. At least one magazine with a 30-round capacity was recovered at the scene.
- **GUN ACQUIRED:** The guns were registered to his New York State pistol license.
- **PROHIBITING CRITERIA:** Wong was not prohibited from possessing a gun, and had a New York State concealed carry permit. People who knew Wong said he exhibited no outward signs of mental instability, although a letter he wrote that was delivered to a newspaper after the shooting indicated he was paranoid and suffering from mental illness.

Carthage, NC, 3/29/09: The shooter opened fire at a nursing home where his estranged wife worked, killing eight and injuring three before he was shot and arrested by a police officer.

- **SHOOTER NAME:** Robert Stewart, 45
- **GUN DETAILS:** .357 Magnum handgun and Winchester 1300 shotgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The guns were acquired legally from a local sporting good store.



- **PROHIBITING CRITERIA:** There is no indication the Stewart was prohibited from possessing a gun.
-

Santa Clara, CA, 3/29/09: The gunman killed five family members and wounded two in an apparent murder-suicide.

- **SHOOTER NAME:** Devan Kalathat, 45
 - **GUN DETAILS:** Two .45 caliber pistols
 - **AMMO DETAILS:** Unknown
 - **GUN ACQUIRED:** Purchased legally weeks before the incident.
 - **PROHIBITING CRITERIA:** There is no indication that Kalathat was prohibited from possessing a gun.
-

East Oakland, CA, 3/21/09: The shooter used a semiautomatic handgun to kill two police officers after they stopped his car and then fled on foot to an apartment where he killed two SWAT officers with an assault weapon and injured a third before being killed by police.

- **SHOOTER NAME:** Lovelle Mixon
 - **GUN DETAILS:** 9mm semiautomatic handgun and SKS assault-style rifle
 - **AMMO DETAILS:** Police said the assault weapon had a high-capacity magazine.
 - **GUN ACQUIRED:** The shooter took part in a home invasion robbery in Modesto, CA, on February 21 2009 in which a rifle was reported stolen. Police did not comment on whether the stolen rifle was the one used in the shooting.
 - **PROHIBITING CRITERIA:** The shooter had a lengthy criminal history, including a conviction for armed battery, which would have prohibited him from possessing a gun, and he was on parole for assault with a deadly weapon at the time of the shootings.
 - **GUN-FREE ZONE:** Two of the victims were shot on a public roadway — the 7400 block of Macarthur Boulevard in East Oakland — where no state law would have prohibited a citizen with the appropriate permit to carry a gun. All of the police officers killed in the incident were armed.
-

Raytown, MO, 3/16/09: The gunman shot and stabbed his former girlfriend, her boyfriend, and her two nephews, killing all four.

- **SHOOTER NAME:** Gevante Anderson, 26
 - **GUN DETAILS:** Unknown
 - **AMMO DETAILS:** Unknown
 - **GUN ACQUIRED:** Unknown
 - **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.
-

Miami, FL, 3/15/09: At a birthday party, the shooter killed his estranged wife, her daughter, her daughter's boyfriend, and the boyfriend's grandmother. He then returned to his house where he set the building on fire and shot and killed himself.



- **SHOOTER NAME:** Guillermo Lopez, 48
- **GUN DETAILS:** Semi-automatic handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Catawba, NC, 3/12/09: The gunman shot and stabbed a woman and her three children in their home. He later killed himself and his girlfriend after a police chase in Utah.

- **SHOOTER NAME:** Chiew Chan Saevang, 38
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Geneva County, AL, 3/10/09: The shooter killed ten, including four members of his family, before killing himself.

- **SHOOTER NAME:** Michael Kenneth McLendon, 28
- **GUN DETAILS:** Bushmaster AR-15, SKS rifle, shotgun, and .38 pistol
- **AMMO DETAILS:** Police recovered additional ammunition from his vehicle after the shooting.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter had no criminal record and there is no indication he was prohibited from possessing a gun.
- **NOT A GUN-FREE ZONE:** It was lawful to carry a firearm in the public intersection and gas station where two of the individuals were shot.

Cleveland, OH, 3/05/09: The shooter killed his new wife and four of her relatives before committing suicide.

- **SHOOTER NAME:** Davon Crawford, 33
- **GUN DETAILS:** At least one semiautomatic handgun.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Crawford was likely prohibited from possessing a gun. He was convicted of manslaughter in 1995 and pled guilty to felonious assault with a firearm in 2005, though Ohio enables felons to restore their gun rights so it is possible he was no longer prohibited.

Brockport, NY, 02/14/2009: The shooter killed a nurse in the Lakeside Memorial Hospital



Analysis of Recent MASS SHOOTINGS

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parking lot and a motorist who intervened, and wounded the motorist's girlfriend. The shooter had been fired from the hospital after the nurse filed a sexual harassment complaint against him. He then drove 50 miles and killed another nurse — who had filed a similar complaint against the shooter — and her husband in their home.

- **SHOOTER NAME:** Frank Garcia, 34
- **GUN DETAILS:** .40 caliber Glock handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that the shooter was prohibited from owning a gun. However, he had applied for concealed carry permits and been denied three times. In his 1995 application, he omitted information about his criminal record — including arrests for criminal possession of a weapon, assault, and harassment. In 2001 and 2006 he made further omissions, and was evaluated as lacking moral character. But in 2007 a judge reversed the denial and granted Garcia a concealed weapon permit.
- **GUN FREE ZONE:** We found no indication that permit holders were prohibited from carrying guns in this area at the time of the incident.

Wilmington, CA, 1/27/09: The shooter killed his wife and their five children before killing himself.

- **SHOOTER NAME:** Ervin Lupoe, 40
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter did not have a criminal record and there is no indication he was prohibited from possessing a gun.

EB000512

EXHIBIT 5

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

NewsRoom

8/11/11 Statesman J. (Salem, Or.) C1
2011 WLNR 15882434

Statesman Journal (Salem, OR)
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August 11, 2011

Section: Mid-Valley

Brush with tragedy spurs author

August 11, 2011

One of the more notorious crimes in Salem history remains fresh in the mind of a South Salem resident who easily could have been a victim.

On May 7, 1981, Lawrence Moore walked into the Oregon Museum Tavern on Front Street NE at 10:20 p.m. during ladies night, stood at the entrance, raised his 9mm semiautomatic pistol and calmly squeezed off two 13-round clips.

The shooting spree that left four people dead and 20 wounded ended shortly after when Moore tried to reload his pistol and was tackled by patrons.

Christie Kraemer, a published author, was 30 years old and a regular of the tavern. She left the bar with her friend 15 minutes before the shooting.

Thirty years later, Kraemer has written "Shattered Tomorrows," a fictional book loosely based on the facts of the shooting that will be released Monday by Rogue Phoenix Press.

"It was cathartic," Kraemer said.

Her brush with tragedy had lingered in her memory, and she said she never felt as though there was closure despite Moore being found guilty and sentenced to life in prison. She also said she wanted to write the book to answer the question "Why?"

"It's kind of been nagging me for a long time," she said.

According to Statesman Journal reports, when he testified at his October 1981 murder trial, Moore claimed that he was defending himself against the band of enemies who were plotting against him.

Spraying the tavern with gunfire was his last chance to defend himself, Moore said. "No place to run, no place to hide; I couldn't get away from them, I was going to die anyway."

A jury rejected his insanity defense and he remains at the Oregon State Penitentiary, where he is serving a life sentence.

EB000514

"The facts are out there and everyone will take them to their own view; even with the facts, you are still left with 'no one knows why he did it and he's never going to say,'" she said.

For many of the victims and patrons who were at the tavern the night of the shooting, small decisions made the difference between life, death and an altered future.

In Kraemer's case, she said she was with her friend, who wanted to go to the tavern in hopes a man her friend was interested in would be there. They waited for a while, had a drink and when he didn't arrive, they decided to move on to the next bar. The decision took them out of harm's way.

Others were not as lucky.

She said she has received some criticism from people for not writing a true story, but using fiction allowed her to end the story the way she wanted to see it end.

"This isn't going to be sunshine and rainbows," she said.

She also said she hopes the book will do for others what it did for her — give some sort of closure and allow people to put it in the past.

esperez@StatesmanJournal.com or (503) 399-6740 or follow at Twitter.com/ElidaSPerezSJ

Book

"Shattered Tomorrows" will be released Monday by Rogue Phoenix Press.

The book is a fictional story loosely based on the shooting spree at the Oregon Museum Tavern on Front Street NE on May 7, 1981.

For information, go to roguephoenixpress.com or call (503) 302-5392.

---- Index References ----

News Subject: (Violent Crime (1VI27); Social Issues (1SO05); Murder & Manslaughter (1MU48); Crime (1CR87); Death Penalty (1DE04))

Industry: (Traditional Media (1TR30); Entertainment (1EN08); Bars & Nightclubs (1BA02); Book Publishing (1BO18); Publishing (1PU26); Books (1BO26))

Region: (U.S. West Region (1WE46); USA (1US73); North America (1NO39); Americas (1AM92); Oregon (1OR01))

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NewsRoom

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NewsRoom

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2005 WLNR 9230292

Herald Sun (Australia)
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June 11, 2005

Section: WEEKEND
Section: 1 - FIRST

CRIME TIME

Greg Thom

Times change, but the camera never lies. From ``Squizzy" Taylor's fatal shootout in a Carlton bedroom to the 1987 Queen St massacre, police photographers have recorded the bloody aftermath of these terrible crimes. Greg Thom delves into the files of forensic investigators to reveal these frozen moments in crime.

December 8, 1987

The spirit of Christmas was shattered on December 8, 1987 when a paranoid, psychotic and hate-filled Melbourne University drop-out named Frank Vitkovic walked into the Australia Post building at 191 Queen St and shot eight office workers dead. He stalked his innocent victims across three floors. The murderous rampage was brought to an end only when several would-be victims, one of them wounded, tackled the gunman as he reloaded his weapon. Survivors of the carnage placed the M1 carbine, which Vitkovic used with such devastating effect, in a fridge. Despite their efforts to stop him, Vitkovic managed to break free and jump to his death.

Gun Alley, December 30, 1921

This long-gone, nondescript lane off Little Collins St, known as Gun Alley, became synonymous with one of Melbourne's most shocking and sensational murders of the 20th century.

A policeman is photographed near the spot where the naked body of 12-year-old girl Alma Tirtschke was discovered on December 30, 1921.

Described as slightly built, 137cm tall, freckle-faced and with long, dark auburn hair, the bright Hawthorn West Primary School student was abducted, raped and murdered while on her way to deliver a parcel of meat to her aunt in Collins St.

Under intense public and media pressure to solve the crime, police soon charged Colin Campbell Ross, licensee of the Australian Wine Cafe situated not far from where Alma's body was found.

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Crucial pieces of evidence in the police case against Ross were strands of hair found on blankets at his home. Scientific tests proved them to be similar to that of Tirtschke, the first time hair analysis had been used in Australian criminal history to secure a conviction.

Found guilty of murder and sentenced to death, Ross went to his grave protesting his innocence. DNA tests 75 years after the murder proved the hair did not come from the dead girl's scalp.

ANZ Bank car park, High St, Kew, November 28, 1975

Police hunt for clues at the scene of the robbery and murder of Spyropoulos Dimitriou. The 49-year-old father of two was ambushed, shot through the heart and left for dead by a pair of bandits who lay in wait in the car park behind the bank, as he arrived to deposit \$4000 in takings from his bakery business.

St Kilda, April 16, 1955

A heated discussion at the dinner table about football ended in the stabbing death of 59-year-old Thomas Butler. The St Kilda wharfie, whose shoes can be seen under the table, was stabbed through the heart and lung with a carving knife in his Inkerman St home, after he allegedly grabbed his wife, Mary, by the throat.

Butler had been to the football that day with a boarder of five years, James McEwan. Both men were said to have drunk heavily at the game and later at a St Kilda hotel.

McEwan, 34, was charged with murder despite telling police he was trying to break up a scuffle between the Butlers. He was found not guilty of murder and manslaughter.

Carlton, October 28, 1927

Notorious Melbourne gangster "Squizzy" Taylor's high-profile criminal career came to a sudden and bloody end in this dingy bedroom at a Carlton boarding house.

The diminutive crime lord and former jockey, with a taste for expensive clothes and cheap blondes, arrived at the Barkly St address determined to confront rival Sydney underworld identity John "Snowy" Cutmore.

A total of 28 shots -- several bullets can be seen embedded in the wall in this picture -- were fired during the gun battle, which subsequently removed both gangsters from the criminal equation.

West Footscray, December 8, 1977

Dragan Menicanin shot his wife, Angela, four times with a pistol, before calmly placing the weapon next to the family TV and turning himself in to police.

The 45-year-old fitter told detectives the shooting followed an argument in which he feared his wife was going to kill him.

In an unsworn statement from the dock during the murder trial, Menicanin said he didn't want to kill his wife.

"I didn't want her dead. I am missing her."

Menicanin was acquitted on the grounds of insanity.

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continued page 8

from page 7

Break of Day, May, 1867

Aboriginal trackers point to the discovery of pistols used in the murder of banker Thomas Burke, near Rokewood in central Victoria.

Burke was ambushed by two men while returning to Ballarat to deliver a gold shipment from the Break of Day mining company.

This picture, along with two other photos depicting the tree from which the killers fired and the location of a hidden horse and buggy, are believed to be the first crime scene photographs taken in Victoria.

Hamilton, March 28, 1959

Victor Herbert Rissman laughed as his wife, Mabel, fetched a double-barrelled shotgun during a heated dinner-table argument that escalated in the kitchen of their Hamilton farm. The 54-year-old Rissman continued taunting her even after she pulled the trigger and the left barrel failed to fire. Mrs Rissman stopped the laughter with a blast from the remaining barrel. She was found guilty of manslaughter and sentenced to five years' jail.

Rye, May 18, 1979

Detectives unearth the bodies of murdered drug couriers Douglas and Isabel Wilson, discovered in a shallow grave at Rye on May 18, 1979. The pair were killed after betraying the notorious Mr Asia Drug Syndicate to authorities.

James Frederick Bazley, described in court as a ``\$10,000-a-head murderer'', was convicted of the Wilson killings as well as conspiring to murder Griffith anti-drugs campaigner Donald Mackay. He was allegedly hired by Mafia figure Robert Trimbole to kill the Wilsons and their dog, Taj. Bazley, a dog lover, is alleged to have said: ``Why the dog? The dog didn't talk."

The pooch was later found unharmed wandering the streets of Brunswick.

Richmond, May 30, 1934

The scene confronting police entering this bedroom of a house in Bosisto St, Richmond, on May 30, 1934, shocked Melbourne.

Francis O'Brien, 50, unemployed and by his own admission going mad from an inability to sleep, slashed the throats of his sleeping family -- wife Rose, 39, son Owen, 3, daughter Joan, 2 and nine-month-old Marie -- before taking his own life.

After his death, it was revealed O'Brien had been found not guilty of murdering his previous wife a decade earlier in Mildura on the ground of insanity and had been admitted to Mont Park psychiatric hospital for more than three years.

He remarried within a year of his release in 1927 and reported regularly to authorities before dropping off the radar in 1930.

Fitzroy, November 3, 1946

Ill health prevented frail, middle-aged invalid pensioner Charles Barclay from often venturing outside his home in Brunswick St, Fitzroy.

EB000519

With only his prized radio for company, 45-year-old Barclay snapped one afternoon when his brother-in-law, Arnold Hodgson, who he was living with, grabbed the radio after he refused to turn it off.

Police alleged Barclay hit Hodgson with an iron bar because he feared his brother-in-law would break the precious radio. Barclay was found not guilty of murder and an alternative count of manslaughter.

February 14, 1977

In October 1972, Edwin John Eastwood kidnapped six students and their teacher from Faraday Primary School near Castlemaine and demanded a \$1 million ransom from the State Government.

Nearly five years later -- on February 14, 1977 -- he escaped from jail and abducted a teacher and nine pupils at gun-point from their classroom at Wooreen Primary School in South Gippsland.

This time he demanded the release of 17 prisoners, \$7 million and 100kg in both heroin and cocaine, but Eastwood was caught and sentenced to 18 years' jail.

Numurkah, May 3, 1964

Constable Ray Denman's life ended at 2.50pm on May 3, 1964, after he responded to a frantic telephone call to intervene in a tragic tug-of-love at Numurkah.

A festering domestic dispute between the parents of local woman Aileen Wilkinson over her relationship with fiance Kim Dean Christian culminated in Christian arriving on her doorstep brandishing a loaded shotgun.

Locked out of the house by his girlfriend, Christian was surprised by Constable Denman, who ran up behind him, allegedly startling the surprised gunman into accidentally firing the shotgun. The death of the popular policeman and active member of the community stunned the town.

Christian was later acquitted of manslaughter.

---- **Index References** ----

Company: ANZ BANKING GROUP NEW ZEALAND LTD

News Subject: (Violent Crime (1VI27); Crime (1CR87); Property Crime (1PR85); Social Issues (1SO05))

Region: (Australasia (1AU56); Australia (1AU55); Oceania (1OC40))

Language: EN

Other Indexing: (ANZ BANK; ASIA DRUG SYNDICATE; AUSTRALIAN; AUSTRALIAN WINE CAFE; BARKLY ST; BRUNSWICK ST; CARLTON; CHRISTIAN; COLLINS ST; DNA; FARADAY PRIMARY SCHOOL; INKERMAN ST; KIM DEAN CHRISTIAN; MAFIA; MELBOURNE; MELBOURNE UNIVERSITY; NOTORIOUS MELBOURNE; QUEEN ST; ST; ST KILDA; TAYLOR; WEST PRIMARY SCHOOL; WOOREEN PRIMARY SCHOOL) (Aboriginal; Aileen Wilkinson; Alma; Alma Tirtschke; Angela; Arnold Hodgson; Barclay; Bazley; Burke; Butler; Butlers; Charles Barclay; Colin Campbell Ross; Constable Denman; Constable Ray Denman; CRIME TIME; Donald Mackay; Dragan Menicanin; Eastwood; Fitzroy; Francis; Frank Vitkovic; Greg Thom; Gun Alley; Hamilton; Hodgson; Ill; Isabel Wilson; James Frederick Bazley; James McEwan; Joan; John Eastwood; Mabel; Mary; McEwan; Menicanin; Numurkah; O'Brien; Owen; Rissman; Robert

EB000520

Trimbole; Ross; Rye; Scientific; Taj; Thomas Burke; Thomas Butler; Tirtschke; Victor Herbert Rissman; Vitkovic; Wilson; Wilsons)

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NewsRoom

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5/11/87 Phila. Inquirer B05
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May 11, 1987

Section: LOCAL

MAN SHOTS WIFE, CAR, SAY POLICE IN BUCKS

David Lee Preston, Inquirer Staff Writer

A man opened fire at his wife yesterday from outside a front door and window of their son's house in Fairless Hills, Bucks County, then fired shots into her car and their own home before being subdued, Falls Township police said.

The woman, Marie Corey, 48, was treated and released at Delaware Valley Medical Center in Langhorne for gunshot wounds of her right arm.

Her husband, Raymond Corey, 49, was charged with attempted homicide, reckless endangerment, possession of instruments of crime, aggravated assault and terroristic threats. He was arraigned last night by Bristol Township District Justice Anna Huhn, and was being held at Bucks County Prison in Doylestown after failing to pay \$400,000 bail.

Raymond Corey had fired at least 10 shots from a 30-30 Winchester rifle, and was reloading the weapon when two police officers subdued him in the street in front of his home, Sgt. Charles Schaffner said.

On Saturday night, police had gone to the Coreys' home, in the 100 block of Blough Road, responding to reports of a domestic disturbance, and the woman then decided to stay temporarily at the home of their son, Ronald, across the street, Schaffner said.

Schaffner said all was quiet until Corey "just went nuts" while as many as 20 people looked on in the residential neighborhood near the Fairless Hills Golf Course.

---- Index References ----

Language: EN

Other Indexing: (BUCKS; DELAWARE VALLEY MEDICAL CENTER) (Anna Huhn; Charles Schaffner; Coreys; Falls Township; MAN SHOTS; Marie Corey; Raymond Corey; Ronald; Schaffner)

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WashingtonPost.com
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March 7, 1988

GUNMAN OPENS FIRE IN CHURCH; DEACON KILLED, 4 ARE INJURED

EMPORIA, KAN. -- A heavily armed man walked into a crowded church yesterday and opened fire, killing a church deacon and injuring four other persons before he was subdued by church members while reloading, authorities said. The gunman, identified as Cheunphon Ji, 29, of no known address, entered through the side door of the Calvary Baptist Church during services shortly after 11 a.m. and fired several rounds from a semiautomatic handgun at the 100 people inside, police Chief Larry Blomenkamp said. "He had no particular target. He just entered and started firing random shots," Blomenkamp said. The gunman was not a member of the church, and no motive was known, Blomenkamp said.

The man was taken to the Lyon County Jail to await charges. Thomas DeWeese, 47, was dead on arrival at Newman Hospital. One victim was in serious condition, one in good condition and two others, including a daughter of the slain deacon, were treated for gunshot wounds and released.

--- Index References ---

News Subject: (Religion (1RE60); Health & Family (1HE30); Christianity (1CH94); Fires (1FI90); Protestantism (1PR28); Accidents & Injuries (1AC02); Social Issues (1SO05))

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1988 WLNR 2191554

Houston Chronicle
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March 7, 1988

Section: 1

Deacon slain as gunman fires randomly at church

EMPORIA, Kan.

EMPORIA, Kan. - A man opened fire with a semi-automatic pistol at a Baptist church during Sunday morning services, killing a deacon and wounding four other churchgoers before he was subdued while reloading.

The neatly dressed gunman, identified as Cheunphon Ji, 29, address unknown, walked into Calvary Baptist Church during morning services at 11:14 a.m. and began firing randomly without a word, Police Chief Larry Blomenkamp said.

He was subdued by churchgoers after wounding five people, including Thomas DeWeese, 47, a church deacon who was dead on arrival at Newman Hospital.

"You think of something like this happening in a large city and you hear reports in faraway places of someone trying to massacre others, but not here, not in Emporia," said the Rev. Donald Kusmaul, pastor of the church.

One victim was in serious condition at an Emporia hospital. Another was in good condition and two others - including a daughter of the slain deacon - were treated for gunshot wounds and released.

Neither the gunman, who police said will be formally charged on Monday, nor his victims were immediately identified.

"There was no particular target," Blomenkamp said. "The individual just began firing random shots."

Kusmaul said no one at the church recognized the gunman, who police said left California last week and arrived Sunday morning in Emporia, located off the Kansas Turnpike about 100 miles southwest of Kansas City.

His car, which had California license plates, was found in the church parking lot.

Kusmaul said he was leading the 100-member congregation in a hymn when the gunman, carrying a duffel bag, walked in through a side door.

"He had what I thought were earmuffs on and a shoulder bag and my first thought was perhaps he's a college student," the pastor said. "Then I heard the gun."

EB000525

"When I hit the floor, it was just unbelievable what was happening, and I realized those weren't earmuffs; they were ear protectors."

Churchgoers screamed and crouched under pews and on the floor until one parishioner at the back charged at the gunman as he tried to place a new clip of ammunition into his gun, Kusmaul said.

The gunman tried to escape by fleeing out the side door, but several churchgoers tackled him outside and held him for police, said Kusmaul, 43, pastor at the church for 17 years.

The man was wearing a suit and tie, "dressed like someone planning to attend church," Blomenkamp said, but he said officers did not know why he picked the Baptist church in downtown Emporia.

Police found a bag containing several handguns and ammunition at the rear of the church but said the gunman used only one weapon, a semi-automatic pistol.

DeWeese and three other victims were taken to Newman Hospital. Sandy Mattox, 43, was hit in the left shoulder and was in serious but stable condition. Daniel Goza, 14, who was grazed by a bullet, and Beverly DeWeese, the daughter of the slain deacon who was shot in the left arm, were treated and released.

Robert Adamson, 14, was taken to St. Mary's Hospital, where he underwent surgery to remove a bullet lodged in his left thigh. He was reported in good condition.

---- **Index References** ----

News Subject: (Religion (1RE60); Christianity (1CH94); Social Issues (1SO05); Protestantism (1PR28))

Region: (Kansas (1KA13); USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BAPTIST; CALVARY BAPTIST CHURCH; EMPORIA; NEWMAN HOSPITAL) (Beverly DeWeese; Blomenkamp; Daniel Goza; DeWeese; Donald Kusmaul; Ji; Kusmaul; Larry Blomenkamp; Robert Adamson; Sandy Mattox; Thomas DeWeese)

Edition: 2 STAR

Word Count: 640

End of Document

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NewsRoom

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9/21/89 St. Louis Post-Dispatch 7a
1989 WLNR 414332

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September 21, 1989

Section: NEWS

CO-WORKERS STOPPED KILLER AT MACOMB PLASTICS PLANT, POLICE SAY

The Associated Press

MACOMB, Ill. (AP)

A gunman who killed two workers at a plastics factory in western Illinois was reloading his revolver when four co-workers overpowered him, police said Wednesday.

The gunman escaped Tuesday after pulling a knife and threatening his captors, sparking a police search that continued Wednesday afternoon in a wooded area near Astoria, about 35 miles southeast of Macomb.

Macomb Police Chief Richard Clark said about two dozen police officers and a canine unit were searching for the suspect in the case, Fred Hopkins, 36, of Browning. Hopkins was charged Wednesday with two counts of first-degree murder in McDonough County Circuit Court.

Hopkins is accused of killing Pam Bucy, 29, of Table Grove, and factory foreman Jimmy Cobb, 31, of Bardolph, as they arrived for the start of the noon shift at Webster Industries Inc.'s plastic bag factory, Clark said.

Without the action of four employees, more people might have been killed, he said.

"He was trying to reload his weapon, and they tackled him and subdued him," Clark said. "They calmed him down and set him down" on a chair.

Hopkins then drew a knife and escaped before police arrived, Clark said, adding that 10 witnesses had identified Hopkins as the gunman.

Clark said that Bucy had dated Hopkins and that she apparently broke off the relationship recently.

---- Index References ----

Company: WEBSTER INDUSTRIES INC; WEBSTER PORTALLOY CHAINS INC

EB000527

Language: EN

Other Indexing: (MCDONOUGH COUNTY CIRCUIT COURT; WEBSTER INDUSTRIES INC) (Bucy; Clark; Fred Hopkins; Hopkins; Illinois; Jimmy Cobb; Pam Bucy; Richard Clark)

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Word Count: 269

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5/1/93 Rocky Mtn. News 9A
1993 WLNR 506495

Denver Rocky Mountain News (CO)
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May 1, 1993

Section: LOCAL

BAYLIS CHARGED IN RAMPAGE THAT KILLED TWO IN SPRINGS

DICK FOSTER ROCKY MOUNTAIN NEWS SOUTHERN BUREAU

COLORADO SPRINGS

Eugene Baylis, 42, was charged Friday with four counts of murder and 16 counts of attempted murder in district court in connection with an April 17 shooting rampage at a Colorado Springs bar.

Baylis, who said he was feeling ill Friday, is scheduled to appear in El Paso District Court again Monday to acknowledge the charges against him.

Two victims died and eight others were wounded after Baylis entered Jim and I's Star Bar in north Colorado Springs and raked the bar with automatic rifle fire, police said. After he left the bar, he fired randomly around the neighborhood and at pursuers, police said.

Bar manager Paul Klein, 40, was struck by three bullets while attempting to wrestle the guns from Baylis, police said. He died the next morning at a local hospital. Stephen Fairfax, 33, was killed by three bullets in the chest as he pursued the gunman.

Baylis was shot in the head by police and subdued in the parking lot of the bar as he sat in his car reloading his AK-47 assault rifle. He was hospitalized for four days with pellet wounds from the shotgun blast but transferred to El Paso County Jail last week.

Assistant district attorney Jeanne Smith said Baylis was charged with two counts of murder for each victim under two separate provisions of state law.

"The first count charges him with premeditation, the second count is the extreme indifference section of the statute," Smith said.

The procedure would allow a jury two opportunities in each case to find Baylis guilty of first-degree murder and attempted first-degree murder, either by acting with premeditation or by acting with extreme and wanton indifference to human life that resulted in death and injury.

LIB3 LIB3

EB000529

---- **Index References** ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Social Issues (1SO05))

Region: (USA (1US73); Americas (1AM92); Colorado (1CO26); North America (1NO39))

Language: EN

Other Indexing: (EL PASO COUNTY JAIL; EL PASO DISTRICT COURT; SPRINGS) (Baylis; BAYLIS CHARGED; Eugene Baylis; Jeanne Smith; Paul Klein; Smith; Stephen Fairfax)

Edition: REGIONAL

Word Count: 344

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NewsRoom

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NewsRoom

2/2/93 The Hartford Courant (Conn.) B1
1993 WLNR 4155138

Hartford Courant
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February 2, 1993

Section: CONNECTICUT

ROCKY HILL GUNFIRE LEAVES QUESTIONS ROCKY HILL GUNFIRE LEAVES MANY QUESTIONS

DAVE DRURY Courant Staff Writer

Courant Staff Writer

With a gun to his head and his life in disarray, Alfredo Fazio lay pinned to the pavement outside Club Mirage and begged to be put out of his misery.

"He was yelling, 'Shoot me. Shoot me. I don't want to live. I got nothing to live for. I have no job. I have no money' ," said Walter Bartkiewicz, owner of Mirage, recalling the events of early Sunday. "I just said, 'Keep your hands still.' "

Bartkiewicz, who held the gun to Fazio's head, described how he and others, including two off-duty police officers, subdued Fazio, who, police say, had just blasted the front of the packed club with four rounds from a 12-gauge sawed-off shotgun.

Miraculously, no one was injured, even though police say as many as 10 rounds were fired back at Fazio from the club lobby by off-duty police. "There were five casings I counted personally in the lobby," acting Police Chief Philip R. Dunn said Monday.

Fazio, 32, of 188 Raymond Road, Rocky Hill, was held Sunday on \$250,000 bond on charges of unlawful discharge of a firearm, possession of a sawed-off shotgun and four counts of first-degree reckless endangerment. He was presented Monday morning in Superior Court in New Britain, where his bond was reduced to \$5,000 and his case was continued until Feb. 22. He was released later in the day from the Morgan Street jail after a relative posted the bond.

Police said Fazio returned to the club about 1:30 a.m. after he was thrown out earlier in the evening. He parked in front of the building, then approached the building and shot through a set of open entry doors, shattering a set of glass doors in the foyer.

Then, as hundreds of patrons hugged the dance floor above, two off-duty, out-of-town police officers who were in the club returned fire from the lobby. The officers and club employees then apprehended Fazio as he paused alongside his car to reload his weapon.

On Monday, town police were still trying to determine exactly how many rounds were fired and who fired them. A statement was

taken from one of the officers involved, Meriden patrol officer Lue Sobieraj, who Dunn said fired once at the suspect. Dunn said Sobieraj acted appropriately.

EB000531

"He reacted while off-duty and did an excellent job. We're sending a letter to his chief," Dunn said.

The other officer, who left the scene immediately afterward, has not yet been identified. Police said inquiries were made Monday to the internal affairs division of the Hartford Police Department.

Capt. Joseph Croughwell of the Hartford Police Department said he had no information that a Hartford policer officer may have been involved. "I do know it's an ongoing investigation conducted by the Rocky Hill Police Department, and if Hartford can assist in any way with the investigation, we will," he said.

Bartkiewicz, who was carrying a pistol, said neither he nor any employee at the club fired at Fazio. He said as many as four off-duty officers had been in the club at one point during the evening. Police officers usually identify themselves at the front door and indicate that they are carrying weapons, he said.

In talking with Fazio at the scene, and in a discussion later with his sister, Bartkiewicz said he learned that Fazio had been unemployed for nine months and did not even have enough money to put gas into his car, which had to be towed from the scene.

"The guy was deranged. He lost everything he had. He cracked up," Bartkiewicz said. He said he had recognized Fazio from earlier in the evening because he had gotten into a fight over a woman and was ejected from the club.

"He just decided to come back. His explanation to me was he wanted to come back to show us we didn't have the right to throw him out of the club," Bartkiewicz said.

For Rocky Hill police, the episode marked another busy night at the club, which, until last weekend, had operated a juice bar that had become a gathering point for 18 to 20-year-olds from across the state. Dunn said he is listing all the incidents police have responded to at the club in recent months and will refer the list to the state Department of Liquor Control.

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---- **Index References** ----

News Subject: (Government (1GO80))

Language: EN

Other Indexing: (HARTFORD; HARTFORD POLICE DEPARTMENT; ROCKY HILL POLICE DEPARTMENT; STATE DEPARTMENT; SUPERIOR COURT) (Alfredo Fazio; Bartkiewicz; Dunn; Fazio; Joseph Croughwell; Lue Sobieraj; Meriden; Miraculously; Philip R. Dunn; Rocky; Rocky Hill; ROCKY HILL GUNFIRE LEAVES QUESTIONS ROCKY HILL GUNFIRE LEAVES; Shoot; Sobieraj; Walter Bartkiewicz)

Edition: A

Word Count: 821

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2/27/94 Portland Oregonian A01
1994 WLNR 4659723

Oregonian, The (Portland, OR)
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February 27, 1994

Section: LOCAL STORIES

OREGON AND THE BRADY LAW

PHIL MANZANO and JOHN PAINTER JR. of The Oregonian staff

Summary: The milestone law begins Monday, but with Oregon's already tough standard, how will the law really affect Oregon citizens?

The federal Brady law, which becomes effective Monday, already has had the ironic and unintended effect of putting more guns into Oregon homes and businesses.

President Clinton signed the landmark gun control bill Nov. 30. In December, Oregonians rushed to buy nearly 7,500 handguns from dealers -- apparently in the mistaken belief that the law would severely restrict the sales of handguns or ban some guns altogether. It does neither.

It also will not do much to keep guns out of the hands of criminals.

The new federal law will have scant impact in Oregon because the state already has a stricter gun control law. Both laws, however, cover only a narrow area of gun sales.

But despite the limitations -- and despite complaints from law-abiding gun owners -- the Brady law may be the first wave of tighter federal controls on handguns.

"We believe we could pursue a comprehensive agenda and have it pass in Washington," Sandy Cooney of Handgun Control Inc. told a recent meeting of Oregonians Against Gun Violence. "We never said it was a panacea, but what it is, is a step."

Gun owners, however, already feel unfairly

"I don't believe the Brady will have any effect whatsoever for individuals who are criminally disposed and want to obtain a handgun," said Portland tax lawyer Thomas O. Moe, who owns handguns and long guns.

"I think the government is inadvertently disarming the innocent," Moe said. "Individuals who may necessarily buy handguns for self-protection, albeit it right or wrong, may be inhibited from doing so due to the waiting period."

Diane Witt, a firearms instructor who carries a .45-caliber semiautomatic pistol, says the Brady law accomplishes nothing.

EB000534

``Because honest citizens abide by the laws, that means that they are not the element contributing to the wave of violence in the United States," she said. ``Secondly, under the terms of the Second Amendment, I do believe the right to keep and bear arms is guaranteed to me and any other law-abiding citizen, the same as any other right under the Constitution.

``We constantly in this country seem to believe that we can legislate morality and we are unable to do that. So the effect of the Brady bill on crime and violence is nothing because it will only be adhered to by the law-abiding citizen."

LOOPHOLES AND THE LAW

The milestone Brady law requires a five-day waiting period and background checks on all handgun purchases. Oregon already requires a waiting period three times longer -- 15 days -- and a more rigorous background check.

But even so, guns get into the wrong hands. Why?

Oregon's law applies only to purchases from licensed dealers, and one federal survey showed just 7 percent of criminals obtain guns from legitimate dealers.

The law does not allow police to use their own judgment when a person's background raises concerns but does not fall into the specified categories.

Gun shows and other virtually unregulated selling provide easy access to firearms. And long guns -- shotguns and rifles -- are not covered by the regulations.

Multnomah County sheriff's Sgt. Kathy Ferrell believes there needs to be more room for discretion by law enforcement.

``There's still some scary people out there buying handguns," said Ferrell, who runs the section that performs background checks on handgun purchases and applications for concealed weapon permits.

Oregon's law prohibits handgun sales to people under 18, to those with an outstanding felony warrant or to anyone guilty of a felony or misdemeanor convictions for fourth-degree assault, menacing, recklessly endangering another person, assaulting a public safety officer or second-degree intimidation.

In addition, no one involuntarily committed to a mental hospital or deemed by a judge to be too emotionally ill may purchase a handgun.

While that sounds impressive, there's lots more that the law doesn't do.

``We're not seeing the gun denials that we should," Ferrell said. ``Our ability to block a handgun sale is pretty bad."

In contrast, a concealed weapons permit may be denied if there are ``reasonable grounds" to believe someone could be a danger to himself or the community ``as demonstrated by past pattern of behavior."

A landmark 1990 study of retail gun sales in Oregon found that 17.6 percent of 81,222 rifles and handguns sold that year through dealers were purchased by individuals with Computerized Criminal History files. But the way the law is written, only 1.1 percent could be disqualified.

EB000535

Ferrell cringes at the thought that she has allowed sales to people who appear to have drinking problems or a history of domestic violence. For instance, multiple drunken-driving convictions will not prevent a handgun sale. A string of arrests, but no convictions, for domestic violence -- a charge that is dropped almost all the time -- also would not disqualify a buyer.

Officials also see gun shows as one of the significant holes in efforts to get a handle on firearms.

"The law is only going to be as effective as its weakest link," said Clackamas County sheriff's Capt. F. Sherwood Stillman, "and right now its weakest link is that it allows gun sales at gun shows."

While there are laws that prohibit sales to certain people, such as felons, no law requires sellers at gun shows to check. "They're not going to look any further than the guy's checkbook," Stillman said.

Just how many firearms move from gun shows to felons is impossible to track because the transactions do not require paper work.

Bureau of Alcohol, Tobacco and Firearms agents in Portland say they have traced guns connected with crimes to such shows, but one bureau survey out of Washington, D.C., showed only 6 percent of criminals got their guns at unregulated shows or flea markets.

It's too expensive for one thing, said Portland homicide Detective Tom Nelson. Most criminals will buy stolen weapons from an underground source at a deep discount, or they know someone who has a weapon they can borrow or buy.

Ernest N. Lotches -- who went on an Aug. 22, 1992, rampage through downtown Portland -- used a gun bought for him, Nelson said. Lotches shot and killed a security guard with a 9 mm handgun as the two traded shots while the guard was trying to protect a 9-year-old boy.

According to Nelson, Lotches got the gun from his girlfriend, a drug and alcohol counselor he met while incarcerated in the Columbia River Correctional Institution.

More than 70 percent of criminals acquire their weapons on the black market or get them from a partner in crime, the federal survey showed.

In addition, Oregon law has absolutely no checks or waiting periods on someone buying a shotgun or rifle.

Portland homicide Detective Sue Hill feels that Oregon's gun control law must also include long guns.

"You can do a lot more damage with a shotgun than a handgun," Hill said. "You don't stand a prayer with what Kevin Lust fired at Bridgette Nelson."

On March 2, 1993, Lust walked into the Red Lion Inn/Columbia River carrying a flower box used to hold long-stemmed roses. His box carried a message of hate, not love -- a shotgun he bought Feb. 10, 1993, at a Wal-Mart in McMinnville.

With no waiting period, he handed over a \$842.37 check -- that later bounced -- and walked out with a 12-gauge Weatherby shotgun and 50 high-power shotgun shells. With no background check, no one discovered he had been convicted in Lane County of a second-degree assault that began as an attempted murder case.

A friend told police that Lust's favorite scene in "Terminator 2" was where Arnold Schwarzenegger pulls a shotgun out of a long flower box.

EB000536

When Lust found Nelson at the Red Lion Inn/Columbia River he re-enacted that scene, firing two shots into her, reloading and hitting her with two more shots. A security guard tackled him as he reloaded for a third time.

``It was just too easy" for Lust to buy the gun, Hill said. ``You could have Charlie Manson walk in and buy a hunting rifle (in Oregon)," Hill said. ``There's nothing to prevent him from walking into whatever and buying an over and under shotgun."

But law enforcement does appreciate what effect the laws have.

State police Capt. Tom M. Dixon said Oregon's law has had a deterrent effect -- felons are not going to retail outlets to buy handguns, it appears.

In 1990, police denied handgun sales to three people with murder convictions, two people with attempted murder convictions, three convicted of rape, two convicted of robbery and seven people convicted of assault, and 20 sales were denied because the buyers were convicted of burglary. Those numbers drop over the next few years.

Portland Police Chief Charles Moose said the Brady law at least sets a minimum standard for all states and prevents someone from going to an adjacent state that may not have a background check or waiting period to buy a gun.

THE HISTORY

On Jan. 17, 1989, drifter Patrick Purdy used an assault rifle purchased at the Sandy Trading Post in Sandy to lethally spray a Stockton, Calif., schoolyard. Five children died, and 30 persons were injured.

The incident sparked Oregon's new gun law, the Comprehensive Firearms Act.

The ``Oregon law surpasses the Brady bill in almost every regard," said John W. McMahon, Bureau of Alcohol, Tobacco and Firearms agent in charge in Portland. ``It's one of the few states around the country doing an excellent job in surpassing the Brady bill."

But the law, does nothing to regulate the type of gun used in Purdy's rampage, did loosen the requirements for those wanting a permit to carry a concealed weapon.

Today, there are more than 40,000 concealed weapon permits in Oregon. In its first year, 1990, slightly more than 13,000 permits were issued.

Only about 1 percent of the licenses have been revoked.

The increase in licenses mirrors a surge in gun purchases.

In 1990 -- the year Oregon's gun law took effect -- the Oregon State Police counted 30,278 people who had bought a handgun from a federally licensed dealer. By the end of 1993, the count was nearly 51,000.

In December 1992, state police counted 4,202 purchases, a record then.

In December 1993, after President Clinton signed the Brady bill into law, nearly 7,500 handgun purchases were counted by the state police -- well above the monthly average for the rest of the year. And there's no sign the buying surge has slowed in 1994.

Those figures do not include the thousands of handguns exchanged between private gun owners, at gun shows or through the want ads, nor do they account for the larger numbers of rifle and shotgun purchases.

EB000537

What's going on? The theories vary.

Bernie Giusto, a lieutenant with the Oregon State Police, believes people are increasingly afraid of crime.

``It is a direct reflection of how our society feels about their safety," he said.

The federal government estimates more than 200 million firearms, including 67 million handguns, are in circulation in the United States. Arms manufacturers in the United States produced 1.5 million handguns in 1991, and licensed dealers sold 7.5 million guns that year.

Who's buying all the guns?

With few exceptions, most are responsible gun owners, hunters or collectors.

The National Rifle Association cites U.S. Department of Justice statistics that say approximately 80 percent of the violent crime in the nation is committed by just 7 percent of ``repeat, violent offenders" and says that the vast majority of gun owners are honest, law-abiding citizens. Local statistics seem to bear that out.

But that doesn't change the fact that some of the guns will be used in crimes or accidents.

Moose, the Portland police chief, is a gun control advocate in part because his uncle was shot to death and a family friend was accidentally shot while playing with his dad's gun.

``Sadly enough, everyone is beginning to become touched by gun violence," Sarah Brady said in an interview with The Oregonian. ``Very few families haven't been touched in one way or another. Even children are carrying weapons. There are no safe havens."

The bill was named for her husband, press secretary James Brady, who was shot in the head and permanently disabled in the attack that wounded President Reagan.

In the assassination attempt, John W. Hinckley Jr. also wounded a capital policeman and a Secret Service agent with a .22-caliber handgun he bought for \$29 at a Dallas, Texas, pawn shop.

Sarah Brady waged a decade-long legislative battle that culminated Nov. 30 at the White House, where Clinton signed the bill into law.

Despite her efforts and a possible shift in public attitudes, a fundamental rule remains in Oregon.

``It's not very difficult to get a gun," said Giusto, the state police lieutenant. ``Anybody can get a gun."

---- **Index References** ----

Company: WAL MART STORES INC

News Subject: (Violent Crime (1VI27); Crime (1CR87); Property Crime (1PR85); Social Issues (1SO05); Economics & Trade (1EC26))

EB000538

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Oregon (1OR01))

Language: EN

Other Indexing: (BUREAU OF ALCOHOL; COMPREHENSIVE FIREARMS ACT; FIREARMS; HANDGUN CONTROL INC; LOOPHOLES; NATIONAL RIFLE ASSOCIATION; OREGON STATE POLICE; OREGONIANS AGAINST GUN; POLICE; RED LION INN; SANDY TRADING POST; STATE POLICE; TOBACCO; US DEPARTMENT OF JUSTICE; WAL MART; WHITE HOUSE) (Bernie Giusto; Bridgette Nelson; Charles Moose; Clinton; Criminal History; Detective; Detective Tom Nelson; Diane Witt; Ernest N. Lotches; F. Sherwood Stillman; Ferrell; Giusto; Hill; James Brady; John W. Hinckley Jr.; John W. McMahon; Kathy Ferrell; Kevin Lust; Local; Lotches; Lust; Moe; Moose; Nelson; Oregon; Patrick Purdy; Purdy; Sadly; Sandy; Sandy Cooney; Sarah Brady; Stillman; Thomas O. Moe; Today; Tom M. Dixson)

Keywords: WEAPONS VIOLATION MURDER

Edition: FOURTH

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November 6, 1994

Section: METRO

MAN JAILED IN TROOPER SHOOTOUT

The Associated Press

WAVELAND, MISS.

An Alabama man was in custody Saturday after a shootout with Mississippi Highway Patrol troopers at a restaurant on Interstate 10 about six miles north of Waveland.

Patrol Capt. Randy Sibley said about 20 people were in the restaurant when the man, armed with a 12-gauge shotgun, walked in and threatened a 16-year-old girl who had been riding in his car.

Sibley said state troopers were conducting a DWI roadblock on Mississippi 603 about a mile from the restaurant when the call about a man with a shotgun came in Saturday about 1:40 a.m.

When troopers arrived at the Waffles restaurant, the man walked in, apparently fired one shot and ran out the back of the building.

Sibley said the man had left his car a short distance down the highway and walked back carrying the shotgun. He said witnesses told officers that the man shouted at the girl before troopers drove up.

Sibley said the man shot at Trooper Scott Carnegie, who returned fire. The man ducked behind the building and was reloading the shotgun when he was subdued by two other troopers.

Sibley said no restaurant patrons or troopers were injured.

"We're very fortunate. The people inside the restaurant are very fortunate that we happened to have officers that were that close. He apparently was interested in harming some people, especially that girl," Sibley said.

Sibley said the man, identified as Russell Chappelle, 19, of Wilmer, Ala., was being held in the Hancock County Jail. Charges are pending.

The girl, Sibley said, was identified as a runaway who had been reported missing by her parents in Alabama. He said her parents picked the girl up. Law officers would not identify the girl or where she was from.

EB000540

Sibley said no charges would be filed against her.

Sibley said Chappelle was treated at a hospital for two buckshot wounds in the right arm and released to officers.

Col. Jay Clark, chief of the Highway Patrol, said the troopers saved many lives.

"Their training paid off. They handled the situation in a very professional manner," Clark said. "We are very thankful there was a law enforcement presence that close to the scene."

Sibley said the restaurant and a motel behind it were hit by the shotgun blast. He said troopers recovered slugs from inside the restaurant.

---- Index References ----

Region: (USA (1US73); Americas (1AM92); Alabama (1AL90); North America (1NO39); Mississippi (1MI74))

Language: EN

Other Indexing: (DWI; TROOPER; TROOPER SCOTT CARNEGIE; WAFFLES; WAVELAND) (Chappelle; Clark; Jay Clark; MAN JAILED; Patrol Capt; Randy Sibley; Sibley)

Edition: THIRD

Word Count: 459

End of Document

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1/29/95 St. Louis Post-Dispatch 04D
1995 WLNR 775005

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January 29, 1995

Section: NEWS

SUSPECT IN RAMPAGE HAD HISTORY OF MENTAL PROBLEMS, FAMILY SAYS

1995, Reuters News Service

CHAPEL HILL, N.C.

A law student accused of going on a shooting rampage that left two people dead had a history of mental problems and once claimed to be telepathic, say family members and acquaintances.

The suspect, Wendell Williamson, 26, is under guard and in good condition at University of North Carolina Hospital, a hospital spokeswoman said. He was wounded in the legs and underwent surgery.

On Friday, he was formally charged with two counts of first-degree murder.

On Thursday, Williamson parked his father's car at an apartment complex and walked toward the center of town carrying an M-1 rifle and dozens of clips of ammunition in a green knapsack. Police said he fatally shot one man on his front porch, and a college student who was riding on his bicycle. A former Marine tackled the gunman to the ground.

Williamson, a former National Merit Scholar, had been hospitalized at one time for psychiatric problems, and had been seeing a psychiatrist at the university, his mother said Friday.

His classmates said his mental problems became apparent during his first year at law school, where he was prone to delusions and outbursts of anger.

Police had to restrain Williamson during an incident in a parking lot two years ago, and last spring he stood up in class and announced that he was exempt from an assignment because he was telepathic and already knew the answer, classmates said.

University law professor Daniel Pollitt said it was unusual that a student would break under pressure in his final semester. Traditionally, the first year of law school is the hardest, and the third the easiest.

Pollitt speculated that Williamson could have been feeling pressure about finding a job when he passed the bar. "Some people are trying to decide which job to take, but other people don't have any interviews," the professor said. "People who've been honor students since the first grade feel they've worked hard and done well and that they deserve better. They get angry."

EB000542

PHOTO

Photo by AP - Bill Leone sits in his living room with his dog, Sasha, on Friday as he discusses tackling the man charged with killing two people Thursday afternoon in Chapel Hill, N.C. Leone was shot in the shoulder as he tackled the gunman, who was trying to reload his rifle.<

---- Index References ----

News Subject: (Social Issues (1SO05); Violent Crime (1VI27); Crime (1CR87))

Industry: (Healthcare Practice Specialties (1HE49); Healthcare Services (1HE13); Healthcare (1HE06); Psychiatric Services (1PS61))

Region: (North America (1NO39); Americas (1AM92); North Carolina (1NO26); USA (1US73))

Language: EN

Other Indexing: (AP BILL LEONE; MARINE; NATIONAL MERIT SCHOLAR; PHOTO; SUSPECT) (Daniel Pollitt; Photo; Police; Pollitt; Sasha; Traditionally; Wendell Williamson; Williamson)

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Word Count: 456

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6/29/95 Reuters News 00:00:00

Reuters
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June 29, 1995

White House gunman sentenced to 40 years in prison.

Robert Kearns

WASHINGTON, June 29 (Reuter) - A judge sentenced Francisco Duran to 40 years in prison on Thursday for shooting at the White House with an automatic weapon last October in an attempt to kill President Bill Clinton.

Judge Charles Richey rejected prosecution requests that Duran, a Colorado hotel worker convicted on April 3, be locked up for life as a deterrent to other would-be assassins. Richey did deny Duran the possibility of parole, but prosecutor Eric Dubelier said there was a chance he could be out in about 35 years with time off for good behaviour.

Richey, who also imposed a fine of \$3,200 to cover repairs to the White House, said the shooting "cannot be countenanced in a free society known as the United States of America."

Duran, 27, from Security, Colorado, pulled a Chinese-made semi-automatic assault rifle from under his rain coat last October 29 and sprayed the White House and its grounds with some 30 bullets from the sidewalk along Pennsylvania Avenue.

No one was hurt.

Duran, dressed in a blue prison uniform, told the court before being sentenced: "My actions on October 29 were inexcusable. I very much wanted to die that day. I am sorry I not only ruined my future but that of my wife and son." He has a six-year-old son named Alex.

After he spoke, Dubelier told Richey drily, "I guess he's been remarkably cured of paranoia. He spoke rationally." Duran had attempted a defence of insanity.

Dubelier asked Richey to impose a life sentence, noting that Duran was trying to reload his weapon when he was tackled by a tourist. He said Duran had personality disorders, was a drunk and bore a deep grudge against the government.

Richey sentenced Duran to 360 months for trying to kill the president and another 10 years for firearms offences.

U.S. Attorney Eric Holder said "we are very satisfied" with the sentence and told reporters he hoped it would "serve as a reminder to people who contemplate these acts."

During his 10-day trial, Duran's lawyers portrayed him as a madman who was having hallucinations that an evil "mist", linked to the White House by an umbilical cord, controlled him. They said he went to the White House to kill the mist.

EB000544

But the jury accepted prosecution arguments that Duran, influenced by right-wing radio talk shows and anti-government literature criticising Clinton, opened fire when he saw a man resembling the president walk from the White House.

The prosecutors said Duran loathed the government because he had been discharged from the Army after serving time for running over a woman outside a Honolulu bar.

In the White House shooting, Duran was subdued by two bystanders as he tried to reload. The prosecution used videotapes taken by tourists.

The shooting, plus the April 19 Oklahoma City bombing, has led to tighter security at the White House. Pennsylvania Avenue in front of the mansion has been closed to vehicles.

A month before Duran's attack, a pilot crashed a small plane on the White House grounds, and there have been a number of fence-jumpers, one of whom was shot and wounded by White House guards last month.

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---- **Index References** ----

Company: WHITEHOUSE

News Subject: (Legal (1LE33); Judicial (1JU36))

Region: (U.S. Mid-Atlantic Region (1MI18); North America (1NO39); Colorado (1CO26); U.S. Southwest Region (1SO89); Oklahoma (1OK58); U.S. West Region (1WE46); Americas (1AM92); USA (1US73); Pennsylvania (1PE71))

Language: EN

Other Indexing: (ARMY; WHITE HOUSE) (Bill Clinton; Charles Richey; Clinton; Dubelier; Duran; Eric Dubelier; Eric Holder; Francisco Duran; Pennsylvania Avenue; Richey)

Word Count: 529

End of Document

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NewsRoom

EB000545

NewsRoom

5/12/96 Fresno Bee B1
1996 WLNR 1686803

Fresno Bee
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May 12, 1996

Section: METRO

TWO RESTAURANT PATRONS SHOT IN DRIVE-BY; TWO MEN ARRESTED;
TWO OTHER SUSPECTS ARE BELIEVED TO BE INVOLVED IN THE ATTACK.

The Fresno Bee

A gun battle broke out early Saturday morning at Lorena's Taco and Seafood Restaurant in southwest Fresno, sending two patrons to the hospital as well as one of the alleged gunmen, who was shot in the foot by security guards returning fire.

Fresno police said all three were in stable condition with non-life-threatening wounds. Detectives said they had not determined a motive for the shooting, which occurred about 2:30 a.m. Saturday.

About 50 people were at the restaurant -- a taco truck and picnic tables on a fenced-off asphalt lot in the 400 block of West Belmont Avenue.

Police said a white Oldsmobile 88 with three men inside and a black Nissan Altima with a male driver stopped while heading east on Belmont. The occupants opened fire on the crowd using various weapons, including 7.62 mm assault rifles with 30-round magazines.

Jose Arroya, 49, of Parlier was hit three times in the torso and Gilbert Castellanos, believed to be in his 20s, was hit twice in the chest and abdomen. Security guards returned fire; one round hit a suspected gunman in the foot, police said.

Several cars parked nearby were hit with bullets and sustained "extensive damage," police said. The driver of the Oldsmobile fled in the Nissan. Security guards apprehended two other suspects as they attempted to reload their weapons.

Police recovered six guns at the scene. They arrested Pedro Duarte, 48, and Robert Caldera, 34, who was taken to Valley Medical Center for a gunshot wound in his right foot. They were charged with attempted murder.

---- Index References ----

Company: GENERAL MOTORS CORP

News Subject: (Violent Crime (1VI27); Crime (1CR87); Social Issues (1SO05))

EB000546

Language: EN

Other Indexing: (OLDSMOBILE; VALLEY MEDICAL CENTER) (Detectives; Gilbert Castellanos; Jose Arroya; Pedro Duarte; RESTAURANT PATRONS SHOT; Robert Caldera)

Edition: HOME

Word Count: 309

End of Document

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NewsRoom

EB000547

NewsRoom

10/7/98 Lincoln J. Star B2
1998 WLNR 8072535

Lincoln Journal Star

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October 7, 1998

Section: B

Ohio man's trial delayed for shooting at hospital

MADISON (AP) -- The trial for an Ohio man charged in the shooting death of a doctor at a Norfolk mental hospital has been postponed for a second time.

John Keylor, 70, is charged with first-degree murder in the killing of Dr. George Bartholow. The doctor, who had treated Keylor, was shot to death in October 1996 while in his office at the Norfolk Regional Center.

Keylor pleaded innocent by reason of insanity. His trial was to start Oct. 19.

At a pre-trial conference Tuesday, Keylor's attorney, Madison County Public Defender Harry Moore, asked District Judge Robert Ensz for a delay in order for psychiatrists at the Lincoln Regional Center to continue evaluations to determine if Keylor is competent to stand trial. Ensz agreed to the continuance and has set Keylor's trial date for Dec. 8.

Earlier this year, doctors told Ensz that Keylor was fit to stand trial. He originally was set to stand trial June 8, but prosecutors agreed to delay the proceeding so he can be examined further by psychiatrists.

Keylor of Toronto, Ohio, is accused of entering the mental hospital with two .38 caliber revolvers and a duffle bag filled with 200 rounds of ammunition. He allegedly wounded one employee and shot Bartholow. Keylor was tackled by hospital workers as he stopped to reload.

Bartholow lived in Omaha and spent four days a week in Norfolk.

Keylor is being held without bond.

---- Index References ----

News Subject: (Social Issues (ISO05); Violent Crime (1VI27); Crime (1CR87); Murder & Manslaughter (1MU48))

Region: (U.S. Midwest Region (1MI19); North America (1NO39); Ohio (1OH35); Americas (1AM92); USA (1US73))

Language: EN

EB000548

Other Indexing: (LINCOLN REGIONAL CENTER; MADISON COUNTY PUBLIC DEFENDER HARRY MOORE; NORFOLK REGIONAL CENTER) (Bartholow; Enszt; George Bartholow; John Keylor; Keylor; Ohio; Robert Enszt)

Edition: City

Word Count: 232

End of Document

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NewsRoom

EB000549

NewsRoom

9/18/96 N.Y. Times 7
1996 WLNR 4354032

New York Times (NY)
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September 18, 1996

Penn State Shooting Is Fatal to Student; Woman Is Arrested

AP

Jillian Robbins, 19-year-old woman, opens fire with rifle in middle of Pennsylvania State University campus, killing one student and wounding another before she is tackled while trying to reload (S)

UNIVERSITY PARK, Pa., Sept. 17

A 19-year-old woman opened fire with a rifle in the middle of the Pennsylvania State University campus today, killing one student and wounding another before she was tackled while trying to reload.

The woman, Jillian Robbins, lives in State College, which surrounds University Park, but is not a student at the university. Acquaintances said Ms. Robbins had a history of mental problems.

No immediate charges were filed against Ms. Robbins. The police said that they knew of no motive for the shooting and that Ms. Robbins did not know her victims.

Officials said she fired at least five shots from her rifle, a Mauser with a telescopic sight, around 9:30 A.M., from in front of the Hetzel Union Building, one of the campus's busiest areas, where she had spread a tarp on the lawn. The shots sent hundreds of students and teachers scattering.

One student, Melanie Spalla, 19, of Altoona, Pa., was killed, and another, Nicholas Mensah, 27, of Philadelphia, was wound once in the abdomen. He was in stable condition. Another student escaped injury when a book in his backpack stopped a bullet.

An aerospace engineering student, Brendon Malovrh, tackled Ms. Robbins as she was putting in a second ammunition clip, the police said. As the two struggled, she tried to stab Mr. Malovrh with a knife, stabbing herself in the leg instead. Mr. Malovrh used his belt as a tourniquet on Ms. Robbins. She was hospitalized in serious condition.

In the only other slaying on the campus, a female graduate student was stabbed with an icicle in a library in 1969. Her killer was never found.

---- Index References ----

EB000550

Region: (Pennsylvania (1PE71); USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (PENN; PENNSYLVANIA STATE UNIVERSITY; STATE COLLEGE; STATE SHOOTING; UNIVERSITY) (Acquaintances; Brendon Malovrh; Jillian Robbins; Malovrh; Melanie Spalla; Nicholas Mensah; Robbins)

Company Terms: PENNSYLVANIA STATE UNIVERSITY

Edition: Late Edition - Final

Word Count: 359

End of Document

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NewsRoom

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NewsRoom

2/20/97 Dallas Morning News 3A
1997 WLNR 6638685

Dallas Morning News
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February 20, 1997

Section: NEWS

Alaska teenager kills principal, students at school

BETHEL, Alaska

BETHEL, Alaska - A teenager carrying a shotgun and a paper bag full of shells chased fellow teens through high school hallways Wednesday, killed his principal and wounded three fellow students.

The 16-year-old junior also exchanged shots with police before officers tackled him as he reloaded, said Ken Waugh, a state police spokesman. He said the motive for the shooting was not known.

Principal Ron Edwards died at a nearby hospital. Josh Palacios, a junior at Bethel Regional High School, was flown to a hospital in Anchorage, about 400 miles to the east. He was in critical condition.

The other students were less seriously hurt, witnesses said.

Police would not release the arrested teenager's name because he's a juvenile, but many witnesses in the town of 4,700 identified him as Evan Ramsey, foster son of the school superintendent and son of a locally notorious ex-convict

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---- Index References ----

News Subject: (Parents & Parenting (1PA25); Health & Family (1HE30); Teenagers (1TE59))

Region: (Alaska (1AL32); USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (ALASKA; BETHEL REGIONAL HIGH SCHOOL) (Evan Ramsey; Josh Palacios; Ken Waugh; Ron Edwards)

Edition: HOME FINAL

Word Count: 188

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NewsRoom

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NewsRoom

3/14/97 Dallas Morning News 1A
1997 WLNR 6645161

Dallas Morning News
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March 14, 1997

Section: NEWS

Jordan soldier kills 7 Israeli schoolgirls 6 hurt; attack increases already high tensions

Drusilla MenakerSpecial Contributor to The Dallas Morning News

Special Contributor to The Dallas Morning News

BET SHEMESH, Israel

BET SHEMESH, Israel - A Jordanian soldier opened fire Thursday on Israeli schoolgirls taking a field trip along the border, killing seven of the teenagers, wounding six and sending the two nations into shock

The gunman's motive was not known, but even as an isolated insanity, the attack took on regional political significance.

Israeli Foreign Minister David Levy suggested a link between the shooting and Jordanian King Hussein's unusually angry condemnation of Israeli policies toward Palestinians and the peace process in a letter this week to Prime Minister Benjamin Netanyahu.

Mr. Netanyahu called on Jordan to take swift action against the assailant. "This was a violent, criminal attack," Mr. Netanyahu said. "Young girls were murdered. We expect the Jordanian government to act vigorously to bring the perpetrators to justice. " King Hussein canceled a trip to the United States and returned to Jordan from Spain, where he had been on a stopover. Crown Prince Hassan promised a full investigation and prosecution of the soldier and called Thursday "a black day in the history of our country. " The Jordanian soldier, identified as Lance Cpl. Ahmed Yousef Mustafa, shot at the girls from above them on a grassy slope and chased them as they fled. He stopped firing only when ammunition for his automatic rifle ran out. As he tried to reload, he was tackled by other Jordanian soldiers.

The tragedy came during a flare-up in tension between Israel and its Arab neighbors over Israeli plans to build new Jewish housing in East Jerusalem and other issues. On Sunday, King Hussein wrote to Mr. Netanyahu that his actions were pushing the region toward "an abyss of bloodshed and disaster. " Mr. Levy, the Israeli foreign minister, told the Jordanian prime minister, Abdul-Karim Kabariti, that "recent declarations created a psychological atmosphere that could lead to such tragic acts. " Israeli Defense Minister Yitzak Mordechai cautioned, however, that "what we need now is for everybody to be careful with everything that they are saying, doing and maybe planning for the future. " In Washington, President Clinton also appealed for calm, noting that "there is no evidence at this moment that this terrible incident is related to tensions in the area. " The victims were among 80 students from the working-class town of Bet Shemesh, just west of Jerusalem, on a three-day excursion to the north of the country, along the usually tranquil border between Israel and Jordan. They were visiting the island of Naharayim in the Jordan River, where a sign proclaims "The Island of Peace" and visitors have a sweeping view of Syria, Israel and Jordan

EB000554

The area was taken by Israel in the 1948 Middle East War but returned to Jordan's control under the countries' 1994 peace treaty, although Israelis still farm and visit there freely.

Voice of Israel Radio reported that the Israeli security brigade that regularly accompanies school groups had turned in its weapons on entering the Jordanian-patrolled area.

"I heard shooting and saw my classmates rolling down the hill," said Natalie Boliti, a 13-year-old who witnessed the killings from 10 feet away on the school bus.

"At first I thought it was a joke, or a drill, but then I understood it was for real, and we started yelling and screaming and getting on the floor," she said Thursday night, her eyes ringed in red from sobbing and her anxious parents rubbing her shoulders.

The students described jumping into the bushes trying to hide, screaming for their teachers to help them and watching their desperate principal try to push his charges to safety down the hillside. Finally, the girls said, they saw bodies on the ground.

"I saw one with a bullet in her heart and one with a bullet in her hand," said Ashrat Abudbol, 14.

Some of the surviving 7th- and 8th-graders were in tears, others numb with shock as they piled out of the returning buses and into the arms of their families outside the Feirst School, a public junior and senior high school for Orthodox Jewish students.

"She's dead!" one screamed to a waiting friend. "Hush, hush, it is OK, I am here," said a father comforting his daughter.

Psychologists were at the school to counsel the children, and memorials with seven burning prayer candles were set up in a hallway and on the sidewalk outside.

The massacre turned a much-anticipated annual ritual of Israeli school life into a shocking nightmare.

"Our driver turned on the radio, and first we heard Bet Shemesh mentioned and were happy," said Hila Cohen, a 7th-grader whose class was in a different bus. "Then we realized it was a terrorist attack and we all started to cry. These girls were my friends." One parent, Motti Cohen, recalled the agonizing wait for word that his daughter was OK. "I said, 'Please, just tell me if she is dead or alive.'" Even when he learned she was safe, he wondered how witnessing her friends' deaths would change her.

"I have been through wars, so it doesn't hurt me so much," Mr. Cohen said. "But I worry about her, how it will affect her in the future." Yet such tragedy is all too familiar to Israelis, he said. "We are used to terrorist attacks. Everything that happens in the country hurts us." Several parents complained that they did not know that their children's itinerary included going to a Jordanian area.

Some witnesses said the Jordanian soldiers did not try to stop their comrade as he was shooting, and Crown Prince Hassan said there would be an investigation into a possible "breakdown of management." The wounded were taken to hospitals in Israel and in Jordan, where Jordanians lined up to donate blood.

King Hussein, visibly sorrowful, said he felt the attack as if it was "aimed at me, at my children." "When I warned a couple of days ago of . . . the possibility of violence, I never thought that it would take the form it did today," he said.

"I can assure one and all I will do everything I can as long as I live to leave behind a legacy of peace." Drusilla Menaker covers the Middle East and Africa from Cairo, Egypt. She is a regular contributor to The Dallas Morning News

---- Index References ----

News Subject: (International Terrorism (1IN37); International Issues (1IN59); Government (1GO80); Political Parties (1PO73))

Region: (Middle East (1MI23); Jordan (1JO78); Arab States (1AR46); Israel (1IS16); Mediterranean (1ME20))

Language: EN

Other Indexing: (BET SHEMESH; FEIRST SCHOOL; ISRAELI DEFENSE; ISRAELI FOREIGN; ORTHODOX JEWISH)
(Abdul-Karim Kabariti; Ahmed Yousef Mustafa; Ashrat Abudbol; Benjamin Netanyahu; Clinton; Cohen; Crown Prince; David Levy; Drusilla Menaker; Hassan; Hila Cohen; Hush; Hussein; Levy; Motti Cohen; Natalie Boliti; Netanyahu; Voice; Yitzak Mordechai)

Edition: HOME FINAL

Word Count: 1236

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NewsRoom

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NewsRoom

10/2/97 USA TODAY 03A
1997 WLNR 3049433

USA Today (USA)
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October 2, 1997

Section: NEWS

3 slain in Miss. teen's rampage

Scott Hildebrand

A 16-year-old Mississippi high school student, apparently distraught over his breakup with a girlfriend, stabbed his mother to death and then shot nine students at a crowded high school, killing two of them, police said.

Luke Woodham, a sophomore, was described as a quiet teen, who had few friends. He faces charges of murder and aggravated assault when he appears in court today. Bond hasn't been set.

Pearl, Miss., police say Woodham stabbed his mother, Mary, 50, to death with a butcher knife in the bedroom of their brick home about 5 a.m. Wednesday.

Neighbors saw him leave the house in his mother's car, hitting a tree and crossing a neighbor's yard as he drove away. His mother usually drove him to school.

About 8:10 a.m., police say Woodham walked into the commons area just inside the front door at Pearl High School and shot his ex-girlfriend Christina Menefee, 16, as she tried to run away. Next he killed Lydia Kaye Dew, 17, who had been standing next to Menefee.

Then, police say, Woodham began shooting at random as screaming students tried to take cover.

Three boys and four girls, including one who is pregnant, were hit. Three were hospitalized, one in serious condition.

Tenth-grader Monica Tanner said the rifle ``was pretty long. . . . He was just shooting. I heard seven to eight shots. It took me a while to get out of the building because everyone was running out at the same time and screaming."

``It appeared to have to do with the ex-girlfriend," Pearl Police Chief Bill Slade said. ``He was angry. He felt like people didn't care for him."

Witnesses said a student tackled Woodham as he was about to reload his rifle, but Woodham escaped.

Police arrested him in his mother's compact car just outside the school.

Police, classmates and neighbors described Woodham as a quiet youth who had no history of violent behavior.

EB000557

``He's always been quiet, never really had a lot of friends," neighbor Tracy Thompson said. ``Nobody believed anything like that could happen." She said Woodham and his mother ``never seemed like they were on bad terms."

Woodham lived with his mother, who worked as a receptionist for Cal-Maine Foods, an egg producer. His parents apparently were divorced. He has an older brother who attends the University of Mississippi, Thompson said.

Michael Stanley, who took art classes with Woodham, said he was a talented artist. ``He's not psycho. He's smart."

The killings shocked residents in the community 3 miles east of Jackson. At one point in the day, Slade choked back tears as he talked about the rampage.

``Naturally, when we're talking about our kids and our school, it's a sad and tragic day," Jimmy Foster, mayor of the town of 22,000, said.

After the shootings, weeping students gathered in small groups outside the school where the flag was lowered to half-staff. Others held hands and prayed.

Classes were canceled until Monday, but students were told to report Friday for counseling.

Contributing: Andy Kanengiser and Jill Farrell King of The Clarion-Ledger in Jackson, Miss.

PHOTO,color,Greg Jenson,The Clarion-Ledger\ PHOTO,b/w,AP

NOTES: THE NATION

---- **Index References** ----

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Mississippi (1MI74))

Language: EN

Other Indexing: (AP; CLARION LEDGER; FOODS; MISSISSIPPI; PEARL; PEARL HIGH SCHOOL; PHOTO; UNIVERSITY OF MISSISSIPPI) (Bill Slade; Bond; Christina Menefee; Contributing; Greg Jenson; Jill Farrell; Jimmy Foster; Luke Woodham; Lydia Kaye Dew; Mary; Menefee; Michael Stanley; Monica Tanner; Naturally; Slade; Tenth; Thompson; Tracy Thompson; Woodham)

Edition: FINAL

Word Count: 627

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3/27/97 Plain Dealer (Clev.) 5B
1997 WLNR 6341996

Cleveland Plain Dealer

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March 27, 1997

Section: OHIO

WOMAN SENTENCED FOR SHOOTING DEMOLITION MAN

ASSOCIATED PRESS

DAYTON

A 72-year-old woman convicted of shooting a worker who had come to demolish her condemned house has been sentenced to prison.

Bessie Hardin was given two terms of 5 to 25 years this week by Judge John Petzold of Montgomery County Common Pleas Court.

Hardin pleaded guilty to two counts of attempted murder earlier this month for shooting demolition worker Bill Flitton with a .22-caliber handgun in 1994. Fellow demolition worker Dennis Sovonick was injured when he tackled Hardin as she was reloading the gun.

Police said Hardin was angered by the city's efforts to demolish her house, which had been declared a nuisance.

In a pending civil lawsuit, Flitton and Sovonick allege that contractor Steve R. Rauch and his companies, Steve R. Rauch Inc. and American Environmental Control, knowingly sent them into an unsafe situation and failed to warn them about a previous threat from Hardin.

But Rauch denied responsibility for the attack, the men's injuries and claims made in the lawsuit.

"I'm sad about the situation. They have to do what they feel is correct or incorrect," Rauch said.

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---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Social Issues (1SO05))

EB000559

Language: EN

Other Indexing: (AMERICAN ENVIRONMENTAL CONTROL; DAYTON; MONTGOMERY COUNTY COMMON PLEAS COURT) (Bessie Hardin; Bill Flitton; Dennis Sovonick; Flitton; Hardin; John Petzold; Police; Rauch; Sovonick; Steve R. Rauch; WOMAN SENTENCED)

Edition: FINAL / ALL

Word Count: 237

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NewsRoom

9/26/04 Fort Wayne J. Gazette (IN) 1
2004 WLNR 15076228

Journal - Gazette
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September 26, 2004

A high-stakes business With human lives on the line, SWAT units play fragile game
[Final Edition]

Harada, Masaaki

See 'Crisis response' box at end of story.

Police cars and an ambulance approached a Bluffton Road motel without lights and sirens and slipped into a parking lot in front of a room to which they were called.

An intoxicated man with a knife had barricaded himself in the room at the Fair Oak Motel the night of July 25. Uniformed officers blocked Bluffton Road a few hundreds yards away on each side of the motel, directing traffic and curious onlookers.

While the Fort Wayne Police Department's Emergency Services Team, better known as the SWAT team, surrounded the building, a team of hostage negotiators who make up the police department's Crisis Response Team continued a painstaking conversation with the man inside.

The 32-year-old Fort Wayne man was threatening over the phone to kill himself, said Sgt. Paul Shrawder who leads the hostage negotiators. The man wanted to talk with his girlfriend who he said was leaving him.

"He's been drinking a lot. A lot of times, just time can settle a person down. Then you can make him start thinking of the situation he is in and how he can get out or work it out," Shrawder said.

This standoff, the fourth of five handled by Fort Wayne police this year, is typical of what hostage negotiators go through.

Eight officers of the Crisis Response Team are trained to talk a barricaded person out of a building and are on call 24 hours a day. They try to resolve such situations without using the Emergency Services Team, which includes sharpshooters and may have to use force.

The case on Bluffton Road ended 90 minutes after officers got the call. Negotiators persuaded the man to come out with promises to let him talk to his girlfriend and smoke a cigarette. The man walked out of the motel room and surrendered, and the woman called to the scene was allowed to talk to him later.

The man was given a mental evaluation and later arrested, but not because of the standoff. A warrant charging him with failure to appear in court had been filed in Kane County, Ill.

EB000561

Power of negotiation

Onlookers at any standoff likely see a large white truck labeled "Tactical Operation Center."

During a brief meeting after arriving, the team decides who will be the primary negotiator.

The primary negotiator, chosen case by case, is accompanied by a second negotiator, often called a coach, who listens to the conversation and advises the primary negotiator. The other negotiators are in charge of record keeping, gathering information from police records and interviewing relatives and friends.

Communication with a person inside needs to be established as soon as possible. Police also want as much information as possible about that person.

The division of labor enables police to accomplish what might seem like contradicting goals to some people, Shrawder said.

"We want to let them know even though they may see all the police with guns surrounding them, there are people who are trying to give them a way to settle it peacefully," he said. "From a negotiator's point of view, you want to talk to them, give them options and let time go by while we talk so that, eventually, they will calm down."

Opening a channel of communication with the person inside is critical. The Crisis Response Team has "throw phones" that can be connected with a 1,000-foot line and loudspeakers.

"Just actively talking to somebody makes you think," Shrawder said. "We try to make them calm down and go back to thinking mode and hopefully reason with them, showing them that the situation they are in is a bad situation. But they have options that we can settle this."

If a barricaded person is demanding certain conditions, that can be a good sign. No demands indicate the person has no interest in dealing with the outside, Shrawder said.

Police might comply with the demands if they are reasonable, Shrawder said.

Police won't let barricaded people have alcohol, illegal drugs or weapons and/or talk to certain family members or friends.

"A lot of times, you really don't know why he is there," Shrawder said. "It could be because of the mother. You don't know what the mom or the friend is going to say. They could make the situation worse."

Use of force

When a cloistered person has nothing to demand and just won't come out, police have to find something they can negotiate.

A person who barricaded himself in a Riverhaven home told negotiators he just wanted to sleep.

"We made noise so he could not go to sleep," said Allen County SWAT Team Commander Lt. Kenneth C. Fries. "He agreed to put all the guns outside if we just stop making all the noise."

The county SWAT team also dealt with an Albion man holed up in a pickup truck with rifles near the Allen-Whitley county line in January. Randall Katz was on the run from Noble County police on warrants.

EB000562

Police got Katz's cell phone number from a relative, but he refused to talk. An armored vehicle drove up to his pickup truck and police talked to him by loudspeaker.

"He was not communicating at all so we had no idea what his thought process was," Fries said. "We have little idea what his next move might be."

A decision to force Katz out was made when he fired a shot into the truck's roof that made police believe he was threatening to kill himself. Police fired beanbag rounds at the pickup to distract Katz. The SWAT team broke the glass and pulled him out.

"People often think the SWAT team is a bunch of thugs just busting doors and shooting people," Fries said. "That's not our function. We are there to save lives."

SWAT teams are armed with diversionary devices and weapons like flash bangs - tear gas or stinger grenades that explode, emitting hundreds of rubber balls - as well as lethal weapons. Sometimes, however, officers choose "silent entry" tactics.

The "silent entry" was used in a hostage rescue at a Bob Evans restaurant on Valentine's Day in 1998.

Michigan robbery suspect Jody L. Sinclair took refuge at the restaurant on East Dupont Road after a car chase that began in DeKalb County. While he drove south on Interstate 69 at high speed, Sinclair fired at DeKalb County sheriff and Waterloo police squad cars that were tailing him. When his car was disabled by stop sticks near the Allen-DeKalb county line, he abandoned the car, commandeered a van at a rest stop and continued to flee. He ran over stop sticks a second time and got off the interstate at Dupont Road.

There were 36 to 40 people in the restaurant when Sinclair rushed in, Fries said. He took four hostages - two employees and two patrons - in the back room. The rest fled, but the husbands of the two customers stayed in the dining area, refusing to leave without their wives.

"I anticipated the best we can hope for at the end of the day might be the hostage taker would be dead," Fries said.

Sinclair talked with a dispatcher, demanding drugs during the 2 1/2 -hour hostage situation. SWAT members entered the building after a gunshot was heard from inside.

"We did not know where he was in the restaurant. Yet, you could smell the gunpowder that gave us a way to locate him," Fries said. "He was reloading the gun when we came around the corner and he was tackled by two of our guys."

The SWAT team did not fire a single shot or use any diversionary device. "He did not even know we were in the restaurant," Fries said.

On the edge

The Fort Wayne Emergency Service Team's only fatal standoff occurred in 1992 when 26-year-old Leroy Ross-Church was shot after lunging at officers with a knife.

Ross-Church had barricaded himself in a closet in an apartment, threatening to commit suicide. Three negotiators went into the room, trying to talk.

With negotiations failed and Ross-Church's suicide threat imminent, police used tear gas to force him to come out.

EB000563

The tactic worked to force him out, but Ross-Church came toward officers brandishing a knife instead of surrendering. He refused to drop the knife and officers shot him to death.

An Allen County grand jury cleared police of any wrongdoing in the death. A federal investigation found Ross-Church's civil rights were not violated in the shooting.

Ross-Church's death spurred arguments about how police handle people with possible mental problems.

The answer was the creation of yet another team - the Crisis Intervention Team consisting of officers trained by mental health professionals. The team includes patrol officers who are spread out in three working shifts. As first responders, they try to prevent people with mental illnesses from creating situations that might require the hostage negotiators and SWAT team.

Studies show more than 16 percent of adults and 75 percent of juveniles incarcerated in the United States have mental illnesses, said Teresa Hatten, vice president of the Fort Wayne affiliate of the National Alliance for Mentally Ill.

"People with mental illness deserve treatment, not a jail," said Park Center CEO Paul Wilson, who advises officers who undergo Crisis Intervention Team training. "If somebody is truly psychotic and cannot make a rational choice, committed a petty crime or whatever, it makes much more sense to get them appropriate treatment than giving them jail time."

The Crisis Intervention Team program, started in August 2001, has had success and was expanded to other police departments, including the Allen County Sheriff's Department, New Haven and Bluffton, Wilson said.

Six people were arrested in 955 cases Crisis Intervention Team officers responded to from Aug. 1, 2003, to July 31, according to police records. In 52 of those cases, a person was armed. Without the Crisis Intervention Team, some of those cases could have been worse, Wilson said.

The number of cases involving barricaded people declined to three in 2002, a year after the Crisis Intervention Team program was launched, but that number shot up to nine cases - two above the 12- year average of seven cases - the next year.

Shrawder couldn't explain the fluctuation, but believes in the long run the program may reduce the number of standoffs or hostage situations.

"Officers who recognize how and why those things happen to people," he said, "can effectively intervene with a lot of people and prevent situations from developing into a serious crisis."

Crisis response

Calls for service by the Fort Wayne police Crisis Response Team

2004 through September---5

2003---9

2002---3

2001---9

2000---4

EB000564

1999---14
1998---12
1997---8
1996---3
1995---2
1994---7
1993---7
1992---4

ILLUSTRATION

Caption: Dean Musser Jr./ The Journal Gazette: A member of the Allen County Sheriff's Department's SWAT Team participates in a regular training session earlier this month. Photo 2: Officers with the Allen County Sheriff's Department's SWAT team engage in a monthly training exercise. Shrawder headshot

---- Index References ----

News Subject: (Legal (1LE33); Health & Family (1HE30); Government (1GO80); Government Litigation (1GO18); Health & Safety (1HE24))

Industry: (Critical & Intensive Care (1CR27); Healthcare (1HE06); Psychology (1PS96); Psychiatric Services (1PS61); Healthcare Services (1HE13); Healthcare Practice Specialties (1HE49))

Region: (USA (1US73); Americas (1AM92); Indiana (1IN12); North America (1NO39))

Language: EN

Other Indexing: (ALLEN; ALLEN WHITLEY; ALLEN COUNTY; ALLEN COUNTY SHERIFF; ALLEN COUNTY SHERIFFS DEPARTMENT; ALLEN COUNTY SWAT; CRISIS INTERVENTION TEAM; CRISIS RESPONSE TEAM; DEPARTMENT; EMERGENCY SERVICES TEAM; FAIR OAK MOTEL; FORT WAYNE; FORT WAYNE EMERGENCY SERVICE TEAM; FORT WAYNE POLICE DEPARTMENT; ILLUSTRATION; JOURNAL GAZETTE; LEROY ROSS; NATIONAL ALLIANCE FOR MENTALLY ILL; PARK CENTER; ROSS CHURCH; SWAT; SWAT TEAM; VALENTINE) (Bob Evans; Caption: Dean Musser Jr.; Fries; Jody L. Sinclair; Katz; Kenneth C. Fries; Michigan; Opening; Paul Shrawder; Paul Wilson; Photo; Randall Katz; Shrawder; Sinclair; Studies; Teresa Hatten; Wilson)

Company Terms: ROSS CHURCHS

Word Count: 2166

NewsRoom

EB000566

NewsRoom

11/5/99 Akron Beacon J. (Ohio) A2
1999 WLNR 1663786

Akron Beacon Journal (Ohio) (KRT)
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November 5, 1999

Section: WORLD

BRAZILIAN OPENS FIRE IN THEATER, KILLING 3

Associated Press

SAO PAULO, BRAZIL:

The gun was American, and the violent movie was, too.

A 24-year-old medical student stood up in a theater during a screening of the Hollywood film Fight Club Wednesday night and opened fire with a U.S.-made 9 mm submachine gun, killing three people and wounding five.

"We're shocked," said Police Lt. Col. Fernando Franco de Paulo. "We're used to seeing this in the United States, but not here."

About 30 people were in the audience when Mateus da Costa Meira, son of a well-to-do family, went into the bathroom of Cinema 5 in the Morumbi shopping mall and fired a few shots at the mirror, police inspector Miguel Pinheiro said. Apparently, no one noticed.

"Then he walked back into the theater and started firing at random," Pinheiro said.

After emptying the Cobray M-11's 40-round clip, he paused to reload and was tackled by audience members, Pinheiro said.

Meira was arrested and charged with first-degree murder. Authorities said Meira had psychiatric problems and apparently was addicted to cocaine.

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Social Issues (1SO05))

Industry: (Entertainment (1EN08))

Region: (Brazil (1BR84); Americas (1AM92); South America (1SO03); Latin America (1LA15))

Language: EN

EB000567

Other Indexing: (FIGHT CLUB; HOLLYWOOD; MATEUS; MORUMBI) (BRAZILIAN; Costa Meira; Fernando Franco; Meira; Miguel Pinheiro; OPENS FIRE; Pinheiro)

Edition: 1 STAR

Word Count: 207

End of Document

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NewsRoom

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NewsRoom

7/1/99 Atlanta J. - Const. C6
1999 WLNR 3447590

Atlanta Journal and Constitution (GA)
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July 1, 1999

Section: Local News

MALL MERCHANT WAS SHOT OVER A BURGER, POLICE SAY

Peter Scott; Staff

An argument over a hamburger apparently led to the shooting of an Avondale Mall food court store manager and the arrest of one of his customers, police said Wednesday.

Stanley Lewis Barge, 34, of Lithonia is in the DeKalb County Jail charged with two counts of aggravated assault.

Food merchant Meherhad Panahiofai, 43, is in fair condition following emergency surgery at a local hospital. The shooting occurred about 6:40 p.m. Tuesday, police said.

Earlier Tuesday, Barge had gone to his former place of employment, G&P Trucking in Conley, where he was "very threatening toward us, but we couldn't figure out why," said Steve Farris, a dispatcher who knew Barge.

He characterized the former trucker, who left the company in 1995, as a good worker.

"I've known him for years and he has never been a liability or a problem," said Farris. "I tried to talk to him and he told us to get out of his face and left. . . . We had to call police, but he left before they got here."

The shooting at the mall took place four hours later.

"He (Barge) had beat on several counters in the mall's food court demanding a hamburger," said Lt. Winston Harper of the Safety Network security force that monitors the mall at the intersection of Memorial Drive and Columbia Drive in central DeKalb.

Witnesses told police that Barge got into an argument with Panahiofai, a manager at the Shake and Burger in the food court, over an order he had placed.

Panahiofai jumped over the counter to confront Barge, police said.

Barge pulled out a revolver, shot Panahiofai twice in the hip and exchanged gunfire with security guard Shaheed Bay, according to police. Barge was apprehended by mall security officers and police as he tried to reload, authorities said.

EB000569

On Wednesday, merchants and shoppers were "trying to get back to normal" at the 350,000-square-foot mall, said Tom Wheeler, president of Wheeler Cobb Management Co., which operates the mall. "We are committed to a high security profile. In every case at the mall, our security has been right there on top of it."

Early indications were that while security weighed on the minds of some shoppers, others were taking the incident in stride.

"This can happen anywhere," said Brenda Eatmon. "I plan to be back."

Metro version is longer. 7/2/99, Page A/2: Mehrdad Panahiofai: In Local News Wednesday and Thursday, the name of the victim in Tuesday's shooting at Avondale Mall was misspelled. His name is Mehrdad Panahiofai.

---- Index References ----

Language: EN

Other Indexing: (AVONDALE MALL; SHAKE AND BURGER; WHEELER COBB MANAGEMENT CO) (Barge; Brenda Eatmon; Earlier Tuesday; Farris; G Trucking; Lithonia; MALL MERCHANT; Meherhad Panahiofai; Metro; Panahiofai; Stanley Lewis Barge; Steve Farris; Tom Wheeler; Winston Harper)

Edition: Home

Word Count: 500

End of Document

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NewsRoom

1/17/99 St. Louis Post-Dispatch B1
1999 WLNR 964432

St. Louis Post-Dispatch (MO)
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January 17, 1999

Section: NEWS ANALYSIS

SHOOTING DOESN'T MINIMIZE MAN'S LOVE FOR HIS SON

Gregory Freeman

Unwavering love

Stan Greer still feels the pain from being shot in the back.

Even worse is the pain of knowing that his wife is dead and that his then-15-year-old son shot them both.

But Greer continues fighting back - against the pain and for his son.

It was a morning in November 1997 when Vince Greer ambushed his father with a .22-caliber rifle and shot him in the back in his basement bedroom. He then marched upstairs and shot his mother at close range. He was reloading his gun when Stan Greer broke through a locked door and tackled him before he could finish reloading.

Slowly but surely, Stan Greer has been trying to rebuild his life. Part of that rebuilding has included efforts to get help for his son, who a court-ordered psychiatrist has concluded is schizophrenic.

In his evaluation, Dr. John Rabun said Vince was schizophrenic and was following the orders of "voices" when he killed his mother, Donna Greer, and shot his father.

Stan says signs of his son's schizophrenia developed for about nine months before the shooting, but that the family was in denial. A bright, popular student, Vince began to change. He started skipping school, lying habitually and his grades dropped. Friends said he'd begun hallucinating and hearing voices. Teachers had noticed the problem and had urged his parents to get help for him. But they kept denying that anything was wrong.

Stan regrets that now. "I think Vince was battling the problem for a while and it simply blew up," he said.

Stan still hopes to get help for his son, who is now in St. Louis County jail awaiting trial. Last week his attorney, Ron Rothman, filed an appeal to get Vince decertified as an adult. Stan would like to see his son moved back into the juvenile system and treated for his disease. County prosecutors, who claim that Vince did not suffer from a mental disease when he shot his parents, continue to push for trial.

EB000571

Vince's family remains supportive of him. Last month, two days before Christmas, about 40 people, many of them family and friends, held a candlelight vigil for him outside the county jail. "We hope he doesn't have to spend another Christmas behind bars in an adult facility without the care he needs for mental illness," Stan said.

Stan still suffers from physical pain caused by nerve damage from the shooting, and he takes medication for it. Meanwhile, he's raising his daughters, Jenny, 9, and Lindsey, 14. "On the surface, at least, the girls seem to be holding up pretty well," he said.

The family continued to live in their St. Ann home for several months after the incident. "We didn't move out right away," he said. "We didn't want to run away from our problems." Ultimately, though, the family moved to a new home in Bridgeton.

Of great satisfaction to Stan is that he remarried in August, and his new wife, Kelly, has been very supportive. "It wasn't an easy situation for her to walk into something like this," he said. "But she's wonderful. She does so much for the girls, and she and Vince have a good relationship. Vince loved his mom and is still grieving for her, and he feels that Kelly is there for him as a mother figure."

Stan visits his son once a week. "He likes to draw, and he's gotten very good," Stan said. "He draws Betty Boop and Tweety Bird. He's hanging in there."

Considering the damage that Vince has done to his family, it might seem unusual that Stan remains so supportive of his son. Not at all, Stan says.

"My son suffers from a disease, like cancer or heart disease," he said. "Who would abandon their kid because he had a disease? He's a good kid and a loving kid with a disease."

---- **Index References** ----

Language: EN

Other Indexing: (Betty Boop; Donna Greer; Greer; Jenny; John Rabun; Kelly; Lindsey; Ron Rothman; SHOOTING DOESN; Slowly; Stan; Stan Greer; Teachers; Tweety Bird; Ultimately; Unwavering; Vince)

Edition: FIVE STAR LIFT

Word Count: 730

End of Document

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11/3/01 Chi. Sun-Times 12
2001 WLNR 13138085

Chicago Sun Times (IL)
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November 3, 2001

Section: NEWS

Witnesses describe bar killings
'It was like a war zone,' bartender says of Elgin spree

Dan Rozek

Don Michella Gallaher recognized the man as soon as he stormed in to the Elgin nightclub that night last April carrying two shotguns and two pistols.

It was Luther "Luke" Casteel, who had crudely propositioned her and several of her friends earlier that evening, before bouncers threw him out of JB's Pub.

When the gunman opened fire in the bar, people dived under tables. They ran, screaming, for the door.

But Gallaher couldn't move.

"I looked into his eyes. I just froze. I sat there," the 31-year-old, married mother of three testified Friday in a voice so low it could hardly be heard in the St. Charles courtroom where Casteel went on trial for murder, accused of killing two people and wounding 16 more in a drunken shooting spree last April 14.

In an instant, someone knocked her off her bar stool to the floor, and she and her girlfriends escaped unhurt and crawled out a back door of the popular club.

But the man who got her out of the line of fire did not.

Bar manager Jeff "Whitey" Weides, 38, was killed in the rampage, along with Richard Bartlett, 48, of Elgin, a bar patron who was gunned down as he sat near the front entrance.

Casteel, 43, of Elgin, a construction worker who has served two prison terms for armed robbery, faces a possible death sentence if convicted.

Kane County State's Attorney Meg Gorecki told jurors that testimony would show Casteel came back to JB's looking for payback an hour after he was ejected for harassing women.

EB000573

Gorecki said witnesses will testify that when he returned, Casteel walked across the dance floor, firing at anyone who moved, and shouting lines from movies. "I'm a natural-born killer," Casteel screamed as he shot, Gorecki said, quoting witnesses. "I'm the king of the world."

Casteel, firing all four weapons, was tackled by bar employees and customers when he stopped to reload, she said.

Several witnesses who testified Friday described a chaotic scene as the gunman started shooting inside the crowded nightclub.

"It was like a war zone," said Dale Koehring, a bartender who worked with Weides. "The shots were 'pop, pop, pop.' Just rapid-fire."

Earlier that night, Casteel had gone home and changed from the sport coat and white dress shirt he'd worn earlier at the bar into military fatigues, shaved his head, leaving clumps of hair sticking up, slung a gas mask around his neck, and strapped on holsters and ammunition belts, Gorecki said testimony would show.

The gunman pulled in to JB's parking lot, leaving his car running and his door open, and fired two shotgun blasts at cars pulling in, then stepped inside and fired as people ran, Gorecki said.

"People were screaming. Everybody was yelling, 'Get down, get down!'" Gallaher testified.

Koehring was heading to the men's room when the shooting began. He said he ducked out a back door, then hesitated, worried about co-workers, including his friend Weides.

"Once I got out, all I wanted to do was get back in," said Koehring, who testified he never saw the gunman in the commotion.

Inside, he said he saw Weides on the floor and grabbed a towel to try to stanch the bleeding.

Kane County Public Defender David Kliment said he would show Casteel wasn't legally responsible for his actions, that he was under stress and had been drinking all day, and that an anti-depressant medication he was taking worsened the effects of the alcohol, leaving him unable to control his own actions.

"What happened that night was not something done by the Luke Casteel that everybody knew," Kliment told jurors, describing Casteel as "a normal guy, living a normal life."

---- **Index References** ----

Company: SHANGHAI JIABAO INDUSTRY AND COMMERCE (GROUP) CO LTD

News Subject: (Social Issues (1SO05); Violent Crime (1VI27); Top World News (1WO62); Crime (1CR87))

Industry: (Entertainment (1EN08); Bars & Nightclubs (1BA02))

Language: EN

Other Indexing: (ELGIN; JB; KANE COUNTY PUBLIC; KANE COUNTY STATES) (Casteel; Dale Koehring; David Kliment; Gallaher; Gorecki; Kliment; Koehring; Meg Gorecki; Michella Gallaher; Richard Bartlett)

Keywords: Elgin murder trial (CRIME LEGAL SUBURBS); (NEWS)

Word Count: 618

EB000574

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NewsRoom

EB000575

NewsRoom

4/21/01 Orlando Sentinel A14
2001 WLNR 10866670

Orlando Sentinel
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April 21, 2001

Section: A SECTION

VICTIMS OF SCHOOL ATTACK REMEMBERED A SERVICE PAID TRIBUTE TO THE 12 STUDENTS AND ONE TEACHER WHO WERE KILLED IN LITTLETON, COLO.

Compiled From Wire Reports

LITTLETON, Colo. -- Holding hands and wiping away tears, about 350 people marked the second anniversary Friday of the Columbine High tragedy by listening as the names of the 13 people gunned down by two students were read aloud.

During the brief service at a park near Columbine, school officials asked the crowd to remember that the attack does not define the school or its students. Relatives, friends, survivors and students walked past 13 6-foot wooden crosses temporarily erected in a parking lot in honor of the victims.

"It's just a time to remember," Chris Bernall said, pausing at a cross bearing the name of his sister, Cassie. "I've moved on. I've had a sense of peace about it, knowing where Cassie is. She's up in heaven."

It was lunchtime on April 20, 1999, when students Eric Harris and Dylan Klebold opened fire. They killed 12 classmates and a teacher and wounded 26 others before committing suicide in the school's library.

There were scattered reports of threats at schools elsewhere in the country Friday.

Two schools in the Mattituck-Cutchogue district on New York's Long Island were closed Friday because of threatening e-mail. The content of the e-mail was not disclosed.

And in Monroe, La., a 14-year-old student at a disciplinary school drew a semiautomatic handgun and fired five shots that missed a principal and other school workers. The shooting at the Monroe City Alternative Center happened before classes as about 20 students lined up to be routinely scanned for weapons. All had been expelled from other schools.

Police said the boy drew a .38-caliber semiautomatic pistol out of a zippered binder notebook, pointed it toward a group of faculty members and pulled the trigger. But it either misfired or there was no round in the chamber.

Students and school workers ran into the auditorium and teachers held the door closed. The youth tried to open the door, then fired several times through a window in the door. He eventually re-entered the school and fired another shot, but students and school workers escaped. The youth was subdued by police as he reloaded.

EB000576

As Friday's service began, low clouds settled in and light rain sprinkled the crowd. The sun broke through moments later. "When the sun came out, I knew that was Dave warming us up," said Cindy Thirouin, whose father, teacher Dave Sanders, was killed in the attack.

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---- **Index References** ----

Region: (USA (1US73); Americas (1AM92); Colorado (1CO26); North America (1NO39); New York (1NE72))

Language: EN

Other Indexing: (LITTLETON; MATTITUCK CUTCHOGUE; TEACHER) (Cassie; Chris Bernall; Cindy Thirouin; Dave Sanders; Dylan Klebold; Eric Harris)

Edition: METRO

Word Count: 480

End of Document

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NewsRoom

EB000577

NewsRoom

3/27/02 Evening Standard (London, UK) 14
2002 WLNR 3024584

Evening Standard (London, UK)
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March 27, 2002

MASSACRE IN A TOWN HALL

PATRICK SAWER; TOBY ROSE

AT LEAST eight people are dead and many others critically injured after a crazed gunman today opened fire on a Paris town hall meeting with a machinegun and an automatic pistol.

In what the French prime minister described as a moment of "raging madness" the man took careful aim at his victims after sitting through a meeting.

As council members rose to put on their coats he stood up in the public gallery and calmly opened fire with a submachinegun and a Magnum 357 automatic pistol.

He said nothing throughout the bloodbath and even methodically recharged his weapons. One man was seriously injured trying to tackle the gunman as he reloaded.

Survivors bravely grappled the gunman to the ground and held him until he was arrested.

The 33-year-old man knew the Green Party officials he shot in the western Paris suburb of Nanterre, but the party denied reports that he was a member of their organisation. There was pandemonium as dozens of police vehicles and more than 100 rescue officials flooded the town hall. A helicopter took some of the injured to hospital while firemen checked the large modern complex for other victims.

At least 14 of the 30 wounded were in a serious condition, some critical.

"This is murderous madness," said premier Lionel Jospin at the scene this morning. "It's unimaginable drama, I'm horrified. These are inhuman acts. It is a horrifying tragedy that harms democracy - a city council meeting in action. Many officials reacted with great courage to overpower the lunatic."

President Jacques Chirac expressed his "very great emotion" at the news.

Fire chief Captain Laurent Vibert said. "This was like a scene of a terrorist attack. It was a battlefield." A witness told France Info radio: "He had two or three guns and started shooting with a gun under each arm. He was shooting at anything that moved, but he was completely calm."

EB000578

The witness said the gunman shot Green representatives before opening fire indiscriminately on the rest of the room.

The reasons for his terrifying actions remain a mystery.

"He comes to all the council meetings and had no motive to do this," she said.

Samuel Rijik, a municipal official at the meeting, said: "I thought it was a joke at first.

Some people thought it was firecrackers. I crawled under my table and a bullet went through my jacket. I thought I was hit."

Weeping relatives of the victims arrived to identify the bodies, which remained in the council hall hours after the shooting.

The massacre has stunned France, already reeling from a series of bloody gun crimes and undergoing an intense debate about rising violent crime. This is one of the worst shootings in the country's history.

The gunman opened fire about 1.15am local time as the meeting in the middleclass neighbourhood drew to a close.

A rescue official, Laurent Vibert, confirmed the man used at least two automatic pistols. Some 50 empty shells lay scattered at the scene following the shooting.

Nanterre mayor Jacqueline Fraysse-Casalis, who was presiding, said: "I ended the session. A man got up. He had been sitting in the public area. He shot straight in front of him, and then he moved to where the council members were sitting.

He said nothing. It was long. It lasted many minutes."

With M Jospin at her side she continued: "I can't bear the sight of the bodies of my fellow councillors lying there. Many of them have families and young children."

Mme Fraysse-Casalis, who said she did not know the man, added that there had not been any unusually heated debate.

The injured are being treated at hospitals in Paris alongside 22 people suffering from shock.

"An emergency plan has been put into action and teams of surgeons specialising in gunshot wounds are in place. Most of the injured are suffering from chest wounds," said Yves Bot, the public prosecutor.

Rising crime has climbed to the top of France's political agenda in the run-up to the presidential elections this spring. Both President Chirac and M Jospin, who is waging a bitter campaign against his arch-rival, have promised a crackdown on crime.

Thousands of police officers held nationwide strikes in December, demanding more pay and better equipment because their jobs have become increasingly risky. The protests started after two officers were shot and killed during an armed robbery in a Paris suburb in October.

In the central French city of Tours, a masked gunman killed four people, also in October.

In an attack similar to today's, in Switzerland last September, a 57-year-old man opened fire with an assault rifle at a state legislature meeting, killing 14 people before shooting himself.

Terrorism expert Mike Yardley said gun controls in both France and Switzerland were far less strict than in Britain.

EB000579

END

---- Index References ----

Company: MAGNUM AG

News Subject: (Accidents & Injuries (1AC02); Fires (1FI90); International Terrorism (1IN37); Crime (1CR87); Social Issues (1SO05); Violent Crime (1VI27); Top World News (1WO62); Health & Family (1HE30))

Region: (Central Europe (1CE50); France (1FR23); Europe (1EU83); Mediterranean (1ME20); Eurozone Countries (1EU86); Western Europe (1WE41); Switzerland (1SW77))

Language: EN

Other Indexing: (Jacqueline Fraysse-Casalis; Mike Yardley; Samuel Rijik; Lionel Jospin; Laurent Vibert; Yves Bot; Jacques Chirac)

Edition: A MERGE

Word Count: 799

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NewsRoom

EB000580

NewsRoom

5/28/02 Times-Picayune 1
2002 WLNR 1382822

New Orleans Times Picayune
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May 28, 2002

Section: METRO

Woman shot at airport dies Pensacola man now charged with murder

Manuel Torres Staff writer

A California woman shot last week at Louis Armstrong International Airport died Monday morning, prompting authorities to upgrade charges against the man accused of shooting her.

The Jefferson Parish Sheriff Office said it now will book Patrick Gott of Pensacola, Fla., with first-degree murder in the death of the 45-year-old woman, whose name was not released. Police and the hospital said her relatives asked that she not be identified.

The woman, an employee of the Defense Department, was hit in the stomach Wednesday when Gott, 43, fired a 12-gauge shotgun inside the airport s terminal. Gott, who also hit an Southwest Airlines employee in the hand, faces an additional count of attempted murder and a count of illegally carrying of a weapon. Bystanders tackled him after he fired once, preventing him from reloading the shotgun.

The California woman had undergone surgery at Kenner Regional Medical Center on Wednesday, where she had been in critical condition in intensive care late last week. A hospital spokesman said the woman died Monday at 9:25 a.m.

Gott told authorities last week that he was a Muslim and that he opened fire because people made fun of his turban, though officials have said it is unclear when the taunting occurred. He remains in the Jefferson Parish Correctional Center with bail set at \$1 million.

Officials said Gott acted alone, and the shooting does not appear to be terrorism. But it is the most serious in a string of recent incidents that have raised questions about security at the airport.

Airport officials issued a statement offering their condolences to the victim s family. But Aviation Director Roy Williams did not indicate what actions, if any, the airport might consider to prevent similar incidents in the future. Authorities and Williams have said such incidents could be hard to prevent.

The airport, Williams said, "will continue to work closely with our colleagues at the responsible law enforcement agencies to do all that is possible to assure the safety of passengers, airport and airline personnel."

The Federal Aviation Administration is investigating the case.

EB000581

---- Index References ----

Company: SOUTHWEST AIRLINES CO

News Subject: (Violent Crime (1VI27); Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Police (1PO98))

Industry: (Transportation (1TR48); Air Transportation (1AI53); Airports (1AI61); Passenger Transportation (1PA35))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (CALIFORNIA; DEFENSE DEPARTMENT; FEDERAL AVIATION ADMINISTRATION; JEFFERSON PARISH CORRECTIONAL CENTER; JEFFERSON PARISH SHERIFF OFFICE; KENNER REGIONAL MEDICAL CENTER; SOUTHWEST AIRLINES; WOMAN) (Bystanders; Gott; Patrick Gott; Roy Williams; Williams)

Word Count: 423

End of Document

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NewsRoom

EB000582

NewsRoom

5/27/02 Pitt. Post-Gazette B5
2002 WLNR 4251855

Pittsburgh Post-Gazette (PA)
Copyright 2002 PG Publishing Co.

May 27, 2002

Section: LOCAL

OFFICER SHOT, SAVED BY BULLETPROOF VEST ASSAILANT IS WOUNDED BY MT. LEBANON POLICE

CINDI LASH AND JOHNNA A. PRO, POST-GAZETTE STAFF WRITERS

A Mt. Lebanon police officer was shot in the chest last night after responding to a domestic dispute, but escaped serious injury because he was wearing body armor.

Mt. Lebanon Officers Dan Rieg and Jeff Kite responded to a report of a domestic dispute at the home of Edward and Susan Constant on Piper Drive at about 10:40 p.m. The officers saw a man inside push a woman to the floor, then he came to the door and began firing at them.

Mt. Lebanon Deputy Police Chief Henry Egal said Edward Constant, 57, fired with a handgun, striking Rieg. Police returned fire, striking Constant in the hip and buttocks. Kite was not injured. Constant and the officers continued firing as the officers backed up across the yard and Constant followed them out of the house. Rieg emptied his gun and was reloading when police subdued Constant.

Egal said the bullet struck Rieg in the chest but was deflected by his bulletproof vest and slid sideways. "It was like he got a good, solid punch to the chest. If he hadn't been wearing the vest, he'd be dead, no question. He's going to be sore, but he'll be all right."

A nursing supervisor at Mercy Hospital, where both men were taken, concurred. "The police officer is going to be OK. He had his vest on. He would have been dead without it," she said. Rieg, 36, of Mt. Lebanon was being kept overnight for observation.

The supervisor said that Constant's injuries are not life-threatening.

Susan Constant has been taken into custody and will face charges, but Egal said police have not determined what they will be.

Police have recovered the handgun used in the shooting, he said.

Egal said he was not sure what provoked the call to the house or if police had been there before. But neighbors said the house has been the scene of frequent domestic disputes and screaming arguments that have been heard by homeowners a block away.

Janet Bodnar, who lives nearby on Oakwood, said her husband, Bill, had taken the dog out for a walk shortly before 10:40.

EB000583

Right after he left, "I heard a loud boom boom! I thought it was fireworks. Then I heard a succession of four or five more booms, real fast. Then I heard loud noises, like men hollering."

Police said Rieg was conscious and, while being transported by ambulance to Mercy Hospital, used a police radio to broadcast his thanks to officers who rushed to the scene.

Allegheny County Police have been called to conduct an independent investigation of the incident, Egal said. County officers were on the scene early this morning.

Egal said the Mt. Lebanon Police Department has a policy requiring officers to wear bulletproof vests when they are on the road.

Staff writer Laura Pace contributed to this article.

---- Index References ----

Region: (Middle East (1MI23); Lebanon (1LE68); Arab States (1AR46))

Language: EN

Other Indexing: (ALLEGHENY COUNTY POLICE; CONSTANT; COUNTY; EDWARD AND SUSAN CONSTANT; EDWARD CONSTANT; LEBANON POLICE DEPARTMENT; MERCY HOSPITAL; MT; MT LEBANON; MT LEBANON DEPUTY POLICE; MT LEBANON OFFICERS DAN RIEG; PIPER; RIEG; SAVED; SUSAN CONSTANT) (Bill; BULLETPROOF VEST ASSAILANT; Egal; Henry Egal; Janet Bodnar; Jeff Kite; Kite; Laura Pace; Staff)

Edition: SOONER

Word Count: 542

End of Document

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NewsRoom

EB000584

NewsRoom

9/12/03 Australian (Newspaper) 3
2003 WLNR 7649508

AUSTRALIAN
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September 12, 2003

Section: LOCAL

Monash accused 'out to kill all WWs'

Gosia Kaszubska

A MAN accused of gunning down two people in a shooting rampage at Monash University was a paranoid loner who believed it was his destiny to kill a fellow student and anyone like him, a court heard yesterday.

Huan Yun Xiang, 37, developed a fixation on classmate William Wu, who died after being shot in the neck in the attack last October, and believed people at the university were trying to kill him, the Melbourne Magistrates Court heard.

A note found stuck on Mr Xiang's wardrobe door detailed his paranoid hatred for Mr Wu, 26, who lived opposite the flat Mr Xiang shared with his mother in Clayton, in Melbourne's southeast.

The court was told that the note read in part: "Just pick up a gun, kill all those WWs, until there is no WW in the world any more! ... To kill WWs is the responsibility defined in my destiny".

Student Steven Chan, 26, also died and five others were wounded in the shooting last October, which led to a national handgun buyback scheme.

A preliminary hearing was told that Mr Xiang yelled "you never understand me" after opening fire in a tutorial room about 11.15am on October 21.

Crown prosecutor Sue Pullen said Mr Xiang had four other pistols and two ammunition magazines strapped to his body but was tackled and pinned down by lecturer Lee Gordon-Brown, who had been wounded, and fellow econometrics student Alastair Boast as he tried to reload his weapon.

As Dr Gordon-Brown kept hold of his legs and Mr Boast pinned his arms to a desk, Mr Xiang kept repeating: "It was all I could do."

The court heard Mr Xiang, an excellent student who was due to give an oral presentation to the class on the day of the shooting, had a thick accent and often struggled to make himself understood.

He allegedly told a forensic medical officer a teacher had made "horrible eyes" at him and other students did not include him in their assignments. "I could see from their attitude that they wanted me to die," he allegedly said.

EB000585

The court heard Mr Xiang had called his classmates "animals" and accused them of talking about him behind his back in an email to Dr Gordon-Brown, who dismissed it as "a hiccup due to the stress of work".

Lecturer Brett Inder said Mr Xiang's supervisor, Gail Martin, had told him she was worried about Mr Xiang's behaviour and thought he was the type of person to do something "drastic".

Dr Martin denied making such comments but said she expressed concerns about Mr Xiang when, 10 days before the shooting, he told her that if he looked his fellow students in the eyes during a presentation, they would kill him.

Mr Xiang is charged with two counts of murder and five of attempted murder. He has not yet been required to enter a plea. The committal hearing continues.

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Social Issues (1SO05))

Language: EN

Other Indexing: (LECTURER BRETT INDER; MELBOURNE; MELBOURNE MAGISTRATES COURT; MONASH UNIVERSITY; WW) (Alastair Boast; Boast; Brown; Crown; Gail Martin; Huan Yun Xiang; Lee Gordon-Brown; Martin; Monash; Steven Chan; Sue Pullen; William Wu; Wu; Xiang)

Edition: 1 - ALL-

Word Count: 544



NewsRoom

2/23/04 S.F. Chron. A1
2004 WLNR 7624326

San Francisco Chronicle (CA)
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February 23, 2004

Section: NEWS

SIKH MEN SLAIN IN SAN JOSE PARK GUNMAN KILLED AFTER DEADLY RAMPAGE ON CARD PLAYERS

Demian Bulwa, Delfin Vigil, Simone Sebastian, Chronicle Staff Writers

A leisurely afternoon at a San Jose park turned violent Sunday, when a gunman opened fire on a group of mostly elderly Sikh men who were playing cards, striking six of them -- three fatally -- before the group turned on the attacker.

The assailant, a 43-year-old San Jose man whose name was not released, died at the scene after several witnesses wrestled him to the ground when his gun jammed or ran out of ammunition, San Jose police said.

Sarwan Singh Gill, 47, of San Jose witnessed the attack.

He said he was among about 15 friends who were playing cards at Overfelt Gardens in east San Jose when a man who was unfamiliar to them walked up to four of them, said something abusive in Punjabi, then started firing a semiautomatic weapon -- first at the four, then at the others.

Gill escaped the danger by hiding behind a tree. He said the shooter was reloading his weapon and began firing again when somebody tackled him from behind.

"I lost my friends, and I'm feeling very bad," Gill said in Punjabi at his home Sunday night, surrounded by family members.

Police responding to the 2:47 p.m. call about shooting at the usually tranquil park found a chaotic scene.

"This is very much unusual," said San Jose police spokesman Steve Dixon.

"These fellows play cards at this park regularly, and on typical Sunday afternoons we have never had any trouble before."

Two men died at the scene, and one died at San Jose Medical Center. They were 46, 65 and 70 years old, police said. Three others, ages 80, 78 and 62, were sent to Regional Medical Center in San Jose with non-life threatening injuries, according to Dixon.

The suspect was dead when police arrived, probably because he was beaten to death, Dixon said, though the cause of death will be determined by an autopsy by the Santa Clara County coroner.

EB000587

Sunday evening, relatives, friends and associates of the shooting victims tried to make sense of the devastation and questioned why anyone would have wanted to kill them. The men -- most of whom attended Sikh Gurdwara temple in San Jose and who were between the ages of 46 and 80 years old -- were longtime friends who gathered almost daily at the park for card games.

Relatives identified the 46-year-old man who was killed as Kulwant Singh, a technician at Wintec Industries in Fremont, who came to the United States from India in 1999, leaving behind a small farm. He lived in San Jose with his wife and three daughters.

"He was a hard worker who was honest, loyal, committed, and family oriented," said Kulwant Singh's brother-in-law, Kirpal Singh Atwal.

Kulwant Singh's wife, Baljeet Kaur was walking in the park when she heard the gunshots, her brother said. It wasn't until three hours later that police told her that her husband was among the dead.

Sunday night, she was surrounded by friends and family at her San Jose apartment. Twenty friends packed onto the floor of Kaur's and Kulwant's bedroom, passing around pictures of the couple and grieving his loss.

At the Sikh Gurdwara temple on Quimby Road, where about 1,000 Sikhs worship, people gathered Sunday evening awaiting news of the victims' identities.

"Many families are calling, and they are very scared," said the vice president of the temple, Bob Dhillon, who spent several hours answering phone calls from concerned members. "This has scared the heck out of our community.

It is especially disturbing that this happened in a public place."

Temple secretary Jaswant Singh Hothi said the shooting brought back tension felt within the community following Sept. 11, 2001, when Sikhs were mistakenly targeted as followers of Osama bin Laden. Sikh men's traditional garb -- with long, thick beards and turbans -- cause them to resemble the widely publicized photographs of the Muslim terrorist.

Sikhs are not Muslims, though their traditional appearance causes confusion. Many are Punjabi natives, a tiny minority in their Indian homeland.

The 500-year-old Sikh Dharma monotheistic religion was founded in India, based in philosophies of social equality and truth.

"I'm feeling very scared," Hothi said.

"Those people just sit (at the park) every day. They don't have any problems," Hothi said. "We're just confused. Right now, we are nowhere."

The uncertainty about who the shooter was and what his motives were increased tension in the temple.

"Who has done these things? Why?" asked Billy Singh, 30, who searched the park Sunday evening for his father, Swarn Singh, who often joined in the card games.

"I haven't seen him. I've been looking for him everywhere," Billy Singh said, not knowing if his father was among the victims. He later learned his father was OK.

Swarn Singh said the group of friends had gathered at the park for years to play cards, joke around, and just talk.

PHOTO

EB000588

A police officer checks over the homicide scene in Overfelt Gardens in east San Jose, where three Sikh men were shot and killed.
Kat Wade
The Chronicle

E-mail the writers at dbulwa@sfnchronicle.com, dvigil@sfnchronicle.com, and sisebastian@sfnchronicle.com.<

---- **Index References** ----

Company: WINTEC INDUSTRIES INC

Region: (India (1IN24); USA (1US73); Americas (1AM92); Indian Subcontinent (1IN32); Southern Asia (1SO52); North America (1NO39); Asia (1AS61); California (1CA98))

Language: EN

Other Indexing: (KAUR; PHOTO; SIKH; SIKH DHARMA; SIKH GURDWARA; WINTEC INDUSTRIES) (Baljeet; Billy Singh; Bob Dhillon; Dixon; Gill; Hothi; Jaswant Singh; Kat Wade; Kirpal Singh Atwal; Kulwant; Kulwant Singh; Sarwan Singh Gill; SIKH MEN SLAIN; Steve Dixon; Swarn Singh; Twenty)

Edition: FINAL

Word Count: 1004

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NewsRoom

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NewsRoom

6/22/04 AP Alert - TX 23:08:28

AP Alert - Texas

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June 22, 2004

Man charged in courthouse shooting

CORPUS CHRISTI, Texas_An 81-year-old Woodsboro man was charged Tuesday with opening fire on a federal courthouse.

Walter Edwin Kloesel, 81, is accused of firing the shots early Monday afternoon. Investigators say he used a single-shot gun he had just purchased at a pawn shop.

Police say no one was injured, but Kloesel may have damaged the courthouse's brick wall.

Witnesses reported seeing Kloesel standing next to a truck in a restricted area in front of the federal courthouse. A witness said Kloesel turned away from him, fired toward the bay, then reloaded to shoot at the courthouse.

An officer tackled Kloesel as he was reloading the gun and Kloesel was arrested. He has been charged with assault with a dangerous weapon.

A federal magistrate ordered Kloesel detained until a detention hearing scheduled for Thursday at 1:30 p.m.

---- Index References ----

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Texas (1TE14))

Language: EN

Other Indexing: (WOODSBORO) (Kloesel; Police; Walter Edwin Kloesel)

Word Count: 166

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NewsRoom

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NewsRoom

8/5/05 AP Worldstream 10:56:48

AP Worldstream

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August 5, 2005

Mourners gather to grieve as police gird for possible rioting over deadly attack on Israeli Arabs

By KRISTEN STEVENS

Associated Press Writer

SHFARAM, Israel_ Mourners heaped flowers and lit candles Friday on a makeshift altar fashioned from window frames ripped from the bus where a Jewish soldier opposed to Israel's impending Gaza Strip pullout gunned down four Israeli Arabs.

The soldier, 19-year-old Eden Natan-Zada, opened fire on the bus in this northern Arab town on Thursday, killing the driver and three passengers, and wounding 13. An enraged mob beat him to death, and prevented police from removing his body from the bus for hours.

Thousands of police fanned out across northern Israel and Jerusalem on Friday to prevent possible rioting as a grieving and angry Arab community prepared to bury the four victims later in the day.

Natan-Zada's body was being held in a morgue after the military, his hometown of Rishon Lezion and the extremist settlement where he recently moved refused to bury him.

In Shfaram, townspeople lit hundreds of candles and placed hundreds of flowers on the impromptu altar. Melted candle wax seeped onto high-heeled shoes, flip-flops, door handles, seat frames and other objects taken from the bus.

A fire burning in a small drum stood at the head of the altar. Behind it, children and adults held up banners in Hebrew and Arabic reading, "We are fed up with racism," "Search me, I'm an Arab," and "Bring those who allow racism to justice."

For months, Israeli security has been warning that extremists might try to sabotage the mid-August pullout from Gaza and four small northern West Bank settlements by attacking Arabs and diverting forces.

Natan-Zada's father said his son deserted his army unit after he was ordered to help prepare for the pullout, and moved to the West Bank settlement of Tapuah.

Wearing the skullcap, beard and sidelocks of an ultra-Orthodox Jew, Natan-Zada boarded the bus bound for Shfaram, a city of 35,000 Muslims, Christians and Druze, in a nearby northern town.

When the bus entered a Shfaram neighborhood, he opened fire on the driver, killing him instantly, witnesses said.

EB000591

The bus rolled on for 50 meters (yards), until it hit a parked car and ground to a halt in front of a grocery store. Natan-Zada continued shooting inside the bus, emptying a magazine. When he tried reloading, he was tackled and disarmed.

Several people were involved in stopping the attack, including Husam Elian, a former soldier from Shfaram who was driving in a car directly behind the bus.

"I was driving when I heard rapid gunfire," Elian said. "I pulled out my gun, because I am a security guard, and went toward the bus. Someone told me there was a man, an Israeli soldier, with a gun, and then I saw him, and he started shooting at me and my neighbors. I saw some friends, and they ran with me onto the bus. And just as he was changing magazines, that's when we grabbed him."

Elian said his friend shouted at Natan-Zada, "Do you know Israeli soldiers could be on this bus?" And Natan-Zada replied, "There are Arabs on this bus."

Elian said he and his friends tried to shield Natan-Zada, but there weren't enough police officers to keep hordes from boarding the bus.

"Getting him out was impossible," he said.

The gunman's body lay on the bus floor, his head covered with a black plastic bag, for hours Thursday night until the crowd was subdued. His shirtless upper torso was heavily bruised and bloodied.

The windows of the bus were shattered by bullets and by rocks the mob threw at him. Blood stained bus seats, and rocks covered the vehicle's floor.

Police commissioner Moshe Karadi said forces in the north _ where many Israeli Arabs live _ had been short-handed because many had been diverted to deal with an anti-pullout demonstration in Israel's south this week.

Karadi cautioned that the attack could trigger additional violence. Forces were sent north, and in Jerusalem, ahead of Muslim Sabbath prayers on Friday, police raised their alert to the highest level and assigned SWAT teams and cavalry to the Old City, in anticipation of possible rioting.

Military chief Lt. Gen. Dan Halutz said he was "definitely worried that people on the fringes are going too far."

"There is no doubt that the unfolding reality, the comments, and the internal debates causes fringe elements to migrate even more toward the fringes," Halutz told Israel Radio.

Three juveniles from Tapuah, aged 15 to 17, were arrested in connection with the deadly attack, Channel 2 TV reported. The settlement is dominated by followers of U.S.-born Rabbi Meir Kahane, who advocated expelling Arabs from Israel and the West Bank. Kahane was assassinated in New York in 1990.

Prime Minister Ariel Sharon issued a statement condemning the attack as "a despicable act by a bloodthirsty terrorist."

Yitzhak Natan-Zada, 49, the soldier's father, said Thursday that he had asked the army to find his son, who fled from his unit after refusing to participate in the Gaza pullout. Natan-Zada said he was concerned his son's weapons would fall into the hands of fanatics in Tapuah.

"I wasn't afraid that he would do something. I was afraid of the others," Natan-Zada told The Associated Press in a telephone interview. He said he had no indication his son would carry out such an act.

EB000592

It was the bloodiest such incident in Israel since 1990, when an Israeli opened fire at a bus stop where Palestinians gathered for job placements, killing seven.

In 1994, Baruch Goldstein, an American-born Jewish settler, entered a holy site in the West Bank city of Hebron and opened fire on Muslim worshippers, killing 29 _ the bloodiest attack by a Jewish extremist against Palestinians.

Palestinian leader Mahmoud Abbas called on Israel to prevent Jewish settlers from carrying weapons, "because they (the settlers) are dangerous to the security and peace between the two people." Many Jewish settlers have army-issue guns to protect them from Palestinians.

Israeli Arabs make up about 20 percent of Israel's population of 6.9 million. Though they are full citizens, they have suffered from discrimination by Jewish-dominated governments. Many of their towns and villages lack basic infrastructure, and Arab localities usually top of Israel's unemployment lists.

(at/sg)

---- **Index References** ----

Company: ASSOCIATED PRESS GMBH (THE)

News Subject: (Race Relations (1RA49); Minority & Ethnic Groups (1MI43); Top World News (1WO62); International Terrorism (1IN37); Social Issues (1SO05))

Industry: (Busing (1BU35); Energy & Fuel (1EN13); Land Transportation (1LA43); Automotive Fuels (1AU95); Transportation (1TR48); Automotive Environmental Initiatives (1AU68); Oil & Gas (1OI76); Automotive Alternative Fuels (1AU34); Passenger Transportation (1PA35))

Region: (Mediterranean (1ME20); Palestine (1PA37); Middle East (1MI23); Israel (1IS16))

Language: EN

Other Indexing: (Husam Elian; Meir Kahane; Baruch Goldstein; Ariel Sharon; Eden Natan-Zada; Dan Halutz; Tapuah; Mahmoud Abbas; Yitzhak Natan-Zada; Moshe Karadi) (Israel; ISR; MiddleEast; Asia; West Bank; PSE; United States; USA; NorthAmerica)

Keywords: (i); (WorldInternational); (Law)

Word Count: 1036

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NewsRoom

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NewsRoom

5/29/06 Augusta Chron. B03
2006 WLNR 9333107

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May 29, 2006

Section: METRO

ACROSS THE AREA

Forecast holds little rainfall

Homeowners whose lawns are turning brown, take heed. The rain situation might only be getting worse.

The next chance of rain for the Augusta area isn't until Thursday. Meanwhile, the forecast has temperatures in the low 90s Monday and Tuesday, dropping into the upper 80s on Wednesday and the mid-80s on Thursday, according to the National Weather Service in West Columbia, S.C.

The last rainfall recorded was 0.01 inch Saturday at Daniel Field, and only trace amounts Friday at Daniel and Bush Field, meteorologist Tina Morrison said.

The area isn't in a drought, she said. Not yet.

"Not officially, but it's looking like that, yes," she said.

Augusta is expected to have lower than normal rainfall throughout the summer, Ms. Morrison said.

Pain medication is stolen from pharmacy

An undetermined quantity of Percocet, a pain medication, was stolen Sunday morning from Brynwood Pharmacy in the 3000 block of Walton Way Extension.

According to a Richmond County sheriff's report, a witness saw a truck parked behind the pharmacy and two men standing beside the store's back door.

The truck was gone when deputies arrived. They found the back door damaged.

The truck is described as a small, red, square-body pickup with a white stripe on its side and white reflective tape on its tailgate.

Shots fired outside club; man subdued

Gunshots were fired outside Gunther's nightclub Sunday morning in the 2000 block of Milledgeville Road.

EB000594

Maurice Jones told Richmond County sheriff's deputies he saw a man waving a silver .38-caliber revolver in the air. He said he heard two gunshots, and everyone in front of the club ran to the side.

According to the report, the man tried to reload his gun, but two men subdued him. One of the men threw the gun by a trash can in the parking lot, where a woman picked it up.

The shooting suspect was taken to Medical College of Georgia Hospital to be treated for injuries he got when the two men subdued him.

He had not been charged late Sunday.

Cash, checks, credit card taken from truck

Cash, checks and a credit card were stolen Friday night from a truck parked outside Travelodge on Washington Road.

According to a Richmond County sheriff's report, Richard Rodriguez told deputies that \$2,100, a Visa debit card, a book of checks and a brown briefcase valued at \$200 were stolen from his unlocked 2006 Chevrolet Silverado.

Mr. Rodriguez said he has canceled the debit card and checks.

Fife and Drum Corps plans performances

In addition to their participation in ceremonies commemorating the 225th anniversary of the Battle of Augusta, the U.S. Army's 3rd Infantry 'Old Guard' Fife and Drum Corps also will perform at Fort Gordon.

A 14-member unit of the group will perform at Fort Gordon's Freedom Park on Rice Road on Friday at 12:30 p.m. If it rains, the performance will be in Alexander Hall.

The 'Old Guard' Fife and Drum Corps will also perform at the following events: Friday at 7:30 p.m. at Augusta Common, 836 Reynolds St.; Saturday at noon during the "Under the Crown" event at the Living History Park, 299 W. Spring Grove Ave., off Georgia Avenue in North Augusta; and June 3 from 3 to 4 p.m. during the official ceremony and re-enactment marking the 225th anniversary of the Battle of Augusta in the vicinity of Sixth and Reynolds streets.

Thieves take money from supermarket

Thieves stole \$250 from a cash register and damaged an ATM Saturday night at Augusta Supermarket in the 2000 block of Martin Luther King Boulevard, according to a Richmond County sheriff's report.

Deputies searched outside the store and found a large hole on the north side of the building, the report says.

Butler plans meeting on education reform

Butler High School will hold a meeting for parents at 6 p.m. Thursday to answer questions about its educational reform pilot program.

The program, which will begin in the fall, will add 15 minutes to the school day and attempt to use time during the day more efficiently. Rather than disciplining students for small infractions by suspending them or sending them to in-school suspension, the program will keep them in class and isolate them during lunch.

EB000595

For more information on the meeting, call (706) 796-4959.

Fort Gordon will hold day camp for students

Fort Gordon's Regimental Noncommissioned Officers Academy will hold Camp Semaphore - a day camp for area high school students enrolled in the Junior Reserve Officer Training Corps program - Tuesday through Friday.

About 150 students are expected to attend the camp, which begins at 6:30 a.m. each day and ends at 4:30 p.m.

The training includes instruction on land navigation, first aid, running an obstacle course and water safety.

For more information, call (706) 791-4993.

Washington Road lanes will be closed

Lanes heading east on Washington Road at Warren Road will be closed this week to construct a sewer manhole, according to the Augusta Engineering Department.

Two-way traffic will be maintained. Drivers should use River Watch Parkway, Wheeler Road, Walton Way or Woodland Road as detours.

Work will close one lane of Walton Way

The southbound lane of Walton Way at Heard Avenue will be closed Tuesday for tree removal, according to the Augusta Engineering Department.

The closure will be from 9 a.m. to 1 p.m. Two-way traffic will be maintained. Drivers can avoid the area by using Hickman Road, Highland Avenue or Baker Avenue.

Also, the westbound left turn lane of 12th Street near Greene Street will be closed from 9 a.m. to 4 p.m. Tuesday. Drivers wanting to go south toward Telfair Street should use 11th or 13th streets.

All other lanes will remain open.

First Steps panel schedules meeting

The Aiken County First Steps executive committee will meet Tuesday at the Aiken County First Steps office, 208-D The Alley.

Call Marcia Nash at (803) 643-3845 for further information.

- Edited from staff reports

---- **Index References** ----

Company: VISA INTERNATIONAL SERVICE ASSOCIATION

News Subject: (Weather & Climate (1WE93))

EB000596

Industry: (Science & Engineering (1SC33); Meteorology (1ME62); Earth Science (1EA85); Science (1SC89))

Region: (United Kingdom (1UN38); Scotland (1SC90); Europe (1EU83); England (1EN10); Western Europe (1WE41))

Language: EN

Other Indexing: (3RD INFANTRY OLD GUARD; ARMY; ATM; AUGUSTA ENGINEERING DEPARTMENT; BAKER AVENUE; BRYNWOOD PHARMACY; BUTLER HIGH SCHOOL; DANIEL; DRUM CORPS; GEORGIA AVENUE; GEORGIA HOSPITAL; GUARD; HEARD AVENUE; HIGHLAND AVENUE; JUNIOR RESERVE; LIVING HISTORY PARK; MARTIN LUTHER; MEDICAL COLLEGE; NATIONAL WEATHER SERVICE; REGIMENTAL NONCOMMISSIONED OFFICERS ACADEMY; SPRING GROVE AVE; VISA) (Augusta; Augusta Common; Augusta Supermarket; Boulevard; Bush Field; Butler; Drivers; Fife; Homeowners; Marcia Nash; Maurice Jones; Morrison; Reynolds; Richard Rodriguez; Rodriguez; Shots; Thieves; Tina Morrison; Training Corps; Walton; Work) (AREA BRIEFS)

Edition: GEORGIA

Word Count: 1184

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NewsRoom

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NewsRoom

7/9/07 AP Alert - CA 15:32:59

AP Alert - California

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July 9, 2007

Accused gunman in Las Vegas casino shooting due Tuesday in court

LAS VEGAS_A man accused of opening fire with a handgun inside a Las Vegas Strip casino was scheduled to make his first appearance before a judge on Tuesday.

Steven Zegrean, 51, of Las Vegas, remained jailed without bail on suicide watch at the Clark County jail Monday after his arrest early Friday at the New York-New York casino.

Four people were wounded in the shooting and a fifth person was hurt in a crush of people fleeing the casino, after authorities say Zegrean fired 16 shots from an indoor balcony at gamblers below. None of the injuries was reported to be life-threatening, and no one remained overnight in the hospital.

Zegrean was apprehended after he paused to reload his semiautomatic pistol and was tackled by off-duty military reservists and restrained with the help of two Florida state police agents, police said. A gun was confiscated, and police said Zegrean had more ammunition in his tan trench coat when he was arrested.

He is expected to face felony charges including attempted murder, battery with a deadly weapon, and discharging a firearm in an occupied structure, police said.

Family members described Zegrean as an unemployed house painter, a Hungarian immigrant who has been divorced for several years and estranged from most of his family since his ex-wife remarried.

Police characterized Zegrean as "greatly emotionally distressed." They said he walked the Las Vegas Strip for a day and a half before the shooting, after police and paramedics responded to a report that he attempted suicide July 4.

---- Index References ----

News Subject: (Violent Crime (1VI27); Legal (1LE33); Social Issues (1SO05); Crime (1CR87); Criminal Law (1CR79))

Industry: (Entertainment (1EN08); Casinos (1CA80); Travel & Tourism (1TR07); Gaming Industry (1GA25))

Region: (Americas (1AM92); North America (1NO39); USA (1US73); New York (1NE72); Nevada (1NE81))

Language: EN

EB000598

Other Indexing: (Steven Zegrean; Zegrean) (Hungary; HUN; Europe; United States; USA; NorthAmerica)

Keywords: (n); (Crime); (Travel); (Defense); (Labor); (Gambling); (Legal); (Law)

Word Count: 305

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8/8/08 Kan. City Star (Pg. Unavail. Online)
2008 WLNR 14809264

Kansas City Star (MO)
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August 8, 2008

Three shot at Kansas City bar

A gunman opened fire in a Kansas City tavern tonight, wounding three people before being disarmed by a bystander.

Police said the gunman opened fire at The Tool Shed at U.S. 40 and Phelps Road around 8:40 p.m.

Two of the victims were taken to a hospital, Kansas City police Capt. Mike Perne said. One suffered life-threatening wounds, and the other was in critical but stable condition. A third person suffered minor injuries and was treated at the scene.

Debbie Henry, who lives at the Hyline Inn next door to The Tool Shed, said the gunman began firing inside the bar, then went outside and continued to fire. When he stopped to reload his weapon, he was tackled by another man and disarmed. Patrons of the bar had the gunman pinned to the ground when police arrived.

Henry said she heard the gunshots and came out to see what happened. She said one of the victims was shot in the back.

She added that the shooter, who appeared to be extremely intoxicated, had two more guns in his truck.

The Tool Shed is in extreme eastern Kansas City, just south of the border with Independence.

---- Index References ----

Region: (North America (1NO39); Kansas (1KA13); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (HYLINE INN; TOOL SHED) (Debbie Henry; Henry; Mike Perne) (Kansas City) (Kansas City) (Kansas City)
(us; usa; na; us.mo; us.mo.kcity; us.mo.kancty)

Keywords: (CT/clj.crm); (CT/clj); (NT/Law+Crime); (SU/breaking.news)

Edition: 1

Word Count: 215

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NewsRoom

8/18/08 Ann Arbor News (Ann Arbor, MI) A5
2008 WLNR 15712292

Ann Arbor News (Ann Arbor, MI)
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August 18, 2008

POLICE BEAT

Woman injured in I-94 crash

A woman was taken to the University of Michigan Hospital after her car veered off I-94 and hit a tree early this morning.

Ann Arbor firefighters used extrication tools to free the woman, who suffered unknown injuries. The crash occurred at about 2:15 a.m. on the westbound side of the freeway near Jackson Avenue, said Ann Arbor Fire Battalion Chief Robert Vogel.

Fight results in neighbor's injuries

A 25-year-old Ypsilanti Township man was arrested when a fight in an apartment escalated, injuring a neighbor.

Several people inside an apartment in the 50 block of Riley Court in Ypsilanti Township began arguing late Sunday night. A chair and beer bottle were thrown through a neighbor's window. The neighbor, a 26-year-old woman, was cut on the leg, said Washtenaw County Sheriff's Department Cmdr. Dave Egeler.

Deputies are seeking a charge of felonious assault against the man, said Egeler.

Weapon fired outside hotel

A 19-year-old man reportedly fired an assault-style weapon in the parking lot of a hotel in the 3700 block of Washtenaw Avenue early Sunday morning.

Police received a call shortly after midnight about party-goers who would not leave and were hanging around the hotel's parking lot. At some point, the man fired several shots, which were heard by three patrol officers who found people fleeing the parking lot as they arrived.

Police received a description of the man and recovered several shell casings and live rounds in the parking lot. No one was injured.

Man charged with sex assault on child

A 48-year-old Sumpter Township man is in the Wayne County Jail, charged with two counts of first-degree criminal sexual conduct for alleged assaults on an 8-year-old relative.

EB000602

Sumpter Police Detective Michael Czinski said Gary P. Hopkins was arrested after the girl's mother told police the girl reported the assaults occurred while Hopkins was baby-sitting. Police arrested Hopkins at his Rawsonville Woods mobile home.

He faces a maximum sentence of life in prison if convicted of either charge, and was held on \$150,000 bond.

Hopkins served about four years in prison on a 15- to 30-year sentence for similar charges relating to his former girlfriend's daughter before Washtenaw Circuit Judge Archie Brown overturned the conviction on the basis of ineffective counsel at trial. He ordered a new trial.

County prosecutors appealed, according to state records, but the Court of Appeals and Supreme Court upheld Brown's order for a new trial.

County prosecutors elected in 2005 not to reinstate the charges, and Hopkins was released.

Man arrested for attempted murder

Livingston County Sheriff's deputies arrested a 40-year-old Howell-area resident, whom they said killed a neighbor's dog, threatened to kill the neighbor and her children and pointed a gun at his brother, who was trying to disarm him.

Deputies said they were called to Clearview Drive near Pingree Road in Marion Township at 11:50 p.m. Sunday.

They said they had been told the man had killed the neighbor's dog.

As they headed toward the area, they took another call about additional shots being fired by a man who was using a rifle to try to settle a property-line dispute.

They said the man's brother rushed the suspect as he tried to reload the rifle, and took the rifle and subdued the suspect.

The man was held on attempted murder and other felony charges pending arraignment.

Compiled by Dave Gershman and Susan Oppat, News staff reporters.

---- Index References ----

Language: EN

Other Indexing: (COUNTY; COURT OF APPEALS; HOPKINS; LIVINGSTON COUNTY SHERIFF; RAWSONVILLE WOODS; RILEY COURT; SUMPTER; SUMPTER TOWNSHIP; SUPREME COURT; UNIVERSITY OF MICHIGAN HOSPITAL; WASHTENAW; WASHTENAW COUNTY SHERIFFS DEPARTMENT; YPSILANTI TOWNSHIP) (Ann Arbor; Archie Brown; Brown; Dave Egeler; Dave Gershman; Egeler; Gary P. Hopkins; Hopkins; Michael Czinski; POLICE BEAT; Robert Vogel; Susan Oppat)

Word Count: 687

NewsRoom

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NewsRoom

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2008 WLNR 14042385

South Florida Sun-Sentinel
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July 28, 2008

Section: News

SHOOTER KILLS 2 IN KNOXVILLE CHURCH CONGREGANTS SUBDUED MAN AS HE TRIED TO RELOAD SHOTGUN

A man armed with a shotgun entered a church in Knoxville, Tenn., on Sunday and opened fire as congregants were watching a youth performance, killing two people and leaving at least eight others wounded before he was subdued by church members, witnesses and police officials said.

Five people remained in hospitals last night, all in critical or serious condition.

Police officials said they had charged Jim Adkisson, 58, of Powell, Tenn., with first-degree murder.

Amira Parkey, 16, had just uttered her first lines as Miss Hannigan in Annie Jr., an adaptation of the musical, when the performance at Tennessee Valley Unitarian Universalist Church was interrupted by a loud pop, witnesses said.

"We were just, 'Oh my God, that's not part of the play,' " Parkey said, adding that she saw a man standing near the door of the sanctuary and firing into the room.

Sheila Bowen, 70, a church member, said, "The music director realized what was going on and she yelled, 'Get the hell out of here, everybody.' "

Parents dove under the pews with their children, and the cast of young actors, some of them as young as 6, was quickly herded out.

None of the victims were children.

Members of the church tackled the gunman and wrested his weapon, a 12 gauge, from him.

The police dispatcher received a call to the church at 10:18 a.m., and they took the gunman into custody four minutes later.

Chief Sterling Owen of the Knoxville Police Department said that investigators had not determined the motive but that they thought the gunman had acted alone.

Two of the wounded were treated at the hospital and discharged, Owen said.

EB000605

The FBI is helping in the investigation, and Owen said all videotapes of the service had been collected and were under review.

There were about 200 people in the church when the gunman opened fire, according to church members.

Witnesses said that the gunman, carrying a guitar case, had first tried to enter the area where the children were preparing for the play, saying he was there to play music.

But he was told to use the public entrance to the sanctuary instead.

Bowen said that the gunman was a stranger to the church and that she had seen him in the entry hall fiddling with the guitar case.

She said she did not see him again until the shooting started.

It was when the man paused to reload that several congregants ran to stop him.

The police chief said John Bohstedt, a history professor at the University of Tennessee in Knoxville, was among them.

"He moved very quickly and he assessed the situation very quickly," Bowen said.

"He's sitting on this guy. He had a package with him, wrapped in brown paper and tied with string, and John was afraid that that might be a bomb, so John was screaming at everyone to get out."

The man slain was identified as Greg McKendry, 60, a longtime church member and usher. Linda Kreager, 61, died at the University of Tennessee Medical Center a few hours after the shooting, Knoxville city spokesman Randall Kenner said.

Information from The Associated Press was used in this report.

---- **Index References** ----

Company: UNIVERSITY OF TENNESSEE

Region: (North America (1NO39); Tennessee (1TE37); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (FBI; KILLS; KNOXVILLE; KNOXVILLE POLICE DEPARTMENT; MEDICAL CENTER; SHOTGUN; TENNESSEE VALLEY UNITARIAN UNIVERSALIST CHURCH; UNIVERSITY OF TENNESSEE) (Amira Parkey; Bowen; Greg McKendry; Information; Jim Adkisson; John; John Bohstedt; Linda Kreager; Owen; Parents; Parkey; Randall Kenner; Sheila Bowen; Sterling Owen)

Edition: Broward Metro

Word Count: 605

NewsRoom

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NewsRoom

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2010 WLNR 137103

Chicago Sun Times (IL)
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January 3, 2010

Section: News Crime

'It replays in my mind over and over'
Family elated to welcome home Fort Hood massacre survivor

Amy Lee

The massacre at Fort Hood in Texas in November replays in his mind over and over.

A gunman shouts in Arabic. Shots ring out. Then intense pain -- bullets tore through his left knee and other parts of his body -- and loud screams.

"It was surreal, just mass chaos," Army Pvt. 1st Class Najee Hull recalled last week. "Pain and people screaming. It replays in my mind over and over. I remember everything. . . . It's starting to mess with me."

For the first time since the shooting, Hull was able to return to his home in Homewood two weeks ago -- to spend Christmas with his family.

But he can't stop thinking about the events Nov. 5 at Darnall Army Medical Center, which is a part of Fort Hood -- where Hull, 20, was stationed.

Military authorities say a U.S. Army psychiatrist, Maj. Nidal Malik Hasan, walked into the center, shouted "Allahu Akbar" or "God is greatest," then targeted uniformed soldiers by firing more than 100 times with a semiautomatic pistol and a revolver. He allegedly killed 13 people and wounded 30.

Hasan was tackled as he paused to reload. Hasan, who remains hospitalized, is charged with 13 counts of premeditated murder and 32 counts of attempted murder.

Hull was prepping for a medical review ahead of his planned deployment to Afghanistan when the shooting began. The medical center was teeming with soldiers and civilians, including a group of nearly 600 gathered for an afternoon graduation ceremony. Hull was the first person hit in the massacre.

"He said some terrorist things, some Allah things, then just started shooting," Hull said.

"I do ask myself sometimes, 'Why me?' Of all the places to be that day, I had to be there."

EB000608

While Hull said he's thrilled to be surrounded by doting friends and family members in Homewood, he struggles to accept that a member of the military turned on his comrades -- on a U.S. base -- and opened fire.

"It's like being betrayed by a family member, like someone in my family shot me," Hull said. "We die for the same cause, live by the same creed. I'm still kind of angry about it, but I try not to be angry because I'm here and a lot of people aren't. I know I'm lucky."

Hull, a 2007 graduate of Homewood-Flossmoor High School, has undergone three surgeries. One bullet destroyed his spleen, which was removed, but fragments of bullets remain lodged in his chest and knee.

"At Christmas, the whole time I kept thinking, I might have missed this. If that bullet would hit two inches higher or two inches lower, I might never have seen my family again, and I love my family," Hull said.

Hull lives with his mother, Yvonne, who works for the U.S. Postal Service, and sisters Nanette Hull, 34, and Nala Pearson, 13. He also has an older brother, Nathaniel Hull, 31.

The family was elated to finally welcome Najee home after he spent more than a month recovering at the base, Yvonne, a single mom, said.

"Christmas was truly Christmas, a celebration. We may have a sparse tree and sparse gifts, but you know we got our gift early, and we're at peace," Yvonne said. "Words cannot describe how thankful we are."

Hull, a mechanic, is part of the 36th Engineer Brigade, which will deploy this month to Afghanistan -- but without him. He'll return to Fort Hood on Friday.

"I love the Army. I love my buddies. I feel bad I won't be with them," said Hull, struggling to remain composed. "I have a lot of soul-searching to do. I really don't know what's next for me."

---- **Index References** ----

Company: US POSTAL SERVICE; UNITED STATES POSTAL SERVICE

News Subject: (Social Issues (1SO05); Violent Crime (1VI27); Crime (1CR87))

Region: (North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (1ST CLASS NAJEE HULL; 36TH ENGINEER BRIGADE; ARMY; ARMY PVT; DARNALL ARMY MEDICAL CENTER; HULL; NAJEE; NANETTE HULL; NATHANIEL HULL; US ARMY; US POSTAL SERVICE) (Hasan; Nala Pearson; Nidal Malik Hasan; Pain; Yvonne)

Edition: Final

Word Count: 682

End of Document

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10/10/10 San Diego Union-Trib. A1
2010 WLNR 20372882

San Diego Union-Tribune
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October 10, 2010

Section: Main News

WORKMEN BEING HAILED AS HEROES

Trio subdued man who opened fire at school Friday; suspect described as angry loner

J. HARRY JONES,U-T

Neighbors of the Oceanside man accused of shooting two schoolchildren with a .357 Magnum revolver Friday described him as an angry loner who screamed racial insults and obscenities at all hours of the night from inside his apartment.

Brendan Liam O'Rourke, 41, remained in jail a day after three construction workers chased him down and subdued him near Kelly Elementary School in Carlsbad as he tried to reload his weapon.

Two second-grade girls, ages 6 and 7, were each shot in one arm. On Saturday afternoon, Carlsbad police Lt. Kelly Cain said he believed the youngsters were in good condition.

Meanwhile, the public took to websites to hail the construction workers — Mario Contreras, Stephen Kane and Carlos Partida — as heroes. The men were given a standing ovation at the Carlsbad Police Department on Friday afternoon. They appeared the next morning on the TV program "Good Morning America."

Saturday afternoon in Chula Vista, Contreras recounted how he and his two colleagues from Randall Construction disarmed the gunman. Contreras' left hand was swollen, the result of pounding O'Rourke in the face repeatedly as the suspect tried to escape.

Contreras said he, Kane and Partida were pouring concrete as part of a school cafeteria remodel when they heard gunshots. Contreras looked over a fence and saw O'Rourke standing perhaps a dozen feet away from some children and firing a gun. Kids were screaming and crying. Contreras said it looked like O'Rourke wasn't experienced with the gun because his arm kept jerking back and forth.

He and Kane (of Jamul) ran around some buildings toward O'Rourke, who saw them coming and fled, dropping bullets along the way.

O'Rourke jumped a fence and kept running until Partida jumped in his pickup, followed O'Rourke for about 400 feet and then rammed him with the vehicle, knocking him to the ground.

All three construction workers started hitting and kicking O'Rourke, who fought back. Partida said he took the revolver out of O'Rourke's hand.

EB000611

"When we got control of the guy, we started looking through his jacket pockets. He had a bunch of bullets, a couple of extra (speed-loaders) for the gun and a flashlight," said Partida, who lives in the same apartment complex as Contreras.

Police showed up minutes later and took over. O'Rourke was arrested and is expected to be charged with six counts of attempted murder — one for each bullet he fired.

Contreras said he wasn't thinking about his own safety during the chase. "I think anybody would do that for the kids," he said.

When he got home late Friday night, his wife, Clara, had heard nothing about this day. She saw his swollen hand and Contreras told her he had been in a fight.

"She was mad and thought I might have been fired," he said. "Then I told her what happened and she started to cry and said I had done a good thing."

Clara Contreras said she thought her husband might have acted as he did because they have two children of their own. "They could have been one of ours," she said.

O'Rourke gave rambling statements after being arrested, nothing that explained a motive for his shooting, Cain said.

He also had spray-painted the walls of his apartment "with nonsensical writings," Cain added. Some of the material indicated that "he was mad at State Farm and AIG," two insurance companies. One wall had the word "Christian" emblazoned on it, while another had the word "destroy."

The apartment was relatively clean otherwise, Cain said. Investigators seized a few items from the second-floor unit, including a laptop computer.

"He was a loner as best as we can make out," Cain said. "Records show he had applied for a security guard license, but we didn't find any employer."

O'Rourke has lived in the Canyon Creek Apartments on Garrison Street near the intersection of Mesa Drive since March 2009. He was served with an eviction notice last month and told he would have to leave by December, neighbors said Saturday.

They described him as an odd man who often sat alone for hours at a picnic table sandwiched between two apartment buildings late at night, doing nothing but looking around.

They called police numerous times during the past 18 months because he would make tremendous amounts of noise in his apartment — as if he were hitting things with a baseball bat, one tenant said. Whenever officers showed up, they said, O'Rourke quieted down and wouldn't let them inside.

Vickie Rowe-Mitchell, who lives directly beneath O'Rourke's unit, said the stomping and banging would be so strong at times that her ceiling fan would shake and small parts of her ceiling would fall onto her bed. She also said O'Rourke would scream the "N" word over and over and yell obscenities for long periods of time.

"I just saw him yesterday morning," said Ashley Johnson, who lives directly across the hall from O'Rourke. "I was opening my door and he was just leaving. He closed his door really fast and there was this weird chemical smell."

Authorities said a propane tank was found next to O'Rourke's newer Crown Victoria parked near the school and that he had taken a small gas can onto the school grounds.

EB000612

None of the neighbors knew what O'Rourke did for a living. Rowe-Mitchell said when he first moved in, he told her he was unemployed. A few months later, he apparently found a job and settled into a routine where he would leave the apartment early in the morning and return about 4 p.m. He stopped going to work this past week, the neighbors said.

Tenant Alex Sanchez said he was somewhat friendly with O'Rourke after they had a discussion about how O'Rourke had "hit on" his wife, not knowing she was married. He also said that a few months ago, O'Rourke got into a shouting match with some people who lived in the next building over.

"I guess he was trying to hit on a girl and some dudes got mad," Sanchez recalled. "Then I remember I spoke to him once and he said, 'I'm going to kill those guys.'"

On Friday, investigators stayed at the school until about 11 p.m. to collect evidence. They found four or five .357 rounds in the playground, the field, and possibly shattered against a piece of playground equipment. The authorities returned Saturday, combing the playground again and taking evidence photographs. They wrapped up at the school about 4 p.m.

Cain said investigators discovered no other weapons, no explosives other than a gas can and propane tank located Friday, no evidence of accomplices and no affiliation between O'Rourke and Kelly Elementary.

"We have no knowledge of any type of prior relationship with the school, its employees, parents, kids or teachers," Cain said. "Rumors circulated regarding the coincidence of this crime and the 'cancer cluster' issues at the site, but those have been unfounded."

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---- Index References ----

Company: STATE FARM MUTUAL AUTOMOBILE INSURANCE CO; MAGNUM LTD; AMERICAN INTERNATIONAL GROUP INC

News Subject: (Fires (1FI90); Accidents & Injuries (1AC02); Crime (1CR87); Health & Family (1HE30); Burglary & Theft (1BU41); Violent Crime (1VI27); Social Issues (1SO05); Assault & Battery (1AS33))

Language: EN

Other Indexing: (Kelly Cain; Mario Contreras; Carlos Partida; Stephen Kane; Brendan Liam O'Rourke; Vickie Rowe-Mitchell; Ashley Johnson; Alex Sanchez; Clara Contreras)

Keywords: ARRESTS; ATTEMPT; CHILDREN; KILLINGS; SAN DIEGO; SCHOOLS (Mario Contreras)

Edition: First Edition

Word Count: 1159

End of Document

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Denver Post (CO)
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November 11, 2011

Section: DTW

School shooter gets max term of 18 months Bruco Eastwood, ruled legally insane in the Deer Creek attack, has already served his sentence.

Jessica Fender The Denver Post

Deer Creek Middle School shooter Bruco Eastwood got the maximum 18-month prison sentence Thursday for bringing a weapon onto school grounds, the single charge for which he was convicted after he shot two students in 2010.

He won't serve any time in prison, however. The 626 days Eastwood has already been held at the state mental hospital counts against the felony sentence.

Jefferson County District Judge Christopher Munch acknowledged his sentencing decision was largely "academic" but said it was important to send a message and to recognize the heroics of adults on campus Feb. 23, 2010, who prevented additional tragedy.

Eastwood, who will undergo treatment until doctors deem it safe to release him, spoke for the first time to a courtroom full of his victims' family members, his relatives and members of the school community.

"I'd like to say mea culpa," he said in rapid cadence. "Words can't express how sorry I am for my reaction to my mental illness. I'm really sorry for what's happened."

Jurors last month decided Eastwood was legally insane when he opened fire on students with his father's hunting rifle as school got out that day.

Thursday's sentencing brought some closure to the mothers of victims Matthew Thieu and Reagan Weber, if not satisfaction.

Patricia Nelson and Deborah Weber said Eastwood should spend time in prison. Nelson said her son Matthew occasionally has trouble breathing but that the toll the shooting has taken on his personality is more troubling.

"Matthew doesn't want to talk about it. He's got a lot of anger," Nelson said. "I'm just afraid that one day, he'll take it out in the wrong way."

Weber vowed to work to change state laws to allow criminals judged insane to spend time in prison once they're successfully treated.

EB000615

Deer Creek math teacher David Benke, who tackled Eastwood as he reloaded the rifle, expressed some concern.

"I heard 'lifelong illness' and 'medication that doesn't always work,'" Benke said, referencing the defense's arguments. "I think those are all reasons why he should never get out. Who's going to follow him and makes sure he takes (his medications)?"

---- Index References ----

News Subject: (Criminal Law (1CR79); Judicial (1JU36); Crime (1CR87); Prisons (1PR87); Gun Rights & Regulations (1GU97); Violent Crime (1VI27); Death Penalty (1DE04); Social Issues (1SO05); Legal (1LE33); Murder & Manslaughter (1MU48))

Language: EN

Other Indexing: (Reagan Weber; Patricia Nelson; Matthew Thieu; Bruco Eastwood; David Benke; Deborah Weber; Christopher Munch)

Edition: FRI FINAL

Word Count: 352

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1/23/10 AP Alert - TX 12:30:47

AP Alert - Texas

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January 23, 2010

Here is the latest Texas news from The Associated Press

AUSTIN, Texas_Bond is set at \$250,000 for a man who fired several shots outside the Texas Capitol. Court records show Fausto Cardenas was trying to reload his weapon when police confronted him and tackled him to the ground. He remained in Travis County's jail yesterday.

DALLAS (AP)_ Albert Reyes is the first non-Anglo president in Dallas-based Buckner International's 131-year history. Reyes will manage the social service agency's nearly \$100 million annual budget. The organization provides adoption and foster care, operates group homes, residential homes, community centers and retirement homes in Texas and internationally.

FORT WORTH, Texas (AP)_ Fort Worth-based American Airlines says the company will furlough up to 175 pilots _ about 2 percent of its 7,800 pilots _ in the first half of the year. American announced yesterday it sent notices to 80 pilots that they'll lose their jobs at the end of February.

AUSTIN, Texas (AP)_ A University of Texas library and museum has acquired 50 letters written by Jacqueline Kennedy Onassis to a colleague in the book publishing business. The letters, dated from 1978 to 1992, were written when Ray Roberts worked with the former first lady at Doubleday & Co. in New York, and when he was with Little, Brown and Company in Boston.

---- Index References ----

Company: AMERICAN AIRLINES; AMERICAN AIRLINES INC

Region: (Texas (1TE14); North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (AMERICAN AIRLINES; BUCKNER INTL; DOUBLEDAY CO; JACQUELINE KENNEDY ONASSIS) (Albert Reyes; Brown; Fausto Cardenas; Reyes) (StateDistribution)

Keywords: (j)

Word Count: 256

End of Document

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2013 WLNR 28778618

New York Times (NY)
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November 15, 2013

Section: A

'I Was Just Sure They Just Wanted To Kill This Group of Persians'

J. DAVID GOODMAN and VIVIAN YEE

The first sound -- a muffled pop -- caused little alarm. It had come from somewhere on the third floor of a home in East Williamsburg, Brooklyn, shared by musicians from Iran.

The men had been unwinding with a routine video game of Internet pool, each comfortably ensconced in his own room, lazily playing before bed. The next sound came from one of the men, Arash Farazmand, who wondered aloud, "What's that?"

Two more blasts, now well inside the home, had the unmistakable thunder of weaponry. And then there was the sound of someone dying.

It was soon clear that a gunman was methodically moving through the house.

"He was stepping so fast," Pooya Hosseini recalled on Thursday, describing the deadly scene that unfolded just after midnight on Monday inside 318 Maujer Street and his confrontation with the gunman -- a fellow Iranian musician -- that enabled him to survive.

Three of his friends did not: two brothers who were members of the Yellow Dogs, a rock group of political refugees, and another musician.

When Mr. Hosseini, 28, began hearing the rampage unfold, he recalled, he feared that a man who had recently been renting a room in the house -- and who had spoken of his time in the Iraq war -- had gone crazy. He had no idea the gunman was Ali Akbar Mohammadi Rafie, a former member of Mr. Hosseini's band, the Free Keys.

All Mr. Hosseini knew, as he crouched in a corner of his third-floor room sheltered only by a laden coat rack, was that the gunman was now slowly climbing upstairs. He wanted to call the police but could only recall the 1-1-0 number for the police in Tehran.

"That was the worst moment in my life," he said. "I was just sure they just wanted to kill this group of Persians."

Mr. Hosseini listened to the gunfire. Then his door crashed open.

EB000619

First all he saw was the gun, and then he focused on Mr. Rafie's face, wild-eyed, not with anger but with a strange beatific purpose, an almost happy demeanor.

" 'You think my bullets are not going to go through those coats and your body and the wall?' " Mr. Hosseini recalled, using English to recount Mr. Rafie's words, which had been spoken in Persian. "I said, 'Definitely, sure, but don't kill me. Just let me talk to you.' "

For the next several minutes, they spoke, Mr. Rafie, pointing the end of a .308 caliber, Spanish-made assault rifle at Mr. Hosseini, still crouched on the floor.

"He asked me, 'What happened to us?' " Mr. Hosseini recalled.

The two had been friends in Iran, playing music together and accompanying each other on mountain bike rides in the hills north of their Tehran homes. They came to the United States together, hoping to find musical freedom in Brooklyn.

But almost from the moment the men arrived together at Kennedy Airport in December 2011, relations were fraying. Mr. Rafie made little money as a bicycle messenger and began to steal things. He would hop turnstiles, frightening Mr. Hosseini and others who were seeking asylum and trying to assiduously follow the rules.

After about five months, the men kicked Mr. Rafie out of the band and stopped living with him. Mr. Hosseini said that, apart from a text message a few months ago, the two men had not spoken.

Amir Khosravani, 26, who was part of the same musical underground in Tehran, said he had spoken with Mr. Rafie recently. Though the others would complain that Mr. Rafie owed them money, Mr. Rafie always maintained he did not. "He told me, 'O.K., I have a job, and I have everything -- they don't have anything, I have a new job and I have a girlfriend,' " Mr. Khosravani recalled.

Recently things got worse.

Mr. Rafie began making extremely paranoid statements, Mr. Khosravani said, and described working for the Freemasons. Mr. Rafie said he was being prepared for a secret mission to blow up a government building in New York.

In the last few weeks, however, Mr. Khosravani thought Mr. Rafie was getting better; he did not call as he usually had when he was feeling despondent. When Mr. Rafie posted a photo of a rifle on Facebook and seemed to threaten Anthony Azar, the bassist who had replaced him in the Free Keys, Mr. Khosravani did not alert the others, assuming it was a joke.

It was not. Mr. Rafie walked across adjacent rooftops Monday night to get to the house on Maujer Street. Through a third-floor balcony window, he shot and killed Ali Eskandarian, 35. Then he marched through the home, killing Arash Farazmand, 28, on the third floor, and his brother Soroush Farazmand, 27, on the second floor, before returning upstairs.

Gripping the gun in Mr. Hosseini's room, Mr. Rafie rattled off personal grievances and a bizarre conspiracy theory. "He said, 'You had a plan to bring me here and put me in a band, but you did it just to bring me here and fix me with a group of Freemasonry,' " Mr. Hosseini recalled the gunman saying.

As Mr. Rafie's eyes settled on a spot just above Mr. Hosseini, he announced, "I need to kill you and then I need to kill myself. This is what I have to do. This is what I have to do."

Mr. Hosseini began speaking rapidly, certain that if he stopped, he would be killed. "I said, 'Don't kill me! Don't kill me! Let me talk and then do it,' " he said. After a minute, Mr. Rafie ordered him to "come out and stand up."

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Chest to chest, only the gun between them, the men spoke for three or four more minutes, Mr. Hosseini said. "I was just saying whatever came to my mind. To just make the time pass because I heard the cops," he said.

Mr. Rafie heard the sirens, too. When Mr. Rafie turned his head, Mr. Hosseini grabbed the barrel of the gun and, as they wrestled over the weapon for several moments, bullets sprayed into the ceiling and the floor. "He was turning the gun everywhere," he said. Then the clip was empty and there was blood on both men. Mr. Hosseini knew he had not been hit but decided to seize the moment.

"I just screamed so bad in his face -- 'You shot me in my stomach!' -- and he got shocked," he said. Mr. Hosseini then tackled Mr. Rafie, knocking him onto a bed, and pressed his knee on his arm, preventing him from reloading. An extra magazine fell to the floor.

The men rose and Mr. Rafie, carrying additional ammunition, headed for the roof, trying unsuccessfully to drag Mr. Hosseini with him. But Mr. Rafie heard the police outside and instead ran alone through the roof door, which Mr. Hosseini rushed up to lock.

Mr. Hosseini then descended to the first floor where he encountered the police. A few moments later a single gunshot could be heard from the roof.

Mr. Rafie was dead.

"I really wish he didn't kill himself," Mr. Hosseini said. "When somebody kills himself, he makes it easy for himself. I didn't want it to be easy. I wish he was in jail for all of his life."

PHOTOS: Pooya Hosseini, who fought off a former bandmate who had already killed three men, speaking with the police after the shootings on Monday. (PHOTOGRAPH BY ELLEN MOYNIHAN); Ali Akbar Mohammadi Rafie

---- **Index References** ----

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EXHIBIT 6

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction



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

JUL 06 1989

MEMORANDUM TO: Director

FROM: Associate Director (Compliance Operations)

SUBJECT: Report and Recommendation on the
Importability of Certain Semiautomatic Rifles

The working group has completed its evaluation of the semiautomatic rifles whose importation was suspended pending a determination as to whether these weapons are, as required by 18 U.S.C. § 925(d)(3), of a type "generally recognized as particularly suitable for or readily adaptable to sporting purposes".

Attached for your review and approval is the report and recommendation on the importability of these rifles.

Daniel R. Black
Daniel Black

Attachment

Approved: *Stephen E. Higgins 7/6/89*

Disapprove: _____

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**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

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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).

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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.

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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

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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

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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.

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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

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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.

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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.

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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.

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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).

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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.

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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.

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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.

EXHIBIT 7

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction



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 non-sporting 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.

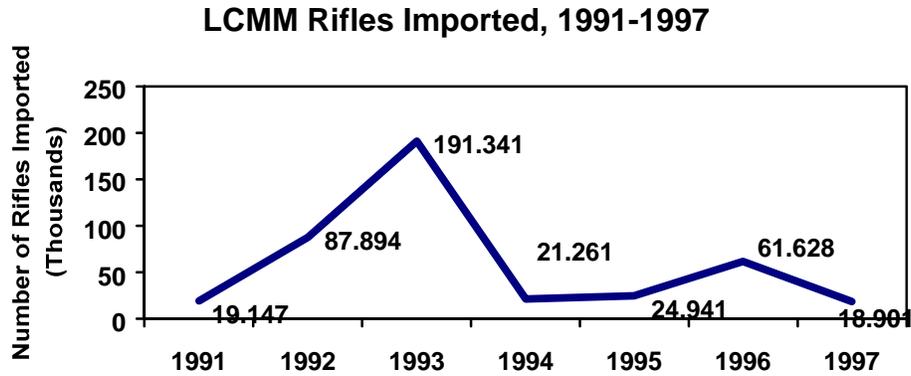


Figure 2

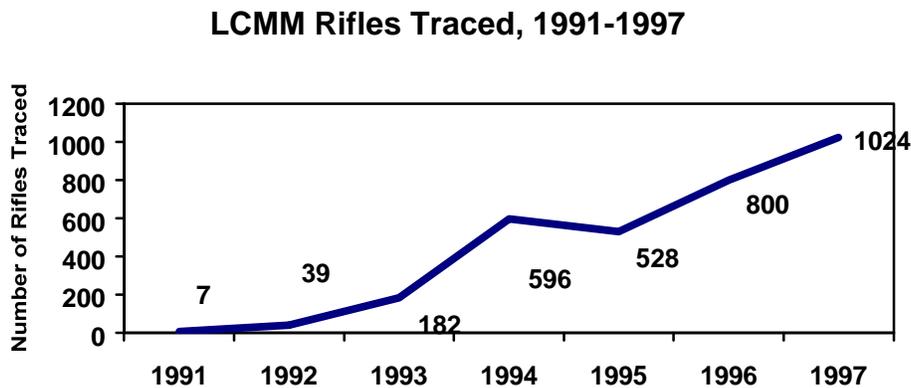


Figure 3

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.

EB000683

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

EB000685

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:

L1A1 Sporter
 FAL Sporter
 FZSA
 SAR4800
 X FAL
 C3
 C3A
 LAR Sporter

Saiga rifle
 Galil Sporter
 Haddar
 Haddar II
 WUM 1
 WUM 2
 SLR95
 SLR96
 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

Exhibit 3

FN-FAL Variants



FN-FAL semiautomatic assault rifle



L1A1 Sporter



SAR 4800

HK 91 and 93 Variants



HK91 semiautomatic assault rifle



SR9



SAR 8

EB000688

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

EB000689

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 <i>(Qualifying score is 75 points)</i>			SCORE ACHIEVED <i>(Qualifying score is 45 points)</i>		

EB000690

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.

[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 plinking. 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

EB000694

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
John W. Magaw
Director

Enclosure

EB000698

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

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

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.)

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					

EB000701

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

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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

EB000703

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

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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

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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				

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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	

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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

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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				

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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				

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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				

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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	30.06
C 28				
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				

Hunting Guides

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		

EB000721

Hunting Guides

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

Hunting Guides

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				

EB000723

Hunting Guides

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				

Hunting Guides

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				

EB000725

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				

Hunting Guides

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				

EB000727

Hunting Guides

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				

Hunting Guides

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

EB000729

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				

Hunting Guides

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				

EB000731

Hunting Guides

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.

EB000733

- (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.

EB000735

- (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.

EB000736

- (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.

EB000737

- (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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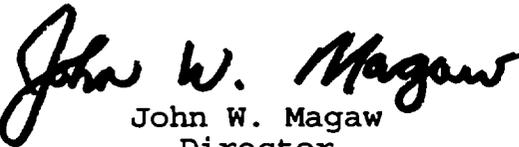
Dear Sir or Madam:

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

EB000739

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>

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.

EB000740

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.

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

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**.

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

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.

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.

EB000741

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.

EB000742



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. 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

EB000743

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.

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: _____

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.

EB000745

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

EB000746

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.

EB000747

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.

EB000749

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.

EB000751

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:

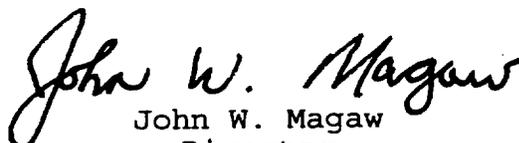
On November 14, 1997, the President and the Secretary of the Treasury decided to conduct a review to determine whether modified semiautomatic assault rifles are properly importable under Federal law. Under 18 U.S.C. section 925(d)(3), firearms may be imported into the United States only if they are determined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

EB000754

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."

EB000755

- (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.

EB000757

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.

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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.

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- (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.

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- (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.

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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.

EXHIBIT 8

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

H.R. REP. 103-489, H.R. Rep. No. 489, 103RD Cong., 2ND Sess.
1994, 1994 WL 168883, 1994 U.S.C.A.N. 1820 (Leg.Hist.)
, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

PUBLIC SAFETY AND RECREATIONAL FIREARMS USE PROTECTION ACT

DATES OF CONSIDERATION AND PASSAGE

House: November 3, 1993; March 23, April 14, 19, 20, 21, May 5, August 19, 21, 1994
Senate: November 3, 4, 5, 8, 9, 10, 11, 16, 17, 18, 19, 1993; May 19, August 22, 23, 24, 25, 1994
Cong. Record Vol. 139 (1993)
Cong. Record Vol. 140 (1994)
House Report (Judiciary Committee) No. 103-324,
Nov. 3, 1993 (To accompany H.R. 3355)
House Report (Judiciary Committee) No. 103-489,
May 2, 1994 (To accompany H.R. 4296)
[House Conference Report No. 103-694](#),
Aug. 10, 1994 (To accompany H.R. 3355)
[House Conference Report No. 103-711](#),
Aug. 21, 1994 (To accompany H.R. 3355)

RELATED REPORTS

House Report (Judiciary Committee) No. 103-45,
Mar. 29, 1993 (To accompany H.R. 829)
House Report (Judiciary Committee) No. 103-245,
Sept. 21, 1993 (To accompany H.R. 1385)
House Report (Judiciary Committee) No. 103-320,
Nov. 3, 1993 (To accompany H.R. 3350)
House Report (Judiciary Committee) No. 103-321,
Nov. 3, 1993 (To accompany H.R. 3351)
House Report (Judiciary Committee) No. 103-322,
Nov. 3, 1993 (To accompany H.R. 3353)
House Report (Judiciary Committee) No. 103-323,
Nov. 3, 1993 (To accompany H.R. 3354)
House Report (Judiciary Committee) No. 103-389,
Nov. 20, 1993 (To accompany H.R. 3098)
House Report (Judiciary Committee) No. 103-392,
Nov. 20, 1993 (To accompany H.R. 324)
House Report (Judiciary Committee) No. 103-395,
Nov. 20, 1993 (To accompany H.R. 1130)
House Report (Natural Resources Committee) No. 103-444,
Mar. 21, 1994 (To accompany H.R. 4034)
House Report (Judiciary Committee) No. 103-459,
Mar. 24, 1994 (To accompany H.R. 4033)
House Report (Judiciary Committee) No. 103-460,
Mar. 24, 1994 (To accompany H.R. 3979)
House Report (Judiciary Committee) No. 103-461,

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Mar. 25, 1994 (To accompany H.R. 1120)
House Report (Judiciary Committee) No. 103-462,
Mar. 25, 1994 (To accompany H.R. 3968)
House Report (Judiciary Committee) No. 103-463,
Mar. 25, 1994 (To accompany H.R. 3981)
House Report (Judiciary Committee) No. 103-464,
Mar. 25, 1994 (To accompany H.R. 4030)
House Report (Judiciary Committee) No. 103-465,
Mar. 25, 1994 (To accompany H.R. 4031)
House Report (Judiciary Committee) No. 103-466,
Mar. 25, 1994 (To accompany H.R. 4032)
House Report (Judiciary Committee) No. 103-468,
Mar. 25, 1994 (To accompany H.R. 665)
House Report (Judiciary Committee) No. 103-469,
Mar. 25, 1994 (To accompany H.R. 3993)
House Report (Judiciary Committee) No. 103-489,
May 2, 1994 (To accompany H.R. 4296)
House Report (Judiciary Committee) No. 103-138,
Sept. 10, 1994 (To accompany S. 11)

HOUSE REPORT NO. 103-489

May 2, 1994
[To accompany H.R. 4296]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4296) to make unlawful the transfer or possession of assault weapons, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Public Safety and Recreational Firearms Use Protection Act”.

SEC. 2. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMIAUTOMATIC ASSAULT WEAPONS.

(a) Restriction.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

“(v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.

“(2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed on the date of the enactment of this subsection.

“(3) Paragraph (1) shall not apply to—

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“(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;

“(B) any firearm that—

“(i) is manually operated by bolt, pump, lever, or slide action;

“(ii) has been rendered permanently inoperable; or

“(iii) is an antique firearm;

“(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

“(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.

The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this Act is in effect.

“(4) Paragraph (1) shall not apply to—

“(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

“(B) the transfer of a semiautomatic assault weapon by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase firearms for official use;

“(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

“(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.”.

(b) Definition of Semiautomatic Assault Weapon.—Section 921(a) of such title is amended by adding at the end the following:

“(30) The term ‘semiautomatic assault weapon’ means—

“(A) any of the firearms, or copies or duplicates of the firearms, known as—

“(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);

“(ii) Action Arms Israeli Military Industries UZI and Galil;

“(iii) Beretta Ar70 (SC-70);

“(iv) Colt AR-15;

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“(v) Fabrique National FN/FAL, FN/LAR, and FNC;

“(vi) SWD M-10, M-11, M-11/9, and M-12;

“(vii) Steyr AUG;

“(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

“(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

“(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of-

“(i) a folding or telescoping stock;

“(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

“(iii) a bayonet mount;

“(iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and

“(v) a grenade launcher;

“(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of-

“(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;

“(ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;

“(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;

“(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and

“(v) a semiautomatic version of an automatic firearm; and

“(D) a semiautomatic shotgun that has at least 2 of-

“(i) a folding or telescoping stock;

“(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

“(iii) a fixed magazine capacity in excess of 5 rounds; and

“(iv) an ability to accept a detachable magazine.”.

(c) Penalties.-

(1) Violation of [section 922\(v\)](#).-[Section 924\(a\)\(1\)\(B\)](#) of such title is amended by striking “or (q) of [section 922](#)” and inserting “(r), or (v) of [section 922](#)”.

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(2) Use or possession during crime of violence or drug trafficking crime.—Section 924(c)(1) of such title is amended in the first sentence by inserting “, or semiautomatic assault weapon,” after “short-barreled shotgun.”

(d) Identification Markings for Semiautomatic Assault Weapons.—Section 923(i) of such title is amended by adding at the end the following: “The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured.”

SEC. 3. RECORDKEEPING REQUIREMENTS FOR TRANSFERS OF GRANDFATHERED FIREARMS.

(a) Offense.—Section 922 of title 18, United States Code, as amended by section 2(a) of this Act, is amended by adding at the end the following:

“(w)(1) It shall be unlawful for a person to sell, ship, or deliver a semiautomatic assault weapon to a person who has not completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

“(2) It shall be unlawful for a person to receive a semiautomatic assault weapon unless the person has completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

“(3) If a person receives a semiautomatic assault weapon from anyone other than a licensed dealer, both the person and the transferor shall retain a copy of the form 4473 completed in connection with the transfer.

“(4) Within 90 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations ensuring the availability of form 4473 to owners of semiautomatic assault weapons.

“(5) As used in this subsection, the term ‘form 4473’ means—

“(A) the form which, as of the date of the enactment of this subsection, is designated by the Secretary as form 4473; or

“(B) any other form which—

“(i) is required by the Secretary, in lieu of the form described in subparagraph (A), to be completed in connection with the transfer of a semiautomatic assault weapon; and

“(ii) when completed, contains, at a minimum, the information that, as of the date of the enactment of this subsection, is required to be provided on the form described in subparagraph (A).”

(b) Penalty.—Section 924(a) of such title is amended by adding at the end the following:

“(6) A person who knowingly violates section 922(w) shall be fined not more than \$1,000, imprisoned not more than 6 months, or both. Section 3571 shall not apply to any offense under this paragraph.”

SEC. 4. BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) Prohibition.—Section 922 of title 18, United States Code, as amended by sections 2 and 3 of this Act, is amended by adding at the end the following:

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“(x)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

“(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on the date of the enactment of this subsection.

“(3) This subsection shall not apply to—

“(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

“(B) the transfer of a large capacity ammunition feeding device by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase large capacity ammunition feeding devices for official use;

“(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or

“(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.”.

(b) Definition of Large Capacity Ammunition Feeding Device.—Section 921(a) of such title, as amended by section 2(b) of this Act, is amended by adding at the end the following:

“(31) The term ‘large capacity ammunition feeding device’—

“(A) means—

“(i) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; and

“(ii) any combination of parts from which a device described in clause (i) can be assembled; but

“(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.”.

(c) Large Capacity Ammunition Feeding Devices Treated as Firearms.—Section 921(a)(3) of such title is amended in the first sentence by striking “or (D) any destructive device.” and inserting “(D) any destructive device; or (E) any large capacity ammunition feeding device.”.

(d) Penalty.—Section 924(a)(1)(B) of such title, as amended by section 2(c) of this Act, is amended by striking “or (v)” and inserting “(v), or (x)”.

(e) Identification Markings for Large Capacity Ammunition Feeding Devices.—Section 923(i) of such title, as amended by section 2(d) of this Act, is amended by adding at the end the following: “A large capacity ammunition feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.”.

EB000775

SEC. 5. STUDY BY ATTORNEY GENERAL.

(a) Study.—The Attorney General shall investigate and study the effect of this Act and the amendments made by this Act, and in particular shall determine their impact, if any, on violent and drug trafficking crime. The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment of this Act.

(b) Report.—Not later than 30 months after the date of enactment of this Act, the Attorney General shall prepare and submit to the Congress a report setting forth in detail the findings and determinations made in the study under subsection (a).

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act—

- (1) shall take effect on the date of the enactment of this Act; and
- (2) are repealed effective as of the date that is 10 years after that date.

SEC. 7. APPENDIX A TO SECTION 922 OF TITLE 18.

Section 922 of title 18, United States Code, is amended by adding at the end the following appendix:

“APPENDIX A

.....
Centerfire Rifles—Autoloaders
.....

- Browning BAR Mark II Safari Semi-Auto Rifle
- Browning BAR Mark II Safari Magnum Rifle
- Browning High-Power Rifle
- Heckler & Koch Model 300 Rifle
- Iver Johnson M-1 Carbine
- Iver Johnson 50th Anniversary M-1 Carbine
- Marlin Model 9 Camp Carbine
- Marlin Model 45 Carbine
- Remington Nylon 66 Auto-Loading Rifle
- Remington Model 7400 Auto Rifle
- Remington Model 7400 Rifle

EB000776

Remington Model 7400 Special Purpose Auto Rifle
Ruger Mini-14 Autoloading Rifle (w/o folding stock)
Ruger Mini Thirty Rifle

Centerfire Rifles–Lever & Slide

Browning Model 81 BLR Lever-Action Rifle
Browning Model 81 Long Action BLR
Browning Model 1886 Lever-Action Carbine
Browning Model 1886 High Grade Carbine
Cimarron 1860 Henry Replica
Cimarron 1866 Winchester Replicas
Cimarron 1873 Short Rifle
Cimarron 1873 Sporting Rifle
Cimarron 1873 30” Express Rifle
Dixie Engraved 1873 Rifle
E.M.F. 1866 Yellowboy Lever Actions
E.M.F. 1860 Henry Rifle
E.M.F. Model 73 Lever-Actions Rifle
Marlin Model 336CS Lever-Action Carbine
Marlin Model 30AS Lever-Action Carbine
Marlin Model 444SS Lever-Action Sporter
Marlin Model 1894S Lever-Action Carbine
Marlin Model 1894CS Carbine
Marlin Model 1894CL Classic
Marlin Model 1895SS Lever-Action Rifle
Mitchell 1858 Henry Replica
Mitchell 1866 Winchester Replica
Mitchell 1873 Winchester Replica

EB000777

Navy Arms Military Henry Rifle
Navy Arms Henry Trapper
Navy Arms Iron Frame Henry
Navy Arms Henry Carbine
Navy Arms 1866 Yellowboy Rifle
Navy Arms 1873 Winchester-Style Rifle
Navy Arms 1873 Sporting Rifle
Remington 7600 Slide Action
Remington Model 7600 Special-Purpose Slide Action
Rossi M92 SRC Saddle-Ring Carbine
Rossi M92 SRS Short Carbine
Savage 99C Leber-Action Rifle
Uberti Henry Rifle
Uberti 1866 Sporting Rifle
Uberti 1873 Sporting Rifle
Winchester Model 94 Side Eject Lever-Action Rifle
Winchester Model 94 Trapper Side Eject
Winchester Model 94 Big Bore Side Eject
Winchester Model 94 Ranger Side Eject Lever-Action Rifle
Winchester Model 94 Wrangler Side Eject

Centerfire Rifles—Bolt Action

Alpine Bolt-Action Rifle
A-Square Caesar Bolt-Action Rifle
A-Square Hannibal Bolt-Action Rifle
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700D Bavarian Bolt-Action Rifle

EB000778

Anschutz 1733D Mannlicher Rifle

Barret Model 90 Bolt-Action Rifle

Beeman/HW 60J Bolt-Action Rifle

Blaser R84 Bolt-Action Rifle

BRNO 537 Sporter Bolt-Action Rifle

BRNO ZKB 527 Fox Bolt-Action Rifle

BRNO ZKK 600, 601, 602 Bolt-Action Rifles

Browning A-Bolt Rifle

Browning A-Bolt Stainless Stalker

Browning A-Bolt Left Hand

Browning A-Bolt Short Action

Browning Euro-Bolt Rifle

Browning A-Bolt Gold Medallion

Browning A-Bolt Micro Medallion

Century Centurion 14 Sporter

Century Enfield Sporter #4

Century Swedish Sporter #38

Century Mauser 98 Sporter

Cooper Model 38 Centerfire Sporter

Dakota 22 Sporter Bolt-Action Rifle

Dakota 76 Classic Bolt-Action Rifle

Dakota 76 Short Action Rifles

Dakota 76 Safari Bolt-Action Rifle

Dakota 416 Rigby African

E.A.A./Sabatti Rover 870 Bolt-Action Rifle

Auguste Francotte Bolt-Action Rifles

Carl Gustaf 2000 Bolt-Action Rifle

Heym Magnum Express Series Rifle

Howa Lightning Bolt-Action Rifle

EB000779

Howa Realtree Camo Rifle
Interarms Mark X Viscount Bolt-Action Rifle
Interarms Mini-Mark X Rifle
Interarms Mark X Whitworth Bolt-Action Rifle
Interarms Whitworth Express Rifle
Iver Johnson Model 5100A1 Long-Range Rifle
KDF K15 American Bolt-Action Rifle
Krico Model 600 Bolt-Action Rifle
Krico Model 700 Bolt-Action Rifle
Mauser Model 66 Bolt-Action Rifle
Mauser Model 99 Bolt-Action Rifle
McMillan Signature Classic Sporter
McMillan Signature Super Varminter
McMillan Signature Alaskan
McMillan Signature Titanium Mountain Rifle
McMillan Classic Stainless Sporter
McMillan Talon Safari Rifle
McMillan Talon Sporter Rifle
Midland 1500S Survivor Rifle
Navy Arms TU-33/40 Carbine
Parker-Hale Model 81 Classic Rifle
Parker-Hale Model 81 Classic African Rifle
Parker-Hale Model 1000 Rifle
Parker-Hale Model 1000M African Rifle
Parker-Hale Model 1100 Lightweight Rifle
Parker-Hale Model 1200 Super Rifle
Parker-Hale Model 1200 Super Clip Rifle
Parker-Hale Model 1300C Scout Rifle
Parker-Hale Model 2100 Midland Rifle

EB000780

Parker-Hale Model 2700 Lightweight Rifle
Parker-Hale Model 2800 Midland Rifle
Remington Model Seven Bolt-Action Rifle
Remington Model Seven Youth Rifle
Remington Model Seven Custom KS
Remington Model Seven Custom MS Rifle
Remington 700 ADL Bolt-Action Rifle
Remington 700 BDL Bolt-Action Rifle
Remington 700 BDL Varmint Special
Remington 700 BDL European Bolt-Action Rifle
Remington 700 Varmint Synthetic Rifle
Remington 700 BDL SS Rifle
Remington 700 Stainless Synthetic Rifle
Remington 700 MTRSS Rifle
Remington 700 BDL Left Hand
Remington 700 Camo Synthetic Rifle
Remington 700 Safari
Remington 700 Mountain Rifle
Remington 700 Custom KS Mountain Rifle
Remington 700 Classic Rifle
Ruger M77 Mark II Rifle
Ruger M77 Mark II Magnum Rifle
Ruger M77RL Ultra Light
Ruger M77 Mark II All-Weather Stainless Rifle
Ruger M77 RSI International Carbine
Ruger M77 Mark II Express Rifle
Ruger M77VT Target Rifle
Sako Hunter Rifle
Sako Fiberclass Sporter

EB000781

Sako Hunter Left-Hand Rifle
Sako Classic Bolt Action
Sako Hunter LS Rifle
Sako Deluxe Lightweight
Sako Super Deluxe Sporter
Sako Mannlicher-Style Carbine
Sako Varmint Heavy Barrel
Sako TRG-S Bolt-Action Rifle
Sauer 90 Bolt-Action Rifle
Savage 110G Bolt-Action Rifle
Savage 110CY Youth/Ladies Rifle
Savage 110WLE One of One Thousand Limited Edition Rifle
Savage 110GXP3 Bolt-Action Rifle
Savage 110F Bolt-Action Rifle
Savage 110FXP3 Bolt-Action Rifle
Savage 110GV Varmint Rifle
Savage 110FV Varmint Rifle
Savage Model 110FVS Varmint Rifle
Savage Model 112BV Heavy Barrel Varmint Rifle
Savage 116FSS Bolt-Action Rifle
Savage Model 116SK Kodiak Rifle
Savage 110FP Polic Rifle
Steyr-Mannlicher Sporter Models SL, L, M, S, S/T
Steyr-Mannlicher Luxus Model L, M, S
Steyr-Mannlicher Model M Professional Rifle
Tikka Bolt-Action Rifle
Tikka Premium Grade Rifle
Tikka Varmint/Continental Rifle
Tikka Whitetail/Battue Rifle

EB000782

Ultra Light Arms Model 20 Rifle
Ultra Light Arms Model 28, Model 40 Rifles
Voere VEC 91 Lightning Bolt-Action Rifle
Voere Model 2166 Bolt-Action Rifle
Voere Model 2155, 2150 Bolt-Action Rifles
Weatherby Mark V Deluxe Bolt-Action Rifle
Weatherby Lasermark V Rifle
Weatherby Mark V Crown Custom Rifles
Weatherby Mark V Safari Grade Custom Rifle
Weatherby Mark V Sporter Rifle
Weatherby Mark V Safari Grade Custom Rifles
Weatherby Weathermark Rifle
Weatherby Weathermark Alaskan Rifle
Weatherby Classicmark No. 1 Rifle
Weatherby Weatherguard Alaskan Rifle
Weatherby Vanguard VGX Deluxe Rifle
Weatherby Vanguard Classic Rifle
Weatherby Vanguard Classic No. 1 Rifle
Weatherby Vanguard Weathermark Rifle
Wichita Classis Rifle
Wichita Varmint Rifle
Winchester Model 70 Sporter
Winchester Model 70 Sporter WinTuff
Winchester Model 70 SM Sporter
Winchester Model 70 Stainless Rifle
Winchester Model 70 Varmint
Winchester Model 70 Synthetic Heavy Varmint Rifle
Winchester Model 70 DBM Rifle
Winchester Model 70 DBM-S Rifle

EB000783

Winchester Model 70 Featherweight
Winchester Model 70 Featherweight WinTuff
Winchester Model 70 Featherweight Classic
Winchester Model 70 Lightweight Rifle
Winchester Ranger Rifle
Winchester Model 70 Super Express Magnum
Winchester Model 70 Super Grade
Winchester Model 70 Custom Sharpshooter
Winchester Model 70 Custom Sporting Sharpshooter Rifle

Centerfire Rifles—Single Shot

Armsport 1866 Sharps Rifle, Carbine
Brown Model One Single Shot Rifle
Browning Model 1885 Single Shot Rifle
Dakota Single Shot Rifle
Desert Industries G-90 Single Shot Rifle
Harrington & Richardson Ultra Varmint Rifle
Model 1885 High Wall Rifle
Navy Arms Rolling Block Buffalo Rifle
Navy Arms #2 Creedmoor Rifle
Navy Arms Sharps Cavalry Carbine
Navy Arms Sharps Plains Rifle
New England Firearms Handi-Rifle
Red Willow Armory Ballard No. 5 Pacific
Red Willow Armory Ballard No. 1.5 Hunting Rifle
Red Willow Armory Ballard No. 8 Union Hill Rifle
Red Willow Armory Ballard No. 4.5 Target Rifle
Remington-Style Rolling Block Carbine

EB000784

Ruger No. 1B Single Shot
Ruger No. 1A Light Sporter
Ruger No. 1H Tropical Rifle
Ruger No. 1S Medium Sporter
Ruger No. 1 RSI International
Ruger No. 1V Special Varminter
C. Sharps Arms New Model 1874 Old Reliable
C. Sharps Arms New Model 1875 Rifle
C. Sharps Arms 1875 Classic Sharps
C. Sharps Arms New Model 1875 Target & Long Range
Shiloh Sharps 1874 Long Range Express
Shiloh Sharps 1874 Montana Roughrider
Shiloh Sharps 1874 Military Carbine
Shiloh Sharps 1874 Business Rifle
Shiloh Sharps 1874 Military Rifle
Sharps 1874 Old Reliable
Thompson/Center Contender Carbine
Thompson/Center Stainless Contender Carbine
Thompson/Center Contender Carbine Survival System
Thompson/Center Contender Carbine Youth Model
Thompson/Center TCR '87 Single Shot Rifle
Uberti Rolling Block Baby Carbine

Drillings, Combination Guns, Double Rifles

Baretta Express SSO O/U Double Rifles
Baretta 455 SxS Express Rifle
Chapuis RGExpress Double Rifle
Auguste Francotte Sidelock Double Rifles

EB000785

Auguste Francotte Boxlock Double Rifle
Heym Model 55B O/U Double Rifle
Heym Model 55FW O/U Combo Gun
Heym Model 88b Side-by-Side Double Rifle
Kodiak Mk. IV Double Rifle
Kreighoff Teck O/U Combination Gun
Kreighoff Trumpf Drilling
Merkel Over/Under Combination Guns
Merkel Drillings
Merkel Model 160 Side-by-Side Double Rifles
Merkel Over/Under Double Rifles
Savage 24F O/U Combination Gun
Savage 24F-12T Turkey Gun
Springfield Inc. M6 Scout Rifle/Shotgun
Tikka Model 412s Combination Gun
Tikka Model 412S Double Fire
A. Zoli Rifle-Shotgun O/U Combo

Rimfire Rifles—Autoloaders

AMT Lightning 25/22 Rifle
AMT Lightning Small-Game Hunting Rifle II
AMT Mannum Hunter Auto Rifle
Anschutz 525 Deluxe Auto
Armscor Model 20P Auto Rifle
Browning Auto-22 Rifle
Browning Auto-22 Grade VI
Krico Model 260 Auto Rifle
Lakefield Arms Model 64B Auto Rifle

EB000786

- Marlin Model 60 Self-Loading Rifle
- Marlin Model 60ss Self-Loading Rifle
- Marlin Model 70 HC Auto
- Marlin Model 990I Self-Loading Rifle
- Marlin Model 70P Papoose
- Marlin Model 922 Magnum Self-Loading Rifle
- Marlin Model 995 Self-Loading Rifle
- Norinco Model 22 ATD Rifle
- Remington Model 522 Viper Autoloading Rifle
- Remington 522BDL Speedmaster Rifle
- Ruger 10/22 Autoloading Carbine (w/o folding stock)
- Survival Arms AR-7 Explorer Rifle
- Texas Remington Revolving Carbine
- Voere Model 2115 Auto Rifle

Rimfire Rifles–Lever & Slide Action

-
- Browning BL-22 Lever-Action Rifle
 - Marlin 39TDS Carbine
 - Marlin Model 39AS Golden Lever-Action Rifle
 - Remington 572BDL Fieldmaster Pump Rifle
 - Norinco EM-321 Pump Rifle
 - Rossi Model 62 SA Pump Rifle
 - Rossi Model 62 SAC Carbine
 - Winchester Model 9422 Lever-Action Rifle
 - Winchester Model 9422 Magnum Lever-Action Rifle

Rimfire Rifles–Bolt Actions & Single Shots

EB000787

Anschutz Achiever Bolt-Action Rifle
Anschutz 1416D/1516D Classic Rifles
Anschutz 1418D/1518D Mannlicher Rifles
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700 FWT Bolt-Action Rifle
Anschutz 1700D Graphite Custom Rifle
Anschutz 1700D Bavarian Bolt-Action Rifle
Armstrong Model 14P Bolt-Action Rifle
Armstrong Model 1500 Rifle
BRNO ZKM-452 Deluxe Bolt-Action Rifle
BRNO ZKM 452 Deluxe
Beeman/HW 60-J-ST Bolt-Action Rifle
Browning A-Bolt 22 Bolt-Action Rifle
Browning A-Bolt Gold Medallion
Cabanas Phaser Rifle
Cabanas Master Bolt-Action Rifle
Cabanas Espronceda IV Bolt-Action Rifle
Cabanas Leyre Bolt-Action Rifle
Chipmunk Single Shot Rifle
Cooper Arms Model 36S Sporter Rifle
Dakota 22 Sporter Bolt-Action Rifle
Krico Model 300 Bolt-Action Rifles
Lakefield Arms Mark II Bolt-Action Rifle
Lakefield Arms Mark I Bolt-Action Rifle
Magtech Model MT-22C Bolt-Action Rifle
Marlin Model 880 Bolt-Action Rifle
Marlin Model 881 Bolt-Action Rifle
Marlin Model 882 Bolt-Action Rifle

EB000788

Marlin Model 883 Bolt-Action Rifle
Marlin Model 883SS Bolt-Action Rifle
Marlin Model 25MN Bolt-Action Rifle
Marlin Model 25N Bolt-Action Repeater
Marlin Model 15YN “Little Buckaroo”
Mauser Model 107 Bolt-Action Rifle
Mauser Model 201 Bolt-Action Rifle
Navy Arms TU-KKW Training Rifle
Navy Arms TU-30/40 Carbine
Navy Arms TU-KKW Sniper Trainer
Norinco JW-27 Bolt-Action Rifle
Norinco JW-15 Bolt-Action Rifle
Remington 541-T
Remington 40-XR Rimfire Custom Sporter
Remington 541-T HB Bolt-Action Rifle
Remington 581-S Sportsman Rifle
Ruger 77/22 Rimfire Bolt-Action Rifle
Ruger K77/22 Varmint Rifle
Ultra Light Arms Model 20 RF Bolt-Action Rifle
Winchester Model 52B Sporting Rifle

Competition Rifles—Centerfire & Rimfire

Anschutz 64-MS Left Silhouette
Anschutz 1808D RT Super Match 54 Target
Anschutz 1827B Biathlon Rifle
Anschutz 1903D Match Rifle
Anschutz 1803D Intermediate Match
Anschutz 1911 Match Rifle

EB000789

Anschutz 54.18MS REP Deluxe Silhouette Rifle
Anschutz 1913 Super Match Rifle
Anschutz 1907 Match Rifle
Anschutz 1910 Super Match II
Anschutz 54.18MS Silhouette Rifle
Anschutz Super Match 54 Targe Model 2013
Anschutz Super Match 54 Targe Model 2007
Beeman/Feinwerkbau 2600 Target Rifle
Cooper Arms Model TRP-1 ISU Standard Rifle
E.A.A./Weihrauch HW 60 Target Rifle
E.A.A./HW 60 Match Rifle
Finnish Lion Standard Target Rifle
Krico Model 360 S2 Biathlon Rifle
Krico Model 400 Match Rifle
Krico Model 360S Biathlon Rifle
Krico Model 500 Kricotronic Match Rifle
Krico Model 600 Sniper Rifle
Krico Model 600 Match Rifle
Lakefield Arms Model 90B Target Rifle
Lakefield Arms Model 91T Target Rifle
Lakefield Arms Model 92S Silhouette Rifle
Marlin Model 2000 Target Rifle
Mauser Model 86-SR Specialty Rifle
McMillan M-86 Sniper Rifle
McMillan Combo M-87/M-88 50-Caliber Rifle
McMillan 300 Phoenix Long-Range Rifle
McMillan M-89 Sniper Rifle
McMillan National Match Rifle
McMillan Long-Range Rifle

EB000790

- Parker-Hale M-87 Target Rifle
- Parker-Hale M-85 Sniper Rifle
- Remington 40-XB Rangemaster Target Centerfire
- Remington 40-XR KS Rimfire Position Rifle
- Remington 40-XBBR KS
- Remington 40-XC KS National Match Course Rifle
- Sako TRG-21 Bolt-Action Rifle
- Steyr-Mannlicher Match SPG-UIT Rifle
- Steyr-Mannlicher SSG P-I Rifle
- Steyr-Mannlicher SSG P-III Rifle
- Steyr-Mannlicher SSG P-IV Rifle
- Tanner Standard UIT Rifle
- Tanner 50 Meter Free Rifle
- Tanner 300 Meter Free Rifle
- Wichita Silhouette Rifle

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Shotguns—Autoloaders

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- American Arms/Franchi Black Magic 48/AL
- Benelli Super Black Eagle Shotgun
- Benelli Super Black Eagle Slug Gun
- Benelli M1 Super 90 Field Auto Shotgun
- Benelli Montefeltro Super 90 20-Gauge Shotgun
- Benelli Montefeltro Super 90 Shotgun
- Benelli M1 Sporting Special Auto Shotgun
- Benelli Black Eagle Competition Auto Shotgun
- Beretta A-303 Auto Shotgun
- Beretta 390 Field Auto Shotgun
- Beretta 390 Super Trap, Super Skeet Shotguns

EB000791

Beretta Vittoria Auto Shotgun
Beretta Model 1201F Auto Shotgun
Browning BSA 10 Auto Shotgun
Browning Bsa 10 Stalker Auto Shotgun
Browning A-500R Auto Shotgun
Browning A-500G Auto Shotgun
Browning A-500G Sporting Clays
Browning Auto-5 Light 12 and 20
Browning Auto-5 Stalker
Browning Auto-5 Magnum 20
Browning Auto-5 Magnum 12
Churchill Turkey Automatic Shotgun
Cosmi Automatic Shotgun
Maverick Model 60 Auto Shotgun
Mossberg Model 5500 Shotgun
Mossberg Model 9200 Regal Semi-Auto Shotgun
Mossberg Model 9200 USST Auto Shotgun
Mossberg Model 9200 Camo Shotgun
Mossberg Model 6000 Auto Shotgun
Remington Model 1100 Shotgun
Remington 11-87 Premier shotgun
Remington 11-87 Sporting Clays
Remington 11-87 Premier Skeet
Remington 11-87 Premier Trap
Remington 11-87 Special Purpose Magnum
Remington 11-87 SPS-T Camo Auto Shotgun
Remington 11-87 Special Purpose Deer Gun
Remington 11-87 SPS-BG-Camo Deer/Turkey Shotgun
Remington 11-87 SPS-Deer Shotgun

EB000792

Remington 11-87 Special Purpose Synthetic Camo
Remington SP-10 Magnum-Camo Auto Shotgun
Remington SP-10 Magnum Auto Shotgun
Remington SP-10 Magnum Turkey Combo
Remington 1100 LT-20 Auto
Remington 1100 Special Field
Remington 1100 20-Gauge Deer Gun
Remington 1100 LT-20 Tournament Skeet
Winchester Model 1400 Semi-Auto Shotgun

Shotguns—Slide Actions

Browning Model 42 Pump Shotgun
Browning BPS Pump Shotgun
Browning BPS Stalker Pump Shotgun
Browning BPS Pigeon Grade Pump Shotgun
Browning BPS Pump Shotgun (Ladies and Youth Model)
Browning BPS Game Gun Turkey Special
Browning BPS Game Gun Deer Special
Ithaca Model 87 Supreme Pump Shotgun
Ithaca Model 87 Deerslayer Shotgun
Ithaca Deerslayer II Rifled Shotgun
Ithaca Model 87 Turkey Gun
Ithaca Model 87 Deluxe Pump Shotgun
Magtech Model 586-VR Pump Shotgun
Maverick Models 88, 91 Pump Shotguns
Mossberg Model 500 Sporting Pump
Mossberg Model 500 Camo Pump
Mossberg Model 500 Muzzleloader Combo

EB000793

Mossberg Model 500 Trophy Slugger
Mossberg Turkey Model 500 Pump
Mossberg Model 500 Bantam Pump
Mossberg Field Grade Model 835 Pump Shotgun
Mossberg Model 835 Regal Ulti-Mag Pump
Remington 870 Wingmaster
Remington 870 Special Purpose Deer Gun
Remington 870 SPS-BG-Camo Deer/Turkey Shotgun
Remington 870 SPS-Deer Shotgun
Remington 870 Marine Magnum
Remington 870 TC Trap
Remington 870 Special Purpose Synthetic Camo
Remington 870 Wingmaster Small Gauges
Remington 870 Express Rifle Sighted Deer Gun
Remington 879 SPS Special Purpose Magnum
Remington 870 SPS-T Camo Pump Shotgun
Remington 870 Special Field
Remington 870 Express Turkey
Remington 870 High Grades
Remington 870 Express
Remington Model 870 Express Youth Gun
Winchester Model 12 Pump Shotgun
Winchester Model 42 High Grade Shotgun
Winchester Model 1300 Walnut Pump
Winchester Model 1300 Slug Hunter Deer Gun
Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun
Winchester Model 1300 Turkey Gun
Winchester Model 1300 Ranger Pump Gun

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Shotguns—Over/Unders

American Arms/Franchi Falconet 2000 O/U
American Arms Silver I O/U
American Arms Silver II Shotgun
American Arms Silver Skeet O/U
American Arms/Franchi Sporting 2000 O/U
American Arms Silver Sporting O/U
American Arms Silver Trap O/U
American Arms WS/OU 12, TS/OU 12 Shotguns
American Arms WT/OU 10 Shotgun
Armsport 2700 O/U Goose Gun
Armsport 2700 Series O/U
Armsport 2900 Tri-Barrel Shotgun
Baby Bretton Over/Under Shotgun
Beretta Model 686 Ultralight O/U
Beretta ASE 90 Competition O/U Shotgun
Beretta Over/Under Field Shotguns
Beretta Onyx Hunder Sport O/U Shotgun
Beretta Model SO5, SO6, SO9 Shotguns
Beretta Sporting Clay Shotguns
Beretta 687EL Sporting O/U
Beretta 682 Super Sporting O/U
Beretta Series 682 Competition Over/Unders
Browning Citori O/U Shotgun
Browning Superlight Citori Over/Under
Browning Lightning Sporting Clays
Browning Micro Citori Lightning
Browning Citori Plus Trap Combo

EB000795

Browning Citori Plus Trap Gun
Browning Citori O/U Skeet Models
Browning Citori O/U Trap Models
Browning Special Sporting Clays
Browning Citori GTI Sporting Clays
Browning 325 Sporting Clays
Centurion Over/Under Shotgun
Chapuis Over/Under Shotgun
Connecticut Valley Classics Classic Sporter O/U
Connecticut Valley Classics Classic Field Waterfowler
Charles Daly Field Grade O/U
Charles Daly Lux O/U
E.A.A./Sabatti Sporting Clays Pro-Gold O/U
E.A.A./Sabatti Falcon-Mon Over/Under
Kassnar Grade I O/U Shotgun
Krieghoff K-80 Sporting Clays O/U
Krieghoff K-80 Skeet Shotgun
Krieghoff K-80 International Skeet
Krieghoff K-80 Four-Barrel Skeet Set
Krieghoff K-80/RT Shotguns
Krieghoff K-80 O/U Trap Shotgun
Laurona Silhouette 300 Sporting Clays
Laurona Silhouette 300 Trap
Laurona Super Model Over/Unders
Ljubic LM-6 Deluxe O/U Shotgun
Marocchi Conquista Over/Under Shotgun
Marocchi Avanza O/U Shotgun
Merkel Model 200E O/U Shotgun
Merkel Model 200E Skeet, Trap Over/Unders

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Merkel Model 203E, 303E Over/Under Shotguns
Perazzi Mirage Special Sporting O/U
Perazzi Mirage Special Four-Gauge Skeet
Perazzi Sporting Classic O/U
Perazzi MX7 Over/Under Shotguns
Perazzi Mirage Special Skeet Over/Under
Perazzi MX8/MX8 Special Trap, Skeet
Perazzi MX8/20 Over/Under Shotgun
Perazzi MX9 Single Over/Under Shotguns
Perazzi MX12 Hunting Over/Under
Perazzi MX28, MX410 Game O/U Shotguns
Perazzi MX20 Hunting Over/Under
Piotti Boss Over/Under Shotgun
Remington Peerless Over/Under Shotgun
Ruger Red Label O/U Shotgun
Ruger Sporting Clays O/U Shotgun
San Marco 12-Ga. Wildflower Shotgun
San Marco Field Special O/U Shotgun
San Marco 10-Ga. O/U Shotgun
SKB Model 505 Deluxe Over/Under Shotgun
SKB Model 685 Over/Under Shotgun
SKB Model 885 Over/Under Trap, Skeet, Sporting Clays
Stoeger/IGA Condor I O/U Shotgun
Stoeger/IGA ERA 2000 Over/Under Shotgun
Techni-Mec Model 610 Over/Under
Tikka Model 412S Field Grade Over/Under
Weatherby Athena Grade IV O/U Shotguns
Weatherby Athena Grade V Classic Field O/U
Weatherby Orion O/U Shotguns

EB000797

Weatherby II, III Classic Field O/Us
Weatherby Orion II Classic Sporting Clays O/U
Weatherby Orion II Sporting Clays O/U
Winchester Model 1001 O/U Shotgun
Winchester Model 1001 Sporting Clays O/U
Pietro Zanoletti Model 2000 Field O/U

Shotguns—Side by Sides

American Arms Brittany Shotgun
American Arms Gentry Double Shotgun
American Arms Derby Side-by-Side
American Arms Grulla #2 Double Shotgun
American Arms WS/SS 10
American Arms TS/SS 10 Double Shotgun
American Arms TS/SS 12 Side-by-Side
Arrieta Sidelock Double Shotguns
Armsport 1050 Series Double Shotguns
Arizaga Model 31 Double Shotgun
AYA Boxlock Shotguns
AYA Sidelock Double Shotguns
Beretta Model 452 Sidelock Shotgun
Beretta Side-by-Side Field Shotguns
Crucelegui Hermanos Model 150 Double
Chapuis Side-by-Side Shotgun
E.A.A./Sabatti Sabe-Mon Double Shotgun
Charles Daly Model Dss Double
Ferlib Model F VII Double Shotgun
Auguste Francotte Boxlock Shotgun

EB000798

Auguste Francotte Sidelock Shotgun

Garbi Model 100 Double

Garbi Model 100 Side-by-Side

Garbi Model 103A, B Side-by-Side

Garbi Model 200 Side-by-Side

Bill Hanus Birdgun Doubles

Hatfield Uplander Shotgun

Merkell Model 8, 47E Side-by-Side Shotguns

Merkel Model 47LSC Sporting Clays Double

Merkel Model 47S, 147S Side-by-Sides

Parker Reproductions Side-by-Side

Piotti King No. 1 Side-by-Side

Piotti Lunik Side-by-Side

Piotti King Extra Side-by-Side

Piotti Piuma Side-by-Side

Precision Sports Model 600 Series Doubles

Rizzini Boxlock Side-by-Side

Rizzini Sidelock Side-by-Side

Stoeger/IGA Side-by-Side Shotgun

Ugartechea 10-Ga. Magnum Shotgun

Shotguns—Bolt Actions & Single Shots

Armsport Single Barrel Shotgun

Browning BT-99 Competition Trap Special

Browning BT-99 Plus Trap Gun

Browning BT-99 Plus Micro

Browning Recoilless Trap Shotgun

Browning Micro Recoilless Trap Shotgun

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Desert Industries Big Twenty Shotgun
Harrington & Richardson Topper Model 098
Harrington & Richardson Topper Classic Youth Shotgun
Harrington & Richardson N.W.T.F. Turkey Mag
Harrington & Richardson Topper Deluxe Model 098
Krieghoff KS-5 Trap Gun
Krieghoff KS-5 Special
Krieghoff KS-80 Single Barrel Trap Gun
Ljutic Mono Gun Single Barrel
Ljutic LTX Super Deluxe Mono Gun
Ljutic Recoilless Space Gun Shotgun
Marlin Model 55 Goose Gun Bolt Action
New England Firearms Turkey and Goose Gun
New England Firearms N.W.T.F. Shotgun
New England Firearms Tracker Slug Gun
New England Firearms Standard Pardner
New England Firearms Survival Gun
Perazzi TM1 Special Single Trap
Remington 90-T Super Single Shotgun
Snake Charmer II Shotgun
Stoeger/IGA Reuna Single Barrel Shotgun
Thompson/Center TCR '87 Hunter Shotgun.”.

SUMMARY AND PURPOSE

The purpose of this bill is to create criminal penalties for the manufacture, transfer, or possession of certain firearms within the category of firearms known as “semiautomatic assault weapons.” It also creates such penalties for certain ammunition feeding devices, as well as any combination of parts from which such a device can be assembled.

In reporting legislation banning certain assault weapons last Congress, the Committee on the Judiciary said:

The threat posed by criminals and mentally deranged individuals armed with semi-automatic assault weapons has been tragically widespread.¹

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Since then, the use of semiautomatic assault weapons by criminal gangs, drug-traffickers, and mentally deranged persons continues to grow.²

H.R. 4296 will restrict the availability of such weapons in the future. The bill protects the rights of persons who lawfully own such weapons on its date of enactment by a universal “grandfathering” clause and specifically exempts certain firearms traditionally used for hunting and other legitimate support. It contains no confiscation or registration provisions; however, it does establish record-keeping requirements for transfers involving grandfathered semiautomatic assault weapons. Such record-keeping is not required for transfers of grandfathered ammunition feeding devices (or their component parts.) H.R. 4296 expires (“sunsets”) on its own terms after 10 years.

BACKGROUND

A series of hearings over the last five years on the subject of semiautomatic assault weapons has demonstrated that they are a growing menace to our society of proportion to their numbers:³ As this Committee said in its report to the last Congress:

The carnage inflicted on the American people by criminals and mentally deranged people armed with Rambo-style, semi-automatic assault weapons has been overwhelming and continuing. Police and law enforcement groups all over the nation have joined together to support legislation that would help keep these weapons out of the hands of criminals.⁴

Since then, evidence continues to mount that these semiautomatic assault weapons are the weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder.

Use in Crimes. On April 25, 1994, the Director of the Federal Bureau of Alcohol, Tobacco and Firearms testified that the percentage of semiautomatic assault weapons among guns traced because of their use in crime is increasing:

In 1990, 5.9 percent of firearms traced were assault weapons. In 1993, that percentage rose to 8.1 percent. Since Justice Department studies have shown that assault weapons make up only about 1 percent of the firearms in circulation, these percentages strongly suggest that they are proportionately more often used in crimes.⁵

Law enforcement officials confirm this statistical evidence in accounts of the rising level of lethality they face from assault weapons on the street. For example, the representative of a national police officers' organization testified:

In the past, we used to face criminals armed with a cheap Saturday Night Special that could fire off six rounds before loading. Now it is not at all unusual for a cop to look down the barrel of a TEC-9 with a 32 round clip. The ready availability of and easy access to assault weapons by criminals has increased so dramatically that police forces across the country are being required to upgrade their service weapons merely as a matter of self-defense and preservation. The six-shot .38 caliber service revolver, standard law enforcement issue for years, it just no match against a criminal armed with a semi-automatic assault weapon.⁶

A representative of federal law enforcement officers testified that semiautomatic assault weapons “dramatically escalate the firepower of the user” and “have become the weapon of choice for drug runners, hate groups and the mentally unstable.”⁷

The TEC-9 assault pistol is the undisputed favorite of drug traffickers, gang members and violent criminals. Cities across the country confiscate more TEC-9s than any other assault pistol. The prototype for the TEC-9 was originally designed as a submachine gun for the South African government. Now it comes standard with an ammunition magazine holding 36 rounds

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of 9 mm cartridges. It also has a threaded barrel to accept a silencer, and a barrel shroud to cool the barrel during rapid fire. To any real sportsman or collector, this firearm is a piece of junk, yet is very popular among criminals.⁸

The Secretary of Housing and Urban Development testified that criminal gangs in Chicago routinely use semiautomatic assault weapons to intimidate not only residents but also security guards, forcing the latter to remove metal detectors installed to detect weapons.⁹

Use in Mass Killings and Killings of Law Enforcement Officers. Public concern about semiautomatic assault weapons has grown because of shootings in which large numbers of innocent people have been killed and wounded, and in which law enforcement officers have been murdered.

On April 25, 1994, the Subcommittee on Crime and Criminal Justice heard testimony about several incidents representative of such killings.

On February 22, 1994, Los Angeles (CA) Police Department rookie officer Christy Lynn Hamilton was ambushed and killed by a drug-abusing teenager using a Colt AR-15. The round that killed Officer Hamilton penetrated a car door, skirted the armhole of her protective vest, and lodged in her chest. The teenager also killed his father, who had given him the gun, and took his own life as well. Officer Hamilton had been voted the most inspirational officer in her graduating class only weeks before her murder. Officer Hamilton's surviving brother testified about the impact of this murder.¹⁰

On December 7, 1993, a deranged gunman walked through a Long Island Railroad commuter train, shooting commuters. Six died and 19 were wounded. The gunman used a Ruger semiautomatic pistol. Although the pistol itself would not be classified as an assault weapon under this bill, its 15 round ammunition magazine ("clip") would be banned. The gunman had several of these high capacity 15 round magazines and reloaded several times, firing between 30 to 50 rounds before he was overpowered while trying to reload yet again. The parents of one of the murdered victims, Amy Locicero Federici, testified about the impact of this murder.¹¹

On February 28, 1993, 4 special agents of the Bureau of Alcohol, Tobacco and Firearms were killed and 15 were wounded while trying to serve federal search and arrest warrants at the Branch Davidian compound in Waco, Texas. The Branch Davidian arsenal included hundreds of assault weapons, including AR-15s, AK-47s, Street Sweepers, MAC10s and MAC-11s, along with extremely high capacity magazines (up to 260 rounds).¹²

Finally, on July 1, 1993, gunman Gian Luigi Ferri Killed 8 people and wounded 6 others in a San Francisco high rise office building. Ferri—who took his own life—used two TEC DC9 assault pistols with 50 round magazines, purchased from a gun dealer in Las Vegas, Nevada. Two witnesses, both of whom lost spouses in the slaughter, and one of whom was herself seriously injured, testified about this incident.¹³

Numerous other notorious incidents involving semiautomatic assault weapons have occurred. They include the January 25, 1993, slaying of 2 CIA employees and wounding of 3 others at McLean, VA, (AK-47), and the January 17, 1989 murder in a Stockton, CA, schoolyard of 5 small children, and wounding of 29 others (AK-47 and 75 round magazine, firing 106 rounds in less than 2 minutes).

Several witnesses who were victims themselves during such incidents testified in opposition to H.R. 4296/H.R. 3527, and in opposition to the banning of any semiautomatic assault weapons or ammunition feeding devices.

Dr. Suzanna Gratia witnessed the brutal murder, in Luby's cafeteria located in Killeen, Texas, of both of her parents who had just celebrated their 47 wedding anniversary. Just a few days before, she had removed her gun from her purse and left it in her car to comply with a Texas law which does not allow concealed carrying of a firearm. Dr. Gratia testified: **EB000802**

I am mad at my legislators for legislating me out of a right to protect myself and my family. I would much rather be sitting in jail with a felony offense on my head and have my parents alive. As far as these so-called assault weapons, you say that they don't have any defense use. You tell that to the guy that I saw on a videotape of the Los Angeles riots standing on his rooftop protecting his property and his life from an entire mob with one of these so-called assault weapons. Tell me that he didn't have a legitimate self-defense use.¹⁴

Ms. Jacquie Miller was shot several times with a semiautomatic assault weapon and left for dead at her place of employment with the Standard Gravure Printing Company in Louisville, Kentucky, when a fellow employee went on a killing spree. Now permanently disabled, Ms. Miller testified:

It completely enrages me that my tragedy is being used against me to deny me and all the law abiding citizens of this country to the right of the firearm of our choosing. I refuse in return to use my tragedy for retribution against innocent people just to make myself feel better for having this misfortune. Enforce the laws against criminals already on the books. After all, there are already over 20,000 of them.¹⁵ More won't do a thing for crime control *** You cannot ban everything in the world that could be used as a weapon because you fear it, don't understand it, or don't agree with it.

This is America, not Lithuania or China. Our most cherished possession is our Constitution and Bill of Rights. Let's not sell those down the river or we could one day find ourselves in a boat without a paddle against the criminals who think we are easy pickings.¹⁶

Mr. Phillip Murphy used his lawfully-possessed Colt AR-15 H-BAR Sporter semiautomatic rifle—a gun which would be specifically banned by H.R. 4296—to capture one of Tucson, Arizona's most wanted criminals who was attempting to burglarize the home of Mr. Murphy's parents. The 19-year old criminal he captured was a three-time loser with 34 prior convictions who was violating his third adult State parole for a knife assault. Mr. Murphy testified:

I respectfully urge this Committee and the Congress of the United States to restrain themselves from forcing tens of millions of law-abiding Americans like me to choose between the law and their lives.¹⁷

The Characteristics of Military-Style Semiautomatic Assault Weapons. The question of what constitutes an assault weapon has been studied by the Congress and the executive branch as the role of these guns in criminal violence has grown.

A Bureau of Alcohol, Tobacco and Firearms working group formed under the Bush administration to consider banning foreign imports of such semiautomatic assault weapons conducted the most recent comprehensive study of military assault weapons and the civilian firearms that are modelled after them.¹⁸ The working group formulated a definition of the civilian version, and a list of the assault weapon characteristics that distinguish them from sporting guns. That technical work has to a large extent been incorporated into H.R. 4296.¹⁹

The working group settled on the term “semiautomatic assault” for the civilian firearms at issue. That term distinguishes the civilian firearms from the fully automatic military weapons (machineguns)²⁰ after which they are modelled and often simply adapted by eliminating the automatic fire feature. The group determined that “semiautomatic assault rifles *** represent a distinctive type of rifle distinguished by certain general characteristics which are common to the modern military assault rifle.”²¹

The group elaborated on the nature of those characteristics as follows:

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The modern military assault rifle, such as the U.S. M16, German G3, Belgian FN/FAL, and Soviet AK-47, is a weapon designed for killing or disabling the enemy and *** has characteristics designed to accomplish this purpose.

We found that the modern military assault rifle contains a variety of physical features and characteristics designed for military applications which distinguishes it from traditional sporting rifles. These military features and characteristics (other than selective fire) are carried over to the semiautomatic versions of the original military rifle.²²

The “selective fire” feature to which the working group referred is the ability of the military versions to switch from fully automatic to semiautomatic fire at the option of the user. Since Congress has already banned certain civilian transfer or possession of machineguns,²³ the civilian models of these guns are produced with semiautomatic fire capability only. However, testimony was received by the Subcommittee on Crime and Criminal Justice that it is a relatively simple task to convert²⁴ a semiautomatic weapon to automatic fire²⁵ and that semiautomatic weapons can be fired at rates of 300 to 500 rounds per minute, making them virtually indistinguishable in practical effect from machineguns.²⁶

The 1989 Report's analysis of assault characteristics which distinguish such firearms from sporting guns was further explained by an AFT representative at a 1991 hearing before the Subcommittee on Crime and Criminal Justice:

We found that the banned rifles represented a distinctive type of rifle characterized by certain military features which differentiated them from the traditional sporting rifles. These include the ability to accept large capacity detachable magazines, bayonets, folding or telescoping stocks, pistol grips, flash suppressors, bipods, grenade launchers and night sights, and the fact that they are semiautomatic versions of military machineguns.²⁷

Proponents of these military style semiautomatic assault weapons often dismiss these combat-designed features as merely “cosmetic.” The Subcommittee received testimony that, even if these characteristics were merely “cosmetic” in effect, it is precisely those cosmetics that contribute to their usefulness as tools of intimidation by criminals.²⁸

However, the expert evidence is that the features that characterize a semiautomatic weapon as an assault weapon are not merely cosmetic, but do serve specific, combat-functional ends. By facilitating the deadly “spray fire” of the weapon or enhancing its portability—a useful attribute in combat but one which serves to enhance the ability to conceal the gun in civilian life.²⁹

High-capability magazine, for example, make it possible to fire a large number of rounds without re-loading, then to reload quickly when those rounds are spent.³⁰ Most of the weapons covered by the proposed legislation come equipped with magazines that hold 30 rounds. Even these magazines, however, can be replaced with magazines that hold 50 or even 100 rounds. Furthermore, expended magazines can be quickly replaced, so that a single person with a single assault weapon can easily fire literally hundreds of rounds within minutes. As noted above, tests demonstrate that semiautomatic guns can be fired at very high rates of fire. In contrast, hunting rifles and shotguns typically have much smaller magazine capabilities—from 3 to 5.

Because of the greater enhanced lethality—numbers of rounds that can be fired quickly without reloading—H.R. 4296 also contains a ban on ammunition magazines which hold more than 10 rounds, as well as any combination of parts from which such a magazine can be assembled.

Barrel shrouds also serve a combat-functional purpose.³¹ Gun barrels become very hot when multiple rounds are fired through them quickly. The barrel shroud cools the barrel so that it will not overheat, and provides the shooter with a convenient grip especially suitable for spray-firing.

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Similar military combat purposes are served by flash suppressors (designed to help conceal the point of fire in night combat), bayonet mounts, grenade launchers, and pistol grips engrafted on long guns.³²

The net effect of these military combat features is a capability for lethality—more wounds, more serious, in more victims—far beyond that of other firearms in general, including other semiautomatic guns.³³

BRIEF EXPLANATION OF H.R. 4296

H.R. 4296 combines two approaches which have been followed in the past in legislation proposed to control semiautomatic assault weapons—the so-called “list” approach and the “characteristics” approach.

The bill does not ban any semiautomatic assault weapons nor large capacity ammunition feeding device (or component parts) otherwise lawfully possessed on the date of enactment. However, records must be kept by both the transferor and the transferee involved in any transfer of these weapons, but not of the feeding devices (or combination of parts).

The bill explicitly exempts all guns with other than semiautomatic actions—i.e., bolt, slide, pump, and lever actions. In addition, it specifically exempts by make and model 661 long guns most commonly used in hunting and recreational sports,³⁴ making clear that these semiautomatic assault weapons are not and cannot be subject to any ban.

Section 2(z) of the bill lists 19 specific semiautomatic assault weapons—such as the AK-47, M-10, TEC-9, Uzi, etc.—that are banned.³⁵ It also defines other assault weapons by specifically enumerating combat style characteristics and bans those semiautomatic assault weapons that have 2 or more of those characteristics.³⁶

The bill makes clear that the list of exempted guns is not exclusive. The fact that a gun is not on the exempted list may not be construed to mean that it is banned. Thus, a gun that is not on the list of guns specifically banned by name would only be banned if it met the specific characteristics set out in the characteristics test. No gun may be removed from the exempted list.

H.R. 4296 also bans large capacity ammunition feeding devices—clips that accept more than 10 rounds of ammunition—as well as any combination of parts from which such a device can be assembled.

The bill exempts all semiautomatic assault weapons and large capacity ammunition feeding devices (as well as any combination of parts) that are lawfully possessed on date of enactment. Owners of such semiautomatic assault weapons need do nothing under the bill unless they wish to transfer the semiautomatic assault weapon.

H.R. 4296 differs significantly from previously-proposed legislation—it is designed to be more tightly focused and more carefully crafted to clearly exempt legitimate sporting guns. Most significantly, the ban in the 1991 proposed bill gave the Bureau of Alcohol, Tobacco, and Firearms authority to ban any weapon which “embodies the same configuration” as the named list of guns. The current bill, H.R. 4296 does not contain any such general authority. Instead, it contains a set of specific characteristics that must be present in order to ban any additional semiautomatic assault weapons.

102d Congress

The Subcommittee on Crime and Criminal Justice held hearings on semiautomatic assault weapons on June 12 and July 25, 1991. A ban on certain semiautomatic assault weapons was included as Subtitle A of Title XX in H.R. 3371, the Omnibus Crime Control Act of 1991. A ban on large capacity ammunition feeding devices was included in the same bill. The bill was reported out of the Judiciary Committee on October 7, 1991. The provisions dealing with semiautomatic assault weapons and large capacity ammunition feeding devices were struck by the House of Representatives by a vote of 247-177 on October 17, 1991.

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103d Congress

The Subcommittee on Crime and Criminal Justice held hearings on H.R. 4296 and its predecessor, H.R. 3527, which ban semiautomatic assault weapons, on April 25, 1994. The Subcommittee reported favorably on an amendment in the nature of a substitute to H.R. 4296 on April 26, 1994, by a recorded vote of 8–5.

COMMITTEE ACTION

The Committee on the Judiciary met on April 28, 1994 to consider H.R. 4296, as amended. Two amendments were adopted during the Committee's consideration.

An amendment was offered to provide that the absence of a firearm from the list of guns specifically exempted from the ban may not be construed as evidence that the semiautomatic assault weapon is banned, and that no gun may be removed from the exempt list so long as the Act is in effect. This amendment was adopted by voice vote.

An amendment was offered to delete a provision that barred from owning any firearms those persons convicted of violating the recordkeeping requirements relating to grandfathered weapons. This amendment was adopted by voice vote.

A reporting quorum being present, the Committee on the Judiciary, by a roll call vote of 20 to 15, ordered H.R. 4296, as amended, favorably reported to the House.

SECTION-BY-SECTION ANALYSIS

SECTION 1–SHORT TITLE

This section provides that the Act may be cited as the “Public Safety and Recreational Firearms Use Protection Act”.

SECTION 2–RESTRICTION ON MANUFACTURE, TRANSFER, AND
POSSESSION OF CERTAIN SEMIAUTOMATIC ASSAULT WEAPONS

Subsection 2(a) makes it unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon (including any “copies or duplicates.”)

The ban on transfer and possession does not apply to (1) weapons otherwise lawfully possessed on the date of enactment; (2) any of the firearms (or their replicas or duplicates) listed in Appendix A; (3) any manually operated (bolt, pump, slide, lever action), permanently inoperable, or antique firearms; (4) semiautomatic rifles that cannot accept a detachable magazine that holds more than 5 rounds; or, a semiautomatic shotgun that cannot hold more than 5 rounds in a fixed or detachable magazine.

The fact that a gun is not listed in Appendix A may not be construed to mean that it is banned. No gun listed in Appendix A may be removed from that exempted list so long as the Act is in effect.

Federal departments and agencies and those of States and their subdivisions are exempted. Law enforcement officers authorized to purchase firearms for official use are exempted, as are such officers presented with covered weapons upon retirement who are not otherwise prohibited from receiving such a weapon. Finally, weapons made, transferred, possessed, or imported for the purposes of testing or experiments authorized by the Secretary of the Treasury are exempted.

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Subsection 2(b) defines semiautomatic assault weapons, both by name and by characteristics. It lists by name specific firearms, including “copies or duplicates” of such firearms.³⁷ Characteristics of covered semiautomatic rifles, pistols, and shotguns are defined by separate subsections applicable to each. In the case of rifles and pistols, in addition to being semiautomatic, a gun must be able to accept a detachable magazine and have at least 2 listed characteristics.

In the case of rifles, those characteristics are: (1) folding or telescoping stock; (2) a pistol grip that protrudes conspicuously beneath the action of the weapon; (3) a bayonet mount; (4) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and (5) a grenade launcher.

In the case of pistols, the characteristics are: (1) a magazine that attaches to the pistol outside of the pistol grip; (2) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer; (3) a barrel shroud that permits the shooter to hold the firearm without being burned; (4) an unloaded manufactured weight of 50 ounces or more; and (5) a semiautomatic version of an automatic firearm.

In the case of shotguns, covered weapons must have at least 2 of the following four features: (1) a folding or telescoping stock; (2) a pistol grip that protrudes conspicuously beneath the action of the weapon; (3) a fixed magazine capacity in excess of 5 rounds; and (4) an ability to accept a detachable magazine.

The section provides a fine of not more than \$5,000, imprisonment for not more than 5 years, or both, for knowingly violating the ban on manufacture, transfer and possession. It also adds use of a semiautomatic assault weapon to the crimes covered by the mandatory minimum of 5 years under 18 USC Section 924(c)(1) for use in a federal crime of violence or drug trafficking crime.

Finally, the section requires that semiautomatic assault weapons manufactured after the date of enactment must clearly show the date on which the weapon was manufactured.

SECTION 3—RECORDKEEPING REQUIREMENTS FOR TRANSFERS OF GRANDFATHERED FIREARMS

This section makes it unlawful to transfer a grandfathered semiautomatic assault weapon unless both the transferor and the transferee complete and retain a copy of federal form 4473 (or its successor). Within 90 days of enactment, the Secretary of the Treasury must issue regulations ensuring the availability of the form to owners of semiautomatic assault weapons. The Committee expects the Secretary to make such forms easily and readily available to such gun owners. The Committee further expects the Secretary to maintain the confidentiality of the requester and to ensure the destruction of any and all information pertaining to any request for such forms immediately upon complying with the request. The Committee does not expect the Secretary to release any such information to any other Department of the Federal, State or local Governments or to use the information in any way other than to comply with the requests for the form. The Committee would consider failure to comply with these expectations a very serious breach.

A person who knowingly violates the recordkeeping requirement shall be fined not more than \$1,000, imprisoned for not more than 6 months or both.

SECTION 4—BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES

Subsection 4(a) makes it unlawful for a person to transfer or possess a large capacity ammunition feeding device (which is defined to include any combination of parts from which such a device can be assembled.)

The ban on transfer and possession does not apply to (1) devices (or component parts) otherwise lawfully possessed on the date of enactment; (2) Federal departments and agencies and those of States and their subdivisions; (3) law enforcement officers authorized to purchase ammunition feeding devices for official use; devices transferred to such officers upon retirement who

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are not otherwise prohibited from receiving them; and (3) devices (or combination of parts) made, transferred, possessed, or imported for the purpose of testing or experiments authorized by the Secretary of the Treasury are exempted.

Subsection 4(b) defines large capacity ammunition feeding device to mean a magazine, belt, drum, feed strip, or similar device that has a capacity of more than 10 rounds, or can be readily restored or converted to accept more than 10 rounds. It includes any combination of parts from which such a device can be assembled. It exempts an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition.

Subsection 4(c) adds large capacity ammunition feeding devices to the definition of “firearm” under 18 US Code section 921(a)(3).

Subsection 4(d) provides a fine of not more than \$5,000, imprisonment for not more than 5 years, or both, for knowingly violating the ban.

Subsection 4(e) requires that large capacity ammunition feeding devices manufactured after the date of enactment be identified by a serial number that clearly shows the device was manufactured after the date or imported after the date of enactment, and such other identification as the Secretary of the Treasury may by regulation prescribe.

SECTION 5—STUDY BY ATTORNEY GENERAL

This section requires the Attorney General to study and report to the Congress no later than 30 months after its enactment the effects of the Act, particularly with regard to its impact—if any—on violent and drug-trafficking crime.

The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment.

SECTION 6—EFFECTIVE DATE

The Act and the amendment made by the Act take effect on the date of enactment and are repealed effective as of the date that is 10 years after that date.

SECTION 7—APPENDIX A TO SECTION 922 OF TITLE 18

This section adds, as Appendix A, a list of firearms that are specifically exempted from the ban on semiautomatic assault weapons.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Operations were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

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NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 4296 will have no significant inflationary impact on prices and costs in the national economy.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill H.R. 4296, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. Congress,
Congressional Budget Office.
Washington, DC, May 2, 1994.

Hon. Jack Brooks,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 4296, the Public Safety and Recreational Firearms Use Protection Act, as ordered reported by the House Committee on the Judiciary on April 28, 1994. We estimate that enactment of the bill would result in costs to the federal government over the 1995–1999 period of less than \$500,000 from appropriated amounts. In addition, we estimate that enactment of H.R. 4296 would lead to increases in receipts of less than \$10 million a year from new criminal fines. Such receipts would be deposited in the Crime Victims Fund and spent in the following year. Because the bill could affect direct spending and receipts, pay-as-you-go procedures would apply. The bill would not affect the budgets of state or local governments.

H.R. 4296 would ban the manufacture, transfer, and possession of certain semiautomatic assault weapons not lawfully possessed as of the date of the bill's enactment. The bill also would ban the transfer and possession of certain large-capacity ammunition feeding devices not lawfully possessed as of the date of enactment. In addition, H.R. 4296 would establish recordkeeping requirements for transfers of grandfathered weapons and would direct the Attorney General to conduct a study of the bill's impact. Finally, the bill would create new federal crimes and associated penalties—prison sentences and criminal fines—for violation of its provisions.

The new recordkeeping requirements and the impact study would increase costs to the Department of the Treasury and the Department of Justice, respectively, but we estimate that these costs would be less than \$500,000 over the next several years from appropriated amounts. The imposition of new criminal fines in H.R. 4296 could cause governmental receipts to increase through greater penalty collections. We estimate that any such increase would be less than \$10 million annually. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the following year. Thus, direct spending from the fund would match the increase in revenues with a one-year lag.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer, Director.

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CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHAPTER 44 OF TITLE 18, UNITED STATES CODE

* * * * *

CHAPTER 44—FIREARMS

S 921. Definitions

(a) As used in this chapter—

(1)**

* * * * *

(3) The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; [or (D) any destructive device.] (D) any destructive device; or (E) any large capacity ammunition feeding device. Such term does not include an antique firearm.

* * * * *

(30) The term “semiautomatic assault weapon” means—

(A) any of the firearms, or copies or duplicates of the firearms, known as—

(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);

(ii) Action Arms Israeli Military Industries UZI and Galil;

(iii) Beretta Ar70 (SC-70);

(iv) Colt AR-15;

(v) Fabrique National FN/FAL, FN/LAR, and FNC;

(vi) SWD M-10, M-11, M-11/9, and M-12;

(vii) Steyr AUG;

(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

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- (i) a folding or telescoping stock;
- (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
- (iii) a bayonet mount;
- (iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and
- (v) a grenade launcher;

(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—

- (i) an ammunition magazine that attaches to the pistol outside of the pistol grip;
- (ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;
- (iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;
- (iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and
- (v) a semiautomatic version of an automatic firearm; and

(D) a semiautomatic shotgun that has at least 2 of—

- (i) a folding or telescoping stock;
- (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
- (iii) a fixed magazine capacity in excess of 5 rounds; and
- (iv) an ability to accept a detachable magazine.

(31) The term “large capacity ammunition feeding device”—

(A) means—

- (i) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; and
- (ii) any combination of parts from which a device described in clause (i) can be assembled; but

(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

S 922. Unlawful acts

- (a) It shall be unlawful—

EB000811

* * * * *

(v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.

(2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed on the date of the enactment of this subsection.

(3) Paragraph (1) shall not apply to—

(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;

(B) any firearm that—

(i) is manually operated by bolt, pump, lever, or slide action;

(ii) has been rendered permanently inoperable; or

(iii) is an antique firearm;

(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.

The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this Act is in effect.

(4) Paragraph (1) shall not apply to—

(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

(B) the transfer of a semiautomatic assault weapon by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase firearms for official use;

(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.

(w)(1) It shall be unlawful for a person to sell, ship, or deliver a semiautomatic assault weapon to a person who has not completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

(2) It shall be unlawful for a person to receive a semiautomatic assault weapon unless the person has completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

EB000812

(3) If a person receives a semiautomatic assault weapon from anyone other than a licensed dealer, both the person and the transferor shall retain a copy of the form 4473 completed in connection with the transfer.

(4) Within 90 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations ensuring the availability of form 4473 to owners of semiautomatic assault weapons.

(5) As used in this subsection, the term “form 4473” means—

(A) the form which, as of the date of the enactment of this subsection, is designated by the Secretary as form 4473; or

(B) any other form which—

(i) is required by the Secretary, in lieu of the form described in subparagraph (A), to be completed in connection with the transfer of a semiautomatic assault weapon; and

(ii) when completed, contains, at a minimum, the information that, as of the date of the enactment of this subsection, is required to be provided on the form described in subparagraph (A).

(x)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on the date of the enactment of this subsection.

(3) This subsection shall not apply to—

(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

(B) the transfer of a large capacity ammunition feeding device by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase large capacity ammunition feeding devices for official use;

(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or

(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.

APPENDIX A

.....
Centerfire Rifles—Autoloaders
.....

Browning BAR Mark II Safari Semi-Auto Rifle

EB000813

Browning BAR Mark II Safari Magnum Rifle
Browning High-Power Rifle
Heckler & Koch Model 300 Rifle
Iver Johnson M-1 Carbine
Iver Johnson 50th Anniversary M-1 Carbine
Marlin Model 9 Camp Carbine
Marlin Model 45 Carbine
Remington Nylon 66 Auto-Loading Rifle
Remington Model 7400 Auto Rifle
Remington Model 7400 Rifle
Remington Model 7400 Special Purpose Auto Rifle
Ruger Mini-14 Autoloading Rifle (w/o folding stock)
Ruger Mini Thirty Rifle

Centerfire Rifles—Lever & Slide

Browning Model 81 BLR Lever-Action Rifle
Browning Model 81 Long Action BLR
Browning Model 1886 Lever-Action Carbine
Browning Model 1886 High Grade Carbine
Cimarron 1860 Henry Replica
Cimarron 1866 Winchester Replicas
Cimarron 1873 Short Rifle
Cimarron 1873 Sporting Rifle
Cimarron 1873 30" Express Rifle
Dixie Engraved 1873 Rifle
E.M.F. 1866 Yellowboy Lever Actions
E.M.F. 1860 Henry Rifle
E.M.F. Model 73 Lever-Actions Rifle

EB000814

Marlin Model 336CS Lever-Action Carbine
Marlin Model 30AS Lever-Action Carbine
Marlin Model 444SS Lever-Action Sporter
Marlin Model 1894S Lever-Action Carbine
Marlin Model 1894CS Carbine
Marlin Model 1894CL Classic
Marlin Model 1895SS Lever-Action Rifle
Mitchell 1858 Henry Replica
Mitchell 1866 Winchester Replica
Mitchell 1873 Winchester Replica
Navy Arms Military Henry Rifle
Navy Arms Henry Trapper
Navy Arms Iron Frame Henry
Navy Arms Henry Carbine
Navy Arms 1866 Yellowboy Rifle
Navy Arms 1873 Winchester-Style Rifle
Navy Arms 1873 Sporting Rifle
Remington 7600 Slide Action
Remington Model 7600 Special-Purpose Slide Action
Rossi M92 SRC Saddle-Ring Carbine
Rossi M92 SRS Short Carbine
Savage 99C Leber-Action Rifle
Uberti Henry Rifle
Uberti 1866 Sporting Rifle
Uberti 1873 Sporting Rifle
Winchester Model 94 Side Eject Lever-Action Rifle
Winchester Model 94 Trapper Side Eject
Winchester Model 94 Big Bore Side Eject
Winchester Model 94 Ranger Side Eject Lever-Action Rifle

EB000815

Winchester Model 94 Wrangler Side Eject

Centerfire Rifles—Bolt Action

Alpine Bolt-Action Rifle

A-Square Caesar Bolt-Action Rifle

A-Square Hannibal Bolt-Action Rifle

Anschutz 1700D Classic Rifles

Anschutz 1700D Custom Rifles

Anschutz 1700D Bavarian Bolt-Action Rifle

Anschutz 1733D Mannlicher Rifle

Barret Model 90 Bolt-Action Rifle

Beeman/HW 60J Bolt-Action Rifle

Blaser R84 Bolt-Action Rifle

BRNO 537 Sporter Bolt-Action Rifle

BRNO ZKB 527 Fox Bolt-Action Rifle

BRNO ZKK 600, 601, 602 Bolt-Action Rifles

Browning A-Bolt Rifle

Browning A-Bolt Stainless Stalker

Browning A-Bolt Left Hand

Browning A-Bolt Short Action

Browning Euro-Bolt Rifle

Browning A-Bolt Gold Medallion

Browning A-Bolt Micro Medallion

Century Centurion 14 Sporter

Century Enfield Sporter #4

Century Swedish Sporter #38

Century Mauser 98 Sporter

Cooper Model 38 Centerfire Sporter

EB000816

Dakota 22 Sporter Bolt-Action Rifle
Dakota 76 Classic Bolt-Action Rifle
Dakota 76 Short Action Rifles
Dakota 76 Safari Bolt-Action Rifle
Dakota 416 Rigby African
E.A.A./Sabatti Rover 870 Bolt-Action Rifle
Auguste Francotte Bolt-Action Rifles
Carl Gustaf 2000 Bolt-Action Rifle
Heym Magnum Express Series Rifle
Howa Lightning Bolt-Action Rifle
Howa Realtree Camo Rifle
Interarms Mark X Viscount Bolt-Action Rifle
Interarms Mini-Mark X Rifle
Interarms Mark X Whitworth Bolt-Action Rifle
Interarms Whitworth Express Rifle
Iver Johnson Model 5100A1 Long-Range Rifle
KDF K15 American Bolt-Action Rifle
Krico Model 600 Bolt-Action Rifle
Krico Model 700 Bolt-Action Rifle
Mauser Model 66 Bolt-Action Rifle
Mauser Model 99 Bolt-Action Rifle
McMillan Signature Classic Sporter
McMillan Signature Super Varminter
McMillan Signature Alaskan
McMillan Signature Titanium Mountain Rifle
McMillan Classic Stainless Sporter
McMillan Talon Safari Rifle
McMillan Talon Sporter Rifle
Midland 1500S Survivor Rifle

EB000817

Navy Arms TU-33/40 Carbine
Parker-Hale Model 81 Classic Rifle
Parker-Hale Model 81 Classic African Rifle
Parker-Hale Model 1000 Rifle
Parker-Hale Model 1000M African Rifle
Parker-Hale Model 1100 Lightweight Rifle
Parker-Hale Model 1200 Super Rifle
Parker-Hale Model 1200 Super Clip Rifle
Parker-Hale Model 1300C Scout Rifle
Parker-Hale Model 2100 Midland Rifle
Parker-Hale Model 2700 Lightweight Rifle
Parker-Hale Model 2800 Midland Rifle
Remington Model Seven Bolt-Action Rifle
Remington Model Seven Youth Rifle
Remington Model Seven Custom KS
Remington Model Seven Custom MS Rifle
Remington 700 ADL Bolt-Action Rifle
Remington 700 BDL Bolt-Action Rifle
Remington 700 BDL Varmint Special
Remington 700 BDL European Bolt-Action Rifle
Remington 700 Varmint Synthetic Rifle
Remington 700 BDL SS Rifle
Remington 700 Stainless Synthetic Rifle
Remington 700 MTRSS Rifle
Remington 700 BDL Left Hand
Remington 700 Camo Synthetic Rifle
Remington 700 Safari
Remington 700 Mountain Rifle
Remington 700 Custom KS Mountain Rifle

EB000818

Remington 700 Classic Rifle
Ruger M77 Mark II Rifle
Ruger M77 Mark II Magnum Rifle
Ruger M77RL Ultra Light
Ruger M77 Mark II All-Weather Stainless Rifle
Ruger M77 RSI International Carbine
Ruger M77 Mark II Express Rifle
Ruger M77VT Target Rifle
Sako Hunter Rifle
Sako Fiberclass Sporter
Sako Hunter Left-Hand Rifle
Sako Classic Bolt Action
Sako Hunter LS Rifle
Sako Deluxe Lightweight
Sako Super Deluxe Sporter
Sako Mannlicher-Style Carbine
Sako Varmint Heavy Barrel
Sako TRG-S Bolt-Action Rifle
Sauer 90 Bolt-Action Rifle
Savage 110G Bolt-Action Rifle
Savage 110CY Youth/Ladies Rifle
Savage 110WLE One of One Thousand Limited Edition Rifle
Savage 110GXP3 Bolt-Action Rifle
Savage 110F Bolt-Action Rifle
Savage 110FXP3 Bolt-Action Rifle
Savage 110GV Varmint Rifle
Savage 110FV Varmint Rifle
Savage Model 110FVS Varmint Rifle
Savage Model 112BV Heavy Barrel Varmint Rifle

EB000819

Savage 116FSS Bolt-Action Rifle
Savage Model 116SK Kodiak Rifle
Savage 110FP Polic Rifle
Steyr-Mannlicher Sporter Models SL, L, M, S, S/T
Steyr-Mannlicher Luxus Model L, M, S
Steyr-Mannlicher Model M Professional Rifle
Tikka Bolt-Action Rifle
Tikka Premium Grade Rifle
Tikka Varmint/Continental Rifle
Tikka Whitetail/Battue Rifle
Ultra Light Arms Model 20 Rifle
Ultra Light Arms Model 28, Model 40 Rifles
Voere VEC 91 Lightning Bolt-Action Rifle
Voere Model 2166 Bolt-Action Rifle
Voere Model 2155, 2150 Bolt-Action Rifles
Weatherby Mark V Deluxe Bolt-Action Rifle
Weatherby Lasermark V Rifle
Weatherby Mark V Crown Custom Rifles
Weatherby Mark V Safari Grade Custom Rifle
Weatherby Mark V Sporter Rifle
Weatherby Mark V Safari Grade Custom Rifles
Weatherby Weathermark Rifle
Weatherby Weathermark Alaskan Rifle
Weatherby Classicmark No. 1 Rifle
Weatherby Weatherguard Alaskan Rifle
Weatherby Vanguard VGX Deluxe Rifle
Weatherby Vanguard Classic Rifle
Weatherby Vanguard Classic No. 1 Rifle
Weatherby Vanguard Weathermark Rifle

EB000820

Wichita Classis Rifle
Wichita Varmint Rifle
Winchester Model 70 Sporter
Winchester Model 70 Sporter WinTuff
Winchester Model 70 SM Sporter
Winchester Model 70 Stainless Rifle
Winchester Model 70 Varmint
Winchester Model 70 Synthetic Heavy Varmint Rifle
Winchester Model 70 DBM Rifle
Winchester Model 70 DBM-S Rifle
Winchester Model 70 Featherweight
Winchester Model 70 Featherweight WinTuff
Winchester Model 70 Featherweight Classic
Winchester Model 70 Lightweight Rifle
Winchester Ranger Rifle
Winchester Model 70 Super Express Magnum
Winchester Model 70 Super Grade
Winchester Model 70 Custom Sharpshooter
Winchester Model 70 Custom Sporting Sharpshooter Rifle

Centerfire Rifles—Single Shot

Armsport 1866 Sharps Rifle, Carbine
Brown Model One Single Shot Rifle
Browning Model 1885 Single Shot Rifle
Dakota Single Shot Rifle
Desert Industries G-90 Single Shot Rifle
Harrington & Richardson Ultra Varmint Rifle
Model 1885 High Wall Rifle

EB000821

Navy Arms Rolling Block Buffalo Rifle
Navy Arms #2 Creedmoor Rifle
Navy Arms Sharps Cavalry Carbine
Navy Arms Sharps Plains Rifle
New England Firearms Handi-Rifle
Red Willow Armory Ballard No. 5 Pacific
Red Willow Armory Ballard No. 1.5 Hunting Rifle
Red Willow Armory Ballard No. 8 Union Hill Rifle
Red Willow Armory Ballard No. 4.5 Target Rifle
Remington-Style Rolling Block Carbine
Ruger No. 1B Single Shot
Ruger No. 1A Light Sporter
Ruger No. 1H Tropical Rifle
Ruger No. 1S Medium Sporter
Ruger No. 1 RSI International
Ruger No. 1V Special Varminter
C. Sharps Arms New Model 1874 Old Reliable
C. Sharps Arms New Model 1875 Rifle
C. Sharps Arms 1875 Classic Sharps
C. Sharps Arms New Model 1875 Target & Long Range
Shiloh Sharps 1874 Long Range Express
Shiloh Sharps 1874 Montana Roughrider
Shiloh Sharps 1874 Military Carbine
Shiloh Sharps 1874 Business Rifle
Shiloh Sharps 1874 Military Rifle
Sharps 1874 Old Reliable
Thompson/Center Contender Carbine
Thompson/Center Stainless Contender Carbine
Thompson/Center Contender Carbine Survival System

EB000822

Thompson/Center Contender Carbine Youth Model

Thompson/Center TCR '87 Single Shot Rifle

Uberti Rolling Block Baby Carbine

Drillings, Combination Guns, Double Rifles

Baretta Express SSO O/U Double Rifles

Baretta 455 SxS Express Rifle

Chapuis RGExpress Double Rifle

Auguste Francotte Sidelock Double Rifles

Auguste Francotte Boxlock Double Rifle

Heym Model 55B O/U Double Rifle

Heym Model 55FW O/U Combo Gun

Heym Model 88b Side-by-Side Double Rifle

Kodiak Mk. IV Double Rifle

Kreighoff Teck O/U Combination Gun

Kreighoff Trumpf Drilling

Merkel Over/Under Combination Guns

Merkel Drillings

Merkel Model 160 Side-by-Side Double Rifles

Merkel Over/Under Double Rifles

Savage 24F O/U Combination Gun

Savage 24F-12T Turkey Gun

Springfield Inc. M6 Scout Rifle/Shotgun

Tikka Model 412s Combination Gun

Tikka Model 412S Double Fire

A. Zoli Rifle-Shotgun O/U Combo

Rimfire Rifles—Autoloaders

EB000823

-
- AMT Lightning 25/22 Rifle
 - AMT Lightning Small-Game Hunting Rifle II
 - AMT Mannum Hunter Auto Rifle
 - Anschutz 525 Deluxe Auto
 - Armscor Model 20P Auto Rifle
 - Browning Auto-22 Rifle
 - Browning Auto-22 Grade VI
 - Krico Model 260 Auto Rifle
 - Lakefield Arms Model 64B Auto Rifle
 - Marlin Model 60 Self-Loading Rifle
 - Marlin Model 60ss Self-Loading Rifle
 - Marlin Model 70 HC Auto
 - Marlin Model 990I Self-Loading Rifle
 - Marlin Model 70P Papoose
 - Marlin Model 922 Magnum Self-Loading Rifle
 - Marlin Model 995 Self-Loading Rifle
 - Norinco Model 22 ATD Rifle
 - Remington Model 522 Viper Autoloading Rifle
 - Remington 522BDL Speedmaster Rifle
 - Ruger 10/22 Autoloading Carbine (w/o folding stock)
 - Survival Arms AR-7 Explorer Rifle
 - Texas Remington Revolving Carbine
 - Voere Model 2115 Auto Rifle

Rimfire Rifles–Lever & Slide Action

- Browning BL-22 Lever-Action Rifle
- Marlin 39TDS Carbine

EB000824

Marlin Model 39AS Golden Lever-Action Rifle
Remington 572BDL Fieldmaster Pump Rifle
Norinco EM-321 Pump Rifle
Rossi Model 62 SA Pump Rifle
Rossi Model 62 SAC Carbine
Winchester Model 9422 Lever-Action Rifle
Winchester Model 9422 Magnum Lever-Action Rifle

Rimfire Rifles—Bolt Actions & Single Shots

Anschutz Achiever Bolt-Action Rifle
Anschutz 1416D/1516D Classic Rifles
Anschutz 1418D/1518D Mannlicher Rifles
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700 FWT Bolt-Action Rifle
Anschutz 1700D Graphite Custom Rifle
Anschutz 1700D Bavarian Bolt-Action Rifle
Armscor Model 14P Bolt-Action Rifle
Armscor Model 1500 Rifle
BRNO ZKM-452 Deluxe Bolt-Action Rifle
BRNO ZKM 452 Deluxe
Beeman/HW 60-J-ST Bolt-Action Rifle
Browning A-Bolt 22 Bolt-Action Rifle
Browning A-Bolt Gold Medallion
Cabanas Phaser Rifle
Cabanas Master Bolt-Action Rifle
Cabanas Espronceda IV Bolt-Action Rifle
Cabanas Leyre Bolt-Action Rifle

EB000825

Chipmunk Single Shot Rifle
Cooper Arms Model 36S Sporter Rifle
Dakota 22 Sporter Bolt-Action Rifle
Krico Model 300 Bolt-Action Rifles
Lakefield Arms Mark II Bolt-Action Rifle
Lakefield Arms Mark I Bolt-Action Rifle
Magtech Model MT-22C Bolt-Action Rifle
Marlin Model 880 Bolt-Action Rifle
Marlin Model 881 Bolt-Action Rifle
Marlin Model 882 Bolt-Action Rifle
Marlin Model 883 Bolt-Action Rifle
Marlin Model 883SS Bolt-Action Rifle
Marlin Model 25MN Bolt-Action Rifle
Marlin Model 25N Bolt-Action Repeater
Marlin Model 15YN "Little Buckaroo"
Mauser Model 107 Bolt-Action Rifle
Mauser Model 201 Bolt-Action Rifle
Navy Arms TU-KKW Training Rifle
Navy Arms TU-30/40 Carbine
Navy Arms TU-KKW Sniper Trainer
Norinco JW-27 Bolt-Action Rifle
Norinco JW-15 Bolt-Action Rifle
Remington 541-T
Remington 40-XR Rimfire Custom Sporter
Remington 541-T HB Bolt-Action Rifle
Remington 581-S Sportsman Rifle
Ruger 77/22 Rimfire Bolt-Action Rifle
Ruger K77/22 Varmint Rifle
Ultra Light Arms Model 20 RF Bolt-Action Rifle

EB000826

Winchester Model 52B Sporting Rifle

Competition Rifles—Centerfire & Rimfire

Anschutz 64-MS Left Silhouette

Anschutz 1808D RT Super Match 54 Target

Anschutz 1827B Biathlon Rifle

Anschutz 1903D Match Rifle

Anschutz 1803D Intermediate Match

Anschutz 1911 Match Rifle

Anschutz 54.18MS REP Deluxe Silhouette Rifle

Anschutz 1913 Super Match Rifle

Anschutz 1907 Match Rifle

Anschutz 1910 Super Match II

Anschutz 54.18MS Silhouette Rifle

Anschutz Super Match 54 Targe Model 2013

Anschutz Super Match 54 Targe Model 2007

Beaman/Feinwerkbau 2600 Target Rifle

Cooper Arms Model TRP-1 ISU Standard Rifle

E.A.A./Weihrauch HW 60 Target Rifle

E.A.A./HW 60 Match Rifle

Finnish Lion Standard Target Rifle

Krico Model 360 S2 Biathlon Rifle

Krico Model 400 Match Rifle

Krico Model 360S Biathlon Rifle

Krico Model 500 Kricotronic Match Rifle

Krico Model 600 Sniper Rifle

Krico Model 600 Match Rifle

Lakefield Arms Model 90B Target Rifle

EB000827

Lakefield Arms Model 91T Target Rifle
Lakefield Arms Model 92S Silhouette Rifle
Marlin Model 2000 Target Rifle
Mauser Model 86-SR Specialty Rifle
McMillan M-86 Sniper Rifle
McMillan Combo M-87/M-88 50-Caliber Rifle
McMillan 300 Phoenix Long-Range Rifle
McMillan M-89 Sniper Rifle
McMillan National Match Rifle
McMillan Long-Range Rifle
Parker-Hale M-87 Target Rifle
Parker-Hale M-85 Sniper Rifle
Remington 40-XB Rangemaster Target Centerfire
Remington 40-XR KS Rimfire Position Rifle
Remington 40-XBBR KS
Remington 40-XC KS National Match Course Rifle
Sako TRG-21 Bolt-Action Rifle
Steyr-Mannlicher Match SPG-UIT Rifle
Steyr-Mannlicher SSG P-I Rifle
Steyr-Mannlicher SSG P-III Rifle
Steyr-Mannlicher SSG P-IV Rifle
Tanner Standard UIT Rifle
Tanner 50 Meter Free Rifle
Tanner 300 Meter Free Rifle
Wichita Silhouette Rifle

.....
Shotguns—Autoloaders
.....

American Arms/Franchi Black Magic 48/AL

EB000828

Benelli Super Black Eagle Shotgun
Benelli Super Black Eagle Slug Gun
Benelli M1 Super 90 Field Auto Shotgun
Benelli Montefeltro Super 90 20-Gauge Shotgun
Benelli Montefeltro Super 90 Shotgun
Benelli M1 Sporting Special Auto Shotgun
Benelli Black Eagle Competition Auto Shotgun
Beretta A-303 Auto Shotgun
Beretta 390 Field Auto Shotgun
Beretta 390 Super Trap, Super Skeet Shotguns
Beretta Vittoria Auto Shotgun
Beretta Model 1201F Auto Shotgun
Browning BSA 10 Auto Shotgun
Browning Bsa 10 Stalker Auto Shotgun
Browning A-500R Auto Shotgun
Browning A-500G Auto Shotgun
Browning A-500G Sporting Clays
Browning Auto-5 Light 12 and 20
Browning Auto-5 Stalker
Browning Auto-5 Magnum 20
Browning Auto-5 Magnum 12
Churchill Turkey Automatic Shotgun
Cosmi Automatic Shotgun
Maverick Model 60 Auto Shotgun
Mossberg Model 5500 Shotgun
Mossberg Model 9200 Regal Semi-Auto Shotgun
Mossberg Model 9200 USST Auto Shotgun
Mossberg Model 9200 Camo Shotgun
Mossberg Model 6000 Auto Shotgun

EB000829

Remington Model 1100 Shotgun
Remington 11-87 Premier shotgun
Remington 11-87 Sporting Clays
Remington 11-87 Premier Skeet
Remington 11-87 Premier Trap
Remington 11-87 Special Purpose Magnum
Remington 11-87 SPS-T Camo Auto Shotgun
Remington 11-87 Special Purpose Deer Gun
Remington 11-87 SPS-BG-Camo Deer/Turkey Shotgun
Remington 11-87 SPS-Deer Shotgun
Remington 11-87 Special Purpose Synthetic Camo
Remington SP-10 Magnum-Camo Auto Shotgun
Remington SP-10 Magnum Auto Shotgun
Remington SP-10 Magnum Turkey Combo
Remington 1100 LT-20 Auto
Remington 1100 Special Field
Remington 1100 20-Gauge Deer Gun
Remington 1100 LT-20 Tournament Skeet
Winchester Model 1400 Semi-Auto Shotgun

Shotguns—Slide Actions

Browning Model 42 Pump Shotgun
Browning BPS Pump Shotgun
Browning BPS Stalker Pump Shotgun
Browning BPS Pigeon Grade Pump Shotgun
Browning BPS Pump Shotgun (Ladies and Youth Model)
Browning BPS Game Gun Turkey Special
Browning BPS Game Gun Deer Special

EB000830

Ithaca Model 87 Supreme Pump Shotgun
Ithaca Model 87 Deerslayer Shotgun
Ithaca Deerslayer II Rifled Shotgun
Ithaca Model 87 Turkey Gun
Ithaca Model 87 Deluxe Pump Shotgun
Magtech Model 586-VR Pump Shotgun
Maverick Models 88, 91 Pump Shotguns
Mossberg Model 500 Sporting Pump
Mossberg Model 500 Camo Pump
Mossberg Model 500 Muzzleloader Combo
Mossberg Model 500 Trophy Slugger
Mossberg Turkey Model 500 Pump
Mossberg Model 500 Bantam Pump
Mossberg Field Grade Model 835 Pump Shotgun
Mossberg Model 835 Regal Ulti-Mag Pump
Remington 870 Wingmaster
Remington 870 Special Purpose Deer Gun
Remington 870 SPS-BG-Camo Deer/Turkey Shotgun
Remington 870 SPS-Deer Shotgun
Remington 870 Marine Magnum
Remington 870 TC Trap
Remington 870 Special Purpose Synthetic Camo
Remington 870 Wingmaster Small Gauges
Remington 870 Express Rifle Sighted Deer Gun
Remington 879 SPS Special Purpose Magnum
Remington 870 SPS-T Camo Pump Shotgun
Remington 870 Special Field
Remington 870 Express Turkey
Remington 870 High Grades

EB000831

Remington 870 Express
Remington Model 870 Express Youth Gun
Winchester Model 12 Pump Shotgun
Winchester Model 42 High Grade Shotgun
Winchester Model 1300 Walnut Pump
Winchester Model 1300 Slug Hunter Deer Gun
Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun
Winchester Model 1300 Turkey Gun
Winchester Model 1300 Ranger Pump Gun

Shotguns—Over/Unders

American Arms/Franchi Falconet 2000 O/U
American Arms Silver I O/U
American Arms Silver II Shotgun
American Arms Silver Skeet O/U
American Arms/Franchi Sporting 2000 O/U
American Arms Silver Sporting O/U
American Arms Silver Trap O/U
American Arms WS/OU 12, TS/OU 12 Shotguns
American Arms WT/OU 10 Shotgun
Armsport 2700 O/U Goose Gun
Armsport 2700 Series O/U
Armsport 2900 Tri-Barrel Shotgun
Baby Bretton Over/Under Shotgun
Beretta Model 686 Ultralight O/U
Beretta ASE 90 Competition O/U Shotgun
Beretta Over/Under Field Shotguns
Beretta Onyx Hunder Sport O/U Shotgun

EB000832

Beretta Model SO5, SO6, SO9 Shotguns
Beretta Sporting Clay Shotguns
Beretta 687EL Sporting O/U
Beretta 682 Super Sporting O/U
Beretta Series 682 Competition Over/Unders
Browning Citori O/U Shotgun
Browning Superlight Citori Over/Under
Browning Lightning Sporting Clays
Browning Micro Citori Lightning
Browning Citori Plus Trap Combo
Browning Citori Plus Trap Gun
Browning Citori O/U Skeet Models
Browning Citori O/U Trap Models
Browning Special Sporting Clays
Browning Citori GTI Sporting Clays
Browning 325 Sporting Clays
Centurion Over/Under Shotgun
Chapuis Over/Under Shotgun
Connecticut Valley Classics Classic Sporter O/U
Connecticut Valley Classics Classic Field Waterfowler
Charles Daly Field Grade O/U
Charles Daly Lux O/U
E.A.A./Sabatti Sporting Clays Pro-Gold O/U
E.A.A./Sabatti Falcon-Mon Over/Under
Kassnar Grade I O/U Shotgun
Krieghoff K-80 Sporting Clays O/U
Krieghoff K-80 Skeet Shotgun
Krieghoff K-80 International Skeet
Krieghoff K-80 Four-Barrel Skeet Set

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Krieghoff K-80/RT Shotguns
Krieghoff K-80 O/U Trap Shotgun
Laurona Silhouette 300 Sporting Clays
Laurona Silhouette 300 Trap
Laurona Super Model Over/Unders
Ljutic LM-6 Deluxe O/U Shotgun
Marocchi Conquista Over/Under Shotgun
Marocchi Avanza O/U Shotgun
Merkel Model 200E O/U Shotgun
Merkel Model 200E Skeet, Trap Over/Unders
Merkel Model 203E, 303E Over/Under Shotguns
Perazzi Mirage Special Sporting O/U
Perazzi Mirage Special Four-Gauge Skeet
Perazzi Sporting Classic O/U
Perazzi MX7 Over/Under Shotguns
Perazzi Mirage Special Skeet Over/Under
Perazzi MX8/MX8 Special Trap, Skeet
Perazzi MX8/20 Over/Under Shotgun
Perazzi MX9 Single Over/Under Shotguns
Perazzi MX12 Hunting Over/Under
Perazzi MX28, MX410 Game O/U Shotguns
Perazzi MX20 Hunting Over/Under
Piotti Boss Over/Under Shotgun
Remington Peerless Over/Under Shotgun
Ruger Red Label O/U Shotgun
Ruger Sporting Clays O/U Shotgun
San Marco 12-Ga. Wildflower Shotgun
San Marco Field Special O/U Shotgun
San Marco 10-Ga. O/U Shotgun

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SKB Model 505 Deluxe Over/Under Shotgun
SKB Model 685 Over/Under Shotgun
SKB Model 885 Over/Under Trap, Skeet, Sporting Clays
Stoeger/IGA Condor I O/U Shotgun
Stoeger/IGA ERA 2000 Over/Under Shotgun
Techni-Mec Model 610 Over/Under
Tikka Model 412S Field Grade Over/Under
Weatherby Athena Grade IV O/U Shotguns
Weatherby Athena Grade V Classic Field O/U
Weatherby Orion O/U Shotguns
Weatherby II, III Classic Field O/Us
Weatherby Orion II Classic Sporting Clays O/U
Weatherby Orion II Sporting Clays O/U
Winchester Model 1001 O/U Shotgun
Winchester Model 1001 Sporting Clays O/U
Pietro Zanoletti Model 2000 Field O/U

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Shotguns—Side by Sides
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American Arms Brittany Shotgun
American Arms Gentry Double Shotgun
American Arms Derby Side-by-Side
American Arms Grulla #2 Double Shotgun
American Arms WS/SS 10
American Arms TS/SS 10 Double Shotgun
American Arms TS/SS 12 Side-by-Side
Arrieta Sidelock Double Shotguns
Armsport 1050 Series Double Shotguns
Arizaga Model 31 Double Shotgun

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AYA Boxlock Shotguns
AYA Sidelock Double Shotguns
Beretta Model 452 Sidelock Shotgun
Beretta Side-by-Side Field Shotguns
Crucelegui Hermanos Model 150 Double
Chapuis Side-by-Side Shotgun
E.A.A./Sabatti Sabe-Mon Double Shotgun
Charles Daly Model Dss Double
Ferlib Model F VII Double Shotgun
Auguste Francotte Boxlock Shotgun
Auguste Francotte Sidelock Shotgun
Garbi Model 100 Double
Garbi Model 100 Side-by-Side
Garbi Model 103A, B Side-by-Side
Garbi Model 200 Side-by-Side
Bill Hanus Birdgun Doubles
Hatfield Uplander Shotgun
Merkell Model 8, 47E Side-by-Side Shotguns
Merkel Model 47LSC Sporting Clays Double
Merkel Model 47S, 147S Side-by-Sides
Parker Reproductions Side-by-Side
Piotti King No. 1 Side-by-Side
Piotti Lunik Side-by-Side
Piotti King Extra Side-by-Side
Piotti Piuma Side-by-Side
Precision Sports Model 600 Series Doubles
Rizzini Boxlock Side-by-Side
Rizzini Sidelock Side-by-Side
Stoeger/IGA Side-by-Side Shotgun

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Ugartechea 10-Ga. Magnum Shotgun

Shotguns—Bolt Actions & Single Shots

- Armsport Single Barrel Shotgun
- Browning BT-99 Competition Trap Special
- Browning BT-99 Plus Trap Gun
- Browning BT-99 Plus Micro
- Browning Recoilless Trap Shotgun
- Browning Micro Recoilless Trap Shotgun
- Desert Industries Big Twenty Shotgun
- Harrington & Richardson Topper Model 098
- Harrington & Richardson Topper Classic Youth Shotgun
- Harrington & Richardson N.W.T.F. Turkey Mag
- Harrington & Richardson Topper Deluxe Model 098
- Krieghoff KS-5 Trap Gun
- Krieghoff KS-5 Special
- Krieghoff KS-80 Single Barrel Trap Gun
- Ljutic Mono Gun Single Barrel
- Ljutic LTX Super Deluxe Mono Gun
- Ljutic Recoilless Space Gun Shotgun
- Marlin Model 55 Goose Gun Bolt Action
- New England Firearms Turkey and Goose Gun
- New England Firearms N.W.T.F. Shotgun
- New England Firearms Tracker Slug Gun
- New England Firearms Standard Pardner
- New England Firearms Survival Gun
- Perazzi TM1 Special Single Trap
- Remington 90-T Super Single Shotgun

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Snake Charmer II Shotgun

Stoeger/IGA Reuna Single Barrel Shotgun

Thompson/Center TCR '87 Hunter Shotgun.

S 923. Licensing

(a)***

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(i) Licensed importers and licensed manufacturers shall identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer. The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured. A large capacity ammunition feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.

S 924. Penalties

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), or (f) of this section, or in section 929, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (a)(6), (f), (k), [or (q) of section 922] (r), (v), or (x) of section 922;

* * * * *

(6) A person who knowingly violates section 922(w) shall be fined not more than \$1,000, imprisoned not more than 6 months, or both. Section 3571 shall not apply to any offense under this paragraph.

* * * * *

(c)(1) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for five years, and if the firearm is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, to imprisonment for ten years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to imprisonment for thirty years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for twenty years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.

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SUPPLEMENTAL VIEWS OF HON. DAN GLICKMAN

I supported this bill because it is a narrowly crafted bill focused on specific weapons that have no business being on our streets. It is aimed at rapid fire weapons that have the sole purpose of killing people, and it is aimed at weapons that are more suited for the battlefield than the target range.

I believe that violence in our nation is getting out of hand. It is devastating to read that a student killed a student with a semi-automatic weapon. But it is equally devastating to hear of students killing students with anyone. What we really need to focus on is why students are engaging in violence in the first place. For this reason, I think this legislation must be viewed as part of the effort to reduce crime—in conjunction with the comprehensive crime bill that increases penalties, calls for tougher sentencing, provides for more jails and police officers, and provides for prevention programs.

But we must not abrogate the Second Amendment rights that are provided for in the Constitution. We must be extremely careful that in this legislation and in any legislation in the future, that we are not taking away guns that truly are used for sports, hunting, or self-defense.

I don't believe that this bill is the first step in a long road to banning guns. However, some of my constituents have expressed their fear that the Congress is moving slowly toward banning all guns for all people. We must be absolutely clear that this narrowly crafted legislation is not that first step and is not just a precursor to further, broader federal gun control and federal gun bans. Sport shooters and hunters tell me that they don't want assault weapons on the streets and in the hands of gang members any more than anyone else. But what they don't want is for Congress to take the short step to saying that the hunting rifles are being used on the streets, and should be taken away. And then the handguns are being used on the streets and should be taken away.

I want to make sure that what we are doing has a purpose—that it gets at the weapons that are being used by gang members and others in killing sprees or other random violence. I want to be able to assure the hunters, sport shooters and folks who want to be prepared for self-defense that we're not going to turn around and tell these gun owners that their sporting guns are illegal. This is a good bill, but let's tread very carefully before going any further.

Finally, because I want to make sure that there is no mistake about which guns are banned and which are exempt, especially guns that will be developed in the future, I offered an amendment during Committee markup that was accepted by the Committee. This amendment clarifies that simply because a gun is not on the list of specifically exempted guns, does not mean that that firearm is banned. A firearm must meet the specific criteria set out in the bill, or be specifically named as a banned gun before it can be banned. In other words, the exempted gun list is not exhaustive.

Furthermore, my amendment makes clear that no gun may be taken off the list of specifically exempted guns as long as the act is in effect. In this way, it is absolutely clear that the intent of Congress is that exempted guns remain exempted.

DISSENTING VIEWS OF HON. F. JAMES SENSENBRENNER, JR., HON. GEORGE GEKAS, HON. LAMAR S. SMITH, HON. BILL McCOLLUM, HON. HOWARD COBLE, HON. STEVE SCHIFF, AND HON. BOB GOODLATTE

We strongly oppose H.R. 4296 which would ban a variety of guns. The primary problem with this bill is that it targets law abiding citizens. If this bill passes, simply possessing a shotgun or rifle could land you in jail. You don't have to shoot anybody. You don't have to threaten anyone, just leaving it in the hall closet is enough to land you in jail. Even if you use the gun for self-defense, you can go to jail.

It is already a federal crime for convicted criminals to possess these weapons, or any other gun for that matter. The laws aimed at these criminals should be fully enforced before we start going into the homes of law-abiding citizens and arresting them.

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Another problem with this legislation is that simple, cosmetic changes to certain guns would turn those guns from being illegal to, all of a sudden being legal. For example, simply by removing a pistol grip, or a bayonet mount from a rifle saves the owner from going to jail, but leaves the gun's performance unaffected.

Finally, the problem of these guns has been greatly exaggerated. Although semiautomatic weapons are used in the most high profile killings that make it on the nightly news, in fact, more than 99 percent of killers eschew assault rifles and use more prosaic devices. According to statistics from the Justice Department and reports from local law enforcement, five times as many people are kicked or beaten to death than are killed with assault rifles.

Passing this legislation is an excuse to avoid the real issues of violent crime, and threatens the rights of law-abiding citizens. Therefore, we oppose H.R. 4296.

F. James Sensenbrenner, Jr.
George W. Gekas.
Lamar Smith.
Bill McCollum.
Howard Coble.
Steve Schiff.
Bob Goodlatte.

DISSENTING VIEWS OF HON. JACK BROOKS

I am strongly opposed to H.R. 4296, the Public Safety and Recreational Firearms Use Protection Act, because it misidentifies the causes of violent crime in the United States; diverts national priorities away from meaningful solutions to the problem of violent crime; punishes honest American gun owners who buy and use firearms for legitimate, lawful purposes such as, but not necessarily limited to, self-defense, target shooting, hunting, and firearms collection; fails to focus the punitive powers of government upon criminals. Most fundamentally, a prohibition on firearms violates the right of individual Americans to keep and bear arms, protected by the Second Amendment to the Constitution of the United States—a stark fact of constitutional life that the proponents of H.R. 4296 conveniently overlook in their zeal to abridge the rights of law-abiding citizens.

Reasons claimed to justify a prohibition on the firearms that would be affected by H.R. 4296 include the assertion that those particular firearms are used often in the commission of violent crimes. Data on the use of the firearms H.R. 4296 labels as “assault weapons” is not comprehensive, but such data as do exist consistently show that “assault weapons” are involved in a small percentage of violent crimes.

Most of the firearms labelled as “assault weapons” in H.R. 4296 are rifles—yet rifles are the general category of firearms used least often in the commission of violent crimes. The FBI Uniform Crime Reports, 1992, the most recent comprehensive data available, shows that rifles of any description are used in 3.1 percent of homicides, for example, while knives are used in 14.5 percent, fists and feet are used in 5 percent, and blunt objects are used in another 5 percent.

Professor Gary Kleck, of Florida State University, the 1993 recipient of the American Society of Criminology's Hindelang Award, estimates that one-half of 1 percent of violent crimes are committed with “assault weapons.” University of Texas criminologist Sheldon Ekland-Olson estimates that one-quarter of rifle-related homicides may involve rifles chambered for military cartridges, which would include not only so-called “assault” type semi-automatic rifles, but non-semiautomatic rifles as well.

Since 1980, rifle-related homicides have declined by more than a third. According to the Metropolitan Police of Washington, D.C., the city which has the highest per capita rate of homicides of any major city in the United States, between 1980–1993 there occurred only 4 rifle-related homicides out of a total of more than 4,200 homicides in the period. The last rifle-related homicide

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during the period was recorded in 1984. Other data from D.C. police show that rifles are used in about one-tenth of 1 percent of robberies and assaults.

The California Department of Justice surveyed law enforcement agencies in the state in 1990, as the state's legislature addressed "assault weapon" ban legislation there. The California Department of Justice found that only 3.7 percent of the firearms that are used in homicides and assaults were "assault weapons," defined there to include even more firearms than are defined as "assault weapons" in H.R. 4296.

Connecticut State Police report that less than 2 percent of firearms seized by police in the state are "assault weapons"; the Massachusetts State Police report that "assault" type rifles were used in one-half of 1 percent of homicides between 1985-1991.

I believe the proponents of H.R. 4296 are in error in claiming that the Bureau of Alcohol, Tobacco and Firearms (BATF) has traced a large number of "assault weapons" to crime. This claim has been effectively contradicted by both the BATF itself and the Congressional Research Service's (CRS) report on the BATF firearms tracing system. The BATF has stated that it "does not always know if a firearm being traced has been used in a crime." For instance, sometimes a firearm is traced simply to determine the rightful owner after it is found by a law enforcement officer.

Each year, the BATF traces about 50,000 firearms, yet only about 1 percent of these traces relate to "assault weapons" that have been seized by police in the course of investigations of violent crimes. Most "assault weapons" traced relate not to violent crime but to property violations, such as stolen guns being traced so that they may be returned to their lawful owners, violations of the Gun Control Act, and other non-violent circumstances.

As noted by BATF and by CRS in its report to Congress entitled "Assault Weapons: Military-Style Semiautomatic Firearms Facts and Issues" (1992) that firearms traces are not intended to "trace guns to crime," that few "assault weapons" traced relative to violent crime investigations, and that available state and local law enforcement agency data shows relatively little use of "assault weapons" are used frequently in violent crimes.

"Assault weapons" function in the same manner as any other semi-automatic firearm. They fire once with each pull of the trigger, like most firearms. They use the same ammunition as other firearms, both semi-automatic and not. Therefore, "assault weapons" are useful for target shooting, self-defense, hunting, and other legitimate purposes, just as other firearms are.

H.R. 4296 would prohibit rifles that are commonly used for competitive shooting, such as the Springfield A and the Colt "AR-15."

Accessories found on some models of "assault weapons," such as folding stocks, flash suppressors, pistol grips, bayonet lugs, and detachable magazines may look menacing to persons unfamiliar with firearms, but there is absolutely no evidence that any of these accessories provide any advantage to a criminal. As has been demonstrated on many occasions, firearms which H.R. 4296 specifically exempts from its prohibition, firearms not equipped with those accessories, can be fired at the same rate, with the same accuracy, and with the same power as "assault weapons."

Time and again, supporters of H.R. 4296 have claimed that "assault weapons" can be "spray-fired from the hip"; but this is simply not true. The firearms targeted in H.R. 4296 are not machineguns. Machineguns are restricted under the National Firearms Act of 1934. H.R. 4296's guns are semi-automatic, and fire only one shot at a time.

H.R. 4296's limitation on the capacity of ammunition feeding devices would do nothing to reduce the number of rounds available to a criminal. It has been demonstrated frequently that such devices can be switched in less than a second, so a criminal determined to have available a number of rounds greater than H.R. 4296 would permit in a single magazine would need only to possess additional smaller magazines. However, police have reportedly consistently that when criminals fire shots, they rarely discharge more than 2-5 rounds, well below the number of rounds H.R. 4296 would permit in a single magazine.

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Most fundamentally, to impinge upon the constitutionally-protected rights of honest, law-abiding Americans on the basis of myth, misinformation, and newspaper headlines is a crime in and of itself. To protect against such a mockery of our Constitution and the infliction of such harm upon our citizens, I intend to oppose H.R. 4296 vigorously on the House floor in the hope that careful reflection will permit cooler heads and the light of reason to prevail.

1 “Omnibus Crime Control Act of 1991,” Report of the Committee on the Judiciary, House of Representatives, on H.R. 3371, 102d Cong, 1st Sess., Rept. 102–242, October 7, 1991, at 202.

2 See, e.g., Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 Firearms; Chief Sylvester Daughtry, President, International Association of Chiefs of Police; Mr. John Pitta, National Executive Director, Federal Law Enforcement Officers Association).

3 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994; Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991; Hearing on Semiautomatic Assault Weapons, Part II, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, July 25, 1991; Hearing on H.R. 1190, Semiautomatic Assault Weapons Act of 1989, and related bills, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, April 5 and 6, 1989.

4 “Omnibus Crime Control Act of 1991,” Report of the Committee on the Judiciary, House of Representatives, on H.R. 3371, 102d Cong, 1st Sess., Rept. 102–242, October 7, 1991, at 203.

5 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Hon. John Magaw, Director, Bureau of Alcohol, Tobacco and Firearms).

6 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Tony Loizzo, executive vice president, National Association of Police Organizations). See also, Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal Order of Police) (assault weapons “pose a grave and immediate threat to the lives of those sworn to uphold our laws”); Hearing on H.R. 1190, Semiautomatic Assault Weapons Act of 1989, and related bills, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, April 5, 1989 (Testimony of Daniel M. Hartnett, associate director, law enforcement, Bureau of Alcohol, Tobacco and Firearms) (“Fifteen years ago, police rarely encountered armed drug dealers. Today, firearms, especially certain types of semiautomatic weapons, are status symbols and tools of the trade for this country’s most vicious criminals.”)

7 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

8 Hearing on H.R. 4296 and H.R. 3527, Public Safety and recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

9 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Hon. Henry Cisneros, Secretary, Department of Housing and Urban Development).

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10 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Ken Brondell, Jr.).

11 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Jacob Locicero and Arlene Locicero).

12 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

13 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Michelle Scully and Steve Sposato).

14 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on crime and Criminal Justice, April 25, 1994 (State of Dr. Suzanna Gratia, Copperas Cove, Texas)

15 The Committee notes that, under the Gun Control Act of 1968 as amended in 1986, it is a Federal felony for a convicted felon to be in possession of any firearm, including an assault weapon, under [18 U.S.C. 922\(g\)\(1\)](#). Violations carry up to five years imprisonment and a \$250,000 fine. If a criminal—whether previously convicted or not—is carrying an assault weapon and is involved in a drug trafficking crime, that criminal is subject to a mandatory minimum of 5 years imprisonment and a \$250,000 fine under [18 U.S.C. 924\(c\)\(1\)](#). Any criminal who has three prior violent felony and/or serious drug offenses convictions and is in possession of a firearm is subject to a mandatory minimum of 15 years imprisonment and a \$250,000 fine under [18 U.S.C. 924\(e\)\(1\)](#).

16 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Ms. Jacquie Miller, Louisville, Kentucky).

17 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Mr. Phillip Murphy, Tucson, Arizona).

18 U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989.

19 The ultimate question of law upon which the working group was advising the Secretary of the Treasury was whether these import firearms met a “sporting purpose” test under 18 U.S.C. Code section 925(d). He held that they did not. Although that legal question is not directly posed by this bill, the working group's research and analysis on assault weapons is relevant on the questions of the purposes underlying the design of assault weapons, the characteristics that distinguish them from sporting guns, and the reasons underlying each of the distinguishing features.

20 An automatic gun fires a continuous stream as long as the trigger is held down, until it has fired all of the cartridges (“rounds” or “bullets”) in its magazine (or “clip”). Automatic firearms are also known as machineguns. A semi-automatic gun fires one round, then loads a new round, each time the trigger is pulled until its magazine is exhausted. Manually operated guns require the shooter to manually operate a bolt, slide, pump, or lever action to extract the fired round and load a new round before pulling the trigger.

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21 U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

22 U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

23 18 U.S. Code, section 922(o).

24 The Committee notes that such conversion is a Federal felony that carries penalties of up to 10 years imprisonment and a \$250,000 fine under 26 U.S.C. 5861.

25 Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal order of Police).

26 Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal order of police).

27 Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Richard Cook, Chief, Firearms Divisions, Bureau of Alcohol, Tobacco and Firearms) at 268.

28 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms, Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Hon. Henry Cisneros, Secretary, Department of Housing and Urban Development and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Paul J. McNulty, Principal Deputy Director, Office of Policy development, Department of Justice) at 288.

29 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Richard Cook, Chief, Firearms Division, Bureau of Alcohol, Tobacco and Firearms); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

30 U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

31 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

32 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and

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Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

33 Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement and testimony of Dr. David Milzman, Associate Director, Trauma Services, Georgetown University Medical Center, Washington, DC); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

34 See H.R. 4296, Appendix A, for the list.

35 H.R. 4296 bans the following semiautomatic assault weapons by name (as well as any copies or duplicates, in any caliber): All AK-47 type; Beretta AR-70; Colt AR-15; DC9, 22; FNC; FN-FAL/LAR; Galil; MAC 10, MAC 11-type; Steyr AUG; Street Sweeper; Striker 12; TEC-9; Uzi.

36 While noting that its list is not all-inclusive, the Bureau of Alcohol, Tobacco, and Firearms has listed the following semi-automatic firearms that would be banned based on their general characteristics:

1. Semi-automatic Rifles: AA Arms AR9 semi-automatic rifle; AMT Lightning 25 rifle; Auto Ordnance Thompson Model 1927 carbines (finned barrel versions); Calico M100 carbine; Colt Sporter Rifle (all variations); Federal XC900 carbine; Federal XC450 carbine; Grendel R31 carbine; Iver Johnson M1 carbine (version w/collapsible stock and bayonet mount); Springfield M1A rifle.

2. Pistols: AA Arms AP9 pistol; Australian Automatic Arms pistol; Auto Ordnance Model 1927A5 pistol; American Arms Spectra pistol; Calico Model M950 pistol; Calico Model 110 pistol; All Claridge Hi-Tec pistol; D Max auto pistol; Grendel P-31 pistol; Heckler & Koch SP89 pistol; Wilkinson Linda pistol.

3. Shotguns: Benelli M1 Super 90 Defense shotgun; Benelli M3 Super 90 shotgun; Franchi LAW 12 shotgun; Franchi SPAS 12 shotgun; USAS 12 shotgun.

37 H.R. 4296 bans the following semiautomatic assault weapons by name (as well as any copies or duplicates, in any caliber): All AK-47 type; Beretta AR-70; Colt AR-15; DC9, 22; FNC; FN-FAL/LAR; Galil; MAC 10, MAC 11-type; Steyr AUG; Street Sweeper; Striker 12; TEC-9; Uzi

H.R. REP. 103-489, H.R. Rep. No. 489, 103RD Cong., 2ND Sess. 1994, 1994 WL 168883, 1994 U.S.C.C.A.N. 1820 (Leg.Hist.)

EXHIBIT 9

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

NOVEMBER 5, 2013 CONSOLIDATED ELECTION

Last updated: 11/18/2013 3:30:46 PM PST



Santa Clara County

Registrar of Voters



SUMMARY

PRECINCTS REPORTING

VOTER TURNOUT

FILTERS

Reports

Registered Voters: 228,435 Ballots Cast: 63,157 Voter Turnout: 27.65%

OFFICIAL FINAL RESULTS



Customize My Search (13 of 13)

STANISLAUS COUNTY BOARD OF EDUCATION, TA 5 (VOTE FOR 1)

1 of 1 Precincts Reporting

Detail

Map



Choice	Votes	Percent	
ADRIANA GARCIA	2	15.38%	<div style="width: 15.38%;"></div>
BOB VIZZOLINI	11	84.62%	<div style="width: 84.62%;"></div>
Total	13		

ORCHARD SCHOOL DISTRICT (VOTE FOR 3)

7 of 7 Precincts Reporting

Detail

Map



Choice	Votes	Percent	
STEPHANIE HILL	276	21.15%	<div style="width: 21.15%;"></div>
ALAN FONG	307	23.52%	<div style="width: 23.52%;"></div>
BAMBI FLEMING	150	11.49%	<div style="width: 11.49%;"></div>
HELEN LEUNG-YUEN	271	20.77%	<div style="width: 20.77%;"></div>
KARL JACOBSON	301	23.07%	<div style="width: 23.07%;"></div>
Total	1,305		

CITY COUNCIL, CITY OF SUNNYVALE, SEAT 1 (VOTE FOR 1)

54 of 54 Precincts Reporting

Detail

Map



Choice	Votes	Percent	
ANDY FRAZER	8,306	47.43%	<div style="width: 47.43%;"></div>
GUSTAV LARSSON	9,205	52.57%	<div style="width: 52.57%;"></div>
Total	17,511		

EB000847

CITY COUNCIL, CITY OF SUNNYVALE, SEAT 2 (VOTE FOR 1)

54 of 54 Precincts Reporting

Detail

Map



Choice	Votes	Percent	
STEVE HOFFMAN	6,406	36.34%	<div style="width: 36.34%;"></div>
GLENN HENDRICKS	10,181	57.75%	<div style="width: 57.75%;"></div>
GUSTAVO MAGANA	1,041	5.91%	<div style="width: 5.91%;"></div>
Total	17,628		

CITY COUNCIL, CITY OF SUNNYVALE, SEAT 3 (VOTE FOR 1)

54 of 54 Precincts Reporting

Detail

Map



Choice	Votes	Percent	
JAMES R. "JIM" GRIFFITH	11,410	64.77%	<div style="width: 64.77%;"></div>
TAPPAN (TAP) G. MERRICK	6,207	35.23%	<div style="width: 35.23%;"></div>
Total	17,617		

SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT (VOTE FOR 2)

34 of 34 Precincts Reporting

Detail

Map



Choice	Votes	Percent	
PHILIP GARCIA	1,205	26.07%	<div style="width: 26.07%;"></div>
ROBERT ARMENDARIZ	1,018	22.03%	<div style="width: 22.03%;"></div>
JESSE SANCHEZ	958	20.73%	<div style="width: 20.73%;"></div>
GABE PEREZ	1,441	31.18%	<div style="width: 31.18%;"></div>
Total	4,622		

MEASURE A - CITY OF SUNNYVALE - ELECTION DATE (VOTE FOR 1)

54 of 54 Precincts Reporting

Detail

Map



Choice	Votes	Percent	
YES	13,259	72.06%	<div style="width: 72.06%;"></div>
NO	5,142	27.94%	<div style="width: 27.94%;"></div>
Total	18,401		

MEASURE B - CITY OF SUNNYVALE - TOT (VOTE FOR 1)

54 of 54 Precincts Reporting

Detail

Map

EB000848



Choice	Votes	Percent	
YES	12,657	68.58%	<div style="width: 68.58%;"></div>
NO	5,799	31.42%	<div style="width: 31.42%;"></div>
Total	18,456		

MEASURE C - CITY OF SUNNYVALE - GUN SAFETY (VOTE FOR 1)

54 of 54 Precincts Reporting

[Detail](#) [Map](#)



Choice	Votes	Percent	
YES	12,404	66.55%	<div style="width: 66.55%;"></div>
NO	6,235	33.45%	<div style="width: 33.45%;"></div>
Total	18,639		

MEASURE D - CITY OF PALO ALTO - REZONING (VOTE FOR 1)

32 of 32 Precincts Reporting

[Detail](#) [Map](#)



Choice	Votes	Percent	
FOR THE ORDINANCE	6,538	43.55%	<div style="width: 43.55%;"></div>
AGAINST THE ORDINANCE	8,476	56.45%	<div style="width: 56.45%;"></div>
Total	15,014		

MEASURE E - CAMPBELL UNION HIGH SD - PARCEL TAX (VOTE FOR 1)

111 of 111 Precincts Reporting

[Detail](#) [Map](#)



Choice	Votes	Percent	
YES	19,341	76.76%	<div style="width: 76.76%;"></div>
NO	5,857	23.24%	<div style="width: 23.24%;"></div>
Total	25,198		

MEASURE G - SUNNYVALE SD - BONDS (VOTE FOR 1)

30 of 30 Precincts Reporting

[Detail](#) [Map](#)



Choice	Votes	Percent	
BONDS YES	6,995	68.44%	<div style="width: 68.44%;"></div>

EB000849

BONDS NO	3,225	31.56%	
Total	10,220		

MEASURE H - LOMA PRIETA JT. UNION SD - PARCEL TAX (VOTE FOR 1)

4 of 4 Precincts Reporting

[Detail](#) [Map](#)



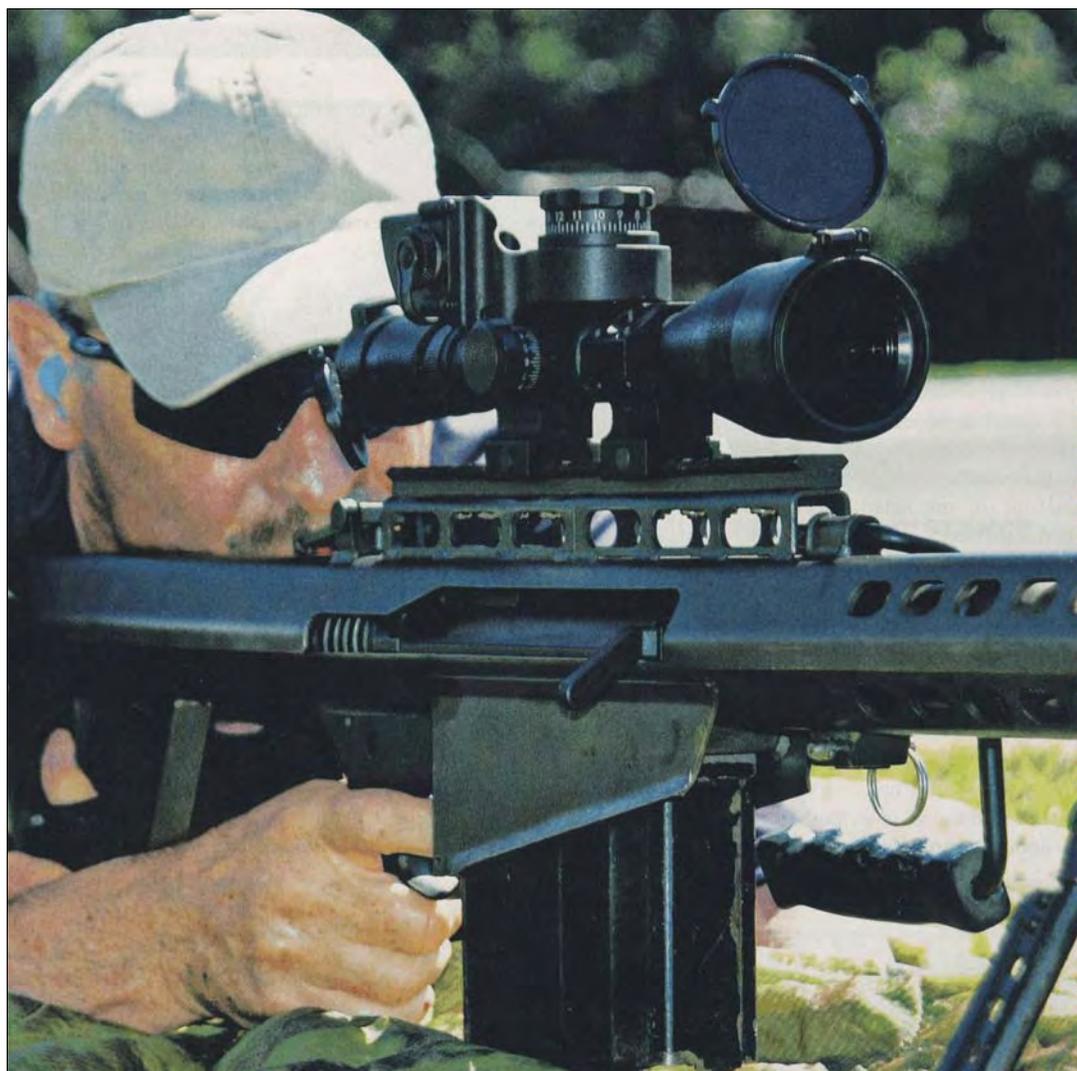
Choice	Votes	Percent	
YES	241	77.49%	
NO	70	22.51%	
Total	311		

[SUMMARY](#) [PRECINCTS REPORTING](#) [VOTER TURNOUT](#) [FILTERS](#)

EXHIBIT 10 (part 1)

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

The Militarization of the U.S. Civilian Firearms Market



Violence Policy Center
June 2011

The Violence Policy Center (VPC) is a national non-profit educational organization that conducts research and public education on violence in America and provides information and analysis to policymakers, journalists, advocates, and the general public. This report was authored by VPC Senior Policy Analyst Tom Diaz. The study was funded in part with the support of the David Bohnett Foundation and The Joye Foundation. Past studies released by the VPC include:

- *A Shrinking Minority: The Continuing Decline of Gun Ownership in America* (April 2011)
- *Blood Money: How the Gun Industry Bankrolls the NRA* (April 2011)
- *Lost Youth: A County-by-County Analysis of 2009 California Homicide Victims Ages 10 to 24* (January 2011)
- *Black Homicide Victimization in the United States* (January 2011)
- *When Men Murder Women: An Analysis of 2008 Homicide Data* (September 2010)
- *Drive-by America: Second Edition* (July 2010)
- *Lessons Unlearned—The Gun Lobby and the Siren Song of Anti-Government Rhetoric* (April 2010)
- *Target: Law Enforcement—Assault Weapons in the News* (February 2010)
- *Law Enforcement and Private Citizens Killed by Concealed Handgun Permit Holders—An Analysis of News Reports, May 2007 to April 2009* (July 2009)
- *Indicted: Types of Firearms and Methods of Gun Trafficking from the United States to Mexico as Revealed in U.S. Court Documents* (April 2009)
- *Iron River: Gun Violence and Illegal Firearms Trafficking on the U.S.-Mexico Border* (March 2009)
- *“Big Boomers”—Rifle Power Designed Into Handguns* (December 2008)
- *American Roulette: Murder-Suicide in the United States* (April 2008)
- *An Analysis of the Decline in Gun Dealers: 1994 to 2007* (August 2007)
- *Clear and Present Danger: National Security Experts Warn About the Danger of Unrestricted Sales of 50 Caliber Anti-Armor Sniper Rifles to Civilians* (July 2005)
- *The Threat Posed to Helicopters by 50 Caliber Anti-Armor Sniper Rifles* (August 2004)
- *United States of Assault Weapons: Gunmakers Evading the Federal Assault Weapons Ban* (July 2004)
- *Vest Buster: The .500 Smith & Wesson Magnum—The Gun Industry’s Latest Challenge to Law Enforcement Body Armor* (June 2004)
- *Bullet Hoses—Semiautomatic Assault Weapons: What Are They? What’s So Bad About Them?* (May 2003)
- *“Officer Down”—Assault Weapons and the War on Law Enforcement* (May 2003)
- *“Just Like Bird Hunting”—The Threat to Civil Aviation from 50 Caliber Sniper Rifles* (January 2003)
- *Sitting Ducks—The Threat to the Chemical and Refinery Industry from 50 Caliber Sniper Rifles* (August 2002)
- *License to Kill IV: More Guns, More Crime* (June 2002)
- *“A .22 for Christmas”—How the Gun Industry Designs and Markets Firearms for Children and Youth* (December 2001)
- *Unintended Consequences: Pro-Handgun Experts Prove That Handguns Are a Dangerous Choice For Self-Defense* (November 2001)
- *Voting from the Rooftops: How the Gun Industry Armed Osama bin Laden, Other Foreign and Domestic Terrorists, and Common Criminals with 50 Caliber Sniper Rifles* (October 2001)
- *Hispanics and Firearms Violence* (May 2001)
- *Where’d They Get Their Guns?—An Analysis of the Firearms Used in High-Profile Shootings, 1963 to 2001* (April 2001)
- *A Deadly Myth: Women, Handguns, and Self-Defense* (January 2001)
- *Handgun Licensing and Registration: What it Can and Cannot Do* (September 2000)
- *Pocket Rockets: The Gun Industry’s Sale of Increased Killing Power* (July 2000)
- *Guns For Felons: How the NRA Works to Rearm Criminals* (March 2000)
- *One Shot, One Kill: Civilian Sales of Military Sniper Rifles* (May 1999)
- *Cease Fire: A Comprehensive Strategy to Reduce Firearms Violence* (Revised, October 1997)

Violence Policy Center, 1730 Rhode Island Avenue, NW, Suite 1014, Washington, DC 20036
202-822-8200 phone, 202-822-8205 fax, www.vpc.org web

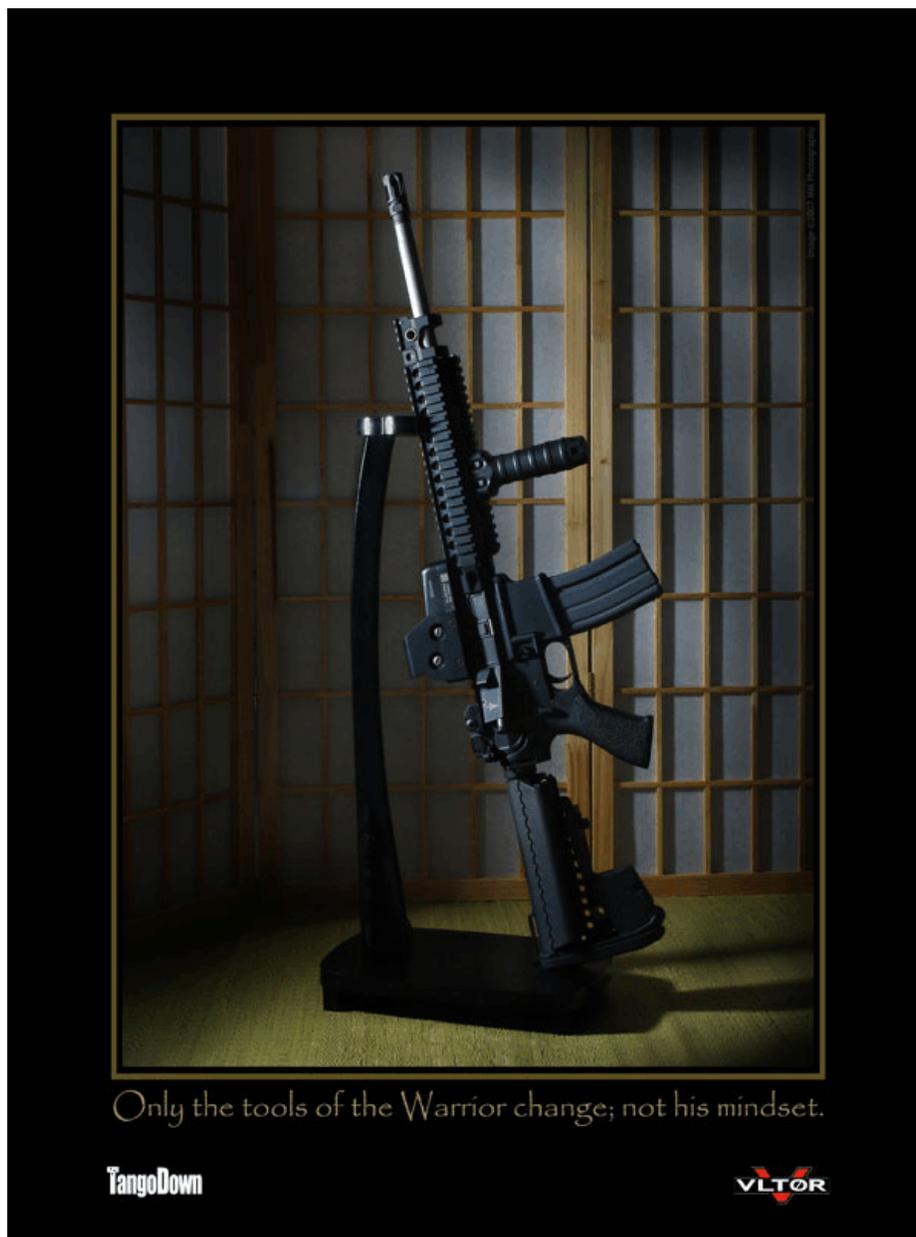
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This report is published in PDF format and is designed to be printed out in color as a single-sided document.



Firearms accessories manufacturer TangoDown claims on its website that it "...exists for one reason. To design, develop and manufacture the highest quality products for the warriors of the United States Armed Forces." However, many of its products—like the poster reproduced above—and its advertising are aimed at the militarized civilian market.

www.tangodown.com/td_pages/p_about.html



Sgt. Brandon Paudert (left) and Officer Bill Evans (right) of the West Memphis (Arkansas) Police Department were shot to death May 20, 2010, following a traffic stop. The shooter, 16-year-old Joseph Kane, was armed with an AK-47 semiautomatic assault rifle. Kane and his father, Jerry, were killed in a gunfight with police in a nearby Walmart parking lot. The Kanes were reportedly members of the anti-government Sovereign Citizens Movement.

"Brandon and Bill had no chance against an AK-47," [West Memphis Police Chief Bob] Paudert said. "They were completely outgunned. We are dealing with people who rant and rave about killing. They want government officials dead. We had a 16-year-old better armed than the police."

"West Memphis police chief says officers' pistols were no match for heavily armed teenager," *The Commercial Appeal* (Memphis, TN), May 25, 2010

"Sovereign Citizens Movement members leave two police officers dead in shootout," *NBC News Transcripts*, July 5, 2010

Key Findings

The civilian firearms industry in the United States has been in decline for several decades. Although the industry has enjoyed periods of temporary resurgence, usually primed by “fear marketing”—encouraging people to buy guns by stoking fear of crime, terrorism, violent immigrants, or government control, for example—the long-term trend for the manufacturers of guns for civilians has been one of steady decline.

Selling militarized firearms to civilians—i.e., weapons in the military inventory or weapons based on military designs—has been at the point of the industry’s civilian design and marketing strategy since the 1980s. Today, militarized weapons—semiautomatic assault rifles, 50 caliber anti-armor sniper rifles, and armor-piercing handguns—define the U.S. civilian gun market and are far and away the “weapons of choice” of the traffickers supplying violent drug organizations in Mexico.

The flood of militarized weapons exemplifies the firearms industry’s strategy of marketing enhanced lethality, or killing power, to stimulate sales. The resulting widespread increase in killing power is reflected in the toll of gun death and injury in the United States—a relentless count that every year takes 10 times the number of lives as the terrorist attacks of September 11, 2001.¹

Militarization has baleful consequences beyond the “routine” toll of murders, suicides, and unintentional deaths. Military-style weapons are a favored tool of organized criminals such as gangs and drug traffickers, and violent extremists. Semiautomatic assault weapons—especially inexpensive AK-47 type imports—are increasingly used in attacks against law enforcement officers in the United States.

The pernicious effects of the militarized U.S. civilian gun market extend well beyond the borders of the United States. Lax regulation and easy access to these relatively inexpensive military-style weapons has resulted in their being smuggled on a large scale from the U.S. to criminals throughout the Western Hemisphere—including Mexico, Canada, Central America, the Caribbean, and parts of South America—as well as to points as far away as Afghanistan, the Balkans, and Africa.

This study surveys the rise of the militarized civilian gun market, examines its impact on public health, safety, and crime in the United States and the world, and refutes the gun lobby’s recent attempt to “rebrand” semiautomatic assault weapons as “modern sporting rifles.”

“Militarization” – What is It?

The verb “militarize” means “to give a military character to” something.² The gun industry has given a “military character” to guns in the U.S. civilian market by—

- **Selling on the civilian market guns that are identical to guns used by the armed forces of the United States and other countries.** These firearms include such sophisticated weapons as the Barrett 50 caliber anti-armor sniper rifle and the FN Herstal Five-sevenN 5.7mm pistol.



The Barrett Firearms 50 caliber anti-armor sniper rifle used in combat (above) is sold without meaningful regulation in the U.S. civilian gun market.



BUY ANY FN FIVE-SEVEN AND YOUR FIRST 200 SHOTS ARE FREE!

Purchase any new FN Five-seveN pistol before March 31, 2008 and receive 200 rounds of FN 5.7x28mm SS197SR ammunition (a \$90.00 value) **ABSOLUTELY FREE!**

Visit www.fnhusa.com for complete details on this limited time offer!

FN M240 7.62x51MM NATO MEDIUM MACHINE GUN

BUILT FOR THEM.

The FN Five-seveN USG pistol offers carbine ballistic performance in a handgun. Today FN provides 70% of the small arms used by U.S. Military Forces around the globe. FN is the name you can trust. **JUST LIKE THEY DO.**

REAL WORLD PRODUCTS. REAL WORLD PERFORMANCE.
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BUILT FOR YOU.

THE FN FIVE-SEVEN USG IS AVAILABLE IN 5.7X28MM
 - FN Five-seveN USG AUTOLOADING HANDGUN SHOWN -

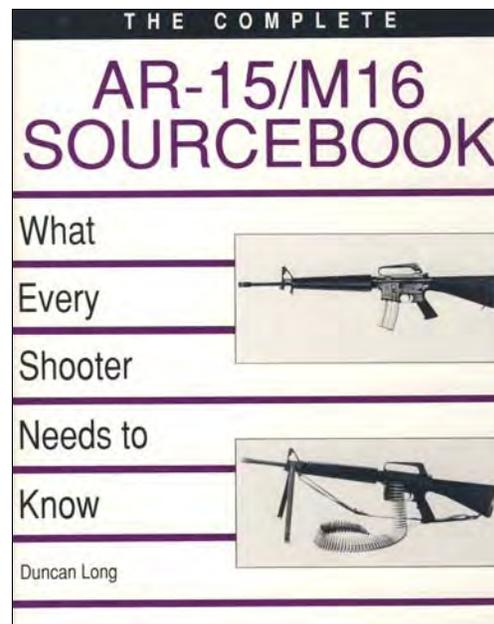
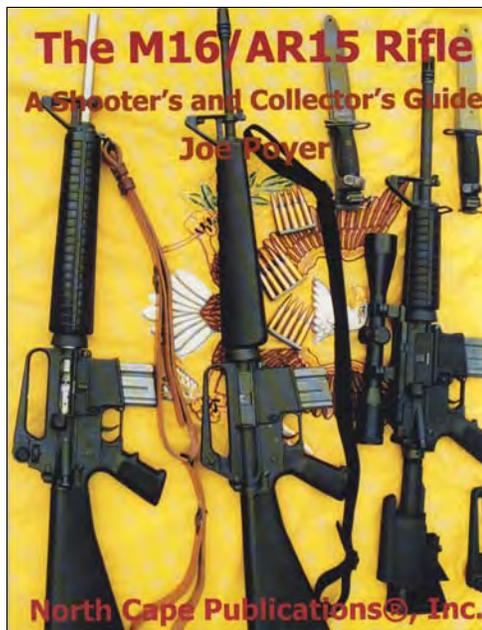
Every FN Five-seveN features:

- Hammer-forged chrome-lined barrel
- Polymer frame and slide cover
- Integrated accessory rail
- Ambidextrous safety levers
- Three 20-round polymer magazines and a hard case (Limited capacity magazines supplied where required by law.)

FNH USA • P.O. BOX 697 • McLEAN, VA 22101 USA • (703) 288-1292 © FNH USA, LLC., a subsidiary of FN Herstal, S.A. 2007.

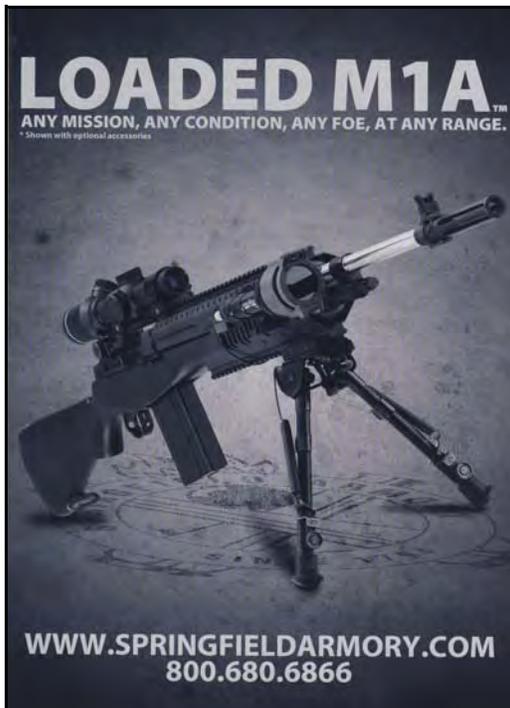
This ad from *Guns & Ammo* (March 2008) explicitly plays on the military's use of FN's Five-seveN 5.7mm armor-piercing handgun.

- **Designing and manufacturing, or importing, civilian variants of military firearms that would otherwise be illegal to sell on the civilian market.** These are principally semiautomatic versions of military assault weapons. (Military assault rifles are capable of fully automatic fire. They are thus barred, as “machine guns,” from sale to civilians in the United States.) They include many variants of the AR-15 (the civilian version of the U.S. military M-16 assault rifle) and numerous semiautomatic versions of the Kalashnikov assault rifle, popularly known as the AK-47.



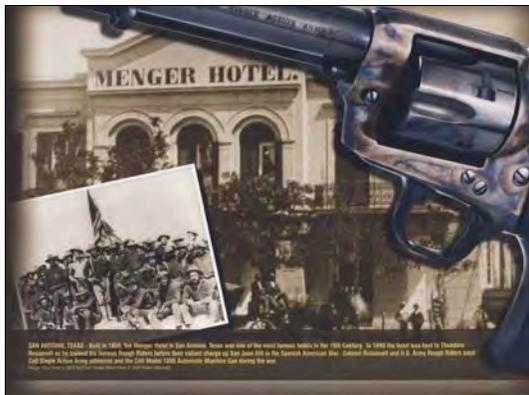
The covers of these books, the left published in 2000, the right in 1992, graphically illustrate the equivalence gun enthusiasts see between the military M-16 and the civilian AR-15.

- Heavily promoting military-style products through images, slogans, print, video, and other electronic media that link the features, capabilities, and uses of military weapons with firearms available on the civilian market. In addition to this direct product promotion, the industry relies heavily on suggestive “patriotic” and “heroic” imagery—both historic and contemporary—to identify ownership of military-style weapons with grand themes of “patriotism” and “homeland defense.”



These ads from the NRA's *American Rifleman* magazine (May 2010) are typical of how the gun industry implicitly evokes militaristic themes in its marketing.

In short, the gun industry designs, manufactures, imports, and sells firearms in the civilian market that are to all intents and purposes the same as military arms. It then bombards its target market with the message that civilian consumers—just like real soldiers—can easily and legally own the firepower of militarized weapons.



Colt's Manufacturing's 2010 catalog (cover at top) *American Legends* touches all the bases. Internal pages, clockwise from upper left, glorify: Teddy Roosevelt and his Rough Riders; World War I hero Sgt. Alvin York; Colt's CEO Marine Lt. Gen. William M. Keys; and, U.S. Navy deserter and 1930s bank robber John Dillinger. The brochure's mawkish tone is typical of gun industry advertising and gun lobby propaganda.

Why Has the Gun Industry Militarized Its Market?

In spite of the gauzy imagery of its advertising, the gun industry's militarization is simply a business strategy aimed at survival: boosting sales and improving the bottom line. The hard commercial fact is that military-style weapons sell in an increasingly narrowly focused civilian gun market. True sporting guns do not.

Here, for example, is an informed industry assessment of the importance of assault (often euphemistically called "tactical") weapons to the gun industry from October 2008:

If there is an area of good news, it's still the tactical segment. In the past week, storefront owners and catalog retailers are unequivocally saying that, with the exception of the tactical categories—from AR-style rifles to the polymer pistols increasingly found in the holsters of law enforcement across the country, sales are slow.³

Here is another from an article titled, "Industry Hanging Onto [sic] A Single Category" —

The net of all the numbers is that if you're a company with a strong line of high-capacity pistols and AR-style rifles, you're doing land office business. If you're heavily dependent on hunting, you are hurting.⁴

Gun Industry Problem: Long-Term Decline. The civilian firearms industry in the United States has been in decline for several decades. Although it has from time to time enjoyed brief peaks in sales, it has been essentially stagnant. For example, demand for firearms apparently increased beginning in 2008 because of fears that "high unemployment would lead to an increase in crime" and the Obama administration would "clamp down" on gun ownership by regulating assault weapons. But demand fell back as these fears waned.⁵ A writer for the online industry publication *Shooting Wire* noted in September 2009:

...research tells me what everyone already knows: gun sales are slowing again. It seems the "Barack Boom" has started to go bust. No real reason, other than maybe the fact that everyone already has all the AR-style rifles they can shoot, store or afford, but there is an undeniable slowdown....⁶

In spite of such occasional anomalies, fundamental long-term trends have worked against the gun industry. The nation's largest firearms manufacturer, Freedom Group, Inc., included the following candid disclosure in a document filed recently with the U.S. Securities and Exchange Commission (SEC):

We believe that a number of trends that currently exist may affect the hunting and shooting sports market:

- the development of rural property in many locations has curtailed or eliminated access to private and public lands previously available for hunting;
- environmental issues, such as concern about lead in the environment; and
- decreases in consumer confidence and levels of consumer discretionary spending.

These trends may have a material adverse effect on our business by impairing industry sales of firearms, ammunition and other shooting-related products.⁷

Other trends include aging consumers—the percent of the U.S. population aged 65 and older has grown from 4.1 percent in 1900 to 12.4 percent in 2000.⁸ Gun owners are older and young people are less likely to buy firearms. The *Christian Science Monitor* reported in 2002 that some in the gun industry itself explained that the “fact that the average age of gun owners continues to increase is...more than a statistical quirk tied to aging baby boomers. Rather it’s a sign that younger generations see guns differently.”⁹ The growing proportion of immigrants in U.S. society also has an impact: “America’s increasing immigrant population has less of a tradition with firearms....”¹⁰



Electronic entertainment like Nintendo’s Super Mario series of video games threatens the gun industry’s crucial “youth market.”

Recent studies have shown that alternative recreation has drastically affected so-called “nature recreation”—camping, hunting, fishing, and park visitation—by all Americans. According to these studies, “Most reliable long-term per capita visitation measures of nature recreation peaked between 1981 and 1991. They’ve declined about 1.2 percent per year since then, and have declined a total of between 18 percent and 25 percent.”¹¹ The authors state the cause is “a social change of values characterized by our increasing pursuit of electronic media entertainment.”¹² According to the Entertainment Software Association, U.S. sales of computer and video games grew from \$2.6 billion in 1996 to “well over \$7.0 billion” in 2007.¹³

As a result, the gun industry has failed to keep up with population growth. Between 1980 and 2000 the U.S. population grew from 226,545,805 to 281,421,906—a 24 percent increase.¹⁴ Over the same period, total domestic small arms production fell from 5,645,117 to 3,763,345—a 33 percent decrease.¹⁵ As America has gotten bigger, the gun industry has gotten smaller.

Gun Industry Solution: Generating Demand with New and More Lethal Designs. In order to entice new gun owners into its shrinking pool of customers—and to motivate gun owners already in the pool to buy more guns—the gun industry seeks to create innovative products that offer new features and appeal to consumer trends. The industry *itself* deliberately creates these consumer trends.

An example lies in the phenomena of: (1) the gun lobby’s nationwide campaign, led by the National Rifle Association (NRA), to change state laws to allow the concealed carry of firearms; and, (2) the gun industry’s parallel aggressive marketing of concealable, high-powered handguns. In a 1996 interview with *The Wall Street Journal*, the NRA’s then-chief lobbyist, Tanya Metaksa, claimed credit for generating new gun sales with the concealed carry campaign: “The gun industry should send me a basket of fruit—our efforts have created a new market.”¹⁶

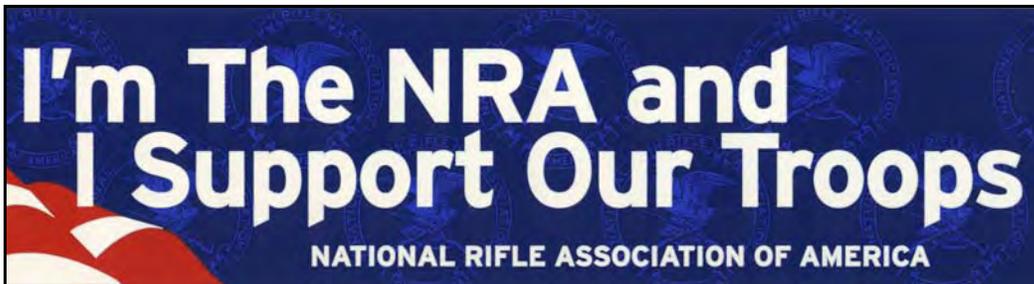


Colt’s Manufacturing evokes the militaristic image of Air Force General Curtis LeMay — “Father of the Strategic Air Command” — to promote its 01970 CY “carry model” semiautomatic pistol.

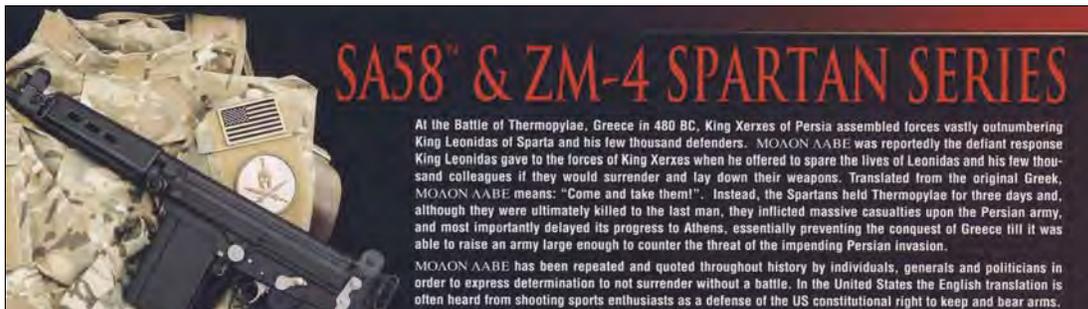
Colt American Legends catalog
(2010)

A Freedom Group filing with the SEC contains a more recent description of the process: "We have also shifted our business from a manufacturing-based 'push system' to a customer-focused 'pull system,' *driven by our Chief Sales and Marketing Officers.*" [emphasis added]¹⁷ Translated into plain English from the language of financial filings, this admission means that the conglomerate's marketing technique is to *generate* demand ("pull").

The constant generation of "pull" in niche markets is vital to the industry's survival. If a manufacturer's new product generates sufficient "pull," or product demand, imitation by other manufacturers and proliferation of the design follows swiftly.



NRA bumper sticker typical of gun lobby's pseudo-patriotic propaganda.



DSA, Inc. promoted its "Spartan Series" semiautomatic assault rifles with the Greek phrase "Molon Labe" ("Come and take them") supposedly uttered by Spartan warriors in 480 BC at the Battle of Thermopylae. "In the United States the English translation is often heard from shooting sports enthusiasts as a defense of the U.S. constitutional right to keep and bear arms," the company's brochure states.

Appealing to the Soldier Within. A marketing technique central to the gun industry’s militarization campaign is appealing to the soldier within potential buyers who are drawn for emotional—or more sinister practical—reasons to military weaponry.



FN Herstal USA’s 2010 catalog touts the SCAR 16S, “the semi-auto only version of the U.S. Special Operations Command’s newest service rifle.”

Here, for example, is an industry newsletter’s description of the appeal of an assault rifle recently introduced by FN Herstal—the FNAR—by reference to a well-known military weapon, the Browning Automatic Rifle (BAR):

Even as many in the firearms business worry about the potential for another assault on assault rifles...there's yet another entry into the black rifle marketplace.

FNH USA has announced the availability of their new FNAR 7.62x51mm semiautomatic rifle. If [sic] looks something like a tuner-version of the venerable BAR, but there's probably some reason for that resemblance. FNH, after all, owns Browning—and the Browning Automatic Rifle carries a lot of mystique with law enforcement and military folks.¹⁸



“Descending from the legendary Browning Automatic Rifle (BAR), the FNAR puts autoloading speed and bolt-action accuracy into one powerful package.”

FNUSA description of its FNAR civilian semiautomatic assault rifle, www.fnhusa.com/le/products/firearms/group.asp?gid=FNG022&cid=FNC01



The BAR was a favorite of U.S. Marines in World War II—and of a notorious 1930s outlaw, serial cop-killer Clyde Barrow.

The gun industry's embrace of militarization can be seen in the chart below. Eleven of the top 15 gunmakers manufacture some type of assault weapon.

Eleven of the Top 15 Gun Manufacturers Market Assault Weapons¹⁹			
Rank	Manufacturer	Assault Weapons?	Make or Type
1	Sturm, Ruger	Yes	Mini-14 and SR-556 assault rifles
2	Smith & Wesson	Yes	M&P 15 assault rifle
3	Remington	Yes	R-15 assault rifle
4	Maverick/Mossberg	Yes	Tactical .22 assault rifle and assorted assault shotguns
5	Marlin	No	
6	Sig Sauer	Yes	Assorted assault rifles
7	Kel-Tec	Yes	Assorted assault rifles
8	Savage	Yes	110 BA assault rifle
9	H&R 1871	No	
10	Beemiller	Yes	Hi-Point Carbine assault rifle
11	Henry Repeating Arms	No	
12	DPMS	Yes	Assorted assault rifles
13	Beretta, USA	Yes	Storm assault rifles
14	Bushmaster	Yes	Assorted assault weapons
15	Glock	No	

How Has the Gun Industry Militarized Its Market?

The gun industry has militarized the civilian market with three major types of firearms: high-capacity handguns, assault rifles and pistols, and sniper rifles.

High-Capacity Handguns

Handguns are a basic weapon of the U.S. military. Until 1911, the U.S. armed forces historically favored revolvers. In that year the U.S. Army adopted a semiautomatic pistol for the first time, the iconic Colt M1911 in .45ACP (designated the M1911A1 after modifications were made in 1926).²⁰



Colt Model 1911A1

The Colt pistol remained the military's standard sidearm until 1989. Although various models of the Colt pistol were offered in the civilian market, American consumers favored revolvers, which continued to dominate the market until 1989.

In that year, Beretta, U.S.A. Corporation—a subsidiary of an Italian gun manufacturer—won final approval of a contract to replace the venerable M1911A1 with its 9mm semiautomatic pistol. In short order, the U.S. civilian handgun market was revolutionized and militarized, in large part because of a deliberate, well-documented marketing strategy by Beretta's management.

Handgun Militarization—High-Capacity Semiautomatic Pistols. Beretta's pistol, designated the M-9, entered service in 1990 as the military's primary sidearm.²¹ But

Beretta’s top executive told the *Baltimore Sun* in 1993 that the military contract was simply “part of a carefully planned strategy dating back to 1980” —

The plan was to win the military contract and use it to make Beretta a household name in the United States in hopes of tapping into the larger law-enforcement and commercial markets. That’s why, [Robert] Bonaventure [head of Beretta U.S.A. Corp.] said, the company has been selling pistols to the military for about \$225 each—close to production cost....The biggest market—about twice the size of the police and military business combined—is the commercial market....²²



Beretta’s top U.S. executive told the *Baltimore Sun* in 1993 that the company’s strategy was to use the cachet of military sales to reach the larger civilian handgun market. The Beretta M9 also became a favorite of street gangs and drug dealers.

Beretta advertisement from October 1985 issue of *Guns & Ammo* exemplifies the Italian arms maker’s use of military cachet in civilian gun market.

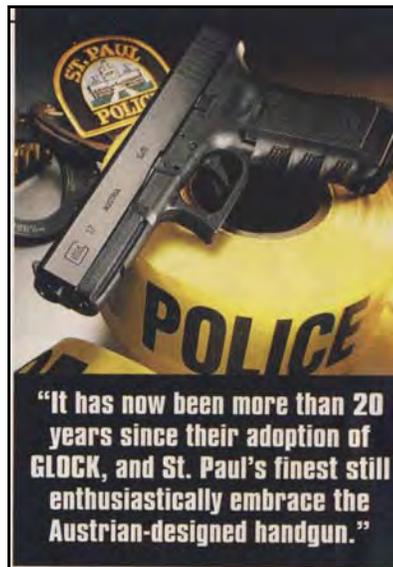
Beretta 92 F. The Ultimate 9mm Sidearm is now the Official Sidearm of the U.S. Military.

When the U.S. Government went looking for a new standard issue sidearm, it tested the best pistols in the world. But the Beretta 92 F 9mm Parabellum thoroughly out-classed the competition in every government performance trial.

In accuracy, Safety, Reliability, Firepower, In grip, feel, lightness and pointability. The Military was convinced. Now America’s fighting men will carry the finest 9mm sidearm in the world. Consistently superior quality and service have also convinced law enforcement agencies like the Connecticut and Wyoming State Police and the Texas Rangers to switch to Beretta. You’ll be convinced, too. Look at its outstanding features.

Check out the 92 F and the 92 SB Compact along with the complete line of quality Beretta sporting and competition firearms at your gun dealer’s today. Or send \$2.00 to Beretta USA for a copy of our catalog. Beretta U.S.A. Corp., 17601 Indian Head Highway, Accokeek, Md. 20607 (301) 283-2191

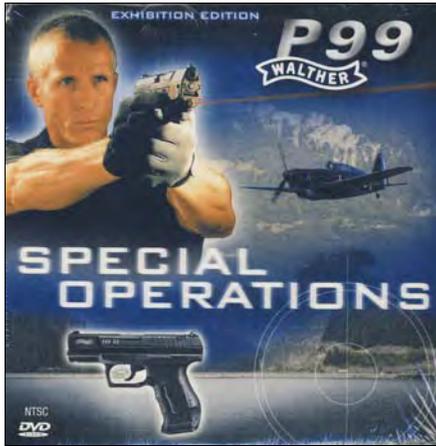
Austrian entrepreneur Gaston Glock had a similar objective when he founded his handgun manufacturing company, won an Austrian army competition in 1982, opened a U.S. subsidiary, and then went after the American law enforcement market. “In marketing terms, we assumed that, by pursuing the law enforcement market, we would then receive the benefits of ‘after sales’ in the commercial market,” Glock told *Advertising Age* in 1995.²³



Austrian gun manufacturer Glock promotes its firearms by constantly linking them to law enforcement use, a form of domestic militarism.

Boosted by these companies’ sophisticated marketing strategies, and an adulatory gun press, high-capacity 9mm semiautomatic pistols reinvigorated the industry in the 1980s. Known as “Wonder Nines,” 9mm semiautomatic pistols drove the formerly dominant revolvers out of the handgun market and created a lucrative boom for the industry. The military-style semiautomatic pistols proliferated.

The switch from revolvers to high-capacity pistols dramatically enhanced handgun lethality. As *Jane’s Infantry Weapons* observed in the early 1980s, revolvers are “bulky,” “generally limited to six rounds,” take a “long time to reload,” and produce low muzzle velocity. Pistols “can be made flat and unobtrusive,” “take up to 13 rounds or more,” feature a “simple to replace magazine,” and high muzzle velocity.²⁴



Gun industry promotional materials, like this DVD distributed at an NRA convention by German gun-maker Carl Walther, frequently emphasize such militaristic terms as "mission," "special operations," and "tactical."

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the #1 starting point for the tactical marksmen

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- Ammunition
- Survival Gear

Your Mission:
Pick your sniper rifle.

Intelligence:
The rifles are listed by manufacturer, select your favorite manufacturer and then pick your tactical rifle.



Sniperworld (above) sells military-style firearms through the Internet. Here it assigns customers the "mission" of picking their sniper rifle. The dealer displays its membership in the NRA Business Alliance: "The Business of Freedom."

Handgun Militarization—High-Capacity “Anti-Terrorist” Vest-Busting Pistols. In the scramble for market, the gun industry has introduced a plethora of high-capacity, high-caliber semiautomatic pistol designs since the mid-1980s. But no product better captures the gun industry’s relentless militarization than the Belgian company FN Herstal’s introduction into the civilian market of a pistol and cartridge specifically designed to defeat body armor—the FN Model Five-seveN.

FN Herstal originally created the 5.7X28mm cartridge as the ammunition for a new submachine gun, the P90. The gun and round combination was developed in response to NATO’s request for design of a weapon that would be effective against body armor—ubiquitous on the modern battlefield. (The P90 is the prime example of a new generation of “high-tech” assault rifles, and a civilian version, the PS90, has become popular in the United States.) In short order, the company also designed a handgun that would chamber the innovative armor-piercing submachine round.

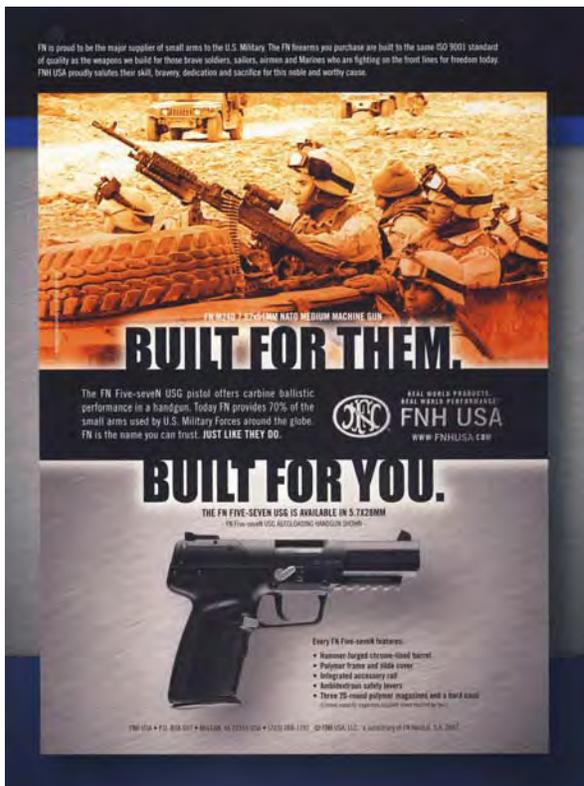


“Just like the Five-seveN handgun, the P90 submachine gun was developed around the 5.7x28mm ammunition to meet the Armies [sic] requirement in terms of efficiency.”

FN Herstal website

FN clearly understood that it was releasing a lethal genie. A spokesman for the company told the *Sunday Times* in 1996 that the pistol was “too potent” for normal police duties and was designed for anti-terrorist and hostage rescue operations.²⁵ The NRA’s *American Rifleman* claimed in 1999 that: “Law enforcement and military markets are the target groups of FN’s new FivesevenN pistol,” and told its readers, “Don’t expect to see this cartridge sold over the counter in the United States. In this incarnation, it is strictly a law enforcement or military round.”²⁶ In 2000, *American Handgunner* magazine assured the public, “For reasons that will become obvious, neither the gun nor the ammunition will ever be sold to civilians or even to individual officers.”²⁷

In fact, this handgun, described as being for anti-terrorist and hostage rescue operations with its law enforcement and military round were, and are, freely sold to civilians. FN was simply hyping its new product with widespread publicity in the gun press about “restricted” sales to military and police, and then—having whetted the gun buying public’s appetite—moved into the much bigger and more profitable civilian market. The Model Five-sevenN is one of the leading firearms smuggled to Mexico from the U.S. civilian gun market.



FN has heavily promoted its armor-piercing handgun in the U.S. civilian market. FN emphasizes its military cachet: “Today FN provides 70% of the small arms used by U.S. Military Forces around the globe. FN is the name you can trust. **JUST LIKE THEY DO.**” [Capitals in original.]

FNH USA 2008 catalog

U.S. Army Major Nidal Malik Hasan, right, used an FN Five-seveN 5.7mm semiautomatic pistol at Ft. Hood, Texas, on November 5, 2009. The major allegedly shot to death 13 people and wounded 32 others. He awaits trial in an Army court martial.



Although aimed at women, this ad's text promotes FN's military connection: "Built for America's Forces. Built for You."

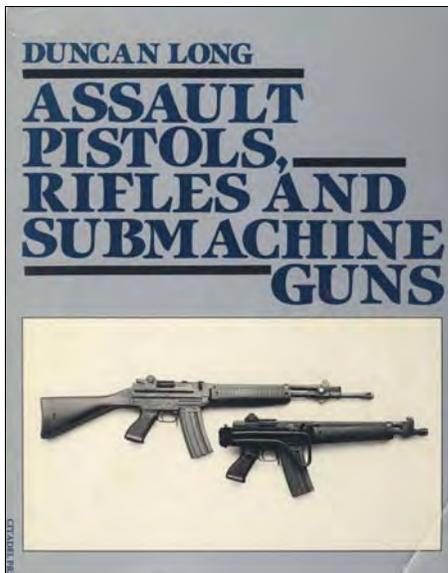
Assault Rifles and Assault Pistols

In the mid-1980s, the industry found another niche market—semiautomatic assault weapons.

Semiautomatic assault weapons are civilian versions of automatic military assault rifles (like the AK-47, the M-16, and FN’s high-tech P-90) and automatic military assault pistols (like the UZI).²⁸

The military weapons “look” the same as the civilian weapons because they are functionally virtually identical. They differ only in one feature: military assault rifles are “machine guns.” A machine gun fires continuously as long as its trigger is held back—until it runs out of ammunition. Civilian assault rifles are *semi*-automatic weapons. The trigger of a semiautomatic weapon must be pulled back separately for each round fired.

Because federal law has banned the sale of new machine guns to civilians since 1986,²⁹ and heavily regulates sales to civilians of pre-1986 machine guns, there is virtually no civilian market for military assault weapons. The gun industry introduced semiautomatic versions of these deadly military assault weapons in order to create and exploit civilian markets.



The next problem arises if you make a semiauto-only model of one of these selective-fire rifles. According to the purists, an assault rifle has to be selective fire. Yet, if you think about it, it's a little hard to accept the idea that firearms with extended magazines, pistol grip stock, etc., cease to be assault rifles by changing a bit of metal.

In his 1986 book pro-gun author Duncan Long dismissed in the quote above the suggestion that the semiautomatic civilian assault rifles were different in any substantial way from their military counterparts. The gun lobby has spent three decades trying to “rebrand” civilian assault rifles as mere sporting guns.

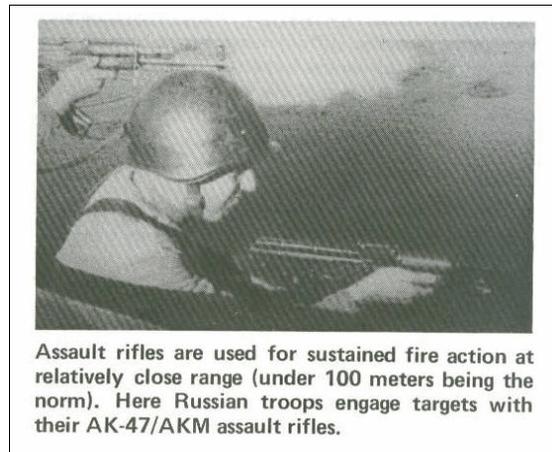
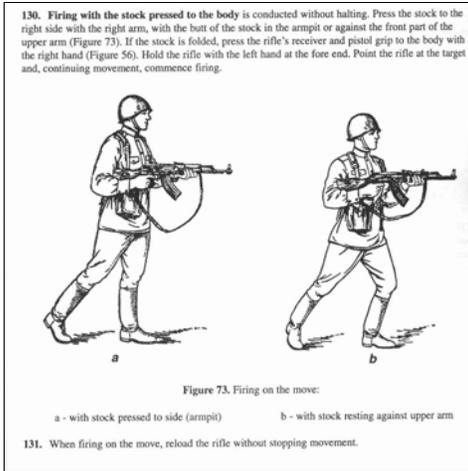
The world's armies developed assault weapons to meet specific combat needs. All assault weapons—military and civilian alike—incorporate specific features that were designed for laying down a high volume of fire over a wide killing zone. This is sometimes known as “hosing down” an area. Civilian assault weapons feature the specific military design features that make spray-firing easy and distinguish assault weapons from traditional sporting firearms.

The most important of these design features are—

- High-capacity detachable ammunition magazines that hold as many as 75 rounds of ammunition.
- A rear pistol grip (handle), including so-called “thumbhole stocks” and magazines that function like pistol grips.
- A forward grip or barrel shroud. Forward grips (located under the barrel or the forward stock) give a shooter greater control over a weapon during firing.

A gun industry observer summed up the design in September 2009:

From the minute you get your first modern, AR-style rifle, the first thing that you notice is the fact that it truly is one of the most ergonomic long guns you'll ever put to your shoulder. Makes sense, it was designed to take young men, many of whom had never fired a gun of any sort before, and quickly make them capable of running the rifle—effectively—in the most extreme duress, armed combat.³⁰



AK manual, gun magazine, and rifle book illustrate assault rifle "hosing down" technique.

Imports—AK-47 Variants. The Soviet Army's premier assault rifle, the AK-47, went into service in 1947. The AK-47 has been made in many variants since then. It is said to be the most widely-distributed rifle in the world.

China was directly responsible for the AK boom in the United States. The country exported few guns to the United States until 1987, when Chinese rifle imports—mostly semiautomatic versions of the AK-47—surged. The flood of Chinese rifles reached 64 percent of all rifles imported into the United States in 1993.³¹

The executive branch has clear, existing authority under the Gun Control Act of 1968 to completely prohibit the import of any "non-sporting" firearm, such as these military-derived weapons.³² In 1989, the George H.W. Bush administration blocked the importation of foreign-made semiautomatic assault rifles such as the AK variants. After the gun industry devised ways to skate around this ban with minor design changes, the Clinton administration acted again to cut off the flood of so-called "rule beaters."

The George W. Bush administration, however, completely and surreptitiously abrogated the first Bush and Clinton import rules. The Obama administration has done nothing to reinstate the earlier tough rules. Accordingly, Eastern European gun manufacturers have taken the place of the Chinese gun makers. They are supplying millions of AK-47-type weapons to the U.S. civilian market through licensed importers.

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ROMANIAN AK-47's and AK VARIANTS

<p>Romanian AK-47 WASR10/63M</p> <p>7.62x39mm semi-auto AK-47 with laminated wood military stock and forend, black synthetic pistol grip, slant cut muzzle brake, sling, bayonet lug, bayonet and high capacity mag... 15-182 \$399.95 Two or more each \$389.95 Five or more each \$379.95</p> <p>Romanian AK-47 WASR10 7.62x39mm semi-auto with wood stock and forend, synthetic pistol grip, welded muzzle nut, sling and high capacity magazine... 15-172 \$389.95 Two or more each \$379.95 Five or more each \$369.95</p>	<p>Romanian AK-47 GP75</p> <p>7.62x39mm semi-auto with American made receiver, barrel, polymer pistol grip, forend and stock. Has bayonet lug, slant cut muzzle brake and high capacity mag... 1-1396 \$429.95 Three or more each \$399.95</p> <p>AK-47 Model GP75 7.62x39mm 15-1607 \$429.95 Three or more each \$399.95</p>
<p>Romanian AK-47 WASR10/63FPG</p> <p>7.62x39mm semi-auto with original style wood forward pistol grip, wood buttstock, synthetic pistol grip, bayonet lug, slant cut muzzle brake, sling, high capacity mag... 15-1759 \$389.95</p>	<p>Romanian AK-47 1975 Bullpup</p> <p>7.62x39mm semi-auto with black polymer stock, new US made receiver and high capacity mag... 15-1465 \$499.95</p>
<p>Romanian AK-47 WASR10/63SFP</p> <p>7.62x39 semi-auto with Tapco polymer side-folding stock, black synthetic forend and pistol grip, slant cut muzzle brake, sling, bayonet lug, bayonet, high capacity mag... 15-1811 \$389.95 Two or more each \$379.95</p>	<p>Yugoslavian AK-47 M70AB21</p> <p>7.62x39 semi-auto, underfolding stock, parkenzed finish, black polymer forend, slant cut muzzle brake, high capacity mag... 15-1665 \$489.95</p>
<p>Romanian AK-47 WASR10C</p> <p>7.62x39mm semi-auto with Tapco AR style collapsible stock, black synthetic pistol grip, slant cut muzzle brake, bayonet, bayonet lug, high capacity mag... 15-1217 \$389.95 - Two or more each \$379.95</p>	<p>7.62x39mm Semi-Auto VZ2008 Sporter</p> <p>With milled receiver, folding synthetic pistol grip and slant cut muzzle brake and VZ2008 30 Round VZ2008 Bayonet With Bakelight handle</p>
<p>Romanian AK-47 WASR10CG</p> <p>7.62x39mm semi-auto with Tapco AR style collapsible stock, Tapco Galil style forend, black synthetic pistol grip, slant cut muzzle brake, bayonet, bayonet lug and high capacity mag... 15-1744 \$419.95 Two or more each \$409.95</p>	<p>AK AC</p> <p>Romanian AK-47 7.62x39mm steel wind hinged back for easy j... 3 or more each \$... Excellent to 5 to 9 each \$... Good to Ve 5 to 9 each \$... Fair Condit...</p>

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AVAILABLE IN 7.62 x 39 AND 5.56. STRAIGHT OR FOLDING STOCK

THE GUN THAT HAS SEEN MORE SERVICE USE THAN ANY OTHER RIFLE IN THE WORLD AND IS STILL IN USE TODAY. SEE YOUR DEALER FOR FURTHER INFORMATION. LAW ENFORCEMENT AND DEALER INQUIRIES WELCOMED.

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TELEPHONE 212/925-4111

84 GUNS & AMMO/DECEMBER 1985

Guns & Ammo ad for AK-type rifles from China in December 1985 (lower right). Since George W. Bush's administration opened the assault rifle floodgates again, AK-type rifles have poured in from Eastern Europe, as evidenced by the May 20, 2010, ad for J&G Sales from Shotgun News, which is typical of fare in the popular publication.

EXHIBIT 10 (part 2)

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

Domestic Production—AR-15 Variants of the M-16. After studying over three million casualty reports from World Wars I and II, and data from the Korean War, the U.S. Army concluded, “Marksmanship was not as important as volume.” Accordingly, it decided in the 1960s to replace its M-14 battle rifle with the M-16 assault rifle.³³

The gun industry quickly churned out civilian versions of the M-16, labeling the semiautomatic model the “AR-15” (the same designation as the prototype military assault rifle). “With the number of companies making those particular black rifles today, it's tough to keep up them [sic],” a gun industry insider wrote in 2009.³⁴



The gun industry created a vast market for AR-15 civilian versions of the U.S. military’s M-16 assault rifle.

Manufacturers have recently introduced assault rifles in 22 caliber, considerably cheaper than the .223 ammunition of the usual AR-15 semiautomatic assault rifle. The lighter weapons also provide an entry model for later transition to higher-caliber rifles. For example, in August 2009 Smith & Wesson began shipments of its M&P15-22 semiautomatic assault rifle. Here is how one gun writer enthused about the new model:

...the M&P15-22 might be the first .22 LR AR platform that actually is appropriate for consumers, law enforcement and military use that can be used to teach AR operations and basic marksmanship skills and know there will be no modifications necessary to transition to the myriad of other AR calibers available.³⁵

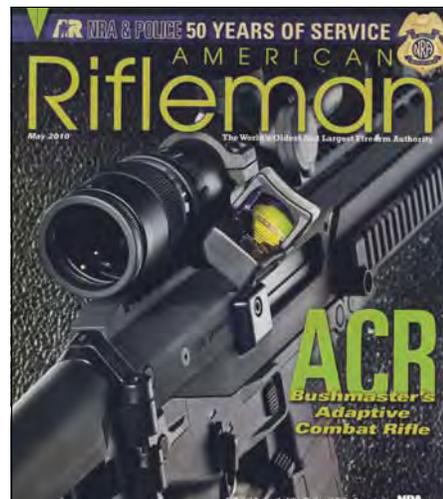


The industry has lately pushed 22 caliber semiautomatic assault rifles.

The 1994 Assault Weapons “Ban” and the Rise of Bushmaster. In 1994, Congress passed a ban on the production of certain semiautomatic assault weapons as well as new high-capacity ammunition magazines that held more than 10 rounds. The law banned specific assault weapons by name and also classified as assault weapons semiautomatic firearms that could accept a detachable ammunition magazine and had two additional assault weapon design characteristics.³⁶

Because the law listed merely cosmetic features (like bayonet mounts) and did not address the fundamental design of assault weapons, it was ineffective. The gun industry quickly made slight design changes in “post-ban” guns to evade the law, a tactic gunmakers dubbed “sporterization.” One of the most aggressive of the manufacturers of “post-ban” ARs was Bushmaster Firearms. A Bushmaster XM15 M4 A3 assault rifle was used by the Washington, D.C.-area snipers to kill 10 and injure three in October 2002. A poster child for the industry’s success at evading the ban, the snipers’ Bushmaster was marketed as a “Post-Ban Carbine.”

The 1994 law expired (“sunset”) on September 13, 2004.



The Washington, D.C.-area “Beltway Snipers” used the Bushmaster semiautomatic assault rifle being shown at left above. Among Bushmaster’s latest AR-type assault rifles is the “Adaptive Combat Rifle” featured on the cover of the NRA’s May 2010 *American Rifleman*.

Assault Pistols—UZI, Ingram, Intratec, and More. A particularly deadly variant in the gun industry's marketing program has been the sale of civilian assault pistols, which are for the most part simply semiautomatic versions of submachine guns. Firearms expert Duncan Long explained the marketing basis of this trend in his book *The Terrifying Three: Uzi, Ingram, and Intratec Weapons Families*:

As the militaries of the world increasingly rely on assault rifles to fill the submachine gun role, making money on a new submachine gun design becomes harder and harder....Citizens purchasing firearms for everything from plinking to self-defense have provided a lucrative market, especially in the United States. Those weapons produced for the civilian market are generally semiauto versions of the automatic weapons, often modified slightly to conform to U.S. firearms laws.³⁷

A more recent development has been the introduction of AK-47 type pistols, which combine all the deadly design characteristics of the military-style assault rifle with the greater concealability of the handgun.

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- USA Rifles

Romanian AK Draco Pistol
7.62x39 caliber handgun.
(Backordered)
[25-1676xq]

Price: \$349.95

quantity	price
2+	\$329.95
5+	\$319.95

Quantity: Add To Cart

These are Romanian AK Draco handguns in 7.62x39 caliber, new receiver. Barrel has integral front sight & gas tube muzzle-nut, wood fore stock, plastic pistol grip, and one magazine. This is a hand made handgun. It can accept any standard AK double stack mag or drum. This is a hand made handgun. Please see the shipping details below for shipping details. This firearm was assembled by J&G Sales. It may contain both new US made parts and used surplus parts. May or may not include cleaning rod.

Gun dealers offer AK-47 type semiautomatic assault pistols, like the Draco above, through the Internet.

The Assault Weapons Hype Market

The 1980s Explosion. Assault weapons quickly became hot items on the civilian market in the 1980s for a variety of reasons. For manufacturers, assault weapons helped counter the mid-1980s decline in handgun sales. Criminals—especially drug traffickers—were drawn to assault weapons’ massive firepower, useful for fighting police and especially competing traffickers. Survivalists—who envisioned themselves fending off a horde of desperate neighbors from within their bomb shelters—loved the combat features of high ammunition capacity and anti-personnel striking power of assault weapons. Right-wing paramilitary extremists, in their ongoing battle against the “Zionist Occupational Government,” made these easily purchased firearms their gun of choice. And for gun enthusiast fans of popular entertainment—*Rambo* and *Miami Vice*—semiautomatic assault weapons offered the look and feel of the “real thing.”

In a survival situation, you want the most uncompromising weapon that money can buy. The HK 91 Semi-Automatic Assault Rifle from Heckler & Koch.

The HK 91 was derived directly from the G3. Its delayed roller-locked bolt system reduces recoil to keep the gun on target. It exceeds the most stringent NATO accuracy requirements—right out of the box. And HK's revolutionary scope mounting system guarantees that you're still zeroed-in every time you mount your scope.

Easy to maintain and take apart, the HK 91 in cal. 5.56 and the HK 93 in cal. 223 were both designed as parts of an integrated gun system. The HK system of interchangeable parts and accessories enables these precision firearms to adapt quickly to changing tactical situations.

Leading military operations and law enforcement agencies around the world rely on firearms that bear the HK name. Your choice is equally clear. You can carry an ordinary weapon. Or own the most uncompromising firearm in the world.

When you're determined to survive, you leave nothing to chance.

For our 24-page color brochure and \$3 to Heckler & Koch, Inc. 1400 Lee Road Chantilly, Virginia 22022 Tel: 703-631-2000

HK

In a world of compromise, some men don't.

In a survival situation, there's no time to worry about how a weapon will perform. That's why Elite American and European special operations favor only on firearms made by Heckler & Koch.

The HK 94 Semi-Automatic Carbine is a direct offspring of Heckler & Koch's renowned family of MP5 Submachine Guns. Designed and built with only one thing in mind, uncompromising performance. Rugged. Reliable. Roll-like accuracy in 100 meters. The delayed roller-locked bolt system reduces recoil to keep the weapon on target. And HK's revolutionary scope mounting system guarantees that you're still zeroed-in every time you mount your scope.

Compare the HK 94 to the UZI or any other semiautomatic carbine on the market. You'll appreciate the difference between carrying an ordinary weapon, and owning the most uncompromising firearm in the world.

When your life is on the line, you leave nothing to chance.

For our 24-page color brochure and \$3 to Heckler & Koch, Inc. 1400 Lee Road Chantilly, Virginia 22022 Tel: 703-631-2000

HK

In a world of compromise, some men don't.

German manufacturer Heckler & Koch pushed the civilian version of its military assault rifle in a series of ads—like these from *Guns & Ammo* magazine—in the mid-1980s stressing “survivalist” themes.

Gun World's Y2K Daisy Chain



Gun World magazine not only published its own article in 1999 about how to “survive Y2K” – it also referred its readers to its sister publication *American Survival Guide*, in which appeared another article of survival advice written by *Gun World* editor Jan Libourel.

Hi-Point FIREARMS
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 JUNE 1999 • GUN WORLD 35

Typical Y2K gun ads from 1999 are shown above.

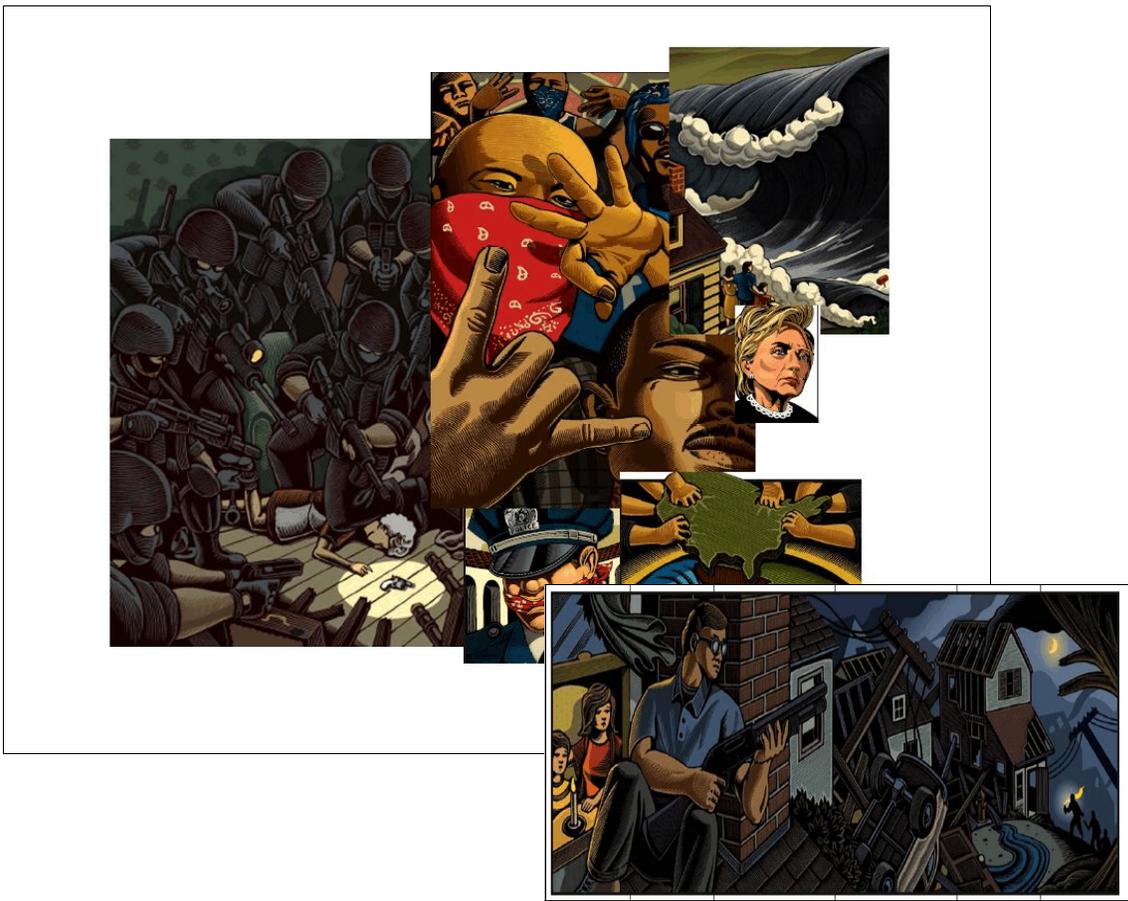
Continuing Incitement. The gun industry, the NRA, and the gun press have exploited every real and imagined public fear since the 1980s—including the terror attacks of September 2001, Hurricane Katrina, “spillover” of border violence, and concerns about violent “illegal” immigrants. The industry’s propaganda added fuel to the militia movement in the 1990s. Lethal confrontations occurred between federal law enforcement and civilians heavily armed with military-style weapons at Waco, Texas, and Ruby Ridge, Idaho. Barack Obama’s election, and fears that he would push an anti-gun agenda, ignited growth in the “militia” movement and a disturbing trend of open display of assault weapons near Presidential speaking engagements.⁴³



The ad for a Benelli shotgun on the left, from the NRA’s 2010 annual meeting brochure, ostensibly speaks to a “revolution” in shotgun design. The ad for the “tactical” shotgun on the right, from the September 2010 *Guns & Ammo* magazine, links “homeland security” to “Iraq, Afghanistan, Your Livingroom.”



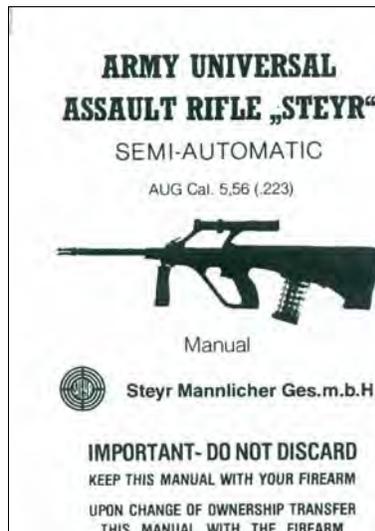
The NRA pamphlet "Freedom in Peril" warns, "Second Amendment freedom today stands naked...." Laced with ugly stereotypes of the gun lobby's political enemies—a classic technique for dehumanizing "the other"—it suggests "towering waves" of danger from ethnic and racial gangs. "Sometimes," the brochure suggestively states, "any hope of prevailing rests in the hearts and hands of a very urgent few...."



The National Shooting Sports Foundation’s Rebranding Campaign. In November 2009, the National Shooting Sports Foundation (NSSF) announced that—“due to gun owners’ concerns over President-elect Obama and possible legislation regulating the Second Amendment rights of Americans”—it had placed on its website a “media resource...to help clear up much of the confusion and misinformation about so-called ‘assault weapons.’”⁴⁴

This was the opening salvo in the industry’s meretricious campaign to “rebrand” semiautomatic assault weapons as “modern sporting rifles.”⁴⁵ The point of the campaign—inspired by the pummeling the industry gets for selling killing machines—is apparently that semiautomatic assault rifles are really just another sporting gun, no different from an older generation of bolt-action and low-capacity rifles.

Unfortunately for the NSSF and the industry, the widely-reported affection for semiautomatic assault rifles by extremists, drug lords, and common criminals gives the lie to this insidious “rebranding” campaign. Even worse, some within the gun industry’s own ranks apparently never got the NSSF rebranding memo. They continue to call semiautomatic assault rifles what they are—*assault* rifles—and even write lurid prose promoting the worst features of these guns.



Manufacturers and fan magazines alike called semiautomatic assault weapons “assault weapons” before their deadly killing power became a matter of public debate.

For recent example, the August 2010 edition of *Gun World* magazine headlines “Ruger’s Mini-14 Tactical Rifle” as “‘Combat Customized’ From the Factory.”⁴⁶ Among other outbursts of naked candor in the enthusiastic article are the following gems—

- Ruger’s Mini-14 Tactical Rifle is a version of the well-established Mini-14 incorporating many of the assault rifle features that end users have being [sic] applying themselves for decades, this time straight from the factory.
- **Being seen over the years as a sort of “poor man’s assault rifle” the Mini-14 has spawned a huge array of after-market parts that may be applied to make it more “assault rifle-y.”** Recently Sturm, Ruger & Co. finally decided to get into the act themselves by producing their Mini-14 Tactical Rifles. [Bold added]

This spasm of candor is typical of the “wink and nod” game that the gun industry plays when it talks to itself and to its hard-core consumers: call them what you will—“black rifles,” “tactical rifles,” or “modern sporting rifles”—semiautomatic assault weapons are plain and simply military-style assault weapons.

RUGER'S MINI-14 TACTICAL RIFLE

Ruger's Mini-14 Tactical Rifle is a version of the well-established Mini-14 incorporating many of the assault rifle features that end users have been applying themselves for decades, this time straight from the factory.

“Combat Customized” From the Factory

TEXT AND PHOTOS BY DIANE THOMAS

The second model Mini-14 Tactical Rifle is considerably more assault rifle-y in features and appearance –

load), I don’t see why a Ruger Mini-14 Tactical Rifle, equipped with a goodly supply of 20- and/or 30-round magazines, couldn’t fulfill the “semi-auto assault rifle” niche very well for the person wanting such a tool for home or urban self-defense. If current production

introduction in 1974. Being seen over the years as a sort of “poor man’s assault rifle” the Mini-14 has spawned a huge array of after-market parts that may be applied to make it more “assault rifle-y.” Recently Sturm, Ruger & Co. finally decided to get into the act themselves by producing their Mini-14 Tactical Rifles.

50 Caliber Anti-Armor Sniper Rifles

The 50 caliber anti-armor sniper rifle is a case of militarization in which precisely the same weapon is sold on the civilian market as that sold to the world's armed services.

This lucrative weapon was invented in the early 1980s by a Tennessee commercial photographer, Ronnie G. Barrett, who derived the sniper rifle from the Browning 50 caliber machine gun.⁴⁷

Barrett's 1987 patent called his new invention an "anti-armor gun." He described the rifle in his patent claim as a "shoulder-fireable, armor-penetrating gun." Barrett related the novelty of his anti-armor gun as follows:

The recoil and weight of the Browning M-2 heavy-barrel machine gun (50 cal.), belt-fed, make it unsuitable for firing from the shoulder. The bolt-fed sniper rifle of smaller weight and caliber will not penetrate armored targets. The bolts of guns of a caliber that will penetrate armored targets are often broken by recoil because of excessive strain on the lock lugs. Thus, there is a need for a light-weight, shoulder-fireable, armor-penetrating gun that can stand up to heavy duty use. After extended investigation I have come up with just such a gun.

Barrett Firearms Manufacturing, Inc. is today the leading supplier of 50 caliber anti-armor sniper rifles to U.S. military forces and many other armies of the world.



Advertising note "From the Desk of Ronnie Barrett," inventor of the 50 caliber anti-armor sniper rifle, boasts that "...each Barrett model of large-caliber rifle is in service with a government somewhere around the globe." In his pitch to "Fellow Fun Enthusiasts," Barrett urges them to "[c]onsider this when you are comparing our rifles to any other competitor."

Barrett has also aggressively marketed its anti-armor rifles to civilian buyers in the United States. After Barrett effectively created a new civilian market for his anti-armor rifles, lower-priced competition sprang up from dozens of new manufacturers cashing in on the booming niche. These rifles have become one of the hottest items sold in the civilian market.

In spite of their battlefield pedigree, 50 caliber anti-armor rifles are no more regulated under federal law than a 22 caliber target rifle, and are less regulated than handguns. Under federal law, anyone at least 18 years of age who is not in a category as to whom transfers or possession of firearms is prohibited—such as convicted felons—can legally buy any .50BMG anti-armor sniper rifle sold in America. But it is against the law for a federally licensed dealer to sell a handgun to anyone less than 21 years of age. Unlike other weapons of war—such as 50 caliber fully automatic machine guns—50 caliber anti-armor rifles are exempt from the stringent provisions of the federal National Firearms Act, which requires a photo, fingerprints, local law enforcement approval, record of the transfer, and registration of the weapon with a \$200 fee.



The gun industry has saturated the American civilian “gun culture” with 50 caliber anti-armor sniper rifles, like this AR-50.

Taxpayers Subsidize the Gun Industry

In spite of “anti-government” and insurrectionist rhetoric from the National Rifle Association and its ilk, the gun industry and the gun lobby aggressively milk the federal government for taxpayer subsidies. For example, the U.S. Fish & Wildlife Service regularly subsidizes gun industry marketing research in the guise of “conservation” grants, as described in this 2009 industry article:

The Task Force 20/20 group, industry leaders from the hunting and shooting sports, is continuing to work toward its goal of increasing participation in hunting and the shooting sports by 20 percent over the next five years....Task Force 20/20 began in 2008 during the NSSF Summit whose primary focus was discussing research from a three-year study titled *The Future of Hunting and the Shooting Sports—Research-based Recruitment and Retention Strategies*. The report condenses the findings of one of the largest and most comprehensive studies ever conducted on factors related to the hunting and shooting sports industry. Funding for the research came from the U.S. Fish & Wildlife Service in the form of a multi-state conservation grant.⁴⁸

The Future of Hunting and the Shooting Sports
 Research-based Recruitment and Retention Strategies

Background:
 In June the National Shooting Sports Foundation hosted the 2008 Shooting Sports Summit in Colorado Springs. The Summit gathered leaders from throughout the shooting, hunting and outdoor industry as well as key leaders from fish and wildlife agencies and conservation organizations to address key challenges that face the future of the shooting sports.

At the core of the Summit was a three-year research project titled, “*The Future of Hunting and the Shooting Sports - Research-based Recruitment and Retention Strategies*.” **The report condenses the findings of one of the largest and most comprehensive studies ever conducted on the factors related to our industry.** Funding for the research came from the U.S. Fish & Wildlife Service in the form of a multi-state conservation grant. NSSF commissioned the firm of Responsive Management to conduct the research for the report.

The Summit closed out with attendees committed to taking action on key efforts to reach new hunters and shooters to ensure that our shooting traditions will be a lasting heritage passed on to future generations. To guide the successful implementation of this research the NSSF has developed *Task Force 20/20*SM.

TASK FORCE 20/20

Member Organizations: Mfr. & Distrib. ... Agencies ... Hunting Groups ... Shooting Groups ... Media ... Retailers

Navigation:
 : Home
 : Task Force Members
 : 2008 Summit Videos
 : *Future of Hunting and the Shooting Sports* Chapter Summaries
 1. Introduction
 2. Participation in Hunting and Shooting Sports
 3. U.S. Demographic Trends and Characteristics
 4. Hunting and Shooting Initiation, recruitment, Retention, and Desertion
 5. Motivations for and Satisfaction with Hunting and the Shooting Sports
 6. Target Markets
 7. Hunting and Shooting

The U.S. armed forces also subsidize industry activity, largely through the ploy of “marksmanship” programs, as this article from an industry newsletter attests:

Every summer, prior to the National Rifle and Pistol Trophy Matches at Camp Perry, Ohio, Soldiers from the U.S. Army Marksmanship Unit take time out of their own training and preparation to pass their knowledge and superb shooting skills on to the next generation of American shooters at the Small Arms Firing School....

“It’s such a great thing,” said Jim Davis, Hamilton, Ind. “This is the best place in the country, maybe the world, to learn about shooting and everything that goes with it.”

Davis took his son and three other children from the Dekalb County 4-H club to the rifle class, stressing to them how valuable the instruction that they are receiving is to them now and down the road.

“I still remember when I came to this school as a teenager,” he said. “I tell my kid that this is something that you’ll always remember.”⁴⁹

The Army Marksmanship Unit also hosts an annual event for “civilians playing army in combat situations.”⁵⁰

The shooting sport of 3-gun competition, with pistol, rifle, and tactical shotgun is rooted somewhere in the idea of adults playing army. It is simulated combat. And Three Gun can get even more interesting when the Army issues an invitation to bring your guns and join up for three days of competition, with the Army Marksmanship Unit hosting their 3-gun challenge.⁵¹

The bottom line—ultimately the only thing that matters to the gun industry—is that taxpayers are paying for the means by which a dying industry hangs on by funding market research in the guise of “conservation grants” and introducing new generations of children to the “sport” of shooting military-style weapons in the drag of military marksmanship programs.

The Result: Militarized Firearms Define the U.S. Civilian Firearms Market

Military-style weapons today define the U.S. civilian gun market. As *Shooting Wire* summarized the gun industry’s situation in December 2008:

The net of all the numbers is that if you're a company with a strong line of high-capacity pistols and AR-style rifles, you're doing land office business. If you're heavily dependent on hunting, you are hurting.⁵²



Military-style “combat rifles” and lethal firepower dominate U.S. civilian firearms market production and marketing.

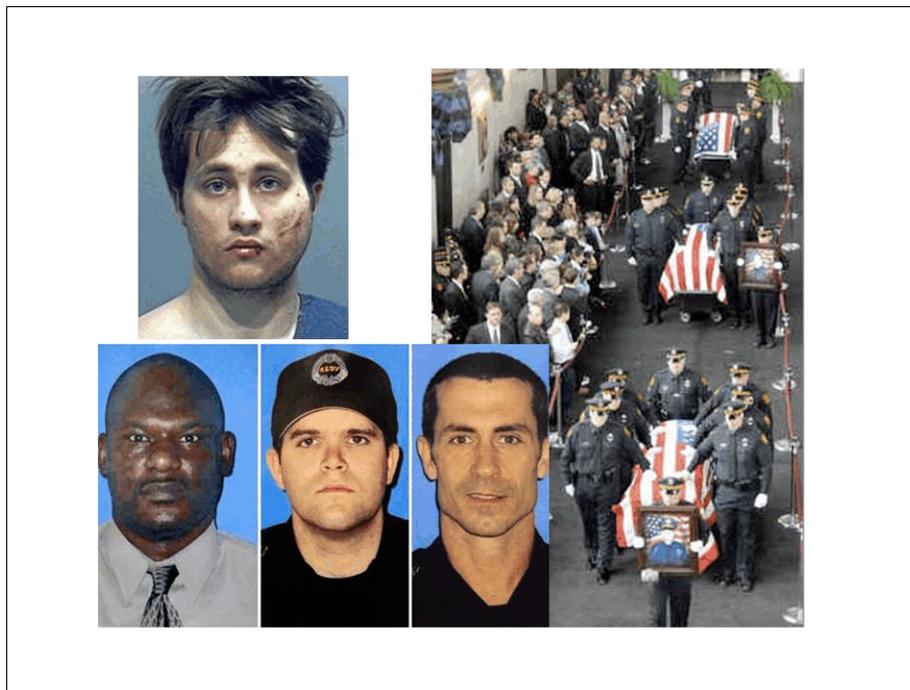
The Consequences of Militarization

The widespread availability of militarized firearms—including especially high-capacity semiautomatic pistols and assault weapons—has substantially raised the level of lethality of armed encounters in the United States. Criminal street gangs, drug traffickers, and militant extremists are all drawn to the military-style firepower of these weapons.

Two trends are remarkable.

Increasing Attacks on Law Enforcement with Assault Weapons. A recent Violence Policy Center study of reported incidents showed that more than one out of four assault weapons incidents involve police. Moreover, the number of assault weapons incidents involving police grew significantly between the two periods studied (March 1, 2005 to February 28, 2006 and March 1, 2006 to February 28, 2007).⁵³

A typical more recent incident is that of Richard Poplawski, who is accused of shooting to death Pittsburgh, Pennsylvania, police officers Paul J. Sciallo II, Stephen J. Mayhle, and Eric G. Kelly on April 4, 2009. Among the guns Poplawski fired at police was an AK-47 semiautomatic assault rifle.⁵⁴



Richard Poplawski and the three police officers who died on April 4, 2009.

Trafficking of Military-Style Weapons from the United States. According to both United States and Mexican officials, large numbers of military-style firearms from the U.S. civilian gun market fuel criminal violence in Mexico. Congressional hearings and public policy reports have made clear that the U.S. gun industry is instrumental in making readily available to illegal gun traffickers the types and numbers of weapons that facilitate drug lords' confrontations with the Mexican government and its people. U.S. and Mexican officials report that, based on firearms tracing data from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the cartels obtain up to 90 percent of their firearms from the United States.⁵⁵



Military-style firearms smuggled from the United States fuel violence among Mexican drug cartels and criminal confrontations with the Mexican government. Weapons of choice include 50 caliber anti-armor sniper rifles, assault rifles, and cop-killing FN Five-seveN anti-armor handguns.

What Can Be Done?

More than anything else, the news media, public interest groups, and especially policymakers must come to grips with a deadly reality. That reality is that the gun industry is not today—if it ever was—a “sporting” industry. It is a highly militarized and increasingly cynical industry that has cast all restraint aside to generate profit from military-style firearms.

Like an injured predator, the industry is particularly dangerous as it sinks further into its inevitable decline. The gun industry’s desperate “marketing” campaigns underwrite mass shootings in the United States, increasingly lethal confrontations with law enforcement, and armed violence abroad.

Most insidiously, the gun lobby’s exploitation of fear—racial, ethnic, and political—encourages resort to armed violence among the most impressionable and ill-equipped to function in a complex society.

This is truly an era in which to do nothing is to invite unthinkable violence.

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EXHIBIT 11

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

**Proposals to Reduce Gun Violence:
Protecting Our Communities While Respecting the Second Amendment.**

Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights and Human Rights

February 12, 2013

Prepared Testimony by Laurence H. Tribe*

Mr. Chairman and members of the Committee:

I am honored and grateful for the invitation to testify before you today. I know I am not alone in wanting us to do all we can, consistent with the Constitution, to reduce the awful specter of rampant gun violence and the far too frequent massacres of our children, our friends, and our fellow citizens.

Like all decent Americans, I felt a pang of unspeakable horror on December 14, when I learned that twenty first-grade children had been brutally slaughtered in their first-grade classroom in Newtown, Connecticut. Those children, and the brave grown-ups who died at Adam Lanza's hands as they tried to save the young lives entrusted to their care, deserve every effort to translate our shared grief into shared national action. That action must not be deterred by the defeatist argument that, because we will never solve this problem in its entirety, we might as well give up. Nor should it be deterred by distorted interpretations of the United States Constitution. As others have often reminded us about that great and enduring document, it is many things to many people, but one thing it is *not* is a suicide pact.

* Carl M. Loeb University Professor and Professor of Constitutional Law, Harvard Law School. The institutional affiliation is noted for identification purposes only.

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While we debate the pending proposals to reduce gun violence through measures focused on gun safety as part of a holistic national response, it's crucial that we not permit any part of our Constitution to become a collateral casualty of our conversation. Proposals to disarm the American people, to leave firearms solely in the hands of the military and the police, have been decisively taken off the table – if they were ever truly *on* the table – by the Supreme Court's Second Amendment decisions in 2008 and 2010. "Slippery slope" arguments predicated on the unsettled state of the law prior to 2008 have been rendered irrelevant. The only proposals under serious consideration in this body are reasonable measures that would fully respect the basic rights of responsible citizens to use ordinary firearms for self-defense and other lawful purposes. They cannot lead to unacceptably extreme measures as long as the Supreme Court sits.

Having examined those proposals, having looked at the steps announced by the President under his power faithfully to execute the laws of the United States, and having studied the decisions of the Supreme Court and lower courts around the country, I am convinced that nothing under discussion in the Senate Judiciary Committee represents a threat to the Constitution or even comes close to violating the Second Amendment or the Constitution's structural limits either on congressional power or on executive authority.

Undoubtedly we should have a national debate about how best to reconcile the Second Amendment rights of every individual with the full range of proposals to reduce gun violence in America. As someone who has studied and taught constitutional law for four decades and argued dozens of cases in the Supreme Court and dozens more in the lower courts, I am obviously interested in engaging those questions. In today's testimony, however, I will focus not on

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competing theories of how the Second Amendment ought to have been interpreted but on the law as it stands. I am here not as an academic theorist but as a constitutional lawyer. As a lawyer, I've won some and I've lost some, and I know a losing argument when I see it. And the argument that any of the proposals to reduce gun violence currently being considered here might be struck down as unconstitutional is decidedly a losing argument.

There is plenty of room for policy debate over the best steps to take to reduce gun violence, but we mustn't confuse those policy differences or the ideological and cultural divisions that underlie them with genuine constitutional doubts about whether any of those steps crosses the constitutional line. Everyone in this room knows that anything Congress or the President does in this field will confront opposition. And in a nation as litigious as ours, some of that opposition will no doubt find its way into the courts. But there is no basis to suppose that the courts will or should rebuff any of the steps being debated here today. They should not, and they will not.

What I hope to do this morning, setting all hyperbole aside and approaching the law on the books with a fair-minded eye, is explain why reforms such as those this committee is considering clearly pass constitutional muster.

I. Introduction:

Taking the Second Amendment Seriously, But Applying it Cautiously

I begin by reaffirming my agreement with the Supreme Court that the Second Amendment guarantees Americans the right as individuals to possess guns for reasonable self-defense. Some of my friends and colleagues devoted to the cause of responsible firearms regulation evidently wish to relitigate this point. They continue to insist that the best reading of the Second Amendment would secure gun rights only in connection with service in the state militia and not for individual possession and use. For nearly a decade and a half, I have disagreed with them and have defended the individual rights view ultimately taken by the Supreme Court in 2008. In October of 1999, for example, I joined a fellow constitutional law scholar in publishing an op-ed in *The New York Times* arguing that “bearing arms [is] a ‘privilege’ of each citizen.”¹ I continue to defend this position today.

That matters only insofar as it bears on my credibility as a witness in today’s hearing. If I were among those who had *opposed* the individual rights interpretation adopted by the Supreme Court in *Heller*, some might wonder whether my conclusions about the regulations *Heller* permits Congress to adopt reflect wishful thinking rather than a realistic and sympathetic appraisal of what the Court that decided *Heller* would in fact permit. But there is no wishful thinking here. I am being a hard-headed realist in reading the *Heller* decision and extrapolating conclusions from the majority opinion.

¹ Laurence H. Tribe & Akhil Reed Amar, *Well Regulated Militias and More*, N.Y. TIMES, Oct. 28, 1999, at A25; 1 Laurence H. Tribe, *American Constitutional Law* 900–902 (3d ed. 2000).

Although many in the community advocating gun rights had long assumed that the individual rights interpretation governed the scope of the Second Amendment, it was not until the Supreme Court's 2008 ruling in *District of Columbia v. Heller*² that a majority of the Court's Justices agreed. In so doing, the Court recognized that the core individual liberty protected by the amendment affords Americans the right to purchase and store operable firearms for self-defense in the home. Two years later, in *McDonald v. City of Chicago*,³ the Court extended the *Heller* ruling to cover restrictions imposed by state and local governments, making it unmistakably clear that the right at issue was not and is not simply a right of the state-organized militia against being overrun by federal authority.

Despite this fundamental affirmation, the *Heller* decision is exceedingly narrow in many important respects. As Judge Brett Kavanaugh of the D.C. Circuit Court of Appeals recently put it, "It bears emphasis that *Heller*, while enormously significant jurisprudentially, was not revolutionary in terms of its immediate real-world effects on American gun regulation." "Indeed," he continued, "*Heller* largely preserved the status quo of gun regulation in the United States."⁴ To understand what he meant, it helps to look first to the Washington, DC ordinance implicated in the *Heller* case. The District had in place one of the most restrictive firearms regulations in the nation; it essentially outlawed the possession of handguns in the home, where the need for self-defense is, as Justice Scalia wrote, "most acute."⁵ For the majority on the Court, a policy like the one the District had adopted, a policy on the outer edge of gun control's reach in the United States, was irreconcilable with the Second Amendment.

² 554 U.S. 570 (2008).

³ 130 S.Ct. 3020 (2010).

⁴ *Heller v. Dist. of Columbia*, 670 F.3d 1244, 1270 (D.C. Cir. 2011) (Kavanaugh, J., dissenting).

⁵ *Heller*, 544 U.S. at 628.

The *Heller* decision took great pains to emphasize its relative modesty. It repeated the mantra that the Second Amendment right “is not unlimited”⁶ and devoted an entire section to listing types of regulation – for example, limits on gun ownership “by felons and the mentally ill” and, most relevant to today’s hearing, regulation of “dangerous and unusual weapons” – the constitutionality of which the Court had no intention of casting into doubt.⁷ The decision paused to note that, by specifically giving a constitutional green light to some regulatory efforts, the Court did not mean to signal that others were constitutionally dubious.⁸ Justice Scalia closed his opinion for the Court with an expression of solicitude for the regulatory goals that Washington, DC sought to advance and, more importantly, an invitation to pursue those goals with the “variety of tools” still available to the District and to other states and localities across the country even in *Heller*’s wake.⁹

Since that decision and its extension to state and local laws in 2010, the vast majority of federal and state courts to adjudicate Second Amendment claims have responsibly hewed to the cautious approach espoused by the Supreme Court in *Heller* and *McDonald*. For example, in a ruling highly relevant to the topic of this hearing, the D.C. Circuit recently upheld the constitutionality of Washington D.C.’s assault weapons ban, which included a restriction on

⁶ *Id.* at 595, 626.

⁷ *Id.* at 626 – 28.

⁸ *Id.* at 627 n. 26. There is no doubt, for instance, that regulatory provisions targeting firearms and ammunitions *manufacturers* in addition to those who transfer, possess, carry, or use the resulting weapons are at least as easy to defend from Second Amendment challenge as are measures that do not take effect until the point of sale.

⁹ *Id.* at 636.

high-capacity magazines, as well as gun registration requirements.¹⁰ The majority in the case, following the broad consensus that has emerged among federal and state judges,¹¹ evaluated the regulations against a standard of heightened judicial scrutiny while preserving both the option to adopt a more skeptical mode of review for restrictions on core self-defense firearm possession and the option to exempt other laws from Second Amendment review entirely when they do not enter the amendment's zone of protected conduct.¹² In another notable decision staking out a similar approach, a panel of the Seventh Circuit Court of Appeals struck down Chicago's firing-range ban given the close nexus between regular firing practice and training and safe, responsible self-defense in the home.¹³ And state appellate courts from North Carolina to Wisconsin to California have joined with their federal brethren in upholding state restrictions on firearms ownership under this middle-of-the-road approach that molds the degree of judicial scrutiny to the extent of a law's burden on the core self-defense right secured by the Second Amendment.¹⁴

The central message of *Heller* and its lower-court progeny is thus to take the application of the Second Amendment seriously but also cautiously. When necessary to vindicate the core right to self-defense respected by *Heller*, neither courts nor lawmakers should be shy about invoking the Second Amendment. But because few public responsibilities are as important to

¹⁰ *Heller v. Dist. of Columbia*, 670 F.3d 1244 (D.C. Cir. 2011).

¹¹ *See, e.g.*, *Kachalsky v. County of Westchester*, 701 F.3d 81, 93 – 94 (2d Cir. 2012); *United States v. Booker*, 644 F.3d 12, 25 (1st Cir. 2011) cert. denied, 132 S. Ct. 1538 (U.S. 2012); *United States v. Masciandaro*, 638 F.3d 458, 469-70 (4th Cir. 2011) cert. denied, 132 S. Ct. 756 (U.S. 2011); *United States v. Marzzarella*, 614 F.3d 85, 97 (3d Cir. 2010);

¹² *Heller*, 670 F.3d at 1256 – 58.

¹³ The court applied what it called “not quite strict scrutiny” because the law's burden struck so close to the core Second Amendment right to self-defense in the home. *Ezell v. City of Chicago*, 651 F.3d 684, 708 (7th Cir. 2011).

¹⁴ *See, e.g.*, *Johnston v. State*, 735 S.E.2d 859 (N.C. Ct. App. 2012); *State v. Brown*, 815 N.W.2d 407 (Ct. App. Wisc. 2012); *People v. Ellison*, 196 Cal. App. 4th 1342, 1347 (2011).

good governance as legislating to secure public safety, lawmakers and jurists should not casually give the amendment an expansive scope nor unduly scrutinize reasonable firearm regulations. In the wake of the Newtown massacre and the push to propose sensible new rules about firearms, the Obama administration and many leaders in Congress have conducted themselves precisely along these lines.

II. The Second Amendment Propriety of Recent Policy Proposals

Limits on Large-Capacity Magazines

A core feature of the Assault Weapons Ban of 2013, introduced by Senator Dianne Feinstein, as well as the primary component of a freestanding bill championed by Senator Frank Lautenberg, is a ban on magazines capable of firing more than ten rounds of ammunition without reloading.¹⁵ Before moving into the weeds of the constitutional analysis, it would be useful to contrast such a high-capacity magazine restriction to the law *Heller* struck down. *Heller* axed a local ordinance that adopted about as blunt an approach to restraining gun violence as possible: By its very design, the DC law espoused disagreement with the whole idea of law-abiding gun ownership for self-defense in the home. A limit on large-capacity magazines, by contrast, is a regulation of an entirely different caliber. It does not challenge the fundamental recognition that gun possession for self-defense is a right of every citizen; it merely seeks to reset the parameters of responsible ownership to advance the cause of public safety. It operates with a scalpel rather than an ax. Even Robert Levy, the man who largely funded the challenge to DC's sweeping

¹⁵ The Assault Weapons Ban of 2013 also prohibits firearms with fixed magazines capable of holding more than ten rounds of ammunition.

handgun ban in *Heller* and served as an attorney on the case, concedes that bans on both high-capacity magazines and assault weapons almost certainly do not infringe the Second Amendment rights he successfully fought to vindicate in court.¹⁶

By any reasonable reckoning, this crucial measure might not even trigger heightened Second Amendment review at the threshold stage that the *Heller* ruling requires courts to undertake. But even if the high-capacity magazine prohibition does require further analysis, it safely falls within a zone of regulations that do not unconstitutionally abridge Second Amendment rights.

Most constitutional challenges require lawyers and scholars to carry out two stages of analysis. First, we must assess whether a given government policy even *implicates* a given right in the first place. For example, in 1915, the Supreme Court entertained a First Amendment challenge to a filmmaker's punishment under an Ohio censorship law but, in a clear misjudgment the Court would later correct, decided that movies were not even a form of "speech" entitled to First Amendment protection.¹⁷ More recently, in a ruling that may perhaps give pause to members of this committee (despite the distinct protections of the Constitution's Speech and Debate Clause), the Court concluded that votes by legislators are not a form of "speech" over which any public official can claim a personal First Amendment right.¹⁸ Assuming that a law *does* implicate the right in question, the government must then proceed to justify the challenged

¹⁶ Interview with Robert A. Levy by the Washington Post (Jan. 10, 2013), *transcript available at* http://articles.washingtonpost.com/2013-01-10/lifestyle/36272630_1_assault-weapons-high-capacity-magazines-military-style-guns.

¹⁷ *Mut. Film Corp. v. Indus. Comm'n of Ohio*, 236 U.S. 230, 243 (1915).

¹⁸ *Nevada Comm'n on Ethics v. Carrigan*, 131 S. Ct. 2343, 2350 (2011).

law so that the court hearing the challenge may evaluate, roughly speaking, whether the justification is strong enough to permit the law to stand or, alternatively, whether the measure goes too far and thus violates the Constitution.

I begin with this return to fundamentals because it never ceases to surprise me how often those engaged in legal debate talk past one another by conflating these distinct steps. In the Second Amendment context particularly, there is no excuse for making that mistake. For *Heller* itself makes it absolutely plain that not every gun regulation even triggers Second Amendment review. In other words, sometimes governments may enact regulations addressing the manufacture, transfer, possession or use of firearms that categorically fall outside the Second Amendment's scope, freeing governments of any burden even to make detailed defenses of the provisions in question. For example, the *Heller* opinion specifically named "longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings" as illustrative examples of regulations that should not even receive further constitutional review.¹⁹ The importance of this point should not be underemphasized. If too many entirely reasonable firearm regulations, like assault weapon bans and background checks, or rules about trafficking and straw purchases, are subjected to heightened Second Amendment review, it will become difficult if not impossible to separate those regulations categorically from the restrictions that *Heller* specifically approved without subjecting them to any "scrutiny" at all.

¹⁹ *Dist. of Columbia v. Heller*, 554 U.S. 570, 626 - 27 (2008).

Beyond the examples appearing in the decision, *Heller* also identifies the three primary factors to consider in judging whether other types of regulation trip the Second Amendment’s alarm. First, the Court carefully frames the scope of the Second Amendment to cover *only* firearms “in common use at the time.”²⁰

Second, *Heller* recognized that “dangerous or unusual” weapons may be and have historically been heavily regulated or banned.²¹ It is not inconceivable – indeed, it seems quite likely – that the Court’s pause to distinguish unusually dangerous weapons from widely possessed handguns had precisely the 1994 Assault Weapons Ban, which included a prohibition on high-capacity magazines, in mind. At the very least, the *Heller* majority recognized that the government could keep machine guns —“M-16 rifles and the like”—out of the hands of civilians.²² The Supreme Court thus emphatically rejected the extravagant, or as Justice Scalia characterized it, “startling” notion, still promoted by some, that the Second Amendment could fulfill its original purposes only if citizens were guaranteed a right to arm themselves to the teeth, matching in their private armories essentially the full array of weapons possessed by the United States Military.²³

Third and finally, the Court emphasized the importance of a nexus to core self-defense needs.²⁴ The majority in *Heller* had no trouble recognizing that handguns represented the

²⁰ *Id.* at 627.

²¹ *Id.*

²² *Id.*

²³ *Id.* at 624.

²⁴ *Id.* at 599 (“Justice Breyer’s assertion that individual self-defense is merely a ‘subsidiary interest’ of the right to keep and bear arms . . . is profoundly mistaken. He bases that assertion

“quintessential self-defense weapon,” particularly in the home.²⁵ Moreover, handguns were not categorically more dangerous than other types of firearms. So Washington D.C.’s handgun ban clearly fell within the scope of the Second Amendment.

The clarity of *Heller*’s guidance on how to apply these threshold factors begins to dissipate, however, when they no longer align so strikingly in one direction. To begin with, the Court left “dangerousness” undefined, and what the Court meant by that term is not entirely self-evident. In an obvious sense, *all* firearms are dangerous; that is what makes them effective instruments of self-defense. The *Heller* ruling, therefore, asks us to balance any *exceptional* dangerousness of particular firearm design features against the potential self-defense value of those features. For example, even if home possession of machine guns for self-defense might, on rare occasion, deter criminal trespassers more than home possession of handguns, that benefit is simply not sufficient to overcome the substantial hazards to innocent bystanders and intentional targets, in particular the police. *Heller* obviously does not contemplate asking the government to provide an intricately reasoned justification for banning machine guns; instead, it recognizes – and it surely authorizes Congress, and indeed all of us, to recognize – excessive dangerousness in the inherent design of the weapon²⁶ so as to cut off Second Amendment review at the threshold.

solely upon the prologue—but that can only show that self-defense had little to do with the right’s *codification*; it was the *central component* of the right itself.” (emphasis in original).

²⁵ *Heller*, 544 U.S. at 629.

²⁶ Throughout this debate, opponents of restrictions on large-capacity magazines have repeatedly demanded empirical evidence showing a link between magazine capacity and gun violence. Studies in that mold certainly exist, and I discuss them later. *See, e.g.*, text accompanying notes 48 – 50. But at this threshold stage of the Second Amendment inquiry, the *Heller* decision’s meaning of dangerousness cannot be equivalent to an empirically demonstrated effect on public safety. Rather, the standard is one that asks us to examine design features to assess whether the

All things considered, I conclude that reasonably restricting magazine size and availability does not implicate the core Second Amendment right as *Heller* conceived of it. The reason is not the first factor, that of “common use,” because, of course, large-capacity ammunition magazines and the firearms outfitted for them are, by any reasonable measure, in quite common use in the United States. I note here just a few examples. The standard Glock pistol, the firearm that one reporter called “America’s handgun” in a recent book on the subject, comes equipped with a seventeen-round magazine.²⁷ And America’s most popular rifle, the AR-15 model,²⁸ typically comes with a thirty-round magazine and can accommodate magazines with even larger capacities.²⁹

But to contend that the sizeable market presence of a particular firearm feature is sufficient in itself to trigger full Second Amendment scrutiny is to misrepresent the lesson of *Heller*. The relative dangerousness and self-defense-serving capacity of a firearm or design

weapon poses an aggravated threat to safety as a common-sense matter. First, if the former were the meaning of dangerousness, the threshold inquiry, which may lead courts to conclude that the Second Amendment does not even apply, would become indistinguishable from the more advanced stage of review, in which courts scrutinize a government’s public safety rationale. Second, making empirical evidence of salutary public-safety impacts a prerequisite to gun regulation would defeat efforts to respond to new technologies and lethal features that pose a substantial threat to public safety. The Second Amendment does not require that Americans afford the gun industry a “wait and see” grace period on the (in)famous theory that even a vicious dog deserves one free bite.

²⁷ Erin McCarthy, *Why the Glock Became America’s Handgun*, POPULAR MECHANICS (Jan. 12, 2012, 6:30 AM), <http://www.popularmechanics.com/technology/military/weapons/why-the-glock-became-americas-handgun>

²⁸ Erica Goode, *Rifle Used in Killings, America’s Most Popular, Highlights Regulation Debate*, N.Y. TIMES (Dec. 16, 2012), <http://www.nytimes.com/2012/12/17/us/lanza-used-a-popular-ar-15-style-rifle-in-newtown.html?pagewanted=all>.

²⁹ Steven Almasy, *Newton Shooter’s Guns: What We Know*, CNN (Dec. 19, 2012, 10:11 AM), <http://www.cnn.com/2012/12/18/us/connecticut-landa-guns/index.html>.

feature are also crucial considerations. This approach makes complete sense. The common use and possession of a given firearm feature is, at best, just one helpful indicator of whether restricting that feature will stymie or frustrate the exercise of the core Second Amendment protection of lawful self-defense to a constitutionally cognizable degree. For instance, in the case of high-capacity magazines, significant market presence does not necessarily translate into heavy reliance by American gun owners on those magazines for self-defense. Analysis of the modern development of the U.S. gun market demonstrates that the firearms industry, driven by an obvious profit motive, ushered in a revolution in the state of the market during the 1980s. Manufacturers began to roll out increasing numbers of pistols with ever-larger-capacity magazines rather than revolvers, which take just six rounds of ammunition and had traditionally been the most popular firearm for personal self-defense.³⁰ The frequent purchase of such large-capacity magazines, then, may not be attributable purely or even primarily to actual gun-owner preferences, much less to gun-owner needs. Rather, guns equipped with or ready for large-capacity magazines may simply be the weapons most readily made available on the market. And even if this market presence begins to influence more Americans to purchase firearms with high-capacity magazines because they fear attacks from criminals possessing guns outfitted with the same high-capacity magazines, nothing in *Heller* suggests that it is improper for the government to halt the escalation of this arms race in its tracks. The one-way ratchet of ever more powerful firearms is not a constitutional inevitability. For unlike the doctrine of mutually assured destruction that some say maintained an uneasy peace during the nuclear arms buildup of the

³⁰ See DC Reedy & CS Koper, *Impact of handgun types on gun assault outcomes: a comparison of gun assaults involving semiautomatic pistols and revolvers*, 9 INJURY PREVENTION 151, 151 (2002), available at <http://injuryprevention.bmj.com/content/9/2/151.full#aff-1>.

VIOLENCE POLICY CENTER, BACKGROUND ON GLOCK 19 PISTOL AND AMMUNITION MAGAZINES USED IN ATTACK ON REPRESENTATIVE GABRIELLE GIFFORDS AND OTHERS 1 (2011), available at www.vpc.org/fact_sht/AZbackgrounder.pdf.

Cold War, the propagation of increasingly dangerous guns on American streets has already taken an all-too-violent toll. In other words, tempering the trend toward more dangerous weapons actually *vindicates* the core Second Amendment right of self-defense and personal safety that *Heller* recognizes. In this context, as in many others, less is more.

But even looking beyond the market saturation of large-capacity magazines, this feature runs headlong into the other threshold obstacles that *Heller* requires Second Amendment claims to clear. As experts in effective firearms regulation have preached for years and particularly fervently in recent weeks, higher-capacity magazines pose greater dangers to public safety. By permitting shooters using semi-automatic weapons to continue firing more bullets without interruption, these magazines increase the potential lethality of armed killers.³¹ Though well-trained gun users can change magazines quickly, this interruption may, as we saw last year in the Arizona shooting of Rep. Gabby Giffords, afford time for heroic men or women to intervene and disarm the shooter.³² Moreover, this interruption gives our police a chance to return fire.³³ And it may even provide time for reflection and rethinking before murder becomes massacre.

³¹ BRADY CAMPAIGN TO PREVENT GUN VIOLENCE, ASSAULT-STYLE WEAPONS: HIGH-CAPACITY MAGAZINES, <http://www.bradycampaign.org/legislation/msassaultweapons/highcapacity> (last visited Feb. 2, 2013).

³² Ken Dolak & Justin Wealer, *Woman Wrestled Fresh Ammo Clip From Tucson Shooter as He Tried to Reload*, ABC NEWS (Jan. 9, 2011), <http://abcnews.go.com/Politics/patricia-maisch-describes-stopping-gunman-reloading/story?id=12577933>.

³³ I believe I can speak for many Americans when I thank Baltimore County Police Chief Jim Johnson for the illuminating insights he has publicly offered on the threats of high-capacity weapons not just to public safety in general but also law enforcement officer safety more specifically. See, e.g., John Quinones, *Baltimore Police Chief Wants to Ban High-Capacity Firepower*, ABC NEWS (Dec. 20, 2012), <http://abcnews.go.com/US/baltimore-police-chief-ban-high-capacity-firepower/story?id=18030163>

Against the evident dangerousness of high-capacity magazines as a design feature, we must evaluate the strength and plausibility of asserted self-defense interests. Critics of recent proposals to reestablish a limit on high-capacity magazines have argued that firing more than ten rounds without changing a magazine is necessary for effective self-defense. While I have no doubt that subscription to this perspective among some law-abiding gun owners is sincere, I doubt that it is well-founded. It's rhetorically effective to ask, "How many bullets do *you* want in your magazine when an intruder breaks into your home?" But the answer tells us little that is of relevance to the Second Amendment as *Heller* conceives that provision. I might want a magazine with twice as many bullets as any possible home intruder; I might want a machine gun too. But in the end that can't be the measure of what the Second Amendment says I have a *right* to own and deploy.

Despite the emotional resonance of this kind of appeal, incidents like burglaries and home invasions – even when they lead to the exchange of fire – are unlikely to *require* firing many shots. The NRA publishes a regular column featuring newspaper clippings of gun owners protecting themselves against intruder attacks, and an analysis of these reports over a five-year period demonstrated that in 50% of all cases, two or fewer shots were fired, and the average number of shots fired across the entire data sample was also about two.³⁴ Of course, this data comes from the episodes the NRA chooses to report, so selection bias is possible, meaning the

³⁴ Claude Verner performed the analysis of reporting over the period 1997 to 2001. The findings further show that when many shots were fired, a (presumably frightened) gun owner finished an entire magazine rather than firing the number of shots that necessarily had to be fired in light of the scenario. The analysis can be found reprinted with the author's permission at *Analysis of Five Years of Armed Encounters (With Data Tables)*, GunsSaveLives.net (March 12, 2012), <http://gunssavelives.net/self-defense/analysis-of-five-years-of-armed-encounters-with-data-tables/>.

average number of shots fired per incident could be even lower.³⁵ Even police officers traditionally found revolvers with six-bullet magazines sufficient for their own safety until more dangerous guns flooded the market.³⁶ And we should not lose track of the bigger picture: studies show that self-defense in the home with firearms is rare.³⁷ Additionally, firearms accidents are all too common: between 1965 and 2000, unintentional shootings accounted for the deaths of over 60,000 Americans.³⁸ Firing more bullets quickly may compound their damage.

Another version of the critics' response is that in scary situations, like home invasions, gun owners may go through bullets too quickly in a fit of nervousness or panic.³⁹ That may be true, but it also aggravates the downside hazard in cases of error,⁴⁰ so it is not at all clear that increased access to large-capacity magazines for shooters subject to fragile nerves represents a

³⁵ It seems likely, for example, that merely brandishing a weapon may often lead intruders to flee. A non-exhaustive review of the NRA column reveals several examples of exactly this scenario, giving me the impression that the NRA's reporting is not demonstrably biased toward extreme scenarios or even those in which some shots are fired. See, e.g., Armed Citizen, NRA (March 2012), <http://www.nrapublications.org/index.php/12492/armed-citizen-23/> (“[The resident] met the intruder at her bedroom door, pointed the gun at him and demanded he leave. The trespasser fled without hesitation.”).

³⁶ See Eugene Volokh, *Implementing the Right to Keep and Bear Arms for Self-Defense: An Analytical Framework and A Research Agenda*, 56 UCLA L. REV. 1443, 1489 (2009).

³⁷ A study of Atlanta police records, for example, found that victims of burglaries used guns in self-defense just 3% of the time. For a description of the study and a rich discussion of self-defense uses for firearms, see DAVID HEMENWAY, PRIVATE GUNS, PUBLIC HEALTH 67 (2004). The study is A.L. Kellermann et al., *Weapon involvement in home invasion crises*, 273 J. OF THE AM. MED. ASSOC. 1759 (1995).

³⁸ HEMENWAY, *supra* note 38, at 27 – 35.

³⁹ See, e.g., *Heller v. Dist. of Columbia*, 670 F.3d 1244, 1261 (D.C. Cir. 2011); Emily Miller, *The High Capacity Magazine Myth*, WASHINGTON TIMES (Jan. 27, 2013), <http://www.washingtontimes.com/news/2013/jan/27/the-high-capacity-magazine-myth/>; Jacob Sullum, *The Threat Posed by Gun Magazine Limits*, REASON (Jan. 16, 2013), <http://reason.com/archives/2013/01/16/the-threat-posed-by-gun-magazine-limits>.

⁴⁰ *Heller*, 670 F.3d at 1263 - 64 (“[T]he tendency is for defenders to keep firing until all bullets have been expended, which poses grave risks to others in the household, passersby, and bystanders.” (internal quotations omitted)).

net gain for home security or public safety. Finally, some critics of magazine-capacity limits have pointed out that, realistically, many gun owners have not received proper training and for that reason, may fire bullets indiscriminately; a larger magazine – so the thinking presumably goes – will increase the chances that at least one of their wayward shots will hit its mark.⁴¹ As the Supreme Court recognized in *Heller*, however, the Second Amendment protects only the right of “*responsible* citizens to use arms in defense of hearth and home.”⁴² In other words, a dangerous firearms feature otherwise outside the Second Amendment’s scope cannot become subject to heightened constitutional scrutiny because of the shortcomings of *irresponsible* gun owners.

To be sure, *some* gun owners may struggle to change magazines quickly not for lack of adequate training but rather by reason of disability or old age.⁴³ Perhaps a ban on high-capacity magazines without any exception for the disabled or elderly might, for this reason, trigger heightened scrutiny of such a ban as applied specifically to those individuals. But the possibility that a prohibition could raise constitutional questions in some subset of its applications does not mean that the prohibition is constitutionally vulnerable on its face.⁴⁴ And it remains the case that

⁴¹ See, e.g., Stephen Hunder, *Why 33 rounds makes sense in a defensive weapon*, WASHINGTON POST (Feb. 6, 2011),

<http://www.washingtonpost.com/wp-dyn/content/article/2011/02/04/AR2011020407083.html>

⁴² *Dist. of Columbia v. Heller*, 554 U.S. 570, 635 (2008) (emphasis added).

⁴³ Yih Chau-Chang, *High-Capacity Magazines And Their Critical Role In Lawful Self-Defense*, THE EXAMINER (March 10, 2011), <http://www.examiner.com/article/high-capacity-magazines-and-their-critical-role-lawful-self-defense>

⁴⁴ The Supreme Court has exhibited an extreme reluctance to strike down laws on their face – meaning in all applications – when only some applications would fall afoul of a constitutional provision (with the exception of the First Amendment, as facially overbroad laws may chill protected free speech). See RICHARD H. FALLON, DANIEL J. MELTZER & DAVID L. SHAPIRO, HART AND WECHSLER’S THE FEDERAL COURTS AND THE FEDERAL SYSTEM 162, 168 (6th ed. 2009).

large-capacity magazines are highly unlikely to be necessary to self-defense in the vast majority of home invasions or burglaries, even those that resort to the exchange of fire. The facial validity of a high-capacity magazine ban is therefore clear.

Despite the considerable market presence of high-capacity magazines, the danger they pose to public safety and the weakness of the self-defense justification for their possession means that two of the three threshold *Heller* factors point strongly against extending Second Amendment protection to high-capacity magazines. The D.C. Circuit Court of Appeals, in a case challenging Washington D.C.'s restriction on magazines with more than ten rounds, recently struggled with this first stage of analysis and determined that the court did not have before it sufficient evidence to decide whether the Second Amendment even *reached* large-capacity magazines.⁴⁵ However, the court went on to conclude that, even if it was proper to extend coverage of the amendment to large-capacity magazines, the government's interest in banning them was strong enough to do so without violating Second Amendment rights.⁴⁶

Having now reviewed the best evidence and argumentation advanced by defenders of high-capacity magazine possession, I doubt that the Supreme Court would find it necessary to reach that second stage of review in dealing with a ban on high-capacity magazines and am quite confident that, in any event, the Court would agree with the ultimate conclusion that, even if the amendment applies, a ban on high-capacity magazines withstands Second Amendment scrutiny.

⁴⁵ *Heller*, 670 F.3d at 1261.

⁴⁶ *Id.* at 1263 – 64.

In explaining that conclusion, I emphasize that commonly advanced rejections of a legitimate government interest in banning high-capacity magazines are deeply misleading. Many opponents of reasonable firearms regulation insist that we tried banning large-capacity magazines in 1994: the results are in, they say, and we failed. One favorite trope is to cite to a 1997 Department of Justice study, which, according to the recent testimony of Wayne LaPierre, “proved that [the] ban had no impact on lowering crime.”⁴⁷ But no one is even *arguing* that a ban on high-capacity magazines (or on assault weapons, for that matter) will necessarily decrease crime rates; highly lethal firearms will still be widely available on the market, and some criminals will use them, just as they do now.

What defenders of a ban on high-capacity magazines *do* argue is that such a ban will help prevent these criminals from killing or maiming as many people when they commit violent crimes. And that argument is solidly grounded. One study, for example, found that between 1984 and 1993, criminals using guns with high-capacity magazines or assault weapons as defined by the 1994 Assault Weapons Ban killed or injured an average of 29 victims, compared to the average 13 victims shot by criminals unequipped with large-capacity magazines.⁴⁸ Another study suggests that, since the lapse of the ban in 2004, high-capacity magazines have once again

⁴⁷ See, e.g., *What Should America Do About Gun Violence?: Hearing Before the S. Judiciary Comm.*, 113th Cong. (2013) (prepared testimony of Wayne LaPierre, Executive Vice President and Chief Executive Officer of the National Rifle Association).

⁴⁸ This study considered all “mass shooting” incidents: those in which six or more were killed or twelve or more were wounded. For an explanation of this study, see Christopher S. Koper, *America’s Experience with the Federal Assault Weapons Ban*, in *REDUCING GUN VIOLENCE IN AMERICA* 167 (Daniel W. Webster & Jon S. Vernick, eds., 2013). The study is Christopher S. Koper & Jeffrey A. Roth, *The Impact of the 1994 Federal Assault Weapon Ban on Gun Violence Outcomes: An Assessment of Multiple Outcome Measures and Some Lessons for Policy Evaluation*, 17 J. OF QUANTITATIVE CRIMINOLOGY 33 (2001).

become common in episodes of violent crime after the beginnings of a decline, which probably took place because the black market for these magazines had begun to dry up.⁴⁹

Even more misleading is the suggestion that in 1997 we could (or even today that we can) draw meaningful conclusions from the absence of unmistakable evidence of a decrease in violence following the 1994 ban. That legislation grandfathered or exempted many thousands of weapons already owned, and those could still be sold or transferred.⁵⁰ In other words, the 1994 ban was crafted with long-term effects in mind; to measure its effects notwithstanding its untimely end is to misunderstand fundamentally how the legislation was designed to work. It is therefore all the more telling that supporters of reasonable regulation can cite studies based upon identifiable trends emerging during the latter years of the ban, as well as evidence from both before and after the ban, showing that the legal availability of large-capacity magazines is indeed correlated with increased deaths and injuries caused by gun violence. Considered alongside the dangerousness inherent in a large-capacity magazine as a design feature, this evidence provides the government with a sufficient basis to satisfy the Second Amendment under any plausible understanding of the Supreme Court's jurisprudence surrounding that amendment.

⁴⁹ See David S. Fallis and James V. Grimaldi, *Va. data show drop in criminal firepower during assault gun ban*, WASH. POST (Jan. 23, 2011), <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012203452.html> (finding that in Richmond, Virginia, the percentage of guns with high-capacity magazines seized from criminals by police fell to a low of 10% by 2004, when the federal assault weapons ban expired, but has since rebounded to 22%).

⁵⁰ Koper, REDUCING GUN VIOLENCE IN AMERICA, *supra* note 49, at 165 – 66.

Assault Weapons Ban

By many accounts, the most important component of the newly proposed assault weapons ban is its prohibition on high-capacity magazines.⁵¹ But that does not mean that the remaining features of the proposal stand on weaker constitutional ground. Far from it. Application of *Heller*'s three threshold factors – dangerousness, commonness of use, and connection to core self-defense interests – demonstrates that the Second Amendment does not provide legal shelter to the features that trigger a firearm's prohibition under the ban.

Opponents of the legislation as well as some proponents of new firearms regulation have observed that some of the “military characteristics” that can lead to prohibition under the legislation⁵² (and, by some accounts, under assault weapons bans in general⁵³) are mostly cosmetic traits designed to make a gun *appear* dangerous and are not, in fact, intrinsically hazardous. But Congress would surely be acting within its constitutional authority if it were to reject this characterization as self-serving or otherwise unreliable. For example, the Brady Campaign to Prevent Gun Violence insists that “[p]istol grips . . . help stabilize the weapon during rapid fire and allow the shooter to spray-fire from the hip position [and that] [b]arrel

⁵¹ Tom Diaz, a researcher for the Violence Policy Center, has repeatedly called on lawmakers to focus their attention on a high-capacity magazine ban. *E.g.*, Tom Diaz, *Ten Ways to Spot a Sell-Out on Gun Control*, FAIRLY CIVIL (Jan. 14, 2013, 2:26 PM), <http://tomdiazgunsandgangs.com/2013/01/14/ten-ways-to-spot-a-sell-out-on-gun-control/> (“An effective law will focus on one prime feature—the ability to accept a high-capacity magazine.”).

⁵² *See, e.g.*, *What Should America Do About Gun Violence?: Hearing Before the S. Judiciary Comm.*, 113th Cong. (2013) (statement by Sen. Ted Cruz) (“Now, what the assault weapons ban instead targets are cosmetic features.”).

⁵³ *See, e.g.*, Nicholas J. Johnson, *Supply Restrictions at the Margins of Heller and the Abortion Analogue: Stenberg Principles, Assault Weapons, and the Attitudinalist Critique*, 60 HASTINGS L.J. 1285, 1295 (2009).

shrouds on assault pistols protect the shooter's hands from the heat generated by firing many rounds in rapid succession.”⁵⁴ Moreover, even if the characterization of these features as cosmetic were accurate, it would make little difference as a constitutional matter. In a recent televised interview, Justice Scalia explained the basis in history for exempting certain types of regulations from Second Amendment review. Certain limitations on gun ownership are constitutionally permissible, he contended, “because there were some [regulations] that were acknowledged at the time [of the Founding]. For example, there was a tort called affrighting . . . if you carried around a really horrible weapon just to scare people, like a head ax or something. . . .”⁵⁵ What the Justice evidently meant was that regulating weapons because they are chosen specifically for their intimidating appearance is constitutionally unproblematic because the very use of intimidation is unnecessarily disruptive to organized society.⁵⁶

Even more important to the constitutionality of the assault weapons ban is the absence of any connection to the core Second Amendment right to defend oneself with a firearm. At this committee’s hearing on January 30, several witnesses criticized the assault weapons ban on policy grounds, but in my role as a constitutional lawyer listening intently for arguments relevant to the proposal’s Second Amendment propriety, I was struck by the failure of anyone’s

⁵⁴ Brady Campaign to Prevent Gun Violence, The Top 10 NRA Myths About Assault Weapons, [http:// www.bradycampaign.org/issues/assaultweapons/nramyths/](http://www.bradycampaign.org/issues/assaultweapons/nramyths/).

⁵⁵ Interview with Justice Antonin Scalia by Chris Wallace, FOX NEWS SUNDAY (July 29, 2012), transcript available at <http://www.foxnews.com/on-air/fox-news-sunday/2012/07/29/justice-antonin-scalia-issues-facing-scotus-and-country#p/v/1760654457001>.

⁵⁶ Justice Scalia’s point about the tort of affrighting surfaces in the *Heller* decision itself: the majority opinion cited three illustrative examples of state courts entertaining such actions in the nineteenth century. See *Dist. of Columbia v. Heller*, 554 U.S. 570, 627 (2008) (citing, e.g., *State v. Lanier*, 71 N.C. 288, 289 (1874) (“The elementary writers say that the offence of going armed with dangerous or unusual weapons is a crime against the public peace by terrifying the good people of the land, and this Court has declared the same. . . .”)).

testimony to support these features as essential to self-defense. In fact, I have searched in vain for any reasoned arguments that pistol grips, forward grips, telescoping stocks, grenade or rocket launchers, and barrel shrouds are indispensable or even contribute to self-defense.

Finally, it is relevant to ask how many assault weapons Americans currently own. Data is hard to come by in large part because firearms manufacturers refuse to release data tracking their sales.⁵⁷ What we do know is that the number of weapons that would qualify under either the proposed ban's so-called "characteristics test" or its explicit list of banned models is smaller than the number of guns with standard-issue high-capacity magazines.⁵⁸ One reporter's painstaking analysis estimated that there are 3.75 million AR-15-style rifles owned in the U.S. today, and AR-15s are the most popular although not the exclusive type of qualifying assault weapon.⁵⁹ The NRA's lobbying arm estimates that, depending upon the definition of assault weapon, assault weapons represent 15% of all semi-automatic guns owned in the U.S., which in turn represent about 15% of all firearms owned in the U.S.⁶⁰ Given that the Congressional Research Service recently found that, as of 2009, Americans own about 310 million guns,⁶¹ the NRA's estimate would translate into approximately 7 million assault weapons owned today. Although 7 million is hardly a negligible figure, it still corresponds to quite a small portion of the

⁵⁷ Justin Peters, *How Many Assault Weapons Are There in America? How Much Would It Cost the Government To Buy Them Back?*, SLATE (Dec. 20, 2012), http://www.slate.com/blogs/crime/2012/12/20/assault_rifle_stats_how_many_assault_rifles_are_there_in_america.html.

⁵⁸ See Koper, REDUCING GUN VIOLENCE IN AMERICA, *supra* note 49, at 161 (explaining that the universe of large-capacity magazine equipped firearms is broader than the universe of weapons satisfying the criteria for categorization as an assault weapon).

⁵⁹ Peters, *supra* note 58.

⁶⁰ *Top Ten Frequently Asked Questions*, NRA-ILA, <http://www.gunbanfacts.com/FAQ.aspx> (last visited February 2, 2013).

⁶¹ WILLIAM J. KROUSE, CONG. RES. SERV., RL32842, GUN CONTROL LEGISLATION 8 (2012).

overall gun market – hardly enough to justify calling such weapons “common” within the meaning of *Heller*.

But for the purposes of constitutional analysis, debating how to characterize the significance of assault weapons’ market presence would be a waste of time. To make a difference to *Heller*’s threshold inquiry, which must take notice of the complete lack of any connection of assault-weapon features to self-defense as well as these features’ dangerousness in both fact and appearance, the market presence of assault weapons would have to be overwhelmingly large (and even then, I doubt seriously the bottom line would change as a constitutional matter). And overwhelmingly large it assuredly is not.

Universal Registration and Background Checks

All responsible participants in the gun safety debate agree that some groups of people simply should not be allowed to own, keep, or carry guns. Those groups include children, dangerous felons, and those with serious mental illnesses that preclude safe gun ownership. When some observers casually compare the Second Amendment to the First, they forget this essential difference: Although freedom of speech sometimes comes at a price, and although speech can at times pose dangers, our constitutional system addresses those dangers by permitting government to impose carefully crafted limits on speech, not by limiting or licensing eligible speakers. The Constitution’s strategy with respect to guns is entirely different. It addresses the dangers of guns in the wrong hands by permitting government to keep them out of

those hands in the first place, and, of course, by permitting government to regulate where and under what conditions people can bear those weapons in possible confrontation with others.

Accordingly, this Congress might be called upon to consider measures designed to minimize the risk that guns fall into the hands of such prohibited purchasers and owners. Measures dealing with straw purchases and trafficking are obviously important in that effort and are clearly constitutional. Rather than spending the committee's time on those measures, I will focus here on provisions that mandate universal registration requirements or a universal background check, closing the many notorious loopholes that characterize current laws on the subject. There is no serious doubt that requiring universal registration or a universal background check would comply with the Second Amendment.

It is important to recognize, at the outset, that prohibiting particular groups of people from owning or possessing guns is fully compatible with the Second Amendment. In the first place, such prohibitions are consistent with the original and traditional understanding of the Second Amendment. It was widely accepted at the time of the framing that not every person had a right to keep and bear arms; instead, the right was closely tied to the notion of responsible citizenship, and it has long been denied to criminals and others whose possession of guns would pose a severe danger to the public.⁶² On this point, precedent aligns closely with history. The Supreme Court said in *District of Columbia v. Heller*: “[N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the

⁶² See *United States v. Rene E.*, 583 F.3d 8, 15–16 (1st Cir. 2009).

mentally ill ...”⁶³ The Court fortified this conclusion in *McDonald v. City of Chicago*, when it added: “We made it clear in *Heller* that our holding did not cast doubt on such longstanding regulatory measures as ‘prohibitions on the possession of firearms by felons and the mentally ill’ ... We repeat those assurances here.”⁶⁴

Once the constitutionality of prohibiting gun possession by some people is accepted, the constitutionality of a reasonable system of registration or background checks follows automatically. The most powerful argument for this inference is not a technical legal point; it is, instead, common sense. And, although it shouldn’t be necessary to cite authority for the point, it’s worth noting that as eminent an authority as Alexander Hamilton wrote in *The Federalist* that “[t]he rules of legal interpretation are rules of *common sense*,” and that the “true test” of a “just application” of these rules is whether the resulting interpretation is “consistent with reason and common sense.”⁶⁵

Consider, then, whether the Constitution would be “consistent with reason and common sense” if it allowed prohibitions on firearms purchases by felons but disallowed background checks to determine whether a felon was the would-be purchaser of a firearm. As a matter of common sense, we all know that guns do not of their own accord stay out of the hands of prohibited purchasers. Nor are prohibited purchasers likely to confess their legal inability to buy guns when talking to gun dealers. The prohibitions, in short, do not enforce themselves. In order to be effective, in order to be meaningful, in order to be anything more than rules on paper, they

⁶³ 554 U.S. 570, 626 (2008).

⁶⁴ 130 S. Ct. 3020, 3047 (2010) (plurality opinion).

⁶⁵ *The Federalist* No. 83, at 495 (Alexander Hamilton) (Clinton Rossiter ed., 1961).

must be comprehensive and must be carried into operation by the government. It contradicts common sense—it ignores the fact that “the framers of the Constitution were not mere visionaries, toying with speculations or theories, but practical men”⁶⁶—to say on the one hand that prohibiting felons from owning guns is constitutional, but to insist on the other hand that the background checks that seek to make those prohibitions effective are unconstitutional.

The Supreme Court’s decisions in *District of Columbia v. Heller* and *McDonald v. City of Chicago* confirm the constitutionality of reasonable background check requirements. *Heller* expressly affirms that the Court was not calling into doubt “laws imposing conditions and qualifications on the commercial sale of arms.”⁶⁷ The *McDonald* Court “repeat[ed] those assurances,” observing that its holding “does not imperil every law regulating firearms.”⁶⁸ The universal registration requirement or background check is simply a “condition[]” on the transfer of arms; it is therefore expressly within the zone of permissible regulation identified by *Heller* and *McDonald*.

Analogous Supreme Court doctrine points in the same direction. The right to vote, like the right to keep and bear arms, is a fundamental right of Americans.⁶⁹ But no serious legal scholar doubts that before letting a citizen cast his ballot, the government may require the citizen to register and may take steps to check whether he or she really is an eligible voter. And the

⁶⁶ *NFIB v. Sebelius*, 132 S. Ct. 2566, 2589 (2012) (opinion of Roberts, C.J.) (quoting *South Carolina v. United States*, 199 U.S. 437, 449 (1905)).

⁶⁷ 554 U.S. at 626–27.

⁶⁸ 130 S. Ct. at 3047 (plurality opinion).

⁶⁹ Compare *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966) (holding that the right to vote is fundamental), with *McDonald v. City of Chicago*, 130 S. Ct. 2020 (2010) (holding that the right to keep and bear arms is fundamental).

Supreme Court agrees; in *Crawford v. Marion County Election Board*, for example, it concluded that Indiana’s voter ID law was a permissible means of ensuring that only eligible voters participate in an election.⁷⁰ Checking whether a voter is eligible before giving that voter a ballot is comparable to checking whether a purchaser is eligible before letting her acquire a gun. Just as the former is constitutional, so is the latter. And the argument is of course even stronger in the instance of firearms. For, unlike a ballot in the hands of an ineligible voter, which might in the end prove to make no difference to who wins or loses the election at issue, a gun in the hands of even one ineligible owner poses a deadly danger all by itself.

History reinforces common sense and case law in this regard. The Supreme Court in *Heller* and *McDonald* stressed the role of history in interpreting the scope of the Second Amendment; “longstanding” prohibitions upon gun ownership, the Court indicated, are presumptively exempt from Second Amendment scrutiny.⁷¹ Lower courts have likewise noted that history plays an important, though not exclusive, role in determining the scope of permissible regulation under the Second Amendment.⁷² Measures to keep guns out of the hands of prohibited owners – owners who could not safely be entrusted with control of a lethal weapon – have a strong historical pedigree. For example, many states have longstanding laws—sometimes, laws dating back a century or more—requiring sellers to keep registers of all firearm purchasers; the registers had to be open to peace officers.⁷³ The government could use thus use

⁷⁰ 553 U.S. 181 (2008) (plurality opinion).

⁷¹ See 554 U.S. at 626–27; 130 S. Ct. at 3047 (plurality opinion).

⁷² See, e.g., *Heller v. District of Columbia*, 670 F.3d 1244, 1253 (D.C. Cir. 2011); *Ezell v. City of Chicago*, 651 F.3d 684, 701–04 (7th Cir. 2011); *United States v. Marzzarella*, 614 F.3d 85, 89 (3d Cir. 2010); *United States v. Chester*, 628 F.3d 673, 680 (4th Cir. 2010); *United States v. Reese*, 627 F.3d 792, 800–01 (10th Cir. 2010).

⁷³ See *Heller*, 670 F.3d at 1253–54.

these registers to determine whether any of the purchasers had obtained weapons in violation of the law.

To be sure, modern computerized background checks differ from the more cumbersome historical enforcement measures known to history. But “a constitution [is] intended to endure for ages to come.”⁷⁴ Just as the Second Amendment covers modern weapons, like handguns, that did not exist when the Bill of Rights was ratified in 1791, so too does it cover modern enforcement measures, like mandatory computerized background checks, that could not have been anticipated in 1791. Reasonable background checks fit into the long historical tradition to which registration requirements belong, and that is enough to sustain them without further ado under the tests established by the Supreme Court in *Heller* and *McDonald*.

In short, all relevant legal considerations—logic and common sense, directly applicable precedent, analogies to surrounding legal doctrines, and history and tradition—point to the same conclusion. The Second Amendment does not prohibit Congress from passing laws to carry into effect concededly constitutional prohibitions on firearm purchases. The universal background check, in particular, easily passes constitutional muster as a permissible regulation of the transfer of firearms.

This is not to say that all conceivable background check systems would comport with the Constitution. Suppose, for example, that Congress were to pass a law requiring handgun purchasers to undergo an extensive check on the purchasers themselves and all their family

⁷⁴ *McCulloch v. Maryland*, 17 U.S. 316, 415 (1819).

members and housemates, a check that took years to complete. Such a scheme would plainly impose a very severe burden on the right to keep and bear arms for self-defense. The burden would be entirely disproportionate to the objective the government is seeking to pursue. Where a background check is taken to such lengths that it effectively destroys the right to keep and bear arms, rather than ensuring that the right is enjoyed only by those constitutionally entitled to it, the government has overstepped the lawful boundaries of its power.

Such concerns are entirely out of place here, however. Whether a particular background check scheme that Congress adopts would go too far obviously depends on the specific details of that scheme. But none of the proposals seriously under consideration at the present come remotely close to overstepping constitutional boundaries. The proposed background check frameworks, especially those that rely on checks conducted instantaneously through the National Instant Background Check System, impose a constitutionally insignificant burden upon law-abiding citizens. Indeed, an instant background check is much *less* onerous than the Voter ID law that the Supreme Court upheld in *Crawford v. Marion County Election Board*; it is also much less cumbersome than longstanding registration requirements and other conditions on sale⁷⁵ that are concededly constitutional. Ultimately, therefore, I see no merit to the constitutional objections to the background check proposals presently being seriously considered by Congress.

III. The Consistency of the President's Measures with the Separation of Powers

⁷⁵ See *Heller*, 670 F.3d at 1253.

This January, President Obama announced twenty-three steps that his Administration would take to prevent gun violence.⁷⁶ The President has begun to implement these steps by using the executive powers vested in him by the Constitution and laws of the United States. Because the President adopted these measures by executive action, without specific congressional involvement, some have concluded that the President violated the separation of powers established by the Constitution. This claim is legally untenable; the President is acting well within his powers as head of the executive branch.

Some of the President's measures involve nothing beyond communicating with members of the public. Measure 23, for example, is to "[l]aunch a national dialogue ... on mental health." There is plainly no constitutional problem with executive steps of this sort. The President obviously does not need congressional permission every time he decides to give a speech or publish a press release.

Another category of measures—and this covers the great majority of the actions that the President has committed to take—includes steps that will improve the enforcement of federal laws already on the books. Thus, the President has agreed to "[m]aximize enforcement efforts to prevent gun violence and prosecute gun crime."⁷⁷ He has likewise decided "to require federal law enforcement to trace guns recovered in criminal investigations."⁷⁸ These improvements to

⁷⁶ See, e.g., Colleen Curtis, *President Obama Announces New Measures to Prevent Gun Violence*, Jan. 16, 2013, available at <http://www.whitehouse.gov/blog/2013/01/16/president-obama-announces-new-measures-prevent-gun-violence>.

⁷⁷ Measure 13.

⁷⁸ Measure 9.

federal law enforcement efforts plainly fall within the President’s constitutional power—and constitutional responsibility—to “take Care that the Laws be faithfully executed.”⁷⁹

A third group of measures involves the making of rules and regulations under preexisting congressionally granted authority. For instance, step 21—“[f]inalize regulations clarifying essential health benefits and parity requirements within ACA exchanges”—simply carries into effect authority granted by the Patient Protection and Affordable Care Act.⁸⁰

Step 11, “[n]ominate an ATF director,” is equally clearly within the President’s constitutional powers; the Constitution expressly states that the President “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint ... Officers of the United States.”⁸¹ Likewise, the Constitution plainly authorizes the President’s requests for information from executive branch officials, such as step 15, “direct[ing] the Attorney General to issue a report on the availability and most effective use of new gun safety technologies and challenge the private sector to develop innovative technologies”; Article II provides that the President “may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices.”⁸²

Finally, and perhaps most controversially, some of the President’s measures entail the issuance of interpretations of existing laws. To this class belongs, for instance, step 16, “[c]larify[ing] that the Affordable Care Act does not prohibit doctors asking their patients about

⁷⁹ U.S. Const. art. II, § 3.

⁸⁰ Patient Protection and Affordable Care Act of 2010, Pub. L. 111-148, § 1321(a).

⁸¹ U.S. Const. art. II, § 2, cl. 2.

⁸² U.S. Const. art. II, § 2, cl. 1.

guns in their homes.” To be sure, the Article III judiciary must ultimately interpret laws when applying those laws in the context of concrete cases or controversies. But it is well established that the President also has the authority to interpret the law—and especially the power to announce legal interpretations concerning issues that have not yet been settled by the courts. In fact, the tradition of presidential clarifications of the law goes back to President George Washington’s Neutrality Proclamation. The tradition also has a solid grounding in the text of the Constitution; it is based on the Constitution’s vesting in the President of “the executive Power,” and in its imposition on the President of the power and duty to “take Care that the Laws be faithfully executed.”⁸³

In sum, although some opponents of gun regulation might disagree with some of the President’s executive actions as a matter of policy, those disagreements cannot plausibly be translated into constitutional objections. From a separation-of-powers perspective, the President has acted well within the bounds of his constitutionally assigned authority.

In closing, I note that I share the beliefs of many that the prevalence of guns in our country is by no means the only significant contributor to the tragedy at Newtown and to the many other gun-related massacres we have seen in recent months and recent years, or to the deaths of an average of over 30 Americans, nearly 5 of them children, *each and every day* as a result of gunfire homicides in less visible, and often virtually unnoticed, tragic incidents.⁸⁴

⁸³ U.S. Const. art. II, §§ 1, 3.

⁸⁴ The Center for Disease Control reports that in 2010, 11,078 individuals in the U.S. died from firearm-related homicides. 1,773 of them were between the ages of 0 and 19. *See* CENTER FOR DISEASE CONTROL, NATIONAL CENTER FOR INJURY PREVENTION & CONTROL, *WISQARS*

Violence has many causes. Violent video games, for example, some of them simulating mass shootings, may well play a significant role in the inculcation of violent attitudes among children.⁸⁵ And mental illness plainly played a significant part in bringing about the massacre at Newtown. If our country is to reduce the incidence of similar unspeakable violence in the future, the widespread availability of high-powered guns to people who should not possess them and who have no constitutional right to do so is by no means the only phenomenon that our government, our society, and our families need to address.

But it is simply not true that the presence of other causes of gun violence means that we neither can nor should do anything significant about the prevalence, too often in the wrong hands, of high-powered guns and high-capacity magazines that turn those guns from means of self-defense into weapons of mass destruction. It is not true constitutionally, it is not true politically, and it is not true morally. We must do our best to address in a serious way *every* source of avoidable death by firearms that we can, and if we always point to other problems still waiting to be solved we will never get started.

The time to get started on sensible gun regulation is not now—it was weeks, months, years, even decades ago. The Second Amendment is not a barrier. We have already delayed too long, and our society has paid a terrible price. We should delay no longer.

Fatal Injury Reports, National and Regional, 1999 – 2010,
http://webappa.cdc.gov/sasweb/ncipc/mortrate10_us.html (last visited Feb. 4, 2013).

⁸⁵ See *Brown v. Entertainment Merchants Ass 'n*, 131 S. Ct. 2729, 2767–71 (2011) (Breyer, J., dissenting).

EXHIBIT 12

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

Gary Kleck

**POINT
BLANK**

**Guns and Violence
in America**



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Anything Short of Total Success is Utter Failure

Opponents of gun laws, like opponents of any law, like to point to the failures of the laws—how many crimes are committed even in places with strict gun laws, how many criminals have guns despite the laws, and so on. This argument, however, is a non sequitur; it does not follow that gun laws are ineffective. All laws are violated and thus less than completely effective, and most important criminal laws are violated frequently, as a glance at criminal statistics indicates. Even some laws widely supported by the population have been violated by a majority of the population, as self-report surveys of the population have long shown (e.g., Wallerstein and Wyle 1947). Yet no one concludes that the thousands of homicides committed each year mean that laws prohibiting murder are ineffective and should be repealed. It is unreasonable to oppose a law merely because some people will violate it.

A more sensible standard to apply is to ask whether the benefits of the law exceed its costs, i.e., whether the world will, on balance, be a better place after the law is in effect. It is impossible to directly count the number of successes, i.e., the number of crimes deterred or otherwise prevented by the existence of laws prohibiting the acts, since one can never count the number of events that do not occur. And no matter how many failures there are, it is always possible that there are still more successes. The only way one can assess the relative balance of successes and failures is to compare jurisdictions having a law with those lacking the law, or to compare jurisdictions before and after they adopt a law, to see if there is, on balance, less crime with the law than without it. Just counting failures settles nothing.

Criminals Will Ignore the Law

A corollary to the previous fallacy is the assertion that many criminals will ignore gun laws and get guns anyway. This is indisputably true, but not especially decisive regarding the desirability of gun control, since it does not address the number of successes of gun control. There is no clearly established minimum level of compliance that must be achieved before a law is to be judged a success. And if there were such a standard, it certainly could not reasonably be 100%, and would not necessarily be even 50% or any other similarly high level. It is even conceivable that if just 1 or 2% of potentially violent persons could be denied a gun, the resulting benefits might exceed the costs of whatever measure produced this modest level of compliance.

As it happens, there appears to be some compliance with gun laws

even among the "hard-core" felons incarcerated in the nation's prisons. A survey of over 1800 felons in 11 state prisons found that 25% of felon gun owners reported having registered a firearm and 15% reported having applied for a permit to purchase or carry a gun, percentages that would have been higher had felons in states without such legal requirements been excluded from the computations (Wright and Rossi 1986, p. 84). Although the self-reported compliance levels were low, as one would expect in a sample of felons, they were also not zero. Among potentially violent persons not in prison, who are probably less persistently and seriously involved in law-breaking, compliance levels would presumably be even higher.

One Thing Leads to Another

Gun control supporters often wonder how the National Rifle Association (NRA) and other gun owner organizations can possibly oppose some of the more modest and apparently inoffensive regulations. Opponents reply that today's controls, no matter how limited and sensible, will just make it that much easier to take the next, more drastic step tomorrow, and then the next step, and the next, until finally total prohibition of private possession of firearms is achieved. They argue that gun control is a "slippery slope" on which it is hard to stop halfway, and that many proponents do not want to stop with just the more limited restrictions.

This fear is not completely unreasonable, as bills calling for a national ban on private possession of handguns have been introduced in Congress (Alviani and Drake 1975, pp. 55, 57) and much of the general public does favor prohibitions. In national opinion polls, about 40% of Americans say they support bans on the private possession of handguns, and one in six even support a ban on possession of *any* guns. Since about 75% of all Americans favor registering gun purchases and about 70% favor requiring police permits to buy a gun (Chapter 9), this means that *most* supporters of these moderate controls also favor a total ban on private handgun possession. If this is so among ordinary nonactivist supporters of gun control, it almost certainly is true of activists and leaders of gun control advocacy groups.

There have always been enough prominent prohibitionists willing to air their views in a highly visible way to lend credence to fears about a movement toward total prohibition. For example, criminologist Marvin Wolfgang, in a letter to the editor of *Time* magazine, advocated a total national ban on possession of all firearms (July 5, 1968, p. 6), a sentiment echoed by noted sociologist Morris Janowitz (*Time*, 6-21-68).

cators are necessarily “noisy,” reflecting both gun availability and inclinations of violent people to choose guns for their aggressive or suicidal purposes. Although the two measures often show similar trends, they also moved in opposite directions during 1945–1951, 1976–1983, and, to a lesser degree, 1958–1963. If the gun share of homicides were used as an indicator of long-term trends in a general gun ownership, it would indicate that gun ownership had declined since the 1920s. In 1920–1926, 71% of U.S. homicides were committed with guns (Brearley 1932, p. 68). Since at that time six states in the South and West, where a high share of homicides were committed with guns, were not yet a part of the national vital statistics system, the figure almost certainly would have been higher had those states been included. By 1989, the national figure was down to 62% (U.S. FBI 1990).

Table 2.3 provides estimates of the size of the U.S. gun stock, based on national surveys that asked Rs how many guns they owned. They all support the view that there was a huge number of guns in private hands. All but one of the estimates, however, are substantially lower than production-based estimates for the same years (Table 2.1). Flaws in these estimates and reasons for the discrepancy are discussed in Appendix 2.

Table 2.4 displays information on the combinations and numbers of guns owned by gun-owning households and individuals. Part A shows that most households with guns have long guns (85%), and that most (56%) own *only* longguns, whereas only one-seventh of owning households have only handguns. However, it will be this handgun-only type of household that will be of special interest later because it may be the type most likely to have guns for crime-related reasons (Bordua et al. 1979). Conversely, two-thirds of households with handguns also have long guns. This fact is significant because it suggests that when handguns are used in crimes or for defense (at least when in the home), the use was often the result of a choice between different types of guns, rather than the fact that only handguns were available. This would support the view that there is something about handguns that gun users regard as especially suitable for defensive and criminal purposes. An even more important implication is that if handguns were restricted, most current handgun owners would not even have to acquire new guns in order to have substitute firearms to use. The implications of this substitution possibility will be discussed in detail in Chapter 3.

Part B of Table 2.4 attempts to provide more realistic estimates of the number of guns owned per owner than were reported in Table 2.3. It has been assumed that the true fraction of households and individuals own-

ing guns is 10% higher than survey figures indicate, to adjust for the underreporting previously discussed (see Appendix 2 for a justification). These survey figures were combined with the production cumulation figures in Table 2.1 to roughly estimate the numbers of guns owned per owner. Based on this procedure, among households owning guns, an average of over four guns are owned, considerably higher than most survey data suggest. The distribution, however, is undoubtedly skewed to the right, with a few households owning very large numbers of guns, and most households owning a few, based on the Table 2.3 survey results. Among households with a handgun, the average number of handguns owned is about 2.8. Among individuals age 18 or over who own guns, the average number owned is about 3.4, and among individuals with handguns, the average is about 2.0. Both these data and survey data support the conclusion that although gun ownership is widespread in the United States, a large share of the guns may also be in relatively few hands (see also Cook 1983, pp. 78–9).

Regardless of the major source on which one relies, it is clear that the number of guns currently in private hands in the United States is very large, whether the number is 100 or 200 million. One straightforward policy implication is that policies that seek to reduce gun violence by reducing the overall supply of guns, as distinct from reducing the number possessed by high-risk subsets of the population, face an enormous obstacle in this huge existing stock. Even if further additions to the stock could somehow be totally and immediately stopped, the size of the stock and durability of guns imply that, in the absence of mass confiscations or unlikely voluntary surrenders of guns, it might be decades before any perceptible impact became apparent.

Who Owns Guns?

In a nation where at least half of the households have a gun, it would be difficult to regard gun ownership as an unusual or deviant status. Nevertheless, gun owners do differ from nonowners in some respects, as the figures in Table 2.5 demonstrate. These figures were computed from the combined 1980, 1982, and 1984 General Social Surveys conducted by the National Opinion Research Center (for details of the surveys, see Davis 1984). These surveys were superior to previous national surveys in that they asked whether each *respondent* (R) owned a gun, rather than asking only whether someone in the household did. This made it possible to relate attributes of the R to whether the R owned

of "ARs," it is unlikely that criminals would adopt them. But even if at least some types of criminals did seek out rifles as an alternative to handguns, they would have an ample supply of more lethal substitute rifles available to them even in the absence of "ARs."

While "ARs" are not unusually lethal relative to other rifles, they do have other technical attributes potentially relevant to criminal violence: (1) they are capable of firing single shots as fast as the shooter can pull the trigger, and (2) they can accept magazines that hold a large number of cartridges. It is unclear whether either of these attributes is of substantial criminological significance. "ARs" are capable of firing at a rate somewhat faster than other gun types, but it is unknown how often violent incidents occur in which this higher rate of fire would have any impact on the outcome of the incident. For example, even in a rare mass shooting such as the 1989 Stockton schoolyard killing of five children, the killer fired 110 rounds in 3 to 4 (or more) minutes, or about 28–37 rounds per minute (*Los Angeles Times* 1-18-89, p. 3; 1-19-89, p. 9). The same rate of fire can be achieved with an ordinary double-action revolver using speed-loaders to reload. Further, there was nothing to stop Purdy from continuing his attack for another 3 or 4 minutes. The higher rate of fire was unnecessary for Purdy to carry out his murderous intentions—he did all the shooting he wanted to do in 4 minutes and then killed himself.

The effective rate of fire of any gun is limited by its recoil. When a shot is fired, the force of the bullet leaving the barrel causes the gun to move back toward the shooter and off of its original aiming alignment. It cannot be fired at the same target again until the shooter puts it back in line with the target. Thus the somewhat higher rate of fire of semiautomatic weapons cannot be fully exploited, reducing the effective difference between these weapons and revolvers.

Ordinary revolvers can easily fire six rounds in 3 seconds without any special skill on the part of the shooter or modification to the weapon. Even assuming a semiautomatic gun could fire at twice this rate, it would only mean that a shooter could fire six rounds in 1.5 instead of 3 seconds. The issue comes down to this: How many violent incidents occur each year in which a shooter has 1.5 seconds to shoot the victim(s), but not 3 seconds? Such incidents are probably fairly rare, although there are no hard data on the matter.

Critics of "ARs" have also pointed to the high total *volume* of fire of which the weapons are capable, due to their large magazines. It should be noted that magazines for these weapons are almost always detachable, and the weapons are usually capable of accepting many different

common magazine sizes, whether one containing only 3 rounds, or one containing 30 or more (Warner 1989). Thus, the high volume of rounds is not, strictly speaking, an attribute of the gun itself, but rather of the magazine. Likewise, most of the millions of ordinary semiautomatic pistols sold in the United States for decades are also capable of accepting box-type magazines that can have very large capacities. Consequently, one legal difficulty in distinguishing "ARs" from other semiautomatic rifles, or AWs from other semiautomatic handguns, is that most varieties of all of these weapon categories accept box-type magazines. Since such magazines can be either big or small, it means that the unrestricted civilian-style guns are just as capable of using a large-capacity magazine as are the restricted modern military-style AWs. Consequently, rational controls based on concern over large ammunition capacity would have to either ban large magazines or ban all guns capable of receiving types of magazines that sometimes have large capacities. The former alternative would be very difficult to enforce, whereas the latter alternative would mean banning large numbers of hunting rifles and most semiautomatic pistols, and thus would negate the chief political benefit of restricting only rare weapons.

It is doubtful whether a high volume magazine is currently relevant to the outcome of a large number of violent incidents. The rare mass killing notwithstanding, gun assaults usually involve only a few shots being fired. Even in a sample of gun attacks on armed police officers, where the incidents are more likely to be mutual combat gunfights with many shots fired, the suspects fired an average of only 2.55 times (New York City Police Department 1989, p. 6). On the other hand, if high-volume guns did become popular among criminals in the future, this could change for the worse. Further, although "ARs" are not unique in any one of their attributes, they are unusual, although not unique, in combining the lethality of rifles, a potentially large ammunition capacity, and a high rate of fire. It is possible that the combination of all three attributes could have a crime-enhancing effect greater than that generated by any one of the attributes.

Whereas semiautomatic firearms offer a rate of fire only somewhat higher than other common gun types, fully automatic weapons have much higher rates of fire. "ARs" sold on the civilian market are not capable of fully automatic fire, but it has been argued that this distinction is a minor one because "ARs" are so easily converted to fully automatic fire (*Newsweek* 10-14-85, pp. 48-9). The *New York Times*, in an editorial, even told its readers that "many semiautomatics can be made fully automatic with a screwdriver, even a paperclip" (8-2-88). Eight

share of defensive uses attributable to these sorts of users is relevant to assessing NCS information used later to evaluate the effectiveness of defensive gun uses, since that information is derived from questions that did not exclude any uses by persons with these violence-related occupations. Although the gun use surveys did not obtain sufficiently detailed occupational detail to assess this, the NCS did. In the 1979–1985 sample, members of these occupations accounted for 15.4% of self-protection gun uses. They do therefore account for a disproportionate share of the NCS-counted gun uses, but still a relatively small fraction. And again it should be stressed that on-duty uses by such persons were explicitly excluded from the surveys used to estimate the number of defensive gun uses.

Shooting in Self-Defense

Most uses of guns for either criminal or defensive purposes are probably much less dramatic or consequential than one might think. Only a tiny fraction of criminal gun assaults involves anyone actually being wounded, even nonfatally, and one would expect the same to be true of defensive gun uses. More commonly, guns are merely pointed at another person, or perhaps only referred to (“I’ve got a gun”) or displayed, and this is sufficient to accomplish the ends of the user, whether criminal or noncriminal. Nevertheless, most gun owners questioned in surveys assert that they would be willing to shoot criminals under the right circumstances. The 1989 Time/CNN survey found that 80% of gun owners thought they would get their guns if they thought someone was breaking into their home, and 78% said they would shoot a burglar if they felt threatened by that person (Quinley 1990, p. 9).

Despite this stated willingness of gun owners to shoot under certain circumstances, most defensive uses of guns do not in fact involve shooting anyone. Although the surveys listed in Table 4.1 did not delve into much detail about the circumstances in which guns were used defensively, or the manner in which they were used, most did ask whether the gun was fired. Results generally indicate the gun was fired in less than half of the defensive uses; the rest of the times the gun was merely displayed or referred to, in order to threaten or frighten away a criminal.

Self-Defense Killings

The rarest, but most serious form of self-defense with a gun is a defensive killing. Although shootings of criminals represent a small frac-

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Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction



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Analysis of Five Years of Armed Encounters (With Data Tables)

March 12 2012

by Dan Cannon

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Incident at a Glance (Click Links For Similar Stories)

Gun(s) Used:	Unknown	Location:	Unknown
# of Suspects:	Unknown	Shots Fired:	Unknown
Suspect Killed:	Unknown	State:	
Source:		Archived Source:	None EB000954



Foreword by GunsSaveLives.net

This article was originally written several years ago by Claude Werner. It is republished here, in its entirety (including data tables) with permission.

While the source material is somewhat dated there is still a lot of information we can learn from this. One thing to also note is that the stories used for this study were all situations in which a citizen *successfully* defended themselves. This means that the study focuses on and shows what works, not what doesn't work.

Author

Claude Werner
[Firearms Safety Training LLC](#)

The Armed Citizen – A Five Year Analysis

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AdChoices

Overview

For the period 1997 – 2001, reports from “The Armed Citizen” column of the NRA Journals were collected. There were 482 incidents available for inclusion in the analysis. All involved the use of firearms by private citizens in self defense or defense of others. No law enforcement related incidents were included. The database is self-selecting in that no non-positive outcomes were reported in the column.

Analysis

As might be expected, the majority of incidents (52%) took place in the home. Next most common locale (32%) was in a business. Incidents took place in public places in 9% of reports and 7% occurred in or around vehicles.

The most common initial crimes were armed robbery (32%), home invasion (30%), and burglary (18%).

Overall, shots were fired by the defender in 72% of incidents. The average and median number of shots fired was 2. When more than 2 shots were fired, it generally appeared that the defender's initial response was to fire until empty. It appears that revolver shooters are more likely to empty their guns than autoloader shooters. At least one assailant was killed in 34% of all incidents. At least one assailant was wounded in an additional 29% of all incidents. Of the incidents where shots are fired by a defender, at least one assailant is killed in 53% of those incidents.

Handguns were used in 78% of incidents while long guns were used in 13%; in the balance the type of firearm was not reported. The most common size of handgun was the .35 caliber family (.38, .357, 9mm) at 61%, with most .38s apparently being of the 5 shot variety. Mousguns (.380s and below) were at 23%, and .40 caliber and up at 15%.

The range of most incidents appears to be short but in excess of touching distance. It appears that most defenders will make the shoot decision shortly before the criminal comes within arm's length. Defenders frequently communicate with their

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attackers before shooting.

The firearm was carried on the body of the defender in only 20% of incidents. In 80% of cases, the firearm was obtained from a place of storage, frequently in another room.

Reloading was required in only 3 incidents. One of those involved killing an escaped lion with a .32 caliber revolver, which was eventually successful after 13 shots.

Multiple conspirators were involved in 36% of the incidents. However, there were no apparent cases of getaway drivers or lookouts acting as reinforcements for the criminal actor(s) once shooting starts. At the sound of gunfire, immediate flight was the most common response for drivers and lookouts.

When multiple conspirators were involved, the first tier was a two man action team. If another member was available, he was usually the driver of the getaway car and remained in the car. If a fourth conspirator was involved, he was stationed immediately outside the target location as a lookout for the police or other possible intervening parties. The outside conspirators do not generally appear to be armed. It does appear that the trend over the period has increased from one weapon in the action team to two weapons.

The largest group of violent criminal actors was 7, a group that committed serial home invasions in Rochester NY. An alert and prepared homeowner, who saw them invade an adjacent home, accessed his shotgun, and dispatched them (2 killed and 1 seriously wounded) when they broke in his door.

Incidents rarely occurred in reaction time (i.e., ¼ second increments). Most commonly, criminals acted in a shark-like fashion, slowly circling and alerting their intended victims. The defender(s) then had time to access even weapons that were stored in other rooms and bring them to bear.

The most common responses of criminals upon being shot were to flee immediately or expire. With few exceptions, criminals ceased their advances immediately upon being shot. Even small caliber handguns displayed a significant degree of instant lethality (30 per cent immediate one shot kills) when employed at close range. Many criminal actors vocally expressed their fear of being shot when the defender displayed a weapon. Upon the criminals' flight, the "victims" frequently chased and captured or shot the criminals and held them for the authorities.

Conclusions

- 1) Even small caliber weapons are adequate to solve the vast majority of incidents requiring armed self-defense.
- 2) Mindset of the potential victim was far more important than the type of weapon used. All the victims were willing to fight their opponents in order to survive. Although not common, in some cases bridge weapons, such as pens, were used to gain time to access the firearm.
- 3) Frequently, the defenders were aware that something was amiss before the action started and then placed themselves in position to access their weapons. Awareness of the surroundings appears to be a key element of successful defense.
- 4) The defenders had some measure of familiarity with their firearms. Although perhaps not trained in the formal sense, they appear to be able to access a firearm and immediately put it into action. At least one defender learned from a previous experience and made the firearm more accessible for subsequent use.
- 5) Training or practice with a firearm should include a substantial amount of accessing the firearm from off body locations, such as drawers, underneath counters, etc.
- 6) This analysis does not present a view of the totality of armed self-defense in that non-positive outcomes were not available for inclusion in the database. The analysis may, however, be useful in helping to describe a methodology for successful armed self-defense. This methodology might be described as:
 1. be aware,
 2. be willing to fight,
 3. have a weapon accessible,
 4. be familiar enough with the weapon to employ it without fumbling,
 5. when ready, communicate, both verbally and non-verbally, to the attacker that resistance will be given, and
 6. if the attacker does not withdraw, counterattack without hesitation.

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Location of Incident

Location	%
Home	52%
Business	32%
Public	9%
In/around Vehicle	7%

Shots Fired

Type of Location	No	Yes
Business	33%	72%
Home	25%	75%
Public	29%	71%
In/around Vehicle	35%	65%
Total	28%	72%

Number of Shots Fired

Average	2.2
Median	2
Mode	1
Max	20

Gun Type

Handgun	78%
Long Gun	13%
Unknown	8%

Body Carry

Type of Location	No	Yes
Business	69%	31%
Home	94%	6%
Public	49%	51%
In/around Vehicle	65%	35%
Total	80%	20%

Multiple Assailants

Type of Location	No	Yes
Business	76%	24%
Home	72%	28%
Public	62%	38%
Retail Business	52%	48%

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In/around Vehicle 49% 51%
Total 80% 20%

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EXHIBIT 14

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

GUN DIGEST® BOOK OF CONCEALED CARRY



2nd Edition

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EB000962

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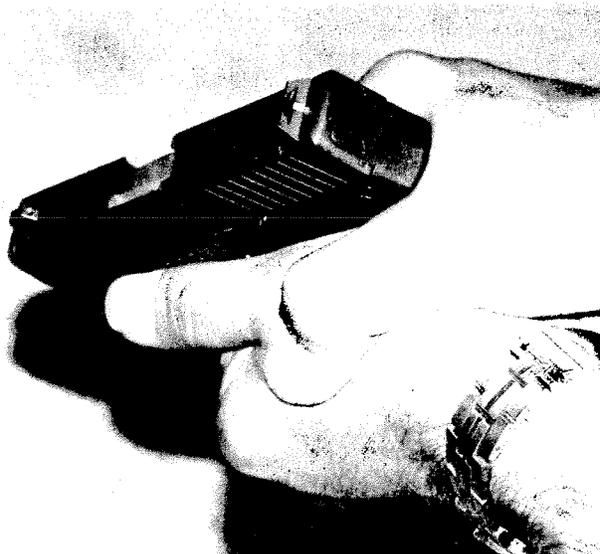
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G32 .357 SIG, G30 .45 ACP, and G38 .45 GAP) are all good choices. So are the many other compact (i.e., medium size) modern autos you'll find in the *Gun Digest*, where there's more space to pore over the various models and size/weight specifications than here. In the 1911, Commander and Officers size work well. For many, something more *subcompact* fits the body better. These would include the "baby Glocks" in the same calibers, the Micro-series Kahrs, and the smallest of the 1911s by their many makers.

Finally, a full-size gun makes particular sense under cold-weather wardrobes, which can amply conceal them. In cold weather, with gloved or cold-numbed hands, a pistol with a longer grip-frame may be easier to handle. I like something with a large trigger guard, and whose trigger won't rebound



Subcompact carry guns can be "too small for your hand," necessitating technique changes. Trigger reach is so short on this Kahr that author's trigger finger is blocked by thumb in traditional grasp; thumb will need to come up. Little finger is tucked under short butt since there's no room for it on the frame...



...author's two-hand grasp on the Kahr puts firing thumb on support hand out of the way of trigger finger, and support hand thumb well forward to avoid the sharp edge on the Kahr's slide release lever.

so far forward that it can snag on or be blocked by thick glove material, which could make it fail to re-set. ATDA auto pistol will generally fill that bill, as will the Glock or XD. I get leery of single-action pistols when cold or gloves have further reduced a vasoconstricted hand's ability to feel the trigger, and the glove-blocking factor leaves most revolvers out entirely.

The bottom line of "concealed handgun wardrobe selection" is this: the gun's size and shape must fit hand, body, and clothing selection alike. You probably don't dress the same every day. When you "dress to kill" (forgive me, I couldn't resist) you also need to vary that particular "wardrobe" to better suit your daily needs.

Final advice: In the immortal words of author and big game hunter Robert Ruark, "Use Enough Gun." Small-caliber weapons simply don't have the "oomph" to stop a violent human being. I coined the phrase "Friends don't let friends carry mouse-guns," and I'll stick by that. The cessation of homicidal human threat is the *raison d'être* of CCW. If the Weapon you're Carrying Concealed isn't powerful enough to do that job, you've undercut the whole purpose of the mission. I personally draw the line above the marginal 380 ACP and consider the minimums to be 38 Special +P in a revolver and 9mm Luger in a semiautomatic pistol. On the top end, only master shooters can handle the violent recoil of 41 and 44 Magnums. For most people, the best bet is in a caliber range that encompasses 38 Special, 357 Magnum, 9mm Luger, 40 Smith & Wesson, 10mm Auto, 45 ACP, and 45 GAP. There are other rarely-carried rounds within that range, but any of those - with proper high-tech hollow-point defensive ammunition - can be reasonably counted on to get you through the night.

For more on gun and ammo selection, I'd refer you to my *Gun Digest Book of Combat Handgunnery, Sixth Edition*, available from Krause. The bottom line is, it's not about "what gun did you have" so much as it's about "did you have a gun?" Modern ultra-compact, ultra-light 38 Special and 9mm Luger handguns give you adequate power in extremely small and light packages. You just don't have to settle for anything less, when innocent lives - including your life and the lives of those you most love - will likely be at stake if and when the trouble starts.



EXHIBIT 15

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

U.S. Department of Justice

Bureau of Alcohol, Tobacco, Firearms and Explosives

ATF

Study on the Importability of Certain Shotguns



Firearms and Explosives Industry Division

January 2011

EB000966

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Study on the Importability of Certain Shotguns

Executive Summary

The purpose of this study is to establish criteria that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will use to determine the importability of certain shotguns under the provisions of the Gun Control Act of 1968 (GCA).

The Gun Control Act of 1968 (GCA) generally prohibits the importation of firearms into the United States.¹ However, pursuant to 18 U.S.C. § 925(d), the GCA creates four narrow categories of firearms that the Attorney General must authorize for importation. Under one such category, subsection 925(d)(3), the Attorney General shall approve applications for importation when the firearms are generally recognized as particularly suitable for or readily adaptable to sporting purposes (the “sporting purposes test”).

After passage of the GCA in 1968, a panel was convened to provide input on the sporting suitability standards which resulted in factoring criteria for handgun importations. Then in 1989, and again in 1998, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) conducted studies to determine the sporting suitability and importability of certain firearms under section 925(d)(3). However, these studies focused mainly on a type of firearm described as “semiautomatic assault weapons.” The 1989 study determined that assault rifles contained a variety of physical features that distinguished them from traditional sporting rifles. The study concluded that there were three characteristics that defined semiautomatic assault rifles.²

The 1998 study concurred with the conclusions of the 1989 study, but included a finding that “the ability to accept a detachable large capacity magazine originally designed and produced for a military assault weapon should be added to the list of disqualifying military configuration features identified in 1989.”³ Further, both studies concluded that the scope of “sporting purposes” did not include all lawful activity, but was limited to traditional sports such as hunting, skeet shooting, and trap shooting. This effectively narrowed the universe of firearms considered by each study because a larger number of firearms are “particularly suitable for or readily adaptable to a sporting purpose” if plinking⁴ and police or military-style practical shooting competitions are also included as a “sporting purpose.”⁵

Although these studies provided effective guidelines for determining the sporting purposes of rifles, ATF recognized that no similar studies had been completed to determine the sporting

¹ Chapter 44, Title 18, United States Code (U.S.C.), at 18 U.S.C. § 922(l).

² These characteristics were: (a) a military configuration (ability to accept a detachable magazine, folding/telescoping stocks, pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights); (b) a semiautomatic version of a machinegun; and (c) chambered to accept a centerfire cartridge case having a length of 2.25 inches or less. *1989 Report and Recommendation on the Importability of Certain Semiautomatic Rifles (1989 Study)* at 6-9.

³ *1998 Department of the Treasury Study on the Sporting Suitability of Modified Semiautomatic Rifles (1998 Study)* at 2.

⁴ “Plinking” is shooting at random targets such as bottles and cans. 1989 Report at 10.

⁵ *1989 Report* at 8-9; *1998 Study* at 18-19.

suitability of shotguns. A shotgun study working group (working group) was assigned to perform a shotgun study under the § 925(d)(3) sporting purposes test. The working group considered the 1989 and 1998 studies, but neither adopted nor entirely accepted findings from those studies as conclusive as to shotguns.

Sporting Purpose

Determination of whether a firearm is generally accepted for use in sporting purposes is the responsibility of the Attorney General (formerly the Secretary of the Treasury). As in the previous studies, the working group considered the historical context of “sporting purpose” and that Congress originally intended a narrow interpretation of sporting purpose under § 925(d)(3).

While the 1989 and 1998 studies considered all rifles in making their recommendations, these studies first identified firearm features and subsequently identified those activities believed to constitute a legitimate “sporting purpose.” However, in reviewing the previous studies, the working group believes that it is appropriate to first consider the current meaning of “sporting purpose” as this may impact the “sporting” classification of any shotgun or shotgun features. For example, military shotguns, or shotguns with common military features that are unsuitable for traditional shooting sports, may be considered “particularly suitable for or readily adaptable to sporting purposes” if military shooting competitions are considered a generally recognized sporting purpose. Therefore, in determining the contemporary meaning of sporting purposes, the working group examined not only the traditional sports of hunting and organized competitive target shooting, but also made an effort to consider other shooting activities.

In particular, the working group examined participation in and popularity of practical shooting events as governed by formal rules, such as those of the United States Practical Shooting Association (USPSA) and International Practical Shooting Confederation (IPSC), to determine whether it was appropriate to consider these events a “sporting purpose” under § 925(d)(3). While the number of members reported for USPSA is similar to the membership for other shotgun shooting organizations,⁶ the working group ultimately determined that it was not appropriate to use this shotgun study to determine whether practical shooting is “sporting” under § 925(d)(3). A change in ATF’s position on practical shooting has potential implications for rifle and handgun classifications as well. Therefore, the working group believes that a more thorough and complete assessment is necessary before ATF can consider practical shooting as a generally recognized sporting purpose.

The working group agreed with the previous studies in that the activity known as “plinking” is “primarily a pastime” and could not be considered a recognized sport for the purposes of

⁶ Organization websites report these membership numbers: for the United States Practical Shooting Association, approx. 19,000; Amateur Trapshooting Association, over 35,000 active members; National Skeet Shooting Association, nearly 20,000 members; National Sporting Clays Association, over 22,000 members; Single Action Shooting Society, over 75,000 members.

importation.⁷ Because almost any firearm can be used in that activity, such a broad reading of “sporting purpose” would be contrary to the congressional intent in enacting section 925(d)(3). For these reasons, the working group recommends that plinking not be considered a sporting purpose. However, consistent with past court decisions and Congressional intent, the working group recognized hunting and other more generally recognized or formalized competitive events similar to the traditional shooting sports of trap, skeet, and clays.

Firearm Features

In reviewing the shotguns used for those activities classified as sporting purposes, the working group examined State hunting laws, rules, and guidelines for shooting competitions and shooting organizations; industry advertisements and literature; scholarly and historical publications; and statistics on participation in the respective shooting sports. Following this review, the working group determined that certain shotgun features are not particularly suitable or readily adaptable for sporting purposes. These features include:

- (1) Folding, telescoping, or collapsible stocks;
- (2) bayonet lugs;
- (3) flash suppressors;
- (4) magazines over 5 rounds, or a drum magazine;
- (5) grenade-launcher mounts;
- (6) integrated rail systems (other than on top of the receiver or barrel);
- (7) light enhancing devices;
- (8) excessive weight (greater than 10 pounds for 12 gauge or smaller);
- (9) excessive bulk (greater than 3 inches in width and/or greater than 4 inches in depth);
- (10) forward pistol grips or other protruding parts designed or used for gripping the shotgun with the shooter’s extended hand.

Although the features listed above do not represent an exhaustive list of possible shotgun features, designs or characteristics, the working group determined that shotguns with any one of these features are most appropriate for military or law enforcement use. Therefore, shotguns containing any of these features are not particularly suitable for nor readily adaptable to generally recognized sporting purposes such as hunting, trap, sporting clay, and skeet shooting. Each of these features and an analysis of each of the determinations are included within the main body of the report.

⁷ 1989 Study at 10; 1998 Study at 17.

Study on the Importability of Certain Shotguns

The purpose of this study is to establish criteria that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will use to determine the importability of certain shotguns under the provisions of the Gun Control Act of 1968 (GCA).

Background on Shotguns

A shotgun is defined by the GCA as “a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.”⁸

Shotguns are traditional hunting firearms and, in the past, have been referred to as bird guns or “fowling” pieces. They were designed to propel multiple pellets of shot in a particular pattern that is capable of killing the game that is being hunted. This design and type of ammunition limits the maximum effective long distance range of shotguns, but increases their effectiveness for small moving targets such as birds in flight at a close range. Additionally, shotguns have been used to fire slugs. A shotgun slug is a single metal projectile that is fired from the barrel. Slugs have been utilized extensively in areas where State laws have restricted the use of rifles for hunting. Additionally, many States have specific shotgun seasons for deer hunting and, with the reintroduction of wild turkey in many States, shotguns and slugs have found additional sporting application.

Shotguns are measured by *gauge* in the United States. The gauge number refers to the “number of equal-size balls cast from one pound of lead that would pass through the bore of a specific diameter.”⁹ The largest commonly available gauge is 10 gauge (.0775 in. bore diameter). Therefore, a 10 gauge shotgun will have an inside diameter equal to that of a sphere made from one-tenth of a pound of lead. By far, the most common gauges are 12 (0.729 in. diameter) and 20 (0.614 in. diameter). The smallest shotgun that is readily available is known as a “.410,” which is the diameter of its bore measured in inches. Technically, a .410 is a 67 gauge shotgun.

Background on Sporting Suitability

The GCA generally prohibits the importation of firearms into the United States.¹⁰ However, the statute exempts four narrow categories of firearms that the Attorney General shall authorize for importation. Originally enacted by Title IV of the Omnibus Crime Control and Safe Streets Act of 1968,¹¹ and amended by Title I of the GCA¹² enacted that same year, this section provides, in pertinent part:

⁸ 18 U.S.C. § 921(a)(5).

⁹ The Shotgun Encyclopedia at 106.

¹⁰ 18 U.S.C. § 922(l).

¹¹ Pub. Law 90-351 (June 19, 1968).

¹² Pub. Law 90-618 (October 22, 1968).

the Attorney General shall authorize a firearm . . . to be imported or brought into the United States . . . if the firearm . . . (3) is of a **type** that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and **is generally recognized as particularly suitable for or readily adaptable to sporting purposes**, excluding surplus military firearms, except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled.¹³ (Emphasis added)

This section addresses Congress' concern that the United States had become a "dumping ground of the castoff surplus military weapons of other nations,"¹⁴ in that it exempted only firearms with a generally recognized sporting purpose. In recognizing the difficulty in implementing this section, Congress gave the Secretary of the Treasury (now the Attorney General) the discretion to determine a weapon's suitability for sporting purposes. This authority was ultimately delegated to what is now ATF. Immediately after discussing the large role cheap imported .22 caliber revolvers were playing in crime, the Senate Report stated:

[t]he difficulty of defining weapons characteristics to meet this target without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition.¹⁵

Indeed, Congress granted this discretion to the Secretary even though some expressed concern with its breadth:

[t]he proposed import restrictions of Title IV would give the Secretary of the Treasury unusually broad discretion to decide whether a particular type of firearm is generally recognized as particularly suitable for, or readily adaptable to, sporting purposes. If this authority means anything, it permits Federal officials to differ with the judgment of sportsmen expressed through consumer preference in the marketplace. . . .¹⁶

Since that time, ATF has been responsible for determining whether firearms are generally recognized as particularly suitable for or readily adaptable to sporting purposes under the statute.

¹³ 18 U.S.C. § 925(d)(3). In pertinent part, 26 U.S.C. § 5845(a) includes "a shotgun having a barrel or barrels of less than 18 inches in length."

¹⁴ 90 P.L. 351 (1968).

¹⁵ S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

¹⁶ S. Rep. No. 1097, 90th Cong. 2d. Sess. 2155 (1968) (views of Senators Dirksen, Hruska, Thurmond, and Burdick). In Gun South, Inc. v. Brady, 877 F.2d 858, 863 (11th Cir. 1989), the court, based on legislative history, found that the GCA gives the Secretary "unusually broad discretion in applying section 925(d)(3)."

On December 10, 1968, the Alcohol and Tobacco Tax Division of the Internal Revenue Service (predecessor to ATF) convened a “Firearm Advisory Panel” to assist with defining “sporting purposes” as utilized in the GCA. This panel was composed of representatives from the military, law enforcement, and the firearms industry. The panel generally agreed that firearms designed and intended for hunting and organized competitive target shooting would fall into the sporting purpose criteria. It was also the consensus that the activity of “plinking” was primarily a pastime and therefore would not qualify. Additionally, the panel looked at criteria for handguns and briefly discussed rifles. However, no discussion took place on shotguns given that, at the time, all shotguns were considered inherently sporting because they were utilized for hunting or organized competitive target competitions.

Then, in 1984, ATF organized the first large scale study aimed at analyzing the sporting suitability of certain firearms. Specifically, ATF addressed the sporting purposes of the Striker-12 and Streetsweeper shotguns. These particular shotguns were developed in South Africa as law enforcement, security and anti-terrorist weapons. These firearms are nearly identical 12-gauge shotguns, each with 12-round capacity and spring-driven revolving magazines. All 12 rounds can be fired from the shotguns within 3 seconds.

In the 1984 study, ATF ruled that the Striker-12 and the Streetsweeper were not eligible for importation under 925(d)(3) because they were not “particularly suitable for sporting purposes.” In doing this, ATF reversed an earlier opinion and specifically rejected the proposition that police or combat competitive shooting events were a generally accepted “sporting purpose.” This 1984 study adopted a narrow interpretation of organized competitive target shooting competitions to include the traditional target events such as trap and skeet. ATF ultimately concluded that the size, weight and bulk of the shotguns made them difficult to maneuver in traditional shooting sports and, therefore, these shotguns were not particularly suitable for or readily adaptable to these sporting purposes. At the same time, however, ATF allowed importation of a SPAS-12 variant shotgun because its size, weight, bulk and *modified* configuration were such that it was particularly suitable for traditional shooting sports.¹⁷ The Striker-12 and Streetsweeper were later classified as “destructive devices” pursuant to the National Firearms Act.¹⁸

In 1989, and again in 1998, ATF conducted studies to determine whether certain rifles could be imported under section 925(d)(3). The respective studies focused primarily on the application of the sporting purposes test to a type of firearm described as a “semiautomatic assault weapon.” In both 1989 and 1998, ATF was concerned that certain semiautomatic assault weapons had been approved for importation even though they did not satisfy the sporting purposes test.

¹⁷ Private letter Ruling of August 9, 1989 from Bruce L. Weininger, Chief, Firearms and Explosives Division.

¹⁸ See ATF Rulings 94-1 and 94-2.

1989 Study

In 1989, ATF announced that it was suspending the importation of several semiautomatic assault rifles pending a decision on whether they satisfied the sporting criteria under section 925(d)(3). The 1989 study determined that assault rifles were a “type” of rifle that contained a variety of physical features that distinguished them from traditional sporting rifles. The study concluded that there were three characteristics that defined semiautomatic assault rifles:

- (1) a military configuration (ability to accept a detachable magazine, folding/telescoping stocks, pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights);
- (2) semiautomatic version of a machinegun;
- (3) chambered to accept a centerfire cartridge case having a length of 2.25 inches or less.¹⁹

The 1989 study then examined the scope of “sporting purposes” as used in the statute.²⁰ The study noted that “[t]he broadest interpretation could take in virtually any lawful activity or competition which any person or groups of persons might undertake. Under this interpretation, any rifle could meet the “sporting purposes” test.²¹ The 1989 study concluded that a broad interpretation would render the statute useless. The study therefore concluded that neither plinking nor “police/combat-type” competitions would be considered sporting activities under the statute.²²

The 1989 study concluded that semiautomatic assault rifles were “designed and intended to be particularly suitable for combat rather than sporting applications.”²³ With this, the study determined that they were not suitable for sporting purposes and should not be authorized for importation under section 925(d)(3).

1998 Study

The 1998 study was conducted after “members of Congress and others expressed concern that rifles being imported were essentially the same as semiautomatic assault rifles previously determined to be nonimportable” under the 1989 study.²⁴ Specifically, many firearms found to be nonimportable under the 1989 study were later modified to meet the standards outlined in the study. These firearms were then legally imported into the country under section 925(d)(3). ATF commissioned the 1998 study on the sporting suitability of semiautomatic rifles to address concerns regarding these modified firearms.

¹⁹ 1989 Report and Recommendation on the ATF Working Group on the Importability of Certain Semiautomatic Rifles (1989 Study).

²⁰ *Id.* at 8.

²¹ *Id.*

²² *Id.* At 9.

²³ *Id.* At 12.

²⁴ 1998 Study at 1.

The 1998 study identified the firearms in question and determined that the rifles shared an important feature—the ability to accept a large capacity magazine that was originally designed for military firearms. The report then referred to such rifles as Large Capacity Military Magazine rifles or “LCMM rifles.”²⁵

The study noted that after 1989, ATF refused to allow importation of firearms that had any of the identified non-sporting features, but made an exception for firearms that possessed only a detachable magazine. Relying on the 1994 Assault Weapons Ban, the 1998 study noted that Congress “sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting.”²⁶ The study concluded by adopting the standards set forth in the 1989 study and by reiterating the previous determination that large capacity magazines are a military feature that bar firearms from importation under section 925(d)(3).²⁷

Present Study

While ATF conducted the above mentioned studies on the sporting suitability of rifles, to date, no study has been conducted to address the sporting purposes and importability of shotguns. This study was commissioned for that purpose and to ensure that ATF complies with its statutory mandate under section 925(d)(3).

Methodology

To conduct this study, the working group reviewed current shooting sports and the sporting suitability of common shotguns and shotgun features. At the outset, the working group recognized the importance of acknowledging the inherent differences between rifles, handguns and shotguns. These firearms have distinct characteristics that result in specific applications of each weapon. Therefore, in conducting the study, the working group generally considered shotguns without regard to technical similarities or differences that exist in rifles or handguns.

The 1989 and 1998 studies examined particular features and made sporting suitability determinations based on the generally accepted sporting purposes of *rifles*. These studies served as useful references because, in recent years, manufacturers have produced shotguns with features traditionally found only on rifles. These features are typically used by military or law enforcement personnel and provide little or no advantage to sportsmen.

Following a review of the 1989 and 1998 studies, the working group believed that it was necessary to first identify those activities that are considered legitimate “sporting purposes” in the modern era. While the previous studies determined that only “the traditional sports of hunting and organized competitive target shooting” would be considered “sporting,”²⁸ the working group recognized that sporting purposes may evolve over time. The working group felt

²⁵ 1998 Study at 16.

²⁶ 1998 Study at 3.

²⁷ The 1994 Assault Weapons Ban expired Sept. 13, 2004, as part of the law's sunset provision.

²⁸ 1998 Study at 16

that the statutory language supported this because the term “generally recognized” modifies, not only firearms used for shooting activities, but also the shooting activities themselves. This is to say that an activity is considered “sporting” under section 925(d)(3) if it is generally recognized as such.²⁹ Therefore, activities that were “generally recognized” as legitimate “sporting purposes” in previous studies are not necessarily the same as those activities that are “generally recognized” as sporting purposes in the modern era. As stated above, Congress recognized the difficulty in legislating a fixed meaning and therefore gave the Attorney General the responsibility to make such determinations. As a result, the working group did not simply accept the proposition that sporting events were limited to hunting and traditional trap and skeet target shooting. In determining whether an activity is now generally accepted as a sporting purpose, the working group considered a broad range of shooting activities.

Once the working group determined those activities that are generally recognized as a “sporting purpose” under section 925(d)(3), it examined numerous shotguns with diverse features in an effort to determine whether any particular firearm was particularly suitable for or readily adaptable to those sports. In coming to a determination, the working group recognized that a shotgun cannot be classified as sporting merely because it may be used for a sporting purpose. During debate on the original bill, there was discussion about the meaning of the term "sporting purposes." Senator Dodd stated:

Here again I would have to say that if a military weapon is used in a special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event As I said previously the language says no firearms will be admitted into this country unless they are genuine sporting weapons.³⁰

In making a determination on any particular feature, the working group considered State hunting laws, currently available products, scholarly and historical publications, industry marketing, and rules and regulations of organization such as the National Skeet Shooting Association, Amateur Trapshooting Association, National Sporting Clays Association, Single Action Shooting Society, International Practical Shooting Confederation (IPSC), and the United States Practical Shooting Association (USPSA). Analysis of these sources as well as a variety of shotguns led the working group to conclude that certain shotguns were of a type that did not meet the requirements of section 925(d)(3), and therefore, could not lawfully be imported.

²⁹ ATF previously argued this very point in Gilbert Equipment Company, Inc. v. Higgins, 709 F.Supp. 1071, 1075 (S.D. Ala. 1989). The court agreed, noting, “according to Mr. Drake, the bureau takes the position . . . that an event has attained general recognition as being a sport before those uses and/or events can be ‘sporting purposes’ or ‘sports’ under section 925(d)(3). *See also* Declaration of William T. Drake, Deputy Director, Bureau of Alcohol, Tobacco and Firearms.

³⁰ 114 Cong. Rec. 27461-462 (1968).

Analysis

A. Scope of Sporting Purposes

In conducting the sporting purposes test on behalf of the Attorney General, ATF examines the physical and technical characteristics of a shotgun and determines whether those characteristics meet this statutory requirement. A shotgun's suitability for a particular sport depends upon the nature and requirements inherent to that sport. Therefore, determining a "sporting purpose" was the first step in this analysis under section 925(d)(3) and is a critical step of the process.

A broad interpretation of "sporting purposes" may include any lawful activity in which a shooter might participate and could include any organized or individual shooting event or pastime. A narrow interpretation of "sporting purposes" would clearly result in a more selective standard governing the importation of shotguns.

Consistent with previous ATF decisions and case law, the working group recognized that a sport or event must "have attained general recognition as being a 'sport,' before those uses and/or events can be 'sporting purposes' or 'sports' under Section 925(d)(3)."³¹ The statutory language limits ATF's authority to recognize a particular shooting activity as a "sporting purpose," and therefore requires a narrow interpretation of this term. As stated however, the working group recognized that sporting purposes may change over time, and that certain shooting activities may become "generally recognized" as such.

At the present time, the working group continues to believe that the activity known as "plinking" is not a generally recognized sporting purpose. There is nothing in the legislative history of the GCA to indicate that section 925(d)(3) was meant to recognize every conceivable type of activity or competition that might employ a firearm. Recognition of plinking as a sporting purpose would effectively nullify section 925(d)(3) because it may be argued that *any* shotgun is particularly suitable for or readily adaptable to this activity.

The working group also considered "practical shooting" competitions. Practical shooting events generally measure a shooter's accuracy and speed in identifying and hitting targets while negotiating obstacle-laden shooting courses. In these competitions, the targets are generally stationary and the shooter is mobile, as opposed to clay target shooting where the targets are moving at high speeds mimicking birds in flight. Practical shooting consist of rifle, shotgun and handgun competitions, as well as "3-Gun" competitions utilizing all three types of firearm on one course. The events are often organized by local or national shooting organizations and attempt to categorize shooters by skill level in order to ensure competitiveness within the respective divisions. The working group examined participation in and popularity of practical shooting events as governed under formal rules such as those of the United States Practical Shooting Association (USPSA) and International Practical Shooting Confederation (IPSC) to see

³¹ Gilbert at 1085.

if it is appropriate to consider these events a legitimate “sporting purpose” under section 925(d)(3).

The USPSA currently reports approximately 19,000 members that participate in shooting events throughout the United States.³² While USPSA’s reported membership is within the range of members for some other shotgun shooting organizations,³³ organizations involved in shotgun hunting of particular game such as ducks, pheasants and quail indicate significantly more members than any of the target shooting organizations.³⁴ Because a determination on the sporting purpose of practical shooting events should be made only after an in-depth study of those events, the working group determined that it was not appropriate to use this shotgun study to make a definitive conclusion as to whether practical shooting events are “sporting” for purposes of section 925(d)(3). Any such study must include rifles, shotguns and handguns because practical shooting events use all of these firearms, and a change in position by ATF on practical shooting or “police/combat-type” competitions may have an impact on the sporting suitability of rifles and handguns. Further, while it is clear that shotguns are used at certain practical shooting events, it is unclear whether shotgun use is so prevalent that it is “generally recognized” as a sporting purpose. If shotgun use is not sufficiently popular at such events, practical shooting would have no effect on any sporting suitability determination of shotguns. Therefore, it would be impractical to make a determination based upon one component or aspect of the practical shooting competitions.

As a result, the working group based the following sporting suitability criteria on the traditional sports of hunting, trap and skeet target shooting.

B. Suitability for Sporting Purposes

The final step in our review involved an evaluation of shotguns to determine a “type” of firearm that is “generally recognized as particularly suitable or readily adaptable to sporting purposes.” Whereas the 1989 and 1998 studies were conducted in response to Congressional interest pertaining to a certain “type” of firearm, the current study did not benefit from a mandate to focus upon and review a particular type of firearm. Therefore, the current working group determined that it was necessary to consider a broad sampling of shotguns and shotgun features that may constitute a “type.”

Whereas rifles vary greatly in size, function, caliber and design, historically, there is less variation in shotgun design. However, in the past several years, ATF has witnessed increasingly diverse shotgun design. Much of this is due to the fact that some manufacturers are now applying rifle designs and features to shotguns. This has resulted in a type of shotgun that has

³² See www.uspsa.org.

³³ Organization websites report these membership numbers: for the United States Practical Shooting Association, approx. 19,000; Amateur Trapshooting Association, over 35,000 active members; National Skeet Shooting Association, nearly 20,000 members; National Sporting Clays Association, over 22,000 members; Single Action Shooting Society, over 75,000 members.

³⁴ Organization websites report these membership numbers: Ducks Unlimited, U.S adult 604,902 (Jan. 1, 2010); Pheasants/Quail Forever, over 130,000 North American members (2010) <http://www.pheasantfest.org/page/1/PressReleaseViewer.jsp?pressReleaseId=12406>.

features or characteristics that are based on tactical and military firearms. Following a review of numerous shotguns, literature, and industry advertisements, the working group determined that the following shotgun features and design characteristics are particularly suitable for the military or law enforcement, and therefore, offer little or no advantage to the sportsman. Therefore, we recognized that any shotgun with one or more of these features represent a “type” of firearm that is not “generally recognized as particularly suitable or readily adaptable to sporting purposes” and may not be imported under section 925(d)(3).

(1) Folding, telescoping or collapsible stock.

Shotgun stocks vary in style, but sporting stocks have largely resembled the traditional design.³⁵ Many military firearms incorporate folding or telescoping stocks. The main advantage of this feature is portability, especially for airborne troops. These stocks allow the firearm to be fired from the folded or retracted position, yet it is difficult to fire as accurately as can be done with an open or fully extended stock. While a folding stock or telescoping stock makes it easier to carry the firearm, its predominant advantage is for military and tactical purposes. A folding or telescoping stock is therefore not found on the traditional sporting shotgun. Note that certain shotguns may utilize adjustable butt plates, adjustable combs, or other designs intended only to allow a shooter to make small custom modifications to a shotgun. These are not intended to make a shotgun more portable, but are instead meant to improve the overall “fit” of the shotgun to a particular shooter. These types of adjustable stocks are sporting and are, therefore, acceptable for importation.

(2) Bayonet Lug.

A bayonet lug is generally a metal mount that allows the installation of a bayonet onto the end of a firearm. While commonly found on rifles, bayonets have a distinct military purpose. Publications have indicated that this may be a feature on military shotguns as well.³⁶ It enables soldiers to fight in close quarters with a knife attached to their firearm. The working group discovered no generally recognized sporting application for a bayonet on a shotgun.

(3) Flash Suppressor.

Flash suppressors are generally used on military firearms to disperse the muzzle flash in order to help conceal the shooter’s position, especially at night. Compensators are used on military and commercial firearms to assist in controlling recoil and the “muzzle climb” of the shotgun. Traditional sporting shotguns do not have flash suppressors or compensators. However, while compensators have a limited benefit for shooting sports because they allow the shooter to quickly reacquire the target for a second shot, there is no particular benefit in suppressing muzzle flash in

³⁵ Exhibit 1.

³⁶ *A Collector’s Guide to United States Combat Shotguns* at 156.

sporting shotguns. Therefore, the working group finds that flash suppressors are not a sporting characteristic, while compensators are a sporting feature. However, compensators that, in the opinion of ATF, actually function as flash suppressors are neither particularly suitable nor readily adaptable to sporting purposes.

(4) Magazine over 5 rounds, or a Drum Magazine.

A magazine is an ammunition storage and feeding device that delivers a round into the chamber of the firearm during automatic or semiautomatic firing.³⁷ A magazine is either integral (tube magazine) to the firearm or is removable (box magazine). A drum magazine is a large circular magazine that is generally detachable and is designed to hold a large amount of ammunition.

The 1989 Study recognized that virtually all modern military firearms are designed to accept large, detachable magazines. The 1989 Study noted that this feature provides soldiers with a large ammunition supply and the ability to reload rapidly. The 1998 Study concurred with this and found that, for rifles, the ability to accept a detachable large capacity magazine was not a sporting feature. The majority of shotguns on the market today contain an integral “tube” magazine. However, certain shotguns utilize removable box magazine like those commonly used for rifles.³⁸

In regard to sporting purposes, the working group found no appreciable difference between integral tube magazines and removable box magazines. Each type allowed for rapid loading, reloading, and firing of ammunition. For example, “speed loaders” are available for shotguns with tube-type magazines. These speed loaders are designed to be preloaded with shotgun shells and can reload a shotgun with a tube-type magazine in less time than it takes to change a detachable magazine.

However, the working group determined that magazines capable of holding large amounts of ammunition, regardless of type, are particularly designed and most suitable for military and law enforcement applications. The majority of state hunting laws restrict shotguns to no more than 5 rounds.³⁹ This is justifiable because those engaged in sports shooting events are not engaging in potentially hostile or confrontational situations, and therefore do not require the large amount of immediately available ammunition, as do military service members and police officers.

Finally, drum magazines are substantially wider and have considerably more bulk than standard clip-type magazines. They are cumbersome and, when attached to the shotgun, make it more difficult for a hunter to engage multiple small moving targets. Further, drum magazines are generally designed to contain more than 5 rounds. Some contain as many as 20 or more

³⁷ Steindler's New Firearms Dictionary at 164.

³⁸ See Collector's Guide to United States Combat Shotguns at 156-7, noting that early combat shotguns were criticized because of their limited magazine capacity and time consuming loading methods.

³⁹ Exhibit 2.

rounds.⁴⁰ While such magazines may have a military or law enforcement application, the working group determined that they are not useful for any generally recognized sporting purpose. These types of magazines are unlawful to use for hunting in most states, and their possession and manufacture are even prohibited or restricted in some states.⁴¹

(5) Grenade Launcher Mount.

Grenade launchers are incorporated into military firearms to facilitate the launching of explosive grenades. Such launchers are generally of two types. The first type is a flash suppressor designed to function as a grenade launcher. The second type attaches to the barrel of the firearm either by screws or clamps. Grenade launchers have a particular military application and are not currently used for sporting purposes.

(6) Integrated Rail Systems.⁴²

This refers to a mounting rail system for small arms upon which firearm accessories and features may be attached. This includes scopes, sights, and other features, but may also include accessories or features with no sporting purpose, including flashlights, foregrips, and bipods. Rails on the sides and underside of shotguns—including any accessory mount—facilitate installation of certain features lacking any sporting purpose. However, receiver rails that are installed on the top of the receiver and barrel are readily adaptable to sporting purposes because this facilitates installation of optical or other sights.

(7) Light Enhancing Devices.

Shotguns are generally configured with either bead sights, iron sights or optical sights, depending on whether a particular sporting purpose requires the shotgun to be pointed or aimed.⁴³ Bead sights allow a shooter to “point” at and engage moving targets at a short distance with numerous small projectiles, including birds, trap, skeet and sporting clays. Iron and optical sights are used when a shooter, firing a slug, must “aim” a shotgun at a target, including deer, bear and turkeys.⁴⁴ Conversely, many military firearms are equipped with sighting devices that utilize available light to facilitate night vision capabilities. Devices or optics that allow illumination of a target in low-light conditions are generally for military and law enforcement purposes and are not typically found on sporting shotguns because it is generally illegal to hunt at night.

⁴⁰ Exhibit 3.

⁴¹ See, e.g., Cal Pen Code § 12020; N.J. Stat. § 2C:39-9.

⁴² Exhibit 4.

⁴³ NRA Firearms Sourcebook at 178.

⁴⁴ Id.

(8) Excessive Weight.⁴⁵

Sporting shotguns, 12 gauge and smaller, are lightweight (generally less than 10 pounds fully assembled),⁴⁶ and are balanced and maneuverable. This aids sportsmen by allowing them to carry the firearm over long distances and rapidly engage a target. Unlike sporting shotguns, military firearms are larger, heavier, and generally more rugged. This design allows the shotguns to withstand more abuse in combat situations.

(9) Excessive Bulk.⁴⁷

Sporting shotguns are generally no more than 3 inches in width or more than 4 inches in depth. This size allows sporting shotguns to be sufficiently maneuverable in allowing hunters to rapidly engage targets. Certain combat shotguns may be larger for increased durability or to withstand the stress of automatic fire. The bulk refers to the fully assembled shotgun, but does not include magazines or accessories such as scopes or sights that are used on the shotgun. For both width and depth, shotguns are measured at the widest points of the action or housing on a line that is perpendicular to the center line of the bore. Depth refers to the distance from the top plane of the shotgun to the bottom plane of the shotgun. Width refers to the length of the top or bottom plane of the firearm and measures the distance between the sides of the shotgun. Neither measurement includes the shoulder stock on traditional sporting shotgun designs.

(10) Forward Pistol Grip or Other Protruding Part Designed or Used for Gripping the Shotgun with the Shooter's Extended Hand.⁴⁸

While sporting shotguns differ in the style of shoulder stock, they are remarkably similar in fore-end design.⁴⁹ Generally, sporting shotguns have a foregrip with which the shooter's forward hand steadies and aims the shotgun. Recently, however, some shooters have started attaching forward pistol grips to shotguns. These forward pistol grips are often used on tactical firearms and are attached to those firearms using the integrated rail system. The ergonomic design allows for continued accuracy during sustained shooting over long periods of time. This feature offers little advantage to the sportsman. Note, however, that the working group believes that pistol grips for the trigger hand are prevalent on shotguns and are therefore generally recognized as particularly suitable for sporting purposes.⁵⁰

While the features listed above are the most common non-sporting shotgun features, the working group recognizes that other features, designs, or characteristics may exist. Prior to importation, ATF will classify these shotguns based upon the requirements of section 925(d)(3). The working

⁴⁵ See generally Gilbert.

⁴⁶ Shotgun Encyclopedia 2001 at 264.

⁴⁷ Exhibit 5.

⁴⁸ Exhibit 6.

⁴⁹ See Exhibit 1. See generally NRA Firearms Sourcebook at 121-2.

⁵⁰ See Exhibit 1.

group expects the continued application of unique features and designs to shotguns that may include features or designs based upon traditional police or military tactical rifles. However, even if a shotgun does not have one of the features listed above, it may be considered “sporting” only if it meets the statutory requirements under section 925(d)(3). Further, the simple fact that a military firearm or feature *may* be used for a generally recognized sporting purposes is not sufficient to support a determination that it is sporting under 925(d)(3). Therefore, as required by section 925(d)(3), in future sporting classifications for shotguns, ATF will classify the shotgun as sporting only if there is evidence that its features or design characteristics are generally recognized as particularly suitable for or readily adaptable to generally recognized sporting purposes.

The fact that a firearm or feature was initially designed for military or tactical applications, including offensive or defensive combat, may indicate that it is not a sporting firearm. This may be overcome by evidence that the particular shotgun or feature has been so regularly used by sportsmen that it is generally recognized as particularly suitable for or readily adaptable to sporting purposes. Such evidence may include marketing, industry literature and consumer articles, scholarly and historical publications, military publications, the existence of State and local statutes and regulations limiting use of the shotgun or features for sporting purposes, and the overall use and the popularity of such features or designs for sporting purposes according to hunting guides, shooting magazines, State game commissioners, organized competitive hunting and shooting groups, law enforcement agencies or organizations, industry members and trade associations, and interest and information groups. Conversely, a determination that the shotgun or feature was originally designed as an improvement or innovation to an existing sporting shotgun design or feature will serve as evidence that the shotgun is sporting under section 925(d)(3). However, any new design or feature must still satisfy the sporting suitability test under section 925(d)(3) as outlined above.

The Attorney General and ATF are not limited to these factors and therefore may consider any other factor determined to be relevant in making this determination. The working group recognizes the difficulty in applying this standard but acknowledges that Congress specifically intended that the Attorney General perform this function. Therefore, the working group recommends that sporting determinations for shotguns not specifically addressed by this study be reviewed by a panel pursuant to ATF orders, policies and procedures, as appropriate.

Conclusion

The purpose of section 925(d)(3) is to provide a limited exception to the general prohibition on the importation of firearms without placing “any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms....”⁵¹ Our determinations will in no way preclude the importation of true sporting shotguns. While it will certainly prevent the importation of certain shotguns, we believe that

⁵¹ 90 P.L. 351 (1968).

those shotguns containing the enumerated features cannot be fairly characterized as “sporting” shotguns under the statute. Therefore, it is the recommendation of the working group that shotguns with any of the characteristics or features listed above not be authorized for importation.

Shotgun Stock Style Comparison

Exhibit 1

“Straight” or “English” style stock (Ruger Red Label):



“Pistol grip” style stock (Browning Citori):



“Pistol grip” style stock (Mossberg 935 Magnum Turkey):



“Thumbhole” style stock (Remington SP-10):



Stock with Separate Pistol Grip



Hunting Statutes by State

Exhibit 2

State	Gauge	Mag Restriction / plugged with one piece filler requiring disassembly of gun for removal	Attachments	Semi-Auto	Other
Alabama	10 gauge or smaller;	(Species specific) 3 shells			1
Alaska	10 gauge or smaller				
Arizona	10 gauge or smaller	5 shells			
Arkansas	≤ 10 gauge; some zones ≥ .410; ≥ 20 gauge for bear	(Species specific) 3 shells			
California	≤ 10 gauge; Up to 12 gauge in some areas	(Species specific) 3 shells			
Colorado	≥ 20 gauge; Game Mammals ≤ 10 gauge	3 shells			
Connecticut	≤ 10-gauge	(Species specific) 3 shells	telescopic sights		
Delaware	20, 16, 12, 10 gauge	3 shells	Muzzleloaders may be equipped with scopes		2
Florida	Muzzleloading firing ≥ 2 balls ≥ 20-gauge; Migratory birds ≤ 10-gauge; opossums - single-shot .41 -gauge shotguns	(Species specific) 3 shells			
Georgia	≥ 20-gauge; Waterfowl ≤ 10-gauge	5 shells	Scopes are legal		
Hawaii	≤ 10 gauge	(Species specific) 3 shells			
Idaho			some scopes allowed		3
Illinois	20 - 10 gauge; no .410 or 28 gauge allowed	3 shells			
Indiana		(Species specific) 3 shells	Laser sights are legal		

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Hunting Statutes by State

Exhibit 2

Iowa	10-, 12-, 16-, and 20-gauge			
Kansas	≥ 20 gauge; ≤ 10 gauge,	(Species specific) 3 shells		
Kentucky	up to and including 10-gauge, includes .410-	(Species specific) 3 shells	Telescopic sights (scopes)	
Louisiana	≤ 10 gauge	3 shells	Nuisance Animals; infrared, laser sighting devices, or night vision devices	
Maine	10 - 20 gauge	(Species specific) 3 shells	may have any type of sights, including scopes	Auto-loading illegal if hold more than 6 cartridges
Maryland	Muzzle loading ≥ 10 gauge ; Shotgun ≤ 10-gauge	(Species specific) 3 shells	may use a telescopic sight on muzzle loading firearm	
Massachusetts	≤ 10 gauge	(Species specific) 3 shells		
Michigan	any gauge	(Species specific) 3 shells		Illegal: semi-automatic holding > 6 shells in barrel and magazine combined
Minnesota	≤ 10 gauge	(Species specific) 3 shells		
Mississippi	any gauge	(Species specific) 3 shells	Scopes allowed on primitive weapons	
Missouri	≤ 10 gauge	(Species specific) 3 shells		
Montana	≤ 10 gauge	(Species specific) 3 shells		
Nebraska	≥ 20 gauge	(Species specific) 3 shells		Illegal: semi-automatic holding > 6 shells in barrel and magazine combined
Nevada	≤ 10 gauge; ≥ 20 gauge	(Species specific) 3 shells		
New Hampshire	10 - 20 gauge	(Species specific) 3 shells		
New Jersey	≤ 10 gauge; ≥ 20 gauge; or .410 caliber	(Species specific) 3 shells	Require adjustable open iron, peep sight or scope affixed if hunting with slugs. Telescopic sights Permitted	
New Mexico	≥ 28 gauge, ≤ 10 gauge	(Species specific) 3 shells		
New York	Big game ≥ 20 gauge		scopes allowed	No semi-automatic firearm with a capacity to hold more than 6 rounds

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Hunting Statutes by State

Exhibit 2

North Carolina	≤ 10 gauge	(Species specific) 3 shells	
North Dakota	≥ 410 gauge; no ≤ 10 gauge	3 shells (repealed for migratory birds)	
Ohio	≤ 10 gauge	(Species specific) 3 shells	
Oklahoma	≤ 10 gauge	(Species specific) 3 shells	
Oregon	≤ 10 gauge; ≥ 20 gauge	(Species specific) 3 shells	Scopes (permanent and detachable), and sights allowed for visually impaired
Pennsylvania	≤ 10 gauge; ≥ 12 gauge	(Species specific) 3 shells	
Rhode Island	10, 12, 16, or 20-gauge	5 shells	
South Carolina		(Species specific) 3 shells	
South Dakota	(Species specific) ≤ 10 gauge	5 shells	No auto-loading firearm holding > 6 cartridges
Tennessee	Turkey: ≥ 28 gauge	(Species specific) 3 shells	May be equipped with sighting devices
Texas	≤ 10 gauge	(Species specific) 3 shells	scoping or laser sighting devices used by disabled hunters
Utah	≤ 10 gauge; ≥ 20 gauge	(Species specific) 3 shells	
Vermont	≥ 12 gauge	(Species specific) 3 shells	
Virginia	≤ 10 gauge	(Species specific) 3 shells	
Washington	≤ 10 gauge	(Species specific) 3 shells	
West Virginia			
Wisconsin	10, 12, 16, 20 and 28 gauge; no .410 shotgun for deer/bear	(Species specific) 3 shells	
Wyoming			

4

- 1 Shotgun/rifle combinations (drilling) permitted
- 2 large game training course - Students in optional proficiency qualification bring their own pre-zeroed, ≥ .243 , scoped shotgun
- 3 no firearm that, in combination with a scope, sling and/or any attachments, weighs more than 16 pounds
- 4 no relevant restrictive laws concerning shotguns

General Firearm Statutes by State

Exhibit 2

State	Source	Semi-Auto Restrictions	Attachments	Prohibited* (in addition to possession of short-barrel or sawed-off shotguns by non-authorized persons, e.g., law enforcement officers for official duty purposes)
Alabama	Alabama Code, title 13:			
Alaska	Alaska Statutes 11.61.200.(h)			
Arizona	Arizona Rev. Statutes 13-3101.8.	single shot	silencer prohibited	
Arkansas	Arkansas Code Title 5, Chapter 73.			
California	California Penal Code, Part 4.12276. and San Diego Municipal Code 53.31.	San Diego includes under "assault weapon," any shotgun with a magazine capacity of more than 6 rounds		"Assault weapons": Franchi SPAS 12 and LAW 12; Striker 12; Streetsweeper type S/S Inc. ; semiautomatic shotguns having both a folding or telescoping stock and a pistol grip protruding conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip; semiautomatic shotguns capable of accepting a detachable magazine; or shotguns with a revolving cylinder.
Colorado	2 CCR 406-203			
Connecticut	Connecticut Gen. Statutes 53-202a.			"Assault weapons": Steyr AUG; Street Sweeper and Striker 12 revolving cylinder shotguns
D.C	7-2501.01.			

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General Firearm Statutes by State

Exhibit 2

Delaware	7.I.§ 711.		7.I.§ 711. Hunting with automatic-loading gun prohibited; penalty (a) No person shall hunt for game birds or game animals in this State, except as authorized by state-sanctioned federal depredation/conservation orders for selected waterfowl species, with or by means of any automatic-loading or hand-operated repeating shotgun capable of holding more than 3 shells, the magazine of which has not been cut off or plugged with a filler incapable of removal through the loading end thereof, so as to reduce the capacity of said gun to not more than 3 shells at 1 time, in the magazine and chamber combined. (b) Whoever violates this section shall be guilty of a class C environmental misdemeanor. (c) Having in one's possession, while in the act of hunting game birds or game animals, a gun that will hold more than 3 shells at one time in the magazine and chamber combined, except as authorized in subsection (a) of this section, shall be prima facie evidence of violation of this section.
Florida	Florida statutes, Title XLVI.790.001.		
Georgia			
Hawaii	Hawaii Rev. Statutes, Title 10., 134-8.	silencer prohibited	
Idaho	Idaho Code, 18-3318.		
Illinois	Code of Ordinances, City of Aurora 29-43.	Aurora includes under "assault weapon," any shotgun with a magazine capacity of more than 5 rounds	"Assault weapons": Street Sweeper and Striker 12 revolving cylinder shotguns or semiautomatic shotguns with either a fixed magazine with a capacity over 5 rounds or an ability to accept a detachable magazine and has at least a folding / telescoping stock or a pistol grip that protrudes beneath the action of firearm and which is separate and apart from stock

General Firearm Statutes by State

Exhibit 2

Indiana	Indiana Code 35-47-1-10. and Municipal Code of the City of South Bend 13-95.	South Bend under "assault weapon" firearms which have threads, lugs, or other characteristics designed for direct attachment of a silencer, bayonet, flash suppressor, or folding stock; as well as any detachable magazine, drum, belt, feed strip, or similar device which can be readily made to accept more than 15. rounds	South Bend includes under "assault weapon," any shotgun with a magazine capacity of more than 9 rounds
Iowa	Iowa Code, Title XVI. 724.1.		Includes as an offensive weapon, "a firearm which shoots or is designed to shoot more than one shot, without manual reloading, by a single function of the trigger"
Kansas			
Kentucky	Kentucky Revised Statutes- 150.360		
Louisiana	Louisiana RS 56:116.1		
Maine	Maine Revised Statutes 12.13.4.915.4. §11214. F.		
Maryland	Maryland Code 5-101.		"Assault weapons": F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun; Steyr-AUG-SA semi-auto; Holmes model 88 shotgun; Mossberg model 500 Bullpup assault shotgun; Street sweeper assault type shotgun; Striker 12 assault shotgun in all formats; Daewoo USAS 12 semi-auto shotgun

General Firearm Statutes by State

Exhibit 2

Massachusetts	Massachusetts Gen L. 140.121.	under "assault weapon": any shotgun with (fixed or detachable) magazine capacity of more than 5 rounds	"Assault weapons": revolving cylinder shotguns, e.g., Street Sweeper and Striker 12; also "Large capacity weapon" includes any semiautomatic shotgun fixed with large capacity feeding device (or capable of accepting such), that uses a rotating cylinder capable of accepting more than 5 shells
Michigan	Il.2.1. (2)		
Minnesota	Minnesota Statutes 624.711		"Assault weapons": Street Sweeper and Striker-12 revolving cylinder shotgun types as well as USAS-12 semiautomatic shotgun type
Mississippi	Mississippi Code 97-37-1.	silencer prohibited	
Missouri	Code of State Regulations 10-7.410(1)(G)		
Montana			
Nebraska	Nebraska Administrative Code Title 163 Chapter 4 001.		
Nevada	Nevada Revised Statutes 503.150 1.		
New Hampshire			
New Jersey	New Jersey Statutes 23:4-13. and 23:4-44. and New Jersey Rev. Statutes 2C39-1.w.	magazine capacity of no more than 5 rounds	"Assault weapons": any shotgun with a revolving cylinder, e.g. "Street Sweeper" or "Striker 12" Franchi SPAS 12 and LAW 12 shotguns or USAS 12 semi-automatic type shotgun; also any semi-automatic shotgun with either a magazine capacity exceeding 6 rounds, a pistol grip, or a folding stock
New Mexico	New Mexico Administrative Code 19.31.6.7H., 19.31.11.10N. , 19.31.13.10M. and 19.31.17.10N.		

General Firearm Statutes by State

Exhibit 2

New York	New York Consolidated Laws 265.00. 22. and Code of the City of Buffalo 1801B.	magazine capacity of no more than 5 rounds	sighting device making a target visible at night may classify a shotgun as an assault weapon	"Assault weapons": Any semiautomatic shotgun with at least two of the following: folding or telescoping stock; pistol grip that protrudes conspicuously beneath the action of the weapon; fixed magazine capacity in excess of five rounds; an ability to accept a detachable magazine; or any revolving cylinder shotguns, e.g., Street Sweeper and Striker 12; Buffalo 1801B. Assault Weapon: (2) A center-fire rifle or shotgun which employs the force of expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which has: (a) A flash suppressor attached to the weapon reducing muzzle flash; (c) A sighting device making a target visible at night; (d) A barrel jacket surrounding all or a portion of the barrel, to dissipate heat therefrom; or (e) A multi-burst trigger activator. (3) Any stockless pistol grip shotgun.
North Carolina	North Carolina Gen. Statutes 14-288.8		silencer prohibited	
North Dakota	North Dakota Century Code 20.1-01-09. Section 20.1-04-10, SHOTGUN SHELL-HOLDING CAPACITY RESTRICTION, repealed/eliminated			
Ohio	Ohio Rev. Code 2923.11. and Columbus City Codes 2323.11.	magazine capacity of no more than 5 rounds		semiautomatic shotgun that was originally designed with or has a fixed magazine or detachable magazine with a capacity of more than five rounds. Columbus includes under "Assault weapon" any semi-automatic shotgun with two or more of the following: pistol grip that protrudes conspicuously beneath the receiver of the weapon; folding, telescoping or thumbhole stock; fixed magazine capacity in excess of 5 standard 2-3/4, or longer, rounds; or ability to accept a detachable magazine; also any shotgun with revolving cylinder
Oklahoma				
Oregon	Oregon Rev. Statutes 166.272.		silencer prohibited	
Pennsylvania	Title 34 Sec. 2308. (a)(4) and (b)(1)			
Rhode Island	Rule 7, Part III, 3.3 and 3.4			
South Carolina	SECTION 50-11-310. (E) and ARTICLE 3. SUBARTICLE 1. 123 40			

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General Firearm Statutes by State

Exhibit 2

South Dakota	South Dakota Codified Laws 22,1,2, (8)		silencer prohibited
Tennessee			
Texas			
Utah	Utah Administrative Code R657-5-9. (1), R657-6-6. (1) and R657-9-7.		
Vermont			
Virginia	Virginia Code 18.2-308.	magazine capacity no more than 7 rounds (not applicable for hunting or sport shooting)	"Assault weapons": Striker 12's commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding twelve shotgun shells prohibited
Washington	Washington Administrative Code 232-12-047		
West Virginia	West Virginia statute 8-12-5a.		
Wisconsin	Wisconsin Administrative Code – NR 10.11 and NR 10.12		
Wyoming	Wyoming Statutes, Article 3. Rifles and Shotguns [Repealed] and 23-3-112.		silencer prohibited

Drum Magazine

Exhibit 3



EB000995

Integrated Rail System

Exhibit 4

Sporting



Sporting



Non-Sporting



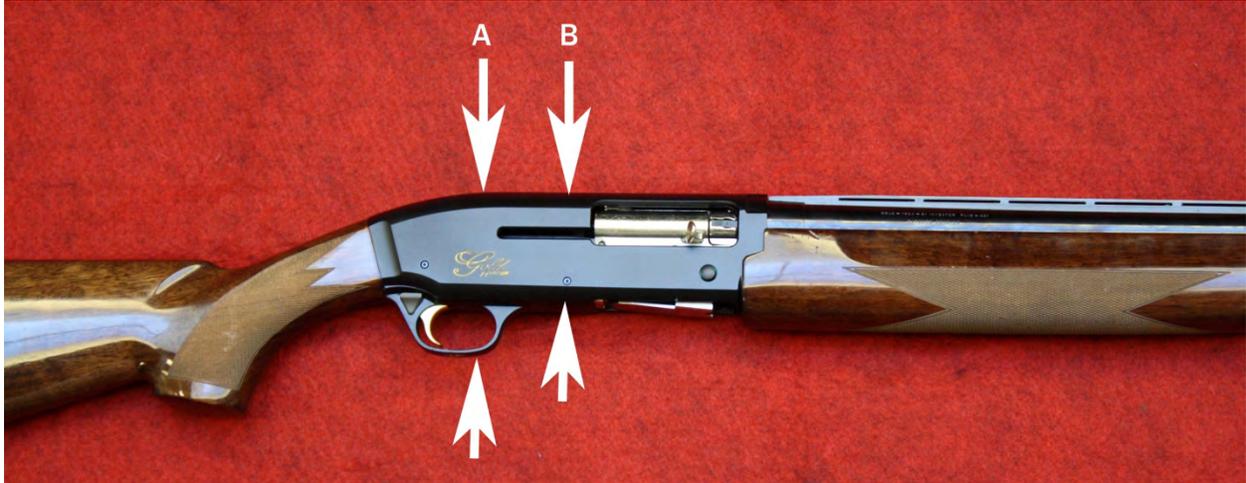
Non-Sporting



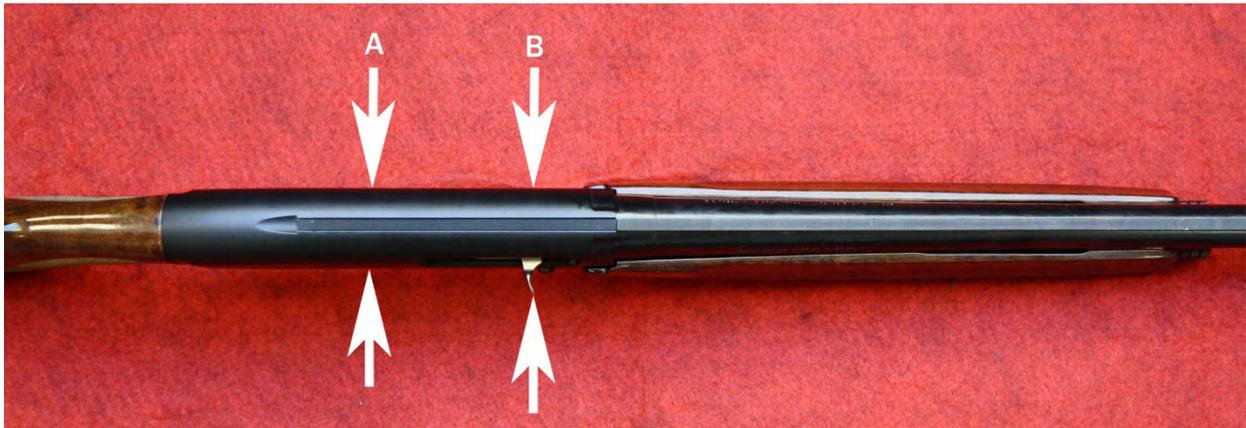
Bulk Measurements

Exhibit 5

Depth refers to the distance from the top plane of the shotgun to the bottom plane of the shotgun. Depth measurement “A” below is INCORRECT; it includes the trigger guard which is not part of the frame or receiver. Depth measurement “B” below is CORRECT; it measures only the depth of the frame or receiver:



Width refers to the length of the top or bottom pane of the firearm and measures the distance between the sides of the shotgun. Width measurement “A” below is CORRECT; it measures only the width of the frame or receiver. Width measurement “B” below is INCORRECT; it includes the charging handle which is not part of the frame or receiver:



EB000997

Forward Pistol Grip

Exhibit 6



EB000998

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EXHIBIT 16

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction



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.

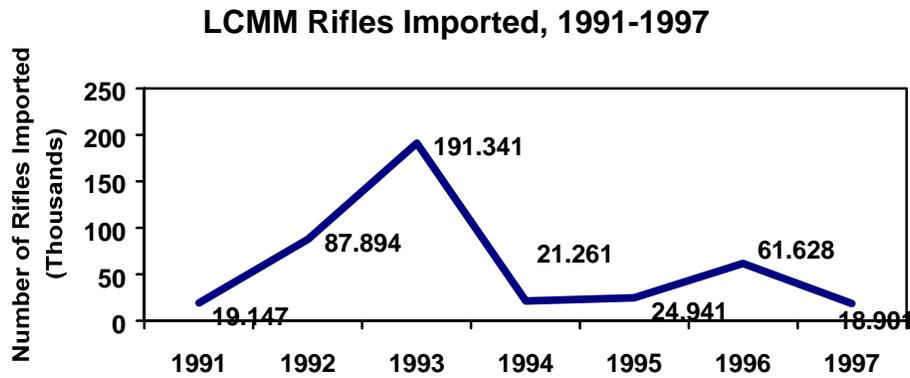


Figure 2

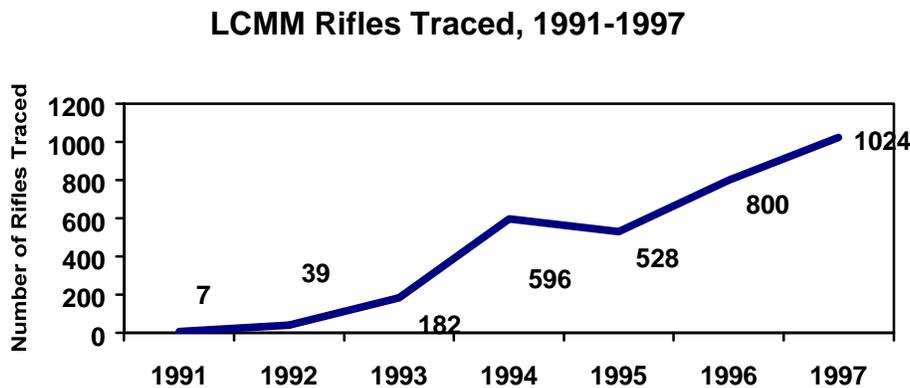


Figure 3

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.

EB001041

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

EB001043

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
 Galil Sporter
 Haddar
 Haddar II
 WUM 1
 WUM 2
 SLR95
 SLR96
 SLR97
 SLG94
 SLG95
 SLG96
 L1A1 Sporter
 FAL Sporter
 FZSA
 SAR4800
 X FAL
 C3
 C3A
 LAR Sporter

HK Variants:

BT96
 Centurian 2000
 SR9
 PSG1
 MSG90
 G3SA
 SAR8

Uzi Variants:

Officers 9*
 320 carbine*
 Uzi Sporter

SIG SG550 Variants:

SG550-1
 SG550-2

- These models were manufactured in China and have not been imported since the 1994 embargo on the importation of firearms from China.

Exhibit 3

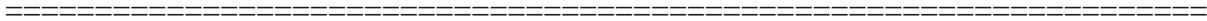
STUDY RIFLES

The study rifles are semiautomatic firearms based on the AK47, FN-FAL, HK 91 and 93, Uzi, and SIG SG550 designs. Each of the study rifles is derived from a semiautomatic assault rifle. The following are some examples of specific study rifle models grouped by design type. In each instance, a semiautomatic assault rifle is shown above the study rifles for comparison.

AK47 Variants



AK47 semiautomatic assault rifle



MISR



ARM



MAK90



WUM 1

Exhibit 3

FN-FAL Variants



FN-FAL semiautomatic assault rifle



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

EB001047

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)		

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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 Apling. It was the consensus that, while many persons

EB001051

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

EB001052

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*		

EB001053

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).



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

DIRECTOR

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
John W. Magaw
Director

Enclosure

EB001056

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.*)

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					

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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

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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

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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

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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

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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

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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				

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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

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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	

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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

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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				

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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				

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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				

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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	30.06
C 28				
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				

Hunting Guides

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				

Hunting Guides

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				

Hunting Guides

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

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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				

Hunting Guides

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				

Hunting Guides

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.

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- (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.

EB001093

- (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.

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- (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.

EB001095

- (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.



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

DIRECTOR

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. 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
John W. Magaw
Director

Enclosure

EB001097

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>

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.

<u>Make</u>	<u>Model</u>	<u>Caliber</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

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**.

<u>Make</u>	<u>Model</u>	<u>Caliber</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

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.

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.

EB001099

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.

EB001100



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

DIRECTOR

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. 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

EB001101

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.

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: _____

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.

EB001103

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.

EB001105

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.

EB001107

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.

EB001109

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:

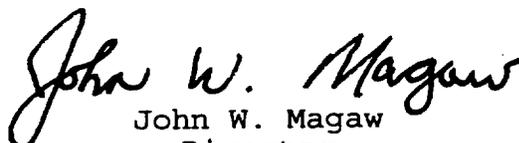
On November 14, 1997, the President and the Secretary of the Treasury decided to conduct a review to determine whether modified semiautomatic assault rifles are properly importable under Federal law. Under 18 U.S.C. section 925(d)(3), firearms may be imported into the United States only if they are determined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

EB001112

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."

EB001113

- (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.

EB001115

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.

EB001117

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.

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- (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.

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- (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.

EB001125

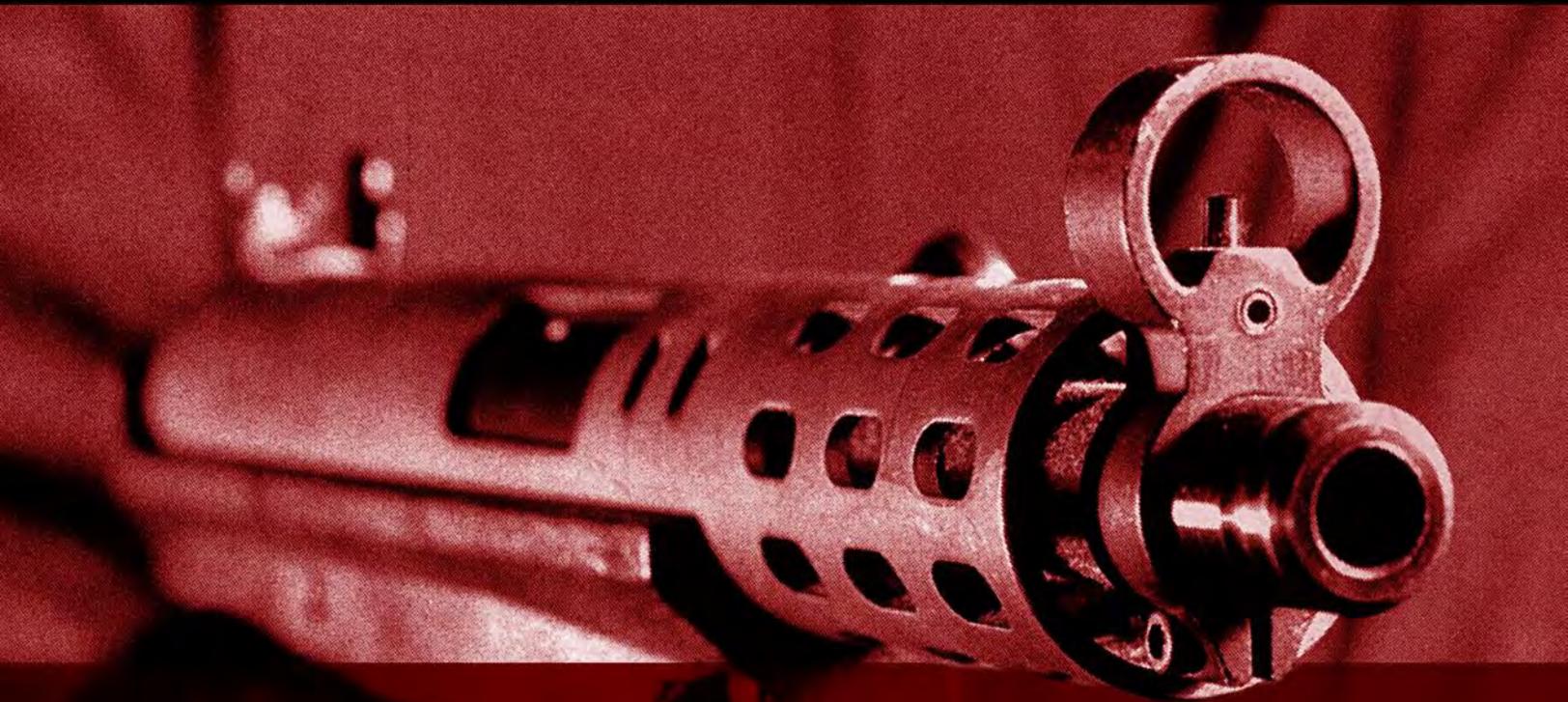
Information on Advertisements Reviewed

- (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.

EXHIBIT 17

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

Assault Weapons "Mass Produced Mayhem"



**Brady Center to Prevent Gun Violence
October 2008**

EB001128

Assault Weapons: “Mass Produced Mayhem”

**Brady Center to Prevent Gun Violence
October 2008**



EB001130

October 2008

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The Brady Center to Prevent Gun Violence is a national non-profit organization working to reduce the tragic toll of gun violence in America through education, research, and legal advocacy. Through its project, *Gun Industry Watch*, the Brady Center works to monitor and publicly expose gun industry practices that contribute to gun violence, with the goal of bringing about life-saving industry reform. The programs of the Brady Center complement the legislative and grassroots mobilization efforts of its sister organization, the Brady Campaign to Prevent Gun Violence and its network of Million Mom March Chapters.

Assault Weapons: "Mass Produced Mayhem" was written by Brian J. Siebel. Thanks go to Robyn Steinlauf, Sarah McLemore, Molly Warren, Lindsay Brooker, Talesia Simon, Natalie Durham, and Elizabeth Haile for their assistance in preparing this report. If you have questions about any part of this report, or would like a copy, please write to *Gun Industry Watch*, Brady Center to Prevent Gun Violence, 1225 Eye Street, N.W., Suite 1100, Washington D.C. 20005. The report and other Gun Industry Watch reports are also available at www.bradycenter.org/gunindustrywatch and www.gunlawsuits.org.

A Note About the Title

The phrase "mass produced mayhem" is taken from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives's description of assault weapons in its "Assault Weapons Profile" (April 1994).

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EB001131

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Executive Summary

Assault weapons are military-style weapons of war, made for offensive military assaults. It is no accident that when a madman, Gian Luigi Ferri, decided to assault the law offices at 101 California Street in San Francisco, he armed himself with two TEC-9 assault weapons with 50-round magazines, which enabled him to kill eight people and wound six others.¹ Or that the Columbine high school shooters, who killed 12 students and a teacher, included a TEC-9 assault pistol in their arsenal.² Or that the Branch-Davidians at Waco, Texas, accumulated an arsenal of assault weapons to prepare for battle against the federal government, including 123 AR-15s, 44 AK-47s, two Barrett .50 calibers, two Street Sweepers, an unknown number of MAC-10 and MAC-11s, 20 100-round drum magazines, and 260 large-capacity banana clips.³ Or that James Huberty used an UZI assault pistol and a shotgun to kill 21 people and wound 19 others at a McDonald's in San Ysidro, California.⁴ Or that Patrick Purdy used an AK-47 assault rifle to kill five children and wound 29 others and a teacher at an elementary school in Stockton, California. Equipped with a 75-round "drum" magazine, Purdy was able to shoot 106 rounds in less than two minutes.⁵ The list of horrific attacks goes on.⁶

The federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has called assault weapons "mass produced mayhem."⁷ They have been weapons of choice for gangs, drug dealers, and mass killers. They have been used to slaughter innocents in numerous high-profile shootings, and have been used to outgun police officers on the streets. They are of no use for hunters and are counterproductive for lawful defense of one's home. Law enforcement throughout the nation has called for them to be banned. Presidents Gerald Ford, Jimmy Carter, Ronald Reagan, Bill Clinton, and George W. Bush did not agree on much, but they all supported an assault weapons ban.

For ten years, from 1994-2004, federal law banned these weapons of war. Although this now-expired law was limited in scope, and was circumvented by many gun manufacturers, it reduced the use of assault weapons in crime. The experience suggests that a stronger, more comprehensive law would enhance public safety even more.

In the four years since the federal ban expired, hundreds of people have been killed in this country with military-style assault weapons. This report lists incidents in which at least 163 people have been killed and 185 wounded in with assault weapons, including at least 38 police officers killed or wounded by them. Moreover, as these incidents are only those that we could find reported in the press, the actual tally of fatalities and injuries is almost certainly much higher.

Since the federal assault weapon expired in 2004, politicians from President George W. Bush to Senator John Warner have called for its renewal. But on this issue, the two major presidential candidates offer two starkly opposing views: Senator Barack



Obama has stated as recently as his convention acceptance speech that it is imperative that criminals be denied the use of assault weapons. Senator John McCain, who has opposed the NRA on gun shows and other issues, has been firm in his opposition to assault weapon bans. The question should be asked of the candidates, "Senator, why should civilians be allowed to wield these weapons of war?"

This report provides the factual basis for answering that question, and makes the evidentiary case for an assault weapons ban. The report also outlines how the availability of assault weapons to criminals has altered the balance of power on urban streets between police and criminals, placing police officers in grave risk of harm.

SWD M-10, M-11, M-11/9, and M-12 Assault Pistol



AK-47 Assault Rifle (Many variants)



Assault Weapons Are Designed to Slaughter People

Assault weapons are semiautomatic versions of fully automatic guns designed for military use. These guns unleash extraordinary firepower. When San Jose, California, police test-fired an UZI, a 30-round magazine was emptied in slightly less than two seconds on full automatic, while the same magazine was emptied in just five seconds on semiautomatic.⁸

As the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) has explained:

Assault weapons were designed for rapid fire, close quarter shooting at human beings. That is why they were put together the way they were. You will not find these guns in a duck blind or at the Olympics. **They are mass produced mayhem.**⁹

ATF has also described semiautomatic assault weapons as “large capacity, semi-automatic firearms designed and configured for rapid fire, combat use.... Most are patterned after machine guns used by military forces.”¹⁰ In short, as a Montgomery County, Alabama Sheriff has said: “[T]here’s only one reason for owning a gun like that – killing people. There’s no other use other than to kill people. That’s all they’re made for.”¹¹

Assault weapons have distinct features that separate them from sporting firearms.¹² While semiautomatic hunting rifles are designed to be fired from the shoulder and depend upon the accuracy of a precisely aimed projectile, the military features of semiautomatic assault weapons are designed to enhance their capacity to shoot multiple human targets very rapidly. Assault weapons are equipped with large-capacity ammunition magazines that allow the shooter to fire 20, 50, or even more than 100 rounds without having to reload. Pistol grips on assault rifles and shotguns help stabilize the weapon during rapid fire and allow the shooter to spray-fire from the hip position. Barrel shrouds on assault pistols protect the shooter’s hands from the heat generated by firing many rounds in rapid succession. Far from being simply “cosmetic,” these features all contribute to the unique function of any assault weapon to deliver extraordinary firepower. They are uniquely military features, with no sporting purpose whatsoever.¹³

Accordingly, ATF has concluded that assault weapons “are not generally recognized as particularly suitable for or readily adaptable to sporting purposes” and instead “are attractive to certain criminals.”¹⁴ An ATF survey of 735 hunting guides, conducted during the administration of President George H.W. Bush, found that sportsmen do not use assault weapons.¹⁵ These findings were confirmed in a second study performed by ATF under the Clinton Administration.¹⁶



A researcher hired by the Department of Justice to analyze the effect of the 1994 federal ban on assault weapons confirmed that the firepower of assault weapons gives them greater destructive potential. His analysis found that:

attacks with semiautomatics – including assault weapons and other semiautomatics equipped with large capacity magazines – result in more shots fired, more persons hit, and more wounds inflicted per victim than do attacks with other firearms.¹⁷

This contradicts the National Rifle Association’s (“NRA”) assertion that there are only “cosmetic” differences between the guns affected by the assault weapon ban and other firearms.

TEC-9, TEC-DC-9, and TEC-22 Assault Pistol



Steyr AUG Assault Rifle



Assault Weapons Threaten Law Enforcement and Terrorize Civilians

Since the federal assault weapons ban expired in September 2004, assault weapons have again flooded our streets, causing mayhem. Law enforcement agencies throughout the United States have reported an upward trend in assault weapons violence, forcing many police departments to invest in expensive assault weapons to keep from being outgunned by criminals. However, even with greater firepower and the availability of bulletproof vests, many officers have lost their lives to assault weapon attacks. Hundreds of civilians have also been victimized by assault weapons, many of them in multiple-victim attacks. In an appendix to this report, we list more than 200 assault weapons shootings and attacks that have occurred since the federal ban expired – and the list does not purport to be comprehensive. Assault weapons may not be used in the majority of crimes – handguns are – but they are disproportionately used in crime compared to their numbers in circulation. Moreover, assault weapons have special appeal to terrorists. They have no place in a civilized society.

Police Outgunned

Law enforcement has reported that assault weapons are the “weapons of choice” for drug traffickers, gangs, terrorists, and paramilitary extremist groups. As Los Angeles Police Chief William Bratton said:

There is a reason that these weapons are so appealing to criminals. They are designed to be easily concealed and kill as many people as possible as quickly as possible. Congress must act and act now to protect the American public and our police officers from these deadly weapons. This is about public safety and law enforcement.¹⁸

Law enforcement officers are at particular risk from these weapons because of their high firepower, which often leaves them outgunned by criminals. A researcher for the Department of Justice found that:

[A]ssault weapons account for a larger share of guns used in mass murders and murders of police, crimes for which weapons with greater firepower would seem particularly useful.¹⁹

Indeed, numerous law enforcement officers have been killed with high-firepower assault weapons.²⁰ In black sidebars on the following pages, we list ten cases of officers down since the federal assault weapons ban expired in September 2004. Unfortunately, there have been many more.²¹



OFFICERS DOWN

San Antonio, Texas. September 8, 2008.

A man shot two police officers with an assault rifle when the police attempted to arrest him. A standoff between the suspect and police followed, ending hours later when the suspect shot and killed himself.²²

Tucson, Arizona. June 1, 2008.

A man shot at several houses with an assault rifle, then lead police in pursuit across Tucson for more than an hour. During the chase, the gunman shot at police multiple times, fatally shooting one officer and injuring two Sheriff's deputies.²³

Philadelphia, Pennsylvania. May 3, 2008.

Officer Stephen Liczbinski was shot and killed by an assault rifle as he was responding to a robbery at a Bank of America branch. Three men robbed the bank and were fleeing when Officer Liczbinski stopped their car and exited his patrol car. At that time, one of the bank robbers opened fire with an SKS assault rifle, striking Liczbinski numerous times. One suspect was eventually shot and killed by police and the other two were arrested and charged with murder.²⁴

Miami, Florida. September 13, 2007.

Police spotted a vehicle driving erratically and followed it until it stopped in a residential complex. The suspect got out and hopped a fence to the rear of the home; the officers exited their patrol car and went to the front of the home and were granted permission to search by a female resident. The suspect grabbed a high-powered, military-style assault rifle and fired at the police officers through a window, killing Officer Jose Somohano. The suspect then exited the house and shot three other officers as he escaped. The shooter was caught later that day but would not relinquish his assault rifle so he was shot and killed by police officers.²⁵

Floyd County, Indiana. June 18, 2007.

Two officers responded to a domestic disturbance call between a mother and her son. The officers were speaking with the mother on the driveway when the 15-year-old son ambushed both officers from an upstairs window and shot at them with a high-powered assault rifle. One officer was killed and the other was seriously wounded.²⁶

In addition, police departments have found that the ban's expiration has led to increased criminal access to assault weapons and levels of violent crime, forcing many to outfit their officers with assault rifles of their own.²⁷ An informal survey of about 20 police departments conducted by the International Association of Chiefs of Police revealed that since 2004, all of the agencies have either added assault weapons to patrol units or replaced existing weapons with military-style assault weapons.²⁸

"We're in an arms race," said Police Chief Scott Knight, chairman of the firearms committee of the International Association of Chiefs of Police.²⁹ Indeed, data collected from ATF found that, since 2005, the first full year after the federal ban on assault weapons expired, ATF recorded an 11% increase in crime gun tracings of AK-47-type assault weapons.³⁰

The Chicago Police Department reported a 10% increase in the number of assault weapons seized. Superintendent Phil Cline said, "[t]hese are guns that can shoot up to 30 rounds with a couple pulls of the trigger. And it puts our police in grave danger out there. So, we'd like still to see some kind of ban, either by the state or federally."³¹

In 2006, law enforcement in Miami noted the effect of the expiration of the assault weapons ban on the rash of crimes used with these now-legal weapons.



County state attorney Katherine Fernandez-Rundle stated that the AK-47 is the “favorite weapon” of dangerous gangs gaining influence in Miami.³² Miami-Dade Police Director Robert Parker stated “there was nothing positively gained by the lifting of the ban on assault weapons by the government.”³³

Just over a year later, Miami police said that the amount of assault weapons they recovered, and homicides using assault weapons, had continued to increase. While just four percent of homicides in Miami in 2004 were committed with assault weapons, in 2007, it was one in five.³⁴ “It’s almost like we have water pistols going up against these high-powered rifles,” said John Rivera, president of the Dade County Police Benevolent Association. “Our weaponry and our bulletproof vests don’t match up to any of those types of weapons.”³⁵

The death of Miami police officer Sgt. Jose Somohano - killed by a shooter wielding a MAK-90 three years to the day after the federal ban expired - prompted Miami Police Chief John Timoney for the first time to authorize officers to start carrying assault weapons. The Chief blamed the expiration of the federal ban for the current “arms race” between police and drug gangs using assault weapons:

This is really a failure of leadership at the national level. We are absolutely going in the wrong direction here. The whole thing is a friggin disgrace.³⁶

He added:

Two or three years ago, we had the lowest homicide rate since 1967 in Miami. Then the homicides skyrocketed with the availability of AK-47s. And it went from 3% of all homicides being committed with AKs, up to 9% two years ago, then 18% last year, and this year it is around 20%. And it’s going up.... We’re being flooded with these AK-47s.³⁷

Shootings involving assault weapons were among the reasons U.S. Attorney R. Alexander Acosta set up an anti-gang task force of federal, state, and local law enforcement officials in Florida in 2007. Fifteen federal prosecutors were assigned to the effort. Said Acosta of assault weapons:

These bullets are very powerful: they go through walls, they go through cars, and if you just spray the general vicinity you’re going to get innocent bystanders. A shooting that might have been an injury previously is now a death.³⁸

Pittsburgh law enforcement also has noticed an increase in criminal use of assault weapons since the expiration of the ban. Firearms like the AK-47 and Soviet SKS Carbine have become the weapons of choice for street criminals. Pittsburgh’s Assistant Chief of Police William Mullen blamed the expiration of the ban for this



OFFICERS DOWN

Biloxi, Mississippi. June 5, 2007. A gunman with an AK-47 ambushed police officers in a shootout, killing one, then shooting himself. The gunman lured police by firing shots in the neighborhood and waiting. After shooting one officer, the gunman unloaded an additional round into the patrol car. The gunman had a cache of backup guns and ammunition waiting inside his home.³⁹

Chantilly, Virginia. May 8, 2006. A teenager with an AK-47 and 5 handguns engaged in a firefight at a police station in suburban Virginia, killing Detective Vicky Armel immediately and wounding two other officers, one of whom, Officer Michael Garbarino, died nine days later from his injuries.⁴⁰

Las Vegas, Nevada. February 1, 2006. A 22-year-old fired at least 50 rounds from an assault rifle, shooting two Las Vegas police officers and killing one, before being shot and killed by the surviving officer.⁴¹

Livingston County, Kentucky. June 2, 2005. A deputy was shot when he responded to a domestic disturbance call placed by a couple's 18-year-old daughter. When the officer entered the home, a male fired at least 8 rounds from an assault rifle at him, hitting him four times and killing him. The officer was able to fire one round which killed the gunman.⁴²

Ceres, California. January 9, 2005. A 19-year-old Marine armed with an SKS assault rifle shot two police officers, killing one, in a gun battle outside a liquor store.⁴³

increase and noted, "[t]here's a lot more assault weapons in the area in districts now than ever before."⁴⁴

In Houston, where homicides were up significantly in 2006, Police Chief Harold Hurtt said the AK-47 assault rifle had become "a weapon of choice" among warring gangs.⁴⁵

Palm Beach County police have noted an alarming trend of AK-47 use in violent crimes. Sheriff's Lieutenant Mike Wallace said: "It seems to be the weapon of choice right now. It's a weapon of war, and the function is to kill and maim. When somebody gets hit with that, it causes horrendous damage."⁴⁶ Sergeant Laurie Pfiel of the same office said: "[Criminals] don't have .38s anymore. They have AK-47s."⁴⁷

Martin County Sheriff's Office Captain Ed Kirkpatrick of Florida details the effect of criminal possession of assault weapons on effective law enforcement: "Everyone is taking more precautions. When you stop a car in the middle of the night, you [didn't] think about it. Now you do. These are very powerful weapons."⁴⁸

Franklin County, North Carolina Sheriff Pat Green said: "I've been in this business 25 years, and it's just getting worse," referring to a report that they have been finding more and more assault weapons at crime scenes in the state.⁴⁹ In South Carolina, Lieutenant Ira Parnell, head of the State Law Enforcement Division's firearms lab, noted that investigators are seeing an increase in criminal use of AK-47 and SKS assault rifles.⁵⁰

Fort Wayne, Indiana police reported a significant spike in seizures of assault weapons since the ban expired, from two in 2003, to nine in 2004, eight in 2005, 29 in 2006, and 20 in 2007. "[W]e're certainly seeing them more and more," said Police Chief Rusty York.⁵¹ Similarly, Omaha, Nebraska police seized 39 assault rifles in 2007, up from nine in 2006.⁵²



In San Francisco, Police Officers Association President Gary Delanges said: “Just about every crook you run into out there [who] is a drug dealer or a gang banger’s got one of these weapons. And it’s putting our officers’ lives at risk.”⁵³ Deputy Chief Morris Tabak displayed some of the seized assault weapons, including a .22 caliber gun modified to hold 100 rounds. “These are what could be described only as anti-personnel weapons,” he said.⁵⁴

Israeli Military Industries Action Arms UZI Assault Rifle



Civilians Massacred

Assault weapons have been used to perpetrate some of the most horrific crimes, including mass murders, ever committed in the United States. Some of the most infamous ones are cited in the Executive Summary of this report. Unfortunately, this gruesome death toll has grown since the expiration of the 10-year federal ban on assault weapons.

As can be seen from the following examples, assault weapons have been used to kill civilians engaged in common activities of life, in all types of circumstances and places. The Appendix lists more than 200 examples from just the last four years.

- **Teens slaughtered at a swimming hole in Wisconsin**

On July 31, 2008, a man used an assault rifle to massacre a group of teenagers, killing three and injuring a fourth near Niagara, Wisconsin. The teens were gathered along a river to go swimming when the gunman emerged from surrounding woods and began shooting.⁵⁵



- **Apartment employees shot by a disgruntled tenant in Virginia**

On March 19, 2008, in Virginia Beach, Virginia, a man shot five people, killing two, with an AK-47 assault rifle and .9mm handgun before killing himself. The man was about to be evicted from his apartment and targeted the apartment complex's employees in his attack.⁵⁶

- **Churchgoers gunned down in Colorado**

On December 9, 2007, a man armed with an assault rifle attacked a missionary training center in Arvada and a church in Colorado Springs. He killed two people and injured two others in Arvada, and killed two and injured three others, including two teenage sisters, in Colorado Springs. He was injured by a security guard and then shot himself.⁵⁷

- **Mall shoppers massacred in Nebraska, Washington, and New York**

On December 5, 2007, nine people were shot to death and five others were injured after a 20-year-old shooter, armed with a military-style assault rifle, attacked shoppers in a department store in an Omaha, Nebraska mall.⁵⁸

On November 20, 2005, a 20-year-old male opened fire in a Tacoma, Washington mall, wounding six. The shooter took four hostages, all of whom were released unharmed.⁵⁹

On February 13, 2005, a gunman fired more than 60 shots from an AK-47 assault rifle in the Hudson Valley Shopping Mall in Ulster, New York, wounding two and causing tens of thousands of dollars of damage before being apprehended. A few hours earlier, the shooter had purchased armor-piercing ammunition from a nearby Wal-Mart.⁶⁰

- **Birthday party celebrants spray-fired in Louisiana**

On September 15, 2007, at least 28 bullets were fired from an AK-47 at an outdoor birthday party for five-year-old twins in the courtyard of a housing complex in Kenner, Louisiana. A 19-year-old was killed and three children were wounded, ages 7, 8 and 13.⁶¹

- **Pregnant woman and child shot while sleeping in Illinois**

On June 25, 2006, in Calumet City, Illinois, a 22-year old pregnant woman and her three-year old son were shot and killed while they were sleeping when an unknown gunman fired 30 rounds from an AK-47 into their home at 1:15 a.m.⁶²



- **Family massacred in a home robbery in Indiana**

On June 2, 2006, in Indianapolis, Indiana, seven family members, four adults and three children, were shot and killed in their home by a robber armed with an assault rifle. Nearly 30 shell casings were found.⁶³

- **Two young girls shot in their homes in Illinois**

On March 11, 2006, 10-year-old Siretha White was killed by a shot to her head as she was celebrating her birthday in her living room. A spray of bullets from an assault weapon peppered the house from a nearby fight.⁶⁴

Just over a week earlier, on March 3, 2006, a stray bullet from an assault rifle struck a 14-year-old honor student as she was looking out the window of her home, killing her instantly.⁶⁵

- **College students murdered while camping in Florida**

On January 7, 2006, two college students camping in the Ocala National Forest in Florida were randomly targeted by a man who shot and killed them with a stolen AK-47.⁶⁶

- **Domestic violence leads to mass shootout on courthouse steps in Texas and triple-slaying in Ohio**

On February 25, 2005, in Tyler, Texas, a gunman who was reportedly fighting with his ex-wife over child support for their two youngest children, shot over 50 rounds from an SKS assault rifle on the steps of his local courthouse, killing his ex-wife and a bystander. The shooter's 23-year-old son and three law enforcement officers were wounded in a shootout.⁶⁷

Just a day earlier in Akron, Ohio, a man shot and killed his girlfriend and her seven-year-old son using an AR-15 assault weapon, then fired more than 100 rounds at a dozen law enforcement officers as he fled the murder scene. The gunman was arrested the next morning inside the apartment of a Kent State University student, who he also murdered with the AR-15 assault weapon. Police subsequently seized 21 weapons kept by the suspect, including an Uzi and an AK-47.⁶⁸

- **Hunters gunned down in the woods in Wisconsin**

On November 21, 2004, near Hayward, Wisconsin, a 36-year-old man opened fire with an SKS semiautomatic rifle, killing six members of a hunting party and wounding two after being asked to leave another hunter's property.⁶⁹



Crime Use Disproportionate

The firepower of assault weapons makes them especially desired by violent criminals and especially lethal in their hands. Prior to the Act, although assault weapons constituted less than 1% of the guns in circulation,⁷⁰ they were a far higher percentage of the guns used in crime. ATF's analysis of guns traced to crime showed that assault weapons "are preferred by criminals over law abiding citizens eight to one.... Access to them shifts the balance of power to the lawless."⁷¹

In arguing against assault weapon bans, the NRA and its supporters have cited Justice Department studies based on surveys of state and federal prisoners to claim that assault weapons are used in only 2% of crimes nationally. These studies, however, actually confirm the disproportionate use of assault weapons in crime. More than 80% of these prisoners used *no firearm* in the commission of their crime. Within the category of inmates who used guns to commit crimes, semiautomatic assault weapons were actually used in 6.8% of state prosecutions and 9.3% of federal prosecutions.⁷² Both percentages are much higher than the estimated 1% of guns in circulation that are assault weapons.⁷³

In addition, research by Dr. Garen Wintemute of the University of California at Davis has found that gun buyers with criminal histories were more likely to buy assault weapons than buyers without such histories. Wintemute further found that the more serious the offender's crimes, the more likely he is to buy assault weapons. Assault weapon buyers also are more likely to be arrested after their purchases than other gun purchasers.⁷⁴

Fabrique Nationale FN/FAL, FN/LAR, and FNC Assault Rifle



Terrorists Armed

As our nation wages a war on terrorism – at home and abroad – one salient fact is especially unassailable: terrorists and assault weapons go together. The assault weapon's capacity to mass-murder within a matter of seconds makes it an ideal weapon for domestic and foreign terrorists alike. The oft-seen file footage of Osama Bin Laden,



aiming his AK-47 at an unknown target, is now a familiar reminder of the incontrovertible connection between terrorism and assault weapons.

After America's bombing of terrorist camps in Afghanistan after 9/11, the *Chicago Tribune* reported that, among the mounds of rubble found at a training facility in Kabul for a radical Pakistan-based Islamic terrorist organization, was a manual entitled "How Can I Train Myself for Jihad" containing an entire section on "Firearms Training."⁷⁵ Tellingly, the manual singles out the United States for its easy availability of firearms and advises al-Qaeda members living in the United States to "obtain an assault weapon legally, preferably AK-47 or variations." Further, the manual sets forth guidelines for how would-be terrorists should conduct themselves in order to avoid arousing suspicion as they amass and transport firearms.

As the following examples indicate, terrorists have sought and obtained assault weapons in the U.S.

- **Conspirators armed to attack within the United States**

On May 7, 2007, five New Jersey men were indicted for conspiring to attack the United States Army base at Fort Dix, NJ. Over several months, the conspirators managed to stockpile numerous assault weapons, along with shotguns and various other small arms, and used these weapons in tactical training for their attack. The men had also arranged to purchase five fully automatic AK-47s and several M-16s at the time of their arrest.⁷⁶

On March 16, 2005, in New York, Artur Solomonyan, an Armenian, and Christian Dewet Spies, of South Africa, were indicted for smuggling a small arsenal of assault weapons into the U.S. from Russia and Eastern Europe. The two men, who had entered the U.S. illegally, stored these weapons in storage lockers in New York, Los Angeles, and Fort Lauderdale. When approached by an FBI informant with ties to terrorist organizations, Solomonyan and Spies offered to sell him AK-47s and machine guns, along with RPG-launchers, mines, and other military-grade ordnance.⁷⁷

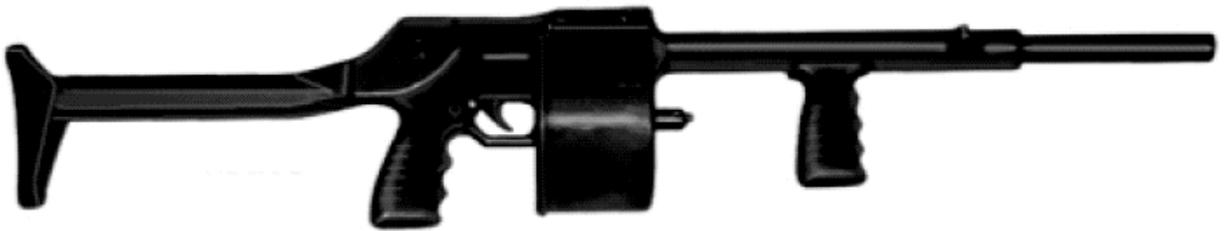
In late April 2004, Michael J. Breit of Rockford, Illinois, was arrested after firing his AK-47 in his apartment. Federal agents recovered seven guns, more than 1,300 rounds of ammunition, pipe bomb making components and other explosives, a list of government officials and political and public figures with the word "marked" written next to them, and a written plan for 15 heavily armed men to kill 1,500 people at a Democratic presidential event. Breit's library included *The Turner Diaries*, the anti-government cult novel that inspired Timothy McVeigh, and *Guns, Freedom and Terrorism*, the book authored by NRA CEO Wayne LaPierre, investigators said.⁷⁸

In September 2001, Ben Benu, Vincente Pierre and his wife were arrested in Virginia for illegally buying assault weapons and other guns. The arrests were part of the post-September 11th sweep of terrorism suspects. They were alleged to be part of a militant group called Muslims of America (also linked to a terrorist group called Al



Fuqra). They bought guns including an SKS assault rifle, a 9mm pistol, and AK-47 ammunition.⁷⁹

Street Sweeper/Striker 12 Assault Shotgun



- **Arming terrorists and criminals abroad with assault weapons bought here**

On May 6, 2008, Phoenix gun dealer George Iknadosian and two associates were arrested after receiving a shipment of weapons intended for sale to a Mexican drug cartel. An undercover investigation by ATF indicated that Iknadosian sold at least 650 AK-47 assault rifles for trafficking to Mexico but that the actual number might have been closer to 1,000. Such weapons feed the on-going conflict between drug traffickers and Mexican authorities, a conflict which resulted in more than 2,000 law enforcement deaths in an 18-month period.⁸⁰

Over several months in 2006, Adan Rodriguez purchased more than 100 assault rifles, along with many other weapons, from Dallas area gun shops on behalf of Mexican drug traffickers who paid him in cash and marijuana. Rodriguez's arrest was one of several key arrests in a five-year crack-down on weapons smuggling to Mexico. AK-47's, AR-15's, and other high-powered assault weapons, obtained either at gun shows or through straw purchasers, fuel an on-going war between major Mexican cartels and police and military officials. Over 4,000 people were killed in this drug-related violence during an 18-month period in 2007-2008.⁸¹

On September 10, 2001, Ali Boumelhem was convicted on a variety of weapons charges plus conspiracy to ship weapons to the terrorist organization Hezbollah in Lebanon. He and his brother had purchased an arsenal of shotguns, hundreds of rounds of ammunition, flash suppressors and assault weapons components at Michigan gun shows. Had it not been for a police informant, these purchases would have eluded any scrutiny.⁸²

Stephen Jorgensen purchased hundreds of firearms, including AK-47 clones called MAK-90s, with plans to ship them overseas from Tampa, Florida. Jorgensen bought 800 MAK-90s, loading them on to small planes. US customs officials say the guns were headed to the FARK guerilla movement in Colombia, a group on the U.S. terrorism watch list. Jorgensen was caught because he illegally exported the guns.⁸³



In June 2001 federal agents arrested Keith Glaude when he tried to purchase 60 AK-47 assault rifles and 10 machine guns in Florida. He told authorities that he intended to ship the guns to an Islamic extremist group in his native Trinidad. Previously, that group had acquired over 100 assault weapons in Florida that it used in a 1990 attempt to overthrow the government of Trinidad and Tobago.⁸⁴

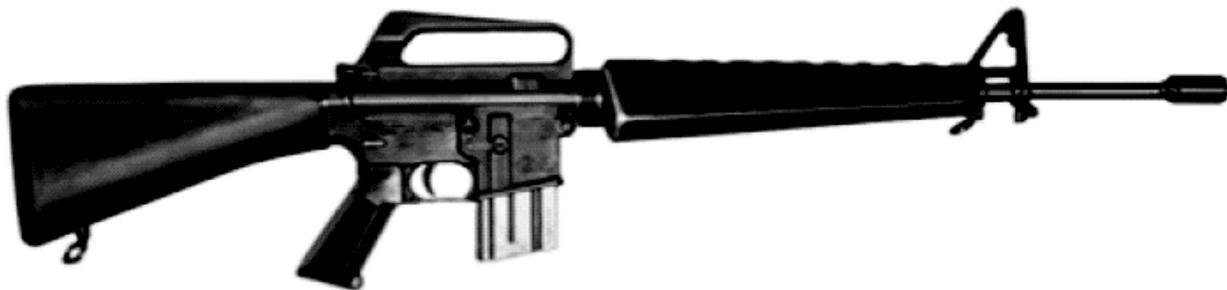
- **Using assault weapons in terrorist attacks**

Over a period of weeks in 2002, John Mohammed, a convicted felon, and his juvenile cohort, Lee Boyd Malvo, terrorized the entire metropolitan Washington, D.C. area by engaging in a series of sniper attacks on randomly-selected victims. In all, they shot 16 victims with a Bushmaster XM-15 E2S .223 caliber semiautomatic assault rifle that one of the snipers allegedly shoplifted from a Tacoma, Washington gun store. Each of the victims was randomly gunned down while going about simple activities of daily living, like closing up a store after work,⁸⁵ filling a car with gas at a service station,⁸⁶ mowing a lawn,⁸⁷ or loading one's car in a mall parking lot.⁸⁸ Both shooters have been convicted of their offenses.

On March 1, 1994, terrorist Rashid Baz opened fire on a van of Hasidic students crossing the Brooklyn Bridge, killing one student and wounding another. Baz used a Cobray M-11 assault pistol in the crime. He assembled it from a mail-order kit.⁸⁹

On January 25, 1993, Pakistani national Mir Aimal Kasi killed 2 CIA employees and wounded 3 others outside the entrance to CIA headquarters in Langley, Virginia. Kasi used a Chinese-made semiautomatic AK-47 assault rifle equipped with a 30-round magazine purchased from a Northern Virginia gun store.⁹⁰ After fleeing the country, he was arrested in Pakistan in June 1997 and convicted by a Virginia jury in November of that year.⁹¹

Colt AR-15 Assault Rifle



Assault Weapons Have No Sporting or Self-Defense Purpose

Prior to passage of the federal assault weapons ban, the importation of certain types of assault weapons from overseas was banned during the Reagan and George H.W. Bush Administrations. These import bans were ordered by ATF under the 1968 Gun Control Act, which bars the importation of guns that are not “particularly suitable for or readily adaptable to sporting purposes.”⁹²

Under the Reagan Administration, ATF blocked the importation of certain models of shotguns that were not suitable for sporting purposes. In 1989, during the George H.W. Bush Administration, ATF expanded this list to permanently ban the importation of 43 types of semiautomatic assault rifles that were also determined not to have a sporting purpose. Later, in 1998, President Clinton banned the importation of 58 additional foreign-made “copycat” assault weapons in order to close a loophole in the existing import ban.⁹³

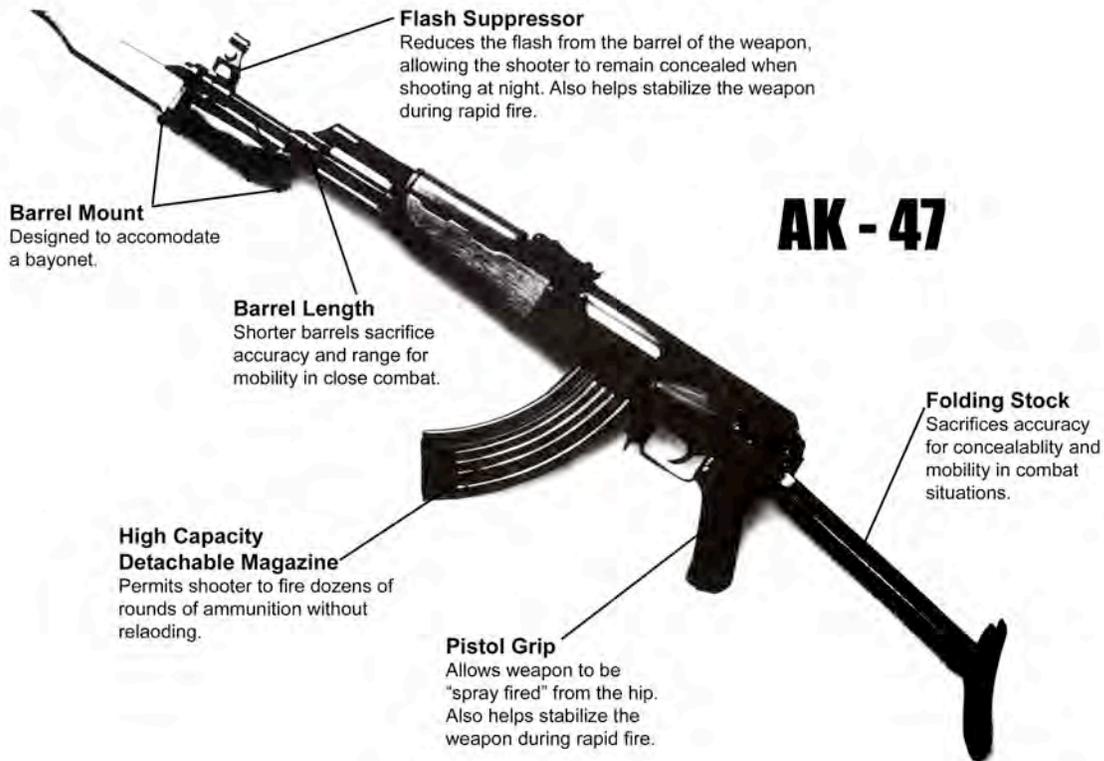
Assault weapons, as opposed to hunting rifles, are commonly equipped with some or all of the following combat features that have no sporting value:

- **A high-capacity ammunition magazine** enabling the shooter to continuously fire dozens of rounds without reloading. Standard hunting rifles are usually equipped with no more than three or four-shot magazines.
- **A folding or telescoping stock**, which sacrifices accuracy for concealability and for mobility in close combat.
- **A pistol grip or thumbhole stock**, which facilitates firing from the hip, allowing the shooter to spray-fire the weapon. A pistol grip also helps the shooter stabilize the firearm during rapid fire.
- **A barrel shroud**, which allows the shooter to grasp the barrel area to stabilize the weapon, without incurring serious burns, during rapid fire.
- **A flash suppressor**, which allows the shooter to remain concealed when shooting at night, an advantage in combat but unnecessary for hunting or sporting purposes. In addition, the flash suppressor is useful for providing stability during rapid fire, helping the shooter maintain control of the firearm.
- **A threaded barrel designed to accommodate a flash suppressor or silencer**. A silencer is useful to assassins but clearly has no purpose for sportsmen. Silencers are also illegal.
- **A barrel mount designed to accommodate a bayonet**, which obviously serves no sporting purpose.



Combat Hardware Commonly Found on Assault Weapons

Assault weapons generally include features that are useful for offensive assaults on people, but have no sporting or self-defense function. Some of these are shown below.



- **A grenade launcher or flare launcher**, neither of which could have any sporting or self-defense purpose.
- **A shortened barrel** designed to reduce the length of an assault rifle to make it more concealable. This reduces accuracy and range.⁹⁴

In addition to utilizing military features useful in combat, but which have no legitimate civilian purpose, assault weapons are exceedingly dangerous if used in self defense, because the bullets many of the weapons fire are designed to penetrate humans and will penetrate structures, and therefore pose a heightened risk of hitting innocent bystanders. As Jim Pasco, executive director of the Fraternal Order of Police has explained: **“An AK-47 fires a military round. In a conventional home with dry-wall walls, I wouldn’t be surprised if it went through six of them.”**⁹⁵ A bullet fired in self-defense that penetrated a home’s walls, could strike bystanders in neighboring rooms, apartments, or houses.

High capacity magazines containing more than 10 rounds, which were also banned as part of the Federal Assault Weapons Act, are also not useful for self-defense, as former Baltimore County Police Department Colonel Leonard J. Supenski has testified:

The typical self-defense scenario in a home does not require more ammunition than is available in a standard 6-shot revolver or 6-10 round semiautomatic pistol. In fact, because of potential harm to others in the household, passersby, and bystanders, too much firepower is a hazard. Indeed, in most self-defense scenarios, the tendency is for defenders to keep firing until all bullets have been expended.⁹⁶

Assault weapons were designed for military use. They have no legitimate use as self-defense weapons.



Sportsman Jim Zumbo Speaks Out “Assault” Rifles are “Terrorist” Rifles

A long-standing writer for *Outdoor Life* magazine, Jim Zumbo, created a huge controversy within the gun lobby when he admitted in an online blog that assault rifles have no place as hunting weapons. Zumbo wrote:

“I must be living in a vacuum. The guides on our hunt tell me that the use of AR and AK rifles have a rapidly growing following among hunters, especially prairie dog hunters. I had no clue. Only once in my life have I ever seen anyone using one of these firearms.

I call them ‘assault’ rifles, which may upset some people. Excuse me, maybe I’m a traditionalist, but I see no place for these weapons among our hunting fraternity. I’ll go so far as to call them ‘terrorist’ rifles. They tell me that some companies are producing assault rifles that are ‘tackdrivers.’

Sorry, folks, in my humble opinion, these things have no place in hunting. We don’t need to be lumped into the group of people who terrorize the world with them, which is an obvious concern. I’ve always been comfortable with the statement that hunters don’t use assault rifles. We’ve always been proud of our “sporting firearms.

This really has me concerned. As hunters, we don’t need the image of walking around the woods carrying one of these weapons. To most of the public, an assault rifle is a terrifying thing. Let’s divorce ourselves from them. I say game departments should ban them from the prairies and woods.”⁹⁷

Israel Military Industries Action Arms Galil Assault Rifle



“Dangerous and Unusual Weapons” Are Not Protected by the Second Amendment

The Second Amendment does not provide constitutional protection for military-style assault weapons. In *District of Columbia v. Heller*,⁹⁸ the Supreme Court recently ruled that the Second Amendment protects an individual right to keep and bear arms for self-defense in the home.⁹⁹ However, the Court also went out of its way to indicate that the right is limited in a number of ways. One limitation, the Court held, is that not all “arms” are protected.

We also recognize another important limitation on the right to keep and carry arms. [*U.S. v.*] *Miller* said, as we have explained, that the sorts of weapons protected were those “**in common use at the time.**” We think that limitation is fairly supported by the historical tradition of prohibiting carrying of “**dangerous and unusual weapons.**”¹⁰⁰

Assault weapons are certainly “dangerous and unusual weapons” according to any reasonable analysis of that phrase. They are military-style offensive weapons designed to slaughter human beings.¹⁰¹ This differentiates them from all hunting rifles and shotguns, as well as common handguns, which are often used in crime but have also been used in self-defense.

Moreover, assault weapons have never been “in common use” at **any** time. As semi-automatic versions of machine guns developed for use during the World Wars of the 20th Century, they are a relatively recent invention. In addition to being banned by the federal government for 10 years, they have been banned in several states.¹⁰² Plus, ATF has twice concluded, after thorough analyses in 1989 and 1998, that assault weapons have no “sporting purpose.”¹⁰³ This conclusion has blocked them from being imported into the United States.

Another factor suggesting that the Second Amendment does not protect assault weapons is that state supreme courts have consistently upheld the constitutionality of assault weapon bans as reasonable regulations designed to protect public safety under broadly-worded right-to-bear-arms provisions in state constitutions.¹⁰⁴ The *Heller* Court relied on these state constitutional provisions, many of which were adopted in the 18th and 19th centuries, to support its interpretation that the Second Amendment protects an individual right to bear arms. Courts construing the Second Amendment, post-*Heller*, can be expected to apply a similar standard of review, and uphold a federal assault weapons ban.



A Strong Federal Assault Weapons Ban Should Be Enacted

In response to mass shootings and mounting public pressure, Congress finally passed a nationwide ban on assault weapons in 1994. In hearings on the bills, the Senate Judiciary Committee explained the need to:

address the carnage wrought by deadly military-style assault weapons on innocent citizens and the law enforcement officers who seek to protect us all. Recent events illustrate again, and with chilling vividness, the tragedy that results from the wide and easy availability of guns with fire power that overwhelm our police, of weapons that have no place in hunting or sport and whose only real function is to kill human beings at a ferocious pace.¹⁰⁵

Those factors are just as prevalent today. Indeed, after 9/11, the need may be greater.

Unfortunately, the 1994 statute's scope and effectiveness were limited in several important ways. First, the law included a 10-year sunset provision allowing it to lapse when it was not re-enacted in 2004. Second, the law contained a list of assault weapons banned by make and model, but this list was not comprehensive. Third, the statute also banned guns by reference to their military features, but required guns to have **two** of these features (in addition to being semiautomatic firearms capable of accepting a detachable, high-capacity ammunition magazine) in order to be banned. The requirement of two military features created a loophole that allowed gun makers to continue manufacturing and selling stripped-down assault weapons.¹⁰⁶

The result was a piece of legislation that was valuable at keeping many of the most dangerous assault weapons out of criminals' hands, but one that also had an opening for gun manufacturers to evade the ban. Some manufacturers evaded the ban by developing guns, like the Bushmaster XM-15, Intratec's AB ("After Ban")-10, and Olympic Arms PCR ("Politically Correct Rifle"), with only minor changes in features to banned weapons.

Effect of the 1994 Ban

According to a study published by the Brady Center in 2004 entitled *On Target: The Impact of the 1994 Federal Assault Weapons Act*, the federal assault weapons ban reduced the incidence of assault weapons use in crime. In the five-year period (1990-1994) before enactment of the ban, assault weapons named in the Act constituted 4.82% of the crime gun traces ATF conducted nationwide. In the post-ban period after 1995,¹⁰⁷ these assault weapons made up only 1.61% of the guns ATF has traced to crime – a drop of 66% from the pre-ban rate.¹⁰⁸ Moreover, ATF trace data showed a steady year-by-year decline in the percentage of assault weapons traced, suggesting that the longer the statute was in effect, the less available these guns became for



criminal misuse. Indeed, the absolute number of banned assault weapons traced also declined. An initial report issued by the Department of Justice supported these findings.¹⁰⁹ These findings were further supported in a later report by one of the same researchers.¹¹⁰

This analysis was based on crime gun trace data compiled by ATF of more than 1.4 million crime guns recovered across the United States between 1990 and 2001.¹¹¹ If the ban had not been enacted, and had the banned assault weapons continued to make up the same percentage of crime gun traces as before the Act's passage, it was estimated that approximately 60,000 more of the banned assault weapons would have been traced to crime in the 10 years the law was in effect. Former ATF officials at Crime Gun Solutions, LLC, including the former Special Agent in Charge of ATF's National Tracing Center, analyzed the data for the Brady Center.

On Target also looked at the problem of "copycat" assault weapons developed by the gun industry to enable the continued sale of high-firepower weapons. The study found that industry efforts to evade the federal ban through the sale of these "copycat" weapons was able to diminish, but not eliminate, the 1994 Act's beneficial effects. Even including copycats of the federally banned guns, there was still a 45% decline between the pre-ban period (1990-1994) and the post-ban period (1995 and after) in the percentage of ATF crime gun traces involving assault weapons and copycat models.

The lesson to be drawn from this study is that a new assault weapons ban should be passed to reduce criminal use of these dangerous weapons, but it should be stronger and more comprehensive than the original federal ban to reduce indirect evasion through the manufacture of "copycat" weapons. One model for a strong assault weapons ban is the law California enacted in 2000 that bans military-style weapons capable of accepting high-capacity ammunition magazines that have even a single combat feature.¹¹² Representative Carolyn McCarthy has introduced similar strong assault weapons legislation in the U.S. House of Representatives.¹¹³

Support by Law Enforcement, the Public, and Presidents

The law enforcement community has long supported strong assault weapons bans. Every major national law enforcement organization in the country supported the Federal Assault Weapons Act and urged its renewal, including the Law Enforcement Steering Committee, Fraternal Order of Police, National Sheriffs' Association, International Association of Chiefs of Police, Major City Chiefs Association, International Brotherhood of Police Officers, National Association of Police Organizations, Hispanic American Police Command Officers Association, National Black Police Association, National Organization of Black Law Enforcement Executives, Police Executive Research Forum, and Police Foundation.

In poll after poll, the American people, regardless of party affiliation, have consistently supported a federal ban on assault weapons. In an ABC/Washington Post poll conducted in August-September 1999, 77% of adults supported a nationwide ban



on the sale of assault weapons.¹¹⁴ That same percentage held firm through the end of 2003 when an NBC News/Wall Street Journal poll found that 78% of adults nationwide expressed support for renewing the federal ban.¹¹⁵ In September 2004, just after the assault weapons ban expired, a Harris poll found that a substantial majority of Americans, 71%, favored reinstatement of the ban.¹¹⁶ As more time has passed without a federal assault weapons ban in effect, support for a ban has grown. For example, a 2007 poll from Illinois found that 80% of voters favored banning semiautomatic assault weapons.¹¹⁷ Newspaper editorial boards have also continued their strong support for getting assault weapons off our nation's streets.¹¹⁸

Presidents across the political spectrum have supported an assault weapons ban. Former Presidents Ford, Carter, and Reagan wrote Congress in support of the 1994 ban to "urge you to listen to the American public and to the law enforcement community and support a ban on the further manufacture of these weapons."¹¹⁹ In 2004, Presidents Ford, Carter, and Clinton wrote to urge re-authorization of the ban.¹²⁰ President George W. Bush also stated that he supported the ban and would sign its reauthorization if it passed Congress.

- **Senator Obama Opposes Assault Weapons for Civilians, While Senator McCain Supports Them**

Of the Presidential candidates, Senator Barack Obama supports banning assault weapons. He also addressed the issue in his acceptance speech to the 2008 Democratic Convention, saying, "The reality of gun ownership may be different for hunters in rural Ohio than they are for those plagued by gang violence in Cleveland, but don't tell me we can't uphold the Second Amendment while keeping AK-47s out of the hands of criminals."

Senator John McCain has consistently opposed an assault weapon ban, saying it "represented an arbitrary restriction on the constitutional rights of law-abiding citizens."



Conclusion

Assault weapons are weapons of war that are sought after and used by street gangs, drug dealers, and terrorists, but are of no use to law-abiding persons who own guns for sporting purposes and self-defense. Law enforcement and an overwhelming majority of the American public realize that these guns have no place in civilian hands, and should be banned. For 10 years, America attempted to limit the mayhem caused by assault weapons and the high-capacity ammunition magazines that they utilize. Although the gun industry worked hard to evade the federal ban by marketing assault weapons stripped of enough features to get by, gun makers were not wholly effective at neutralizing the federal ban's effect. Even accounting for the industry's evasive efforts, the use of assault weapons in crime declined substantially. Unfortunately, President Bush and the 108th Congress allowed it to lapse.

We need to enact a new, stronger federal assault weapons ban to keep these dangerous guns off the streets – a law that will ban all military-style weapons and with no sunset provision.

The lives of our law enforcement officers and our citizens hang in the balance.

Beretta AR 70 Assault Rifle



APPENDIX: Examples of Assault Weapon Violence Since Federal Ban Expired

- **North Tulsa, Oklahoma. October 6, 2008.** A man accidentally shot his roommate with an SKS assault rifle. The victim and shooter were arguing with the victim's estranged wife and another man when the shooter fired warning shots, hitting his roommate inadvertently.¹
- **Madison, Illinois. October 6, 2008.** A 12-year-old boy died after getting caught in the middle of a gunfight. More than 40 shots were fired as a man with an assault rifle exchanged fire with gunmen in cars.²
- **Springfield, Missouri. October 4, 2008.** A 21-year-old shot two men with an AR-15 Assault Rifle during an argument at a nightclub.³
- **Kansas City, Missouri. October 2, 2008.** Two men, one armed with an assault rifle, shot at two undercover police officers. The officers returned fire, injuring the two assailants.⁴
- **Brownsville, Texas. September 30, 2008.** Two men armed with an AK-47 Assault Rifle and .38 revolver shot multiple rounds at a group of men gathered outside a home twice in one night. There was a long-standing argument between the shooters and one of the victims. Nobody was hurt in either incident.⁵
- **Battle Creek, Michigan. September 28, 2008.** A felon with an assault weapon shot two teenagers in retaliation for a shooting several weeks prior.⁶
- **Jackson, Mississippi. September 26, 2008.** Two men armed with an assault rifle shot repeatedly at a house, hitting a woman and a one year old boy inside.⁷
- **Lenoir, North Carolina. September 21, 2008.** A former police officer and army veteran, who was armed with an assault rifle, shot two sheriff's deputies, killing one of them.⁸
- **San Antonio, Texas. September 18, 2008.** A gunman with an AK-47 assault rifle fired more than 15 rounds at a home, hitting a woman sleeping inside twice.⁹

¹ *Man accidentally shot by roommate*, KJRH- TV 2, Tulsa, Oklahoma, Oct. 6, 2008.

² *12 Year Old Shot Dead In Madison, Illinois Overnight*, ASSOCIATED PRESS, Oct. 7, 2008.

³ Dirk Vanderhart, *Shooting prompted by conflict over woman, hat*, SPRINGFIELD NEWS-LEADER, Oct. 7, 2008.

⁴ *KCMO Officers Fired on with Assault Rifle*, WDAF-TV 4, Kansas City, Missouri, Oct. 2, 2008.

⁵ *Police: 10-year grudge prompts downtown shooting*, BROWNSVILLE HERALD, Oct. 3, 2008.

⁶ Trace Christenson, *B.C. man faces attempted murder charge*, BATTLE CREEK ENQUIRER, Oct. 2, 2008.

⁷ *2 men charged in shooting denied bond*, ASSOCIATED PRESS, Oct. 2, 2008.

⁸ Dee Henry, *Armed and dangerous*, HICKORY DAILY HERALD, Sept. 22, 2008.



- **Charlotte, North Carolina. September 15, 2008.** Two people were sitting in a car outside an apartment building when a man shot at them with an assault rifle. One person in the car was hit twice and the other individual was injured by shattered glass.¹⁰
- **Houston, Texas. September 9, 2008.** One person died and two were injured in an overnight shooting. The assailants were carrying several weapons, including an assault rifle.¹¹
- **San Antonio, Texas. September 8, 2008.** A man shot two police officers with an assault rifle when the police attempted to arrest him. A standoff between the suspect and police followed, ending hours later when the suspect shot and killed himself.¹²

Tulsa, Oklahoma. September 7, 2008. A gunman with an assault weapon opened fire on a car carrying five teenagers home from church. Four of the five passengers were hit: Donovan Crutcher died from his wounds, Adrion Crutcher sustained damage to his spinal cord, Jeremy Williams lost the sight in his left eye, and Jahmal Bryant was in the intensive care unit. Four days later, a suspect was arrested in connection with the shooting.¹³

- **Birmingham, Alabama. September 5, 2008.** A man shot and killed his landlord with an SKS assault rifle after the two argued over stolen property.¹⁴
- **Dayton, Ohio. August 26, 2008.** A 31-year-old man sustained severe leg injuries when he was shot multiple times with an assault rifle.¹⁵
- **Hope Mills, North Carolina. August 25, 2008.** An 18-year-old shot a man in the head with an assault rifle. The victim was leaving the shooter's house by car, along with a woman and baby, when the incident occurred.¹⁶
- **Miami, Florida. August 23, 2008.** An intoxicated customer was shot with an AK-47 assault rifle after being kicked out of a strip club. The shooter was then shot by another man, who was also carrying an assault rifle.¹⁷

⁹ *Shooter Opens Fire On Home, Sleeping Woman Hit Twice*, WOAI – TV 4 San Antonio, Sept. 18, 2008.

¹⁰ *Apartment Complex Evacuated After Double Shooting*, WSOC-TV 9, Sept. 16, 2008.

¹¹ *Suspects in Triple Shooting Had Assault Rifle, Multiple Weapons*, FOX 26 TV Houston, Sept. 10, 2008.

¹² *SAPD Details Monday Shooting Investigation*, KSAT12-TV, San Antonio, Texas, Sept. 10, 2008.

¹³ *Arrest made in deadly drive-by*, TULSA WORLD, Sept. 12, 2008.

¹⁴ *Landlord Killed After Argument Over Stolen Copper*, NBC13-TV, Birmingham, Alabama, Sept. 8, 2008.

¹⁵ *Man Targeted By Shooter With Assault Rifle*, WHIOTV, Dayton, Ohio, Aug. 27, 2008.

¹⁶ *Three charged in Hope Mills shooting*, THE FAYETTEVILLE OBSERVER, Aug. 28, 2008.

¹⁷ *2 Dead in Shootout At Strip Club*, NBC6-TV, Miami, Florida, Aug. 23, 2008.



- **Youngsville, North Carolina. August 22, 2008.** A 12-year-old boy accidentally shot an 11-year-old neighbor with an AK-47 assault rifle.¹⁸
- **San Antonio, Texas. August 20, 2008.** A man was chased by a group of young men outside an apartment complex and was shot twice with an assault rifle.¹⁹
- **West Valley City, Utah. August 15, 2008.** Three men in an SUV shot at another car with an assault rifle and then led police on a high-speed chase. The police recovered drugs, alcohol, live casings, and an assault rifle from the car.²⁰

Newark, New Jersey. August 14, 2008. 15-year-old Bukhari Washington was killed after a bullet fired from a Chinese-made Norinco SKS assault rifle struck his bed while he slept. The gun was fired accidentally when its owner, 19-year-old Terrance Perry, was “fiddling” with it in the apartment below. Washington was a student at Christ the King Preparatory School and interned at a nursing home for people with HIV and AIDS.²¹

- **Birmingham, Alabama. August 11, 2008.** A 17-year-old girl was in a car that was sprayed by bullets from an AK-47. The girl exited the car and tried to run home when she was shot twice, once in the chest and again in her left hand, severing it. She died moments later from her injuries.²²
- **New Orleans, Louisiana. August 10, 2008.** One man was injured and another man died after being shot with an AK-47 assault rifle.²³
- **New Orleans, Louisiana. August 8, 2008.** A gunman carrying an assault rifle shot two people.²⁴
- **Niagara, Wisconsin. July 31, 2008.** A man with an assault rifle massacred a group of teenagers, killing three and injuring a fourth. The group was gathered along a river to go swimming when the gunman emerged from surrounding woods and began shooting.²⁵

¹⁸ *Sheriff says boy, 11, shot with AK-47*, THE NEWS & OBSERVER, Aug. 24, 2008.

¹⁹ *Man Chased Down and Shot to Death*, WOAI-TV, San Antonio, Texas, Aug. 21, 2008.

²⁰ *Shooting triggers high-speed chase; 3 arrested*, THE SALT LAKE TRIBUNE, Aug. 15, 2008.

²¹ Jonathan Schuppe, *Senseless Shot, Random Death: Respected teen is slain in bed, to Newark's grief*, THE STAR-LEDGER, Aug. 15, 2008.

²² Dan Barry, *Gunshot, then silence: And the sorrow spreads*, NEW YORK TIMES, Aug. 17, 2008.

²³ Nicole Dungca & Ramon Antonio Vargas, *Two die Sunday in separate slayings*, THE TIMES-PICAYUNE, Aug. 11, 2008.

²⁴ Leslie Williams, *Mob scene follows double shooting*, THE TIMES-PICAYUNE, Aug. 9, 2008.

²⁵ *Niagara, Wisconsin shooting suspect caught*, THE CHICAGO TRIBUNE, Aug. 1, 2008.



- **Pittsburgh, Pennsylvania. July 31, 2008.** Two men with an assault rifle shot and killed two cousins as they talked outside a home.²⁶
- **Orlando, Florida. July 30, 2008.** A man with an assault rifle shot and killed two teenagers and another man over stolen property.²⁷
- **Dallas, Texas. July 29, 2008.** A Dallas Morning News deliveryman was shot multiple times with an assault rifle while delivering papers early in the morning. His 14-year-old son was with him, but was not injured.²⁸
- **Kansas City, Missouri. July 28, 2008.** Three men broke into a home and held up the occupants at 1:30 in the morning. The men were armed with an assault rifle with a bayonet attached.²⁹
- **Detroit, Michigan. July 27, 2008.** Three people died, including a 17-year-old girl, after being shot with an assault rifle while leaving a bar.³⁰
- **Salt Lake City, Utah. July 26, 2008.** A 19-year-old airman shot a 22-year-old with an assault rifle after the two argued at a nightclub. The airman shot another person several months earlier.³¹
- **Chattanooga, Tennessee. July 24, 2008.** Two men armed with an SKS assault rifle shot a 28-year-old man in the head and back.³²

Oakland, California. July 23, 2008. 23-year-old Amanda Hunter was killed when she was accidentally shot in the head with an assault rifle. Hunter was attempting to remove the weapon from her home when it fell to the ground and fired. Her boyfriend, the owner of the weapon and a convicted felon, was arrested for weapons related charges including being a felon in possession of a firearm.³³

- **New Orleans, Louisiana. July 15, 2008.** A man died after being shot repeatedly with an AK-47 while asleep in his trailer.³⁴

²⁶ Jill King Greenwood, *72 killings set bloody pace in city, county*, PITTSBURGH TRIBUNE-REVIEW, Aug. 2, 2008.

²⁷ Vincent Bradshaw & Willoughby Mariano, *Flurry of bullets near Orlando playground kills three*, THE ORLANDO SENTINEL, July 31, 2008.

²⁸ Scott Goldstein, *Father, son survive shooting during News delivery*, THE DALLAS MORNING NEWS, Aug. 7, 2008.

²⁹ Mike Rice, *Home invasion robbery reported in Gladstone*, KANSAS CITY STAR, July 28, 2008.

³⁰ Candice Williams, *Girl, 17, two men fatally shot outside Detroit bar*, THE DETROIT NEWS, July 27, 2008.

³¹ *Airman's arrest for shooting not his first*, STANDARD-EXAMINER, July 29, 2008

³² Jacqueline Koch, *Police investigate assault-rifle shooting*, CHATTANOOGA TIMES FREE PRESS, July 25, 2008.

³³ *Oakland woman killed when assault rifle accidentally fires*, July 24, 2008, available at:

http://www.insidebayarea.com/ci_9977524 (last visited Sept. 26, 2008).

³⁴ Ramon Antonio Vargas, *AK-47 fire kills sleeping former rapper*, THE TIMES PICAYUNE, July 16, 2008.



- **Daytona Beach, Florida. July 13, 2008.** A distraught man fired 30 rounds into the side of an occupied building with an AK-47 assault rifle.³⁵
- **Eatonville, Florida. July 8, 2008.** A father and son were shot during a robbery with an AK-47 assault rifle.³⁶
- **Youngstown, Ohio. July 8, 2008.** A man beat up and attempted to shoot his girlfriend with an assault weapon.³⁷
- **Edwardsville, Illinois. July 7, 2008.** Two 19-year-olds repeatedly shot at a sheriff's deputy with an assault weapon as he pursued them during a car chase.³⁸
- **Van Buren, Michigan. July 6, 2008.** Two 19-year-olds with an assault rifle shot and killed a man they had argued with earlier.³⁹
- **Beaumont, Texas. July 5, 2008.** One person was injured when a man shot an assault rifle into a crowd standing outside a nightclub.⁴⁰
- **Dallas, Texas. July 4, 2008.** A gunman shot at an apartment building with an AK-47 assault rifle, killing a 17-year-old girl inside. The gunman had been arguing with the girl's stepfather outside.⁴¹
- **Buena Vista, Michigan. July 3, 2008.** A gunman shot an AK-47 multiple times into a car carrying two teenage girls, hitting one in the leg.⁴²

³⁵ Julie Murphy, *Outlaws clubhouse shot up. Police: man fires 30 rounds, accuses members of rape*, DAYTONA BEACH NEWS JOURNAL, July 17, 2008.

³⁶ *Shooting may be linked to Orlando Incident*, WESH.COM, Orlando, FL, July 8, 2008, available at: <http://www.wesh.com/print/16817435/detail.html> (last visited Sept. 26, 2008).

³⁷ *Man charged with assault over domestic dispute*, VINDY.COM, July 9, 2008, available at: <http://www.vindy.com/news/2008/jul/09/man-charged-with-assault-over-domestic-dispute/> (last visited Sept. 26, 2008).

³⁸ Sandord J. Schmidt, *Two accused of shooting at deputy*, THE TELEGRAPH.COM, July 8, 2008, available at: http://www.thetelegraph.com/news/county_15966___article.html/madison_accused.html (last visited Sept. 26, 2008).

³⁹ Susan L. Oppat, *2 Van Buren teens charged in slaying*, THE ANN ARBOR NEWS, July, 10, 2008.

⁴⁰ Heather Nolan, *Beaumont police seek help in investigating shooting at night club*, BEAUMONTENTERPRISE.COM, July 7, 2008, available at: http://www.beaumontenterprise.com/news/local/beaumont_police_seek_public_s_help_in_investigaton_07-07-2008_10_43_01.html (last visited Sept. 26, 2008).

⁴¹ Seema Mathur, *Teen hit by stray bullet at dallas apartment*, CBS11TV.COM, July 6, 2008, available at: <http://cbs11tv.com/local/dallas.teen.shot.2.764557.html> (last visited Sept. 26, 2008).

⁴² *Buena Vista gunman fires AK-47, strikes girl*, WNEM.COM, July 8, 2009, available at: <http://www.wnem.com/print/16821122/detail.html> (last visited Sept. 26, 2008).



Warsaw, North Carolina. July 2, 2008. 18-year-old high school football star Derrick Barden was killed after being shot with an AK-47. Three teenagers were charged with his death, which occurred as a group of people played with an AK-47 outside of an apartment complex.⁴³

- **Adairsville, Georgia. June 29, 2008.** A man carrying an AK-47 assault rifle shot a woman twice in the chest during a robbery attempt.⁴⁴
- **Overtown, Florida. June 28, 2008.** A 15-year-old died after he was shot with an assault weapon during a drive-by shooting.⁴⁵
- **Mobile, Alabama. June 27, 2008.** A 6-year-old boy was shot three times and a man twice when a group of men fired AK-47 and SKS assault weapons at the two cars they were riding in.⁴⁶
- **Powhatan, Virginia. June 25, 2008.** A 17-year-old with an assault weapon shot and killed an 18 year old after the two argued.⁴⁷
- **Powhatan County, Virginia. June 24, 2008.** An 18-year-old high school student was shot and killed with an assault rifle following an altercation at a gas station. A juvenile was also wounded in the shooting.⁴⁸
- **Anderson, South Carolina. June 22, 2008.** A man fired more than 30 rounds from an assault rifle at a group of people, killing a 16-year-old who was hit three times and wounding a man.⁴⁹
- **Opa Locka, Florida. June 22, 2008.** A man shot an AK-47 assault rifle at a business, injuring three people inside.⁵⁰

⁴³ Steve Herring, *Three teens charged in player's shooting*, GOLDSBORO NEWS-ARGUS, July 9, 2008.

⁴⁴ Hayden Jennings, *Suspect arrested in Adairsville shooting*, ROMENEWSWIRE.COM, June 30, 2008, available at: <http://www.romenewswire.com/index.php/2008/06/30/suspect-arrested-in-adairsville-shooting/> (last visited Sept. 26, 2008).

⁴⁵ David Ovalle, *2 deaths raise 2008 homicides to 136*, THE MIAMI HERALD, July 2, 2008.

⁴⁶ Ron Colquitt, *Four suspects denied bail*, THE PRESS-REGISTER, June 28, 2008.

⁴⁷ *Authorities: Powhatan teen's killer was 17-year-old*, INRICH.COM, June 30, 2008, available at: <http://www.inrich.com/cva/ric/news.PrintView.-content-articles-RTD-2008-06-30-0195.html> (last visited Sept. 26, 2008).

⁴⁸ Linda Dunham & Reed Williams, *Suspects in fatal shooting surrender: Sheriff: Trio wanted in Powhatan teen's death face murder charges; suspected weapon found*, RICHMOND TIMES-DISPATCH, June 29, 2008.

⁴⁹ Craig Stanley, *Westside student, shooting victim, is remembered*, INDEPENDENTMAIL.COM, June 27, 2008, available at: <http://www.independentmail.com/news/2008/jun/27/westside-student-shooting-victim-remembered/> (last visited Sept. 26, 2008).

⁵⁰ *3 shot in Opa Locka*, NBC6.NET, June 22, 2008, available at: <http://www.independentmail.com/news/2008/jun/27/westside-student-shooting-victim-remembered/> (last visited Sept. 26, 2008).



- **Little Rock, Mississippi. June 21, 2008.** A man died after being shot in the head with an AK-47 assault rifle. The gunman and victim had argued over a dice game.⁵¹
- **Elyria, Ohio. June 14, 2008.** A woman died after being shot with an AK-47 assault rifle during a robbery.⁵²
- **Miami, Florida. June 13, 2008.** A man shot six people at a graduation party with an assault rifle. One of the victims died.⁵³
- **Lavaca County, Texas. June 11, 2008.** A 14-year-old boy died after being accidentally shot by his grandfather with an AK-47 assault rifle.⁵⁴
- **Longview, Texas. June 10, 2008.** A man opened fire with an AK-47 assault rifle after arguing with his girlfriend, injuring three people, including a 7-year-old girl.⁵⁵
- **Wilkes, North Carolina. June 6, 2008.** A 17-year-old was seriously injured after being shot with an AK-47 assault rifle. Several teenagers were playing with the gun when it was fired.⁵⁶
- **Shreveport, Louisiana. June 1, 2008.** A 25-year-old man was seriously injured after being shot multiple times with an assault rifle while in his car.⁵⁷
- **Tucson, Arizona. June 1, 2008.** A man shot at several houses with an assault rifle, then lead police in pursuit across Tucson for more than an hour. During the chase, the gunman shot at police multiple times, fatally shooting one officer and injuring two Sheriff's deputies.⁵⁸

⁵¹ Tim Doherty, *Foxworth man held in slaying* THE HATTIESBURG AMERICAN, June 24, 2008.

⁵² Matt Suman, *AK-47 used in deadly Gas USA robbery*, THEMORNINGJOURNAL.COM, June 25, 2008 available at:

http://www.zwire.com/site/news.cfm?newsid=19801129&BRD=1699&PAG=461&dept_id=46371&rfi=6 (last visited Sept. 26, 2008).

⁵³ *Teen shot and killed while leaving graduation party*, WSVN.COM, Miami Gardens, FL, available at: <http://www.wsvn.com/news/articles/local/MI88522/> (last visited Sept. 26, 2008).

⁵⁴ *Teen shot, killed in hunting accident*, KSAT.COM, June 12, 2008, available at:

http://www.zwire.com/site/news.cfm?newsid=19801129&BRD=1699&PAG=461&dept_id=46371&rfi=6 (last visited Sept. 26, 2008).

⁵⁵ *3 wounded in Longview gunfire*, THE DALLS MORNING NEWS, June 10, 2008.

⁵⁶ *Wilkes teens play with rifle, one shot*, GOBLUERIDGE.NET, June 9, 2008, available at:

http://www.goblueridge.net/index.php?option=com_content&task=view&id=3821&Itemid=1 (last visited Sept. 26, 2008).

⁵⁷ Katrina Webber, *Violent weekend in Shreveport leaves 3 with gunshot wounds*, KSLA NEWS 12, June 2, 2008, available at: <http://www.ksla.com/Global/story.asp?S=8410023&nav=0RY5RQCK> (last visited Sept. 26, 2008).

⁵⁸ Brady McCombs & Alexis Huicochea, *Officer on life support after crosstown pursuit*, ARIZONA DAILY STAR, June 2, 2008.



- **New Orleans, Louisiana. May 26, 2008.** Two people were injured when a gunman carrying an AK-47 assault rifle fired more than twenty rounds at them.⁵⁹
- **Jackson, Mississippi. May 26, 2008.** Five people were shot, one fatally, at a Memorial Day barbecue. A man left the party after an argument and returned with an assault rifle and fired indiscriminately into the crowd.⁶⁰
- **Shreveport, Louisiana. May 19, 2008.** A 15-year-old shot a 14-year-old with an assault weapon.⁶¹
- **Brooklyn, Connecticut. May 14, 2008.** A 16-year-old boy with Asperger syndrome shot an assault rifle near a group of people playing basketball in a park who he had argued with earlier.⁶²
- **Miami, Florida. May 14, 2008.** A man was shot multiple times after his car was sprayed with bullets from an assault weapon.⁶³
- **San Jacinto, California. May 12, 2008.** A SWAT team was called in after a man and woman armed with assault rifles shot at security guards and then Sheriff's deputies. The two were killed in the resulting shootout.⁶⁴
- **Raceland, Louisiana. May 12, 2008.** Three men attacked three other men in their car, killing all three. Each victim was shot multiple times with an AK-47 assault rifle.⁶⁵

Calabash, North Carolina. May 8, 2008. James Murdock, 25, was killed in a drive-by shooting. Murdock was sitting in a car when a dark SUV pulled up and fired at him with an assault rifle. He died at the scene. Two men were charged with the murder.⁶⁶

- **San Jacinto, California. May 8, 2008.** A 26-year-old man shot at Sheriff's deputies with an assault rifle. The man was killed when the policemen returned fire.⁶⁷

⁵⁹ *Pair gunned down by AK-47*, WDSU.COM, May 27, 2008, available at:

<http://www.wdsu.com/news/16401761/detail.html> (last visited Sept. 26, 2008).

⁶⁰ Kathleen Baydala, *Man arrested in fatal holiday party shooting*, THE CLARION LEDGER, May 28, 2008.

⁶¹ *Arrest made in shooting of 14 year old boy*, KSLA NEWS 12, May 20, 2008, available at:

http://www.ksla.com/Global/story.asp?S=8350809&nav=menu50_11_16_4 (last visited Sept. 26, 2008).

⁶² Dustin Racioppi & Don Bond, *Conn. teen with autism held in assault rifle shooting*, THE METRO WEST DAILY NEWS, May 15, 2008, available at:

<http://www.metrowestdailynews.com/archive/x2118739287/Conn-teen-with-autism-held-in-assault-rifle-shooting> (last visited Sept. 26, 2008).

⁶³ *Man shot with high-powered assault weapon*, LOCAL 10 NEWS, May 14, 2008, available at:

<http://www.local10.com/print/16261614/detail.html> (last visited Sept. 29, 2008).

⁶⁴ Gillian Flaccus, *Deputies kill 2 in gun battle on Calif. Reservation*, ASSOCIATED PRESS ARCHIVE, May 14, 2008.

⁶⁵ Raymond Legendre, *Grand jury to consider Raceland triple-slaying case*, THE COURIER, August 11, 2008.

⁶⁶ Shannan Bowen, *Two charged in Calabash murder*, STAR-NEWS, May 20, 2008.



- **Ripon, Wisconsin. May 6, 2008.** A 19-year-old accidentally shot and killed an 18-year-old friend with an assault rifle while the two were at a friend's house.⁶⁸

Stafford, Virginia. May 5, 2008. Aaron Poseidon Jackson shot his children, 1-year-old Aaron and 2-year-old Nicole, with a .38 caliber handgun, then shot their mother, Latasha Thomas, with an AK-47. When police arrived at the home, Jackson, wearing a bulletproof vest and surrounded by guns and ammunition, was found dead from a self-inflicted gunshot wound.⁶⁹

- **Burien, Washington. May 4, 2008.** A man died when he was shot in the head with an assault rifle after arguing with the shooter in a bar. The shooter left after the initial incident but returned with the gun.⁷⁰
- **Chicago, Illinois. May 4, 2008.** A college student died after being shot with an assault rifle when she was caught in crossfire from a gang while in a car.⁷¹
- **Cordova, New Mexico. May 4, 2008.** A man killed his 17-month-old son by shooting him in the chest with an assault rifle.⁷²
- **Philadelphia, Pennsylvania. May 3, 2008.** A police officer was shot and killed by an assault rifle as he was responding to a bank robbery. Three men robbed the bank and were fleeing when the officer stopped their car and exited his patrol car. At that time, one of the bank robbers opened fire with an SKS assault rifle, striking the officer numerous times. One suspect was eventually shot and killed by police and the other two were arrested and charged with murder.⁷³
- **San Antonio, Texas. May 2, 2008.** Two teens armed with an assault rifle shot at a man after he tried to stop a fight between groups of teenagers.⁷⁴

⁶⁷ Jose Arballo Jr., Steve Fetbrandt & Michelle DeArmond, *Soboba member killed in gun battle with deputies*, THE PRESS-ENTERPRISE, May 8, 2008.

⁶⁸ *Teen charged with negligent homicide in Ripon shooting posts bond*, NBC 15 NEWS, Feb. 29, 2008, available at: <http://www.nbc15.com/home/headlines/15839617.html> last visited (Sept. 29, 2008).

⁶⁹ Keith Epps & Ellen Biltz, *Gunman heavily armed*, FREDERICKSBURG.COM, May 7, 2008, available at: <http://fredericksburg.com/News/FLS/2008/052008/05072008/377460> (last visited Sept. 26, 2008).

⁷⁰ Casey McNerthney, *Man shot after Burien bar fight dies*, SEATTLE POST-INTELLIGENCER, May 5, 2008.

⁷¹ Annie Sweeney & Stefano Esposito, *We had so many plans*, THE CHICAGO SUN-TIMES, May 6, 2008.

⁷² Isaac Paul Vasquez, *Police allege father killed son*, KFOXTV.COM, May 4, 2008, available at: <http://www.kfoxtv.com/news/16157794/detail.html> (last visited Sept. 26, 2008).

⁷³ Joseph A. Gambardello, *Liczbinski suspect's girlfriend to stand trial*, PHILADELPHIA INQUIRER, July 17, 2008; *Officer shot, killed after bank robbery*, NBC 10.COM, May 3, 2008; See Sergeant Stephen Liczbinski, www.odmp.org, available at: <http://www.odmp.org/officer/19359-sergeant-stephen-liczbinski> (last visited Sept. 30, 2008).

⁷⁴ *Man shot at after breaking up fight*, KSAT TV 12, May 2, 2008, available at: <http://www.ksat.com/news/16136482/detail.html> (last visited Sept. 26, 2008).



- **Compton, California. April 29, 2008.** A 19-year-old with an assault rifle exchanged fire with Sheriff's deputies. No one was injured in the incident.⁷⁵
- **Chicago, Illinois. April 21, 2008.** The owner of a plumbing company was shot in the stomach by an employee using an AK-47 and died as a result. The employee also shot at three police officers later in the evening.⁷⁶
- **York, Pennsylvania. April 11, 2008.** A man died after he was shot multiple times with an assault rifle. The victim and shooter had argued earlier.⁷⁷
- **Miami, Florida. April 5, 2008.** A 16-year-old boy died and his mother was injured when they were shot with an assault rifle outside of their home by people they had previously argued with.⁷⁸
- **Sharonville, Ohio. April 3, 2008.** A 14-year-old girl was shot in the leg when a man fired an assault weapon randomly into the street. The bullet went through a car door and hit the victim.⁷⁹
- **Miami, Florida. April 3, 2008.** A 20-year-old with over thirteen firearms, including four AK-47s, and more than 5,000 rounds of ammunition, was arrested after threatening over the internet that he was going to carry-out a Virginia Tech style massacre.⁸⁰
- **Tarpon Springs, Florida. March 30, 2008.** A man fired several rounds from an assault weapon toward another man who was exiting his car.⁸¹
- **Donaldsonville, Louisiana. March 22, 2008.** A five-year-old boy and a man were injured after being shot with an assault rifle on the street.⁸²
- **Virginia Beach, Virginia. March 19, 2008.** A man shot five people, killing two, with an AK-47 assault rifle and .9 mm handgun before killing himself. The man was

⁷⁵ *Suspect arrested in connection to Compton shootout*, CBS2.COM, May 1, 2008, available at: <http://cbs2.com/local/Compton.Shooting.Arrest.2.713125.html> (last visited Sept. 26, 2008).

⁷⁶ Lisa Donovan et. al., *SWAT will go on patrol*, CHICAGO SUN TIMES, Apr. 22, 2008.

⁷⁷ Kristin Thorne, *York man killed in shooting involving assault rifle*, ABC27 NEWS, Apr. 11, 2008, available at: <http://cfc.whtm.com/printstory.cfm?id=510600> (last visited Sept. 29, 2008).

⁷⁸ *Teen killed, mother injured in shooting*, NBC6.NET, Apr. 6, 2008, available at: <http://www.nbc6.net/news/15806302/detail.html> (last visited Sept. 26, 2008).

⁷⁹ *Teenage girl accidentally shot in Sharonville*, WCPO 9 NEWS, Apr. 3, 2008, available at: http://www.wcpo.com/news/local/story.aspx?content_id=c473d379-e54d-4b46-a24d-397f12369149 (last visited on Sept. 29, 2008).

⁸⁰ *Police: Man threatened to re-enact Virginia Tech-style killings*, ASSOCIATED PRESS, Apr. 4, 2008.

⁸¹ *Tarpon Springs man arrested in assault rifle attack*, TBO.COM, Mar. 31, 2008, available at: <http://suncoastpasco.tbo.com/content/2008/mar/31/tarpon-springs-man-arrested-assault-rifle-attack/> (last visited Sept. 26, 2008).

⁸² Samuel Irvin, *Sheriff promises to boost patrols*, THE ADVOCATE, Mar. 27, 2008 available at: <http://www.2theadvocate.com/news/17040851.html> (last visited Sept. 26, 2008).



about to be evicted from his apartment and targeted the apartment complex's employees in his attack.⁸³

- **Chattanooga, Tennessee. March 15, 2008.** A man fired more than 20 rounds from an assault rifle at another man outside of an apartment building. The victim was not hit.⁸⁴
- **Baton Rouge, Louisiana. March 7, 2008.** A 16-year-old male shot his father in the arm with an AK-47 and was placed in juvenile detention on one count of attempted murder.⁸⁵
- **Kansas City, Missouri. March 5, 6, 7, 2008.** One man was killed and three injured during a drive-by shooting of a tire store. The shooters used two .223-caliber assault rifles, one of which had two large drum magazines and could fire 100 bullets without reloading. Police pursued the shooters, who were eventually apprehended, and were shot at with the same assault rifles. The following day, three retaliatory shootings occurred; the day after, one retaliatory shooting occurred in which a woman was shot seven times in the chest and torso.⁸⁶
- **Roanoke, Virginia. February 29, 2008.** A car chase ended when the driver pulled over and began shooting at police with an SKS assault rifle. The police shot and seriously wounded the driver. None of the police were seriously injured.⁸⁷

Gainesville, Georgia. February 19, 2008. 52-year old Mary Bailey was killed after being shot with an AK-47. Bailey was sleeping on the sofa when her 19-year old son, Derrick Bailey, cleaned his assault weapon and it fired. Derrick claims he did not know the weapon was loaded.⁸⁸

- **Marrero, Louisiana. February 16, 2008.** An 18-year-old was killed and a 16-year-old wounded after being shot with an AK-47 multiple times. The shooter fired more than 20 rounds at the two victims.⁸⁹
- **Pulaski, Kentucky. February 9, 2008.** A man fired more than 50 rounds from his assault rifle into a mobile home and garage after arguing with the owner. The homeowner received only minor injuries in the incident.⁹⁰

⁸³ *Gunman in mass shooting identified*, WVEC 13 NEWS, Mar. 20, 2008, available at: http://www.wvec.com/news/vabeach/stories/wvec_local_031908_vb_shooting.79dfc43.html (last visited Sept. 29, 2008).

⁸⁴ Amy Katcher, *East Lake shootout caught on tape*, WDEF NEWS 12, Mar. 26, 2008, available at: http://wdef.com/news/east_lake_shootout_caught_on_tape/03/2008 (last visited Sept. 26, 2008).

⁸⁵ *Police and fire briefs*, BATON ROUGE ADVOCATE, Mar. 8, 2008.

⁸⁶ Christine Vendel, *Heavy firepower in KC: Officers outgunned by suspects*, KANSAS CITY STAR, Mar. 8, 2007.

⁸⁷ Jessica Marcy, *Shots end U.S. 220 chase in Roanoke County*, WWW.ROANOKE.COM, Mar. 1, 2008, available at: <http://www.roanoke.com/news/roanoke/wb/152736> (last visited Sept. 26, 2008).

⁸⁸ *Gainesville teen: 'I shot my mother'*, WSBT.V.COM, Feb. 19, 2008, available at: <http://www.wsbtv.com/news/15345707/detail.html> (last visited Sept. 26, 2008).

⁸⁹ *Harvey teen booked with murder*, THE TIMES PICAYUNE, Feb. 19, 2008.



- **Phoenix, Arizona. February 9, 2008.** A 17-year-old died and a 23-year-old was injured after being shot with an assault rifle during an attack by four men.⁹¹
- **Indianapolis, Indiana. February 8, 2008.** An 8-year-old girl died after being shot in the head when someone sprayed her house with bullets from an assault weapon.⁹²
- **Macon, Georgia. February 4, 2008.** A man fired over 70 rounds from an assault rifle into the front of a house, killing the woman at the door. The man was looking for the woman's son but shot her after learning he was not at home.⁹³
- **Cleveland, Tennessee. February 2, 2008.** A 20-year-old man died after being shot several times with an assault rifle as he exited a car. The gunman shot at the other people in the car and at a nearby house as well.⁹⁴
- **Pittsburgh, Pennsylvania. January 28, 2008.** A 12-year-old girl was killed and her mother badly injured after they were shot with an AK-47 assault rifle. The two were visiting a family member when an assailant sprayed the house with dozens of bullets.⁹⁵
- **Camp Hill, Alabama. January 22, 2008.** A 19-year-old shot a 17-year-old in the face with an assault rifle after the two argued over the stolen weapon.⁹⁶
- **Miami, Florida. January 20, 2008.** Three cousins were injured when dozens of rounds were fired from an assault rifle into their car. One of the cousins was left brain-dead.⁹⁷
- **Carmichael, California. January 16, 2008.** A 24-year-old man was shot with an assault rifle in a drive-by shooting and died.⁹⁸

⁹⁰ *Eubank man jailed following hail of bullets fired into residence*, WKYT.COM, Feb. 9, 2008, available at: <http://www.wkyt.com/home/headlines/15476381.html> (last visited Sept. 26, 2008).

⁹¹ David Biscobing, *Teen gunned down in Phoenix with rifle*, EAST VALLEY TRIBUNE, Feb. 9, 2008.

⁹² *Community mourns eight-year-old's shooting death*, WTHR 13 NEWS, Feb. 26, 2008, available at: <http://www.wthr.com/Global/story.asp?S=7853369> (last visited Sept. 29, 2008); *Man charged in 8-year-old's shooting death*, WTHR 13 NEWS, Feb. 27, 2008, available at: <http://www.wthr.com/Global/story.asp?s=7865668> (last visited Sept. 29, 2008).

⁹³ Ashley Tusan Joyner, *Woman died after man sprays home with bullets*, THE MACON TELEGRAPH, Feb. 6, 2008.

⁹⁴ Ryan Harris, *Bradley murder victim identified*, CHATTANOOGA TIMES FREE PRESS, Feb. 5, 2008.

⁹⁵ Michael Hasch, *Girl, 12, killed as 40 shots blast into North Side home*, THE PITTSBURGH TRIBUNE-REVIEW, Jan. 29, 2008.

⁹⁶ *Teen shot in face by assault rifle*, WTVM.COM, Jan. 22, 2008, available at: http://www.wtvm.com/Global/story.asp?S=7757100&nav=menu91_2 (last visited Sept. 26, 2008).

⁹⁷ David Ovalle, *Little Haiti: Gun violence tears family*, THE MIAMI HERALD, January 24, 2008.

⁹⁸ *Two Carmichael killings may be connected*, KCRA.COM, Jan. 16, 2008, available at: <http://www.kcra.com/news/15067608/detail.html> (last visited Sept. 26, 2008).



- **Louisville, Kentucky. January 14, 2008.** A man carrying an assault rifle fired several rounds at a police officer during a traffic stop. The officer was not injured.⁹⁹
- **North Miami Beach, Florida. January 8, 2008.** An off-duty Miami police detective was killed by a man who shot him with an AK-47 assault rifle as he sat in his car.¹⁰⁰
- **Merrillville, Indiana. December 31, 2007.** A 25-year-old man shot a 20-year-old man with an assault rifle. The shooter asked the victim and another man to leave his apartment after they argued, then followed them outside and shot the victim multiple times.¹⁰¹

Little Rock, Arkansas. December 29, 2007. 6-year-old Kamyia Weathersby was shot at least 7 times by gunmen outside her home as she was lying in bed. Police believe at least one assault rifle was used to fire 50 or more rounds at her home. The following day, Kamyia died when her family made the decision to take her off life support.¹⁰²

- **Ozark, Alabama. December 29, 2007.** An 18-year-old man repeatedly shot a 22-year-old man using a SKS assault rifle after the two argued. The 22-year-old died from his injuries.¹⁰³
- **Southington, Connecticut. December 24, 2007.** One man shot another in the head with an assault rifle, killing him, after the two argued.¹⁰⁴
- **Arvada & Colorado Springs, Colorado. December 9, 2007.** One man with an assault rifle attacked a missionary training center in Arvada and a church in Colorado Springs. He killed two people and injured two others in Arvada, and killed two and injured three others in Colorado Springs. He died after being shot by a security guard and then shooting himself.¹⁰⁵

⁹⁹ 4th arrest made in SWAT case, WLKY.com, Jan. 14, 2008, available at: <http://www.wlky.com/news/15048297/detail.html> (last visited Sept. 26, 2008).

¹⁰⁰ David Quinones, *Dispute boils over mourning of detective*, MIAMI HERALD, Jan. 19, 2008; See Detective James Walker, www.odmp.org, available at: <http://www.odmp.org/officer/19128-detective-james-walker> (last visited Sept. 30, 2008).

¹⁰¹ *M'ville man charged in shooting*, THETIMESONLINE.COM, Jan. 4, 2008, available at: http://www.thetimesonline.com/articles/2008/01/04/news/lake_county/doc88e35a05299f4540862573c600061f09.txt (last visited Sept. 26, 2008).

¹⁰² *Girl, 6, dies after being shot 7 times – Ark. police search for suspects, motive*, MEMPHIS COMMERCIAL APPEAL, Jan. 1, 2008.

¹⁰³ *Ozark shooting suspect surrenders*, PRESS-REGISTER, Jan. 1, 2008.

¹⁰⁴ Chris Velardi, *\$2million bond for Southington murder suspect*, WTNH.COM, Jan. 2, 2008, available at: <http://www.wtnh.com/global/story.asp?s=7566985> (last visited on Sept. 29, 2008).

¹⁰⁵ Erin Emery, *Report details church shooting, the document chronicles the days leading up to the Dec. 9 deaths of four young people*, DENVER POST, Mar. 13, 2008.



- **Omaha, Nebraska. December 5, 2007.** Nine people were shot to death and five others were injured after a 20-year-old shooter, armed with a military-style assault rifle, attacked shoppers in a department store in a Nebraska mall.¹⁰⁶
- **Arden, South Carolina. December 4, 2007.** One man was injured when he was shot at close range in the leg and foot with an AK-47 assault rifle.¹⁰⁷
- **Memphis, Tennessee. November 13, 2007.** One man was killed and another injured after an unidentified man opened fire on a grocery store parking lot with an AK-47 assault rifle.¹⁰⁸
- **Vallejo, California. November 4, 2007.** One man died after being shot several times with an assault rifle while arguing with two other men. Witnesses of the shooting pursued the shooters by car and were also shot at, although none were injured.¹⁰⁹
- **Crandon, Wisconsin. October 7, 2007.** An off-duty Sheriff's deputy killed six and wounded a seventh person when he burst into a pizza party and started shooting with an assault weapon. The shooter later killed himself as the police closed in.¹¹⁰
- **West Palm Beach, Florida. September 18, 2007.** Two men were killed and another injured when they were attacked in their car by two men carrying a handgun and an assault rifle. The suspects shot at the police as they escaped.¹¹¹
- **New Orleans, Louisiana. September 15, 2007.** At least 28 bullets were fired from an AK-47 at an outdoor birthday party for 5-year-old twins in the courtyard of a public housing complex. A 19-year-old was killed and three children were wounded, ages 7, 8 and 13.¹¹²
- **Miami, Florida. September 13, 2007.** Police spotted a vehicle driving erratically and followed it until it stopped in a residential complex. The driver got out and hopped a fence to the rear of the home; the officers exited their patrol car and went to the front of the home where they were granted permission to search by a female resident. The suspect grabbed a high-powered, military-grade rifle and fired at the police officers through a window, killing one officer, then exited the house and shot

¹⁰⁶ *The American Way*, REGISTER-GUARD, Dec. 17, 2007.

¹⁰⁷ Clarke Morrison, *Arden man gets 12 years for assault rifle shooting*, THE CITIZEN-TIMES, Aug. 8, 2008.

¹⁰⁸ Chris Conley & Jody Callahan, *Drive-by shooting kills 1—police search for two gunmen in B-52 Market incident*, MEMPHIS COMMERCIAL APPEAL, Nov. 13, 2007.

¹⁰⁹ Henry K. Lee, *Two suspects sought in Vallejo homicide*, SFGATE.COM, Nov. 10, 2007, available at: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/11/10/BAUJT9HSA.DTL> (last visited Sept. 26, 2008).

¹¹⁰ Todd Richmond, *Crandon mass murder-suicide: Questions linger in killing of seven, officials tight-lipped despite suspect's death*, ST. PAUL PIONEER PRESS, Dec. 4, 2007.

¹¹¹ *2 killed in West Palm shootings, suspects escape on foot after one fires at police officer pursuing them*, SOUTH FLORIDA SUN-SENTINEL, Sept. 19, 2007.

¹¹² Mary Sparacello, *Housing Authority reining in parties, Kenner shooting leads to regulations*, THE TIMES PICAYUNE, Oct. 11, 2007.



three other officers as he escaped. The shooter was caught later that day but would not relinquish his assault rifle so he was shot and killed by police officers.¹¹³

- **Aiken, South Carolina. September 12, 2007.** A 20-year-old man died after being shot multiple times with an assault rifle by a 19-year-old when they were having an argument.¹¹⁴
- **Rome, Georgia. August 26, 2007.** One man was killed and a woman seriously injured inside their home. The shooter was found with an AK-47, from which several clips of ammunition had been emptied, and a 12-gauge shotgun when police arrived at the scene.¹¹⁵
- **Treme, Louisiana. August 13, 2007.** Two men were killed and another was seriously wounded as a shooter sprayed the crowd with an AK-47 assault rifle at a recreational league basketball game.¹¹⁶
- **Dallas, Texas. August 12, 2007.** One person was killed and three others wounded in a shooting outside a poetry/coffee shop. The gunman, who used an assault rifle, fled the scene.¹¹⁷

Hialeah, Florida. August 5, 2007. Eric Lopez, 38, was fatally shot in his home, and his wife, Olga, was shot in the leg. The incident began around noon when gunmen entered their home and began firing with a military-style semi-automatic weapon. Police arrested four people in connection with the shooting.¹¹⁸

- **Oakland, California. August 4, 2007.** A gunman with an assault rifle unleashed a barrage of bullets at a van parked on a North Oakland street, killing one man who lived nearby and wounding his brother and their friend. The gunman then fled.¹¹⁹
- **Orangeburg, South Carolina. July 19, 2007.** A man brandishing an assault rifle shot a woman once in the leg. The man was charged with assault and battery with intent to kill.¹²⁰

¹¹³ David Ovalle et al., *The murder and the manhunt started in a South Miami-Dade townhouse, zigzagged...*, MIAMI HERALD, Sept. 15, 2007.

¹¹⁴ Michelle Guffey, *Police seek murder suspects*, THE AUGUSTA CHRONICLE, Sept. 19, 2007.

¹¹⁵ *Man goes on shooting rampage, kills one, severely injures another*, ROMENEWSWIFE.COM, available at: <http://www.romenewswire.com/index.php/2007/08/26/police-on-scene-of-possible-murder-in-west-rome/> (last visited Sept. 29, 2008).

¹¹⁶ Richard A. Webster, *Soaring murder rate in New Orleans undermines recovery strides*, NEW ORLEANS CITY BUSINESS, Aug. 20, 2007.

¹¹⁷ Marissa Alanis, *Peacekeeper is killed outside club, police say: Dallas 3 others injured as gunman fires assault rifle into crowd*, DALLAS MORNING NEWS, Aug. 13, 2007.

¹¹⁸ Laura Figueroa, *Hialeah: 4 charged in 'crime of passion'*, MIAMI HERALD, Aug. 7, 2007.

¹¹⁹ *Two more slain in Oakland weekend violence*, THE OAKLAND TRIBUNE, Aug. 5, 2007.

¹²⁰ Richard Walker, *Woman recovering after being shot with AK-47*, THE TIMES AND DEMOCRAT, July 20, 2007.



- **North Augusta, South Carolina. July 15, 2007.** Twenty-one bullets were shot from an assault rifle into a home, hitting a 14-year-old boy sleeping inside. The bullets reportedly came from a car outside, tore through a foosball table, couch, and the wall to a back bedroom, where they pierced furniture, blasted a TV to the floor, and hit the boy.¹²¹
- **Floyd County, Indiana. June 18, 2007.** Two officers responded to a domestic disturbance call between a mother and her son. The officers were speaking with the mother on the driveway when the 15-year-old son ambushed both officers from an upstairs window and shot at them with a high powered assault rifle. One officer was killed and the other was seriously wounded.¹²²
- **Biloxi, Mississippi. June 5, 2007.** A gunman with an AK-47 ambushed police officers in a shootout, killing one, then shooting himself. The gunman lured police by firing shots in the neighborhood and waiting. After shooting one officer, the gunman unloaded an additional round into the patrol car. The gunman had a cache of backup guns and ammunition waiting inside his home.¹²³
- **Dallas, Texas. March 23, 2007.** A Dallas police officer was killed when he was struck in the neck and chest by an assault weapon as he approached a suspect's car.¹²⁴
- **Metairie, Louisiana. February 27, 2007.** Two AK-47s were among several guns fired into a Metairie apartment that resulted in four men being shot, one fatally and another critically.¹²⁵
- **Philadelphia, Pennsylvania. February 13, 2007.** A gunman used an assault weapon to kill 3 and wound another before killing himself.¹²⁶
- **Palm Beach County, Florida. January 1, 2007.** An 8-month-old baby boy was shot in his car seat after his mom parked in front of a drug house and rivals opened fire with assault rifles.¹²⁷
- **New Bedford, Massachusetts. December 12, 2006.** Three people were killed and two police officers were injured when a gunman opened fire at the Foxy Lady strip

¹²¹ Meredith Anderson, *North Augusta 14-year-old shot*, WRDW 12 NEWS, July 16, 2007, available at: <http://www.wrdw.com/home/headlines/8526357.html> (last visited on Sept. 29, 2008).

¹²² See Officer Frank Charles Denzinger, odmp.org, available at: <http://www.odmp.org/officer/18926-officer-frank-charles-denzinger> (last visited Sept. 30, 2008).

¹²³ Ryan LaFontaine, *Gunman had a large arsenal, Police say Asher used AK-47*, SUN HERALD, June 9, 2007.

¹²⁴ Tanya Eiserer et al., *Dallas officer dies after shootout*, THE DALLAS MORNING NEWS, Mar. 24, 2007.

¹²⁵ Michelle Hunter, *Cops say victim not innocent bystander*, THE TIMES PICAYUNE, Feb. 28, 2007.

¹²⁶ Larry King & Joseph A. Gambardello, *Investor rage, lethal trap*, PHILADELPHIA INQUIRER, Feb. 14, 2007.

¹²⁷ Rochelle E.B. Gilken, *County has most homicides since '89*, PALM BEACH POST, Jan. 6, 2008.



club; the shooter was fatally shot. One of the weapons used was described as an AR-15.¹²⁸

- **Westboro, Massachusetts. December 2, 2006.** Police seized a semiautomatic assault rifle from the bedroom closet of a young Shrewsbury man who posted threatening internet messages and who claimed to admire one of the Columbine High School killers.¹²⁹
- **Newport, Kentucky. November 19, 2006.** A fight at a nightclub led to four people being shot that evening. A 23-year-old was shot several times and left for dead on a bridge. An hour later, police found a 20-year-old man shot dead in his vehicle. Two other people were taken to the hospital with gunshot wounds and police recovered casings from an assault weapon.¹³⁰
- **Chicago, Illinois. October 30, 2006.** Members of the New Breed Street gang shot at Chicago police officers with an AK-47 from their car, injuring one officer. One gang member was killed and another critically wounded in the shoot-out.¹³¹
- **Palm Beach County, Florida. August 15, 2006.** A 50-year-old landscaper was shot at least 15 times as he walked toward a house to collect money for completed yard work. The shooters used assault weapons in the drive-by and police say the shooters mistook the victim for a gang member.¹³²
- **Chapel Hill, North Carolina, July 29, 2006.** A gunman with an assault rifle shot a man multiple times outside a nightclub, killing him. The shooter fled in a getaway car and later turned himself in.¹³³

¹²⁸ Jessica Heslam, *Strip club gunman at 'crossroads', killer bid farewell in cell phone messages*, BOSTON HERALD, Dec. 14, 2006.

¹²⁹ Kevin Keenan, *State police seize weapons*, WORCESTER TELEGRAM & GAZETTE, Dec. 2, 2006.

¹³⁰ *A fight at a Northern Kentucky nightclub lead to a wild shooting spree*, WLEX TV 18, Lexington, KY, Nov. 19, 2006, available at: <http://www.lex18.com/Global/story.asp?S=5704257&nav=EQ1p> (last visited Oct. 2, 2008).

¹³¹ Lisa Donovan et al., *Shoot-out 'looked like a movie': Cops kill 2 men they say were about to execute gang rivals*, CHICAGO SUN TIMES, Oct. 31, 2006.

¹³² Tim Collie, *Two members offer a look inside a South Florida gang*, SOUTH FLORIDA SUN-SENTINEL; July 22, 2007; Jerome Burdi, *'Innocent victim' killing unsolved, family awaits arrest in 2006 Boynton drive-by shooting*, SOUTH FLORIDA SUN-SENTINEL, Aug. 20, 2007.

¹³³ *Chapel Hill nightclub under review after fatal shooting*, WRAL.COM, July 31, 2006, available at: <http://www.wral.com/news/local/story/1056918/> (last visited Sept. 29, 2008).



St. John the Baptist Parish, Louisiana. June 27, 2006. 25-year-old Kelvin Thomas Jr. died after being shot in the abdomen with an assault rifle. Alonzo Bolden, 20, was arrested and booked with second-degree murder in connection with the shooting. Police believe the two men were engaged in an argument that was part of a long-running feud and ended with Bolden firing multiple shots at Thomas at close range. Thomas had three young children.¹³⁴

- **Calumet City, Illinois. June 25, 2006.** A 22-year-old pregnant woman and her 3-year-old son were shot and killed while they were sleeping when an unknown gunman fired 30 rounds from an AK-47 into their home at 1:15 a.m.¹³⁵
- **St. John the Baptist Parish, Louisiana. June 20, 2006.** A man who had killed a deputy police officer and injured another during a crime spree broke into the house of an 81-year-old man and held him hostage with an AK-47 until he eventually gave himself up and released the hostage.¹³⁶
- **Metairie, Louisiana. June 15, 2006.** Police attempted to serve a man with an emergency committal order but the man barricaded himself in his home and engaged in a 12-hour standoff with police. Seven hours into the standoff, the man shot and wounded two Sheriff's deputies with an assault rifle.¹³⁷
- **Reno, Nevada. June 12, 2006.** An owner of a gun shop, with a license to carry concealed weapons and access to a cache of guns, stabbed his wife to death and then shot the family court judge presiding over his divorce with a Bushmaster .223 high-powered assault rifle with sniper capabilities. The judge survived.¹³⁸
- **Howard County, Maryland. June 8, 2006.** County police officers were shot at by a man wielding an assault rifle whom they were attempting to serve a warrant on.¹³⁹
- **Norman, Oklahoma. June 7, 2006.** Two men opened fire on a Native American gathering of over 300 with an SKS assault rifle, killing one man and injuring another.¹⁴⁰

¹³⁴ Allen Powell II, *Garyville man held in fatal shooting, Deputies suspect long-running feud*, THE TIMES PICAYUNE, June 27, 2006.

¹³⁵ Tom Rybarczyk, *Calumet City reels after spray of bullets*, CHICAGO TRIBUNE, June 26, 2006.

¹³⁶ Allen Powell II, *Mourners salute slain St. John deputy*, NEW ORLEANS TIMES PICAYUNE, June 21, 2006.

¹³⁷ Michelle Hunter & Walt Philbin, *2 deputies wounded in Metairie standoff*, THE TIMES PICAYUNE, June 16, 2006.

¹³⁸ FOX NEWS, June 24, 2006.

¹³⁹ Tyrone Richardson, *Man found guilty of murder attempt*, BALTIMORE SUN, Oct. 29, 2006.

¹⁴⁰ Tom Blakely, *Pair arraigned in Sunday crowd shooting*, THE NORMAN TRANSCRIPT, June 7, 2006.



- **Miami, Florida. June 6, 2006.** Three men were killed and another injured when the van they were riding in was shot numerous times by assault weapons. About 50 rounds were fired into the van.¹⁴¹
- **Indianapolis, Indiana. June 2, 2006.** Seven family members, four adults and three children, were shot and killed in their home by a robber armed with an assault rifle. Nearly 30 shell casings were found.¹⁴²
- **San Diego, California. June 2, 2006.** A 17-year-old was wounded in an accidental workplace shooting when the teen's co-worker brought an AK-47 to work and was unaware that there was a live round inside the rifle's chamber.¹⁴³
- **New Milford Township, Pennsylvania. May 27, 2006.** Two brothers were camping with their wives and children when they were awakened by gunshots coming from a neighbor's property at 3:00 a.m. The brothers knew the neighbor so they went to his house to ask him to stop shooting. The neighbor, armed with a shotgun, told the two brothers to leave and then told his stepson to pick up an AR-15 rifle. The brothers were both shot in the stomach and wounded severely.¹⁴⁴
- **West Palm Beach, Florida. May 17, 2006.** Two men carrying AK-47 assault rifles ordered a man out of his car at gun-point, mugged him, and ripped off his pants.¹⁴⁵
- **Kingston, Tennessee. May 14, 2006.** A deputy sheriff and another individual were shot and killed by high-powered assault rifles. The deputy had 33 gunshot wounds.¹⁴⁶
- **Port Salerno, Florida. May 12, 2006.** A deputy sheriff was shot and wounded with an AK-47 assault rifle.¹⁴⁷

¹⁴¹ David Ovalle, *Ambush takes lives of 3 men*, MIAMI HERALD, June 6, 2006.

¹⁴² Ashley M. Heher, *Suspect in slaying of 7 family members surrenders / Indianapolis police say he had nowhere else to go*, HOUSTON CHRONICLE, June 4, 2006.

¹⁴³ Debbi Farr Baker, *Man accidentally shoots co-worker*, SAN DIEGO UNION-TRIBUNE, June 3, 2006.

¹⁴⁴ Nyier Abdou, *Somerville brothers still hospitalized after shooting: Pa. Man charged with assaulting rescue squad members during family camping trip*, THE STAR-LEDGER, May 31, 2006.

¹⁴⁵ *Digest*, SOUTH FLORIDA SUN-SENTINEL, May 17, 2006.

¹⁴⁶ Duncan Mansfield, *'Anti-government' man sought in ambush of Tennessee deputy*, CHARLESTON GAZETTE, May 13, 2006.

¹⁴⁷ Leon Fooksman, *Police fearful of violent crime trend: AK-47 shootings*, SOUTH FLORIDA SUN-SENTINEL, May 13, 2006.



Fort Worth, Texas. May 9, 2006. 16-year-old Derick Giles, an innocent bystander, was killed after being shot in the abdomen in the crossfire of a gang shooting outside a convenience store. Five minutes later, one man was shot in the leg and another in the foot during a second drive-by shooting. One hour and half later, a 50-year-old woman was shot in the shoulder by gunfire from a high-powered assault weapon as she stood in her kitchen.¹⁴⁸

- **Chantilly, Virginia. May 8, 2006.** A teenager with an AK-47 and 5 handguns engaged in a firefight at a police station, killing a female detective immediately and wounding two other officers, one of whom died nine days later from his injuries.¹⁴⁹
- **Los Angeles, California. May 8, 2006.** Police arrested a man and found over 20 assault weapons in his home after the man fired multiple rounds in the air while driving through his neighborhood with a semiautomatic pistol. The man had his young son in the car with him.¹⁵⁰
- **Oskaloosa, Iowa. May 5, 2006.** A 17-year-old shot his 13-year-old friend in the chest with a military-style rifle and then shot himself.¹⁵¹
- **West Palm Beach, Florida. April 28, 2006.** Shots were fired into an apartment at 6:00 in the morning, hitting one man in the right leg and left knee. Seventeen shell casings from an AK-47 were found at the scene.¹⁵²

West Palm Beach, Florida. April 27, 2006. An AK-47 was used to shoot 24-year-old David Paulk and his 16-year-old sister. Mr. Paulk was critically injured and died four days later. The next day, the alleged gunman, Brandon Williams, was shot in the back with an assault rifle and taken to the hospital, where he was treated and left before police were able to find cause to arrest him.¹⁵³ However, he was arrested soon after.¹⁵⁴

¹⁴⁸ Deanna Boyd, *Teen killed in shooting at convenience store*, FORT WORTH STAR-TELEGRAM, May 9, 2006.

¹⁴⁹ Ian Urbina, *Fatal police station attack shocks tranquil community*, NEW YORK TIMES, May 10, 2006; *Officer Killed*, BOSTON GLOBE, May 18, 2006.

¹⁵⁰ *Man said to be on 'edge of Armageddon'*, LONG BEACH PRESS-TELEGRAM, May 9, 2006.

¹⁵¹ AP-News Agenda, Broadcast News, May 5, 2006.

¹⁵² *Police Blotter*, PALM BEACH POST, Apr. 29, 2006; Jerome Burdi, *Rash of shootings hits city in 2 days*, SOUTH FLORIDA SUN-SENTINEL, Apr. 29, 2006.

¹⁵³ Jerome Burdi, *Rash of shootings hits city in 2 days*, SOUTH FLORIDA SUN-SENTINEL, Apr. 29, 2006; Jerome Burdi, *New task force seeks man suspected in 2 shootings*, SOUTH FLORIDA SUN-SENTINEL, Apr. 30, 2006; *Police Blotter*, PALM BEACH POST, Apr. 30, 2006.

¹⁵⁴ Nirvi Shah, *West Palm slaying suspect jailed after Pensacola stop*, PALM BEACH POST, May 8, 2006.



- **Oakland, California. March 19, 2006.** A gunman with an AK-47 opened fire on an apartment building, filling it with bullets and killing a 49-year-old man.¹⁵⁵
- **Lake Worth, Florida. March 17, 2006.** A man angry over an argument with a woman, shot the woman and her roommate with an AK-47 and left the victims in the doorway of their home.¹⁵⁶
- **Chicago, Illinois. March 11, 2006.** A 10-year-old girl was killed by a shot to her head as she was celebrating her birthday in her living room. A spray of bullets from an assault weapon peppered the house from a nearby fight.¹⁵⁷
- **Chicago, Illinois. March 3, 2006.** A stray bullet from an assault rifle struck a 14-year-old honor student as she was looking out the window of her home, killing her instantly.¹⁵⁸
- **Las Vegas, Nevada. February 1, 2006.** A 22-year-old fired at least 50 rounds from an assault rifle, shooting two Las Vegas police officers and killing one, before being shot and killed by the surviving officer.¹⁵⁹
- **Brooklyn, New York. January 20, 2006.** A man was arrested after firing at least two rounds from an Uzi at two members of the New York Police Department.¹⁶⁰
- **Ocala, Florida. January 7, 2006.** Two college students who were camping in the Ocala National Forest were randomly targeted by a man who shot and killed them with a stolen AK-47.¹⁶¹
- **Indianapolis, Indiana. January 2, 2006.** A man dubbed the “Tec-9 Robber” was arrested after being wanted in connection with as many as 23 robberies in four months of fast food restaurants, convenience stores, and gas stations.¹⁶²
- **Caddo Parish, Louisiana. January 1, 2006.** A 19-year-old was arrested after he was found hiding in an alley with an assault weapon. He faces two counts of aggravated assault on a police officer and potential charges for riddling a house with bullets, injuring a man.¹⁶³

¹⁵⁵ Henry K. Lee, *Oakland: Two new slayings brings homicide total to 30*, SAN FRANCISCO CHRONICLE, Mar. 21, 2006.

¹⁵⁶ Kevin Deutsch, *Man arrested in assault-rifle shooting*, PALM BEACH POST, Mar. 17, 2006.

¹⁵⁷ *Gov. Blagojevich, victims' families, advocates urge lawmakers in Springfield to pass statewide assault weapons ban*, US STATE NEWS, Mar. 23, 2006.

¹⁵⁸ Charles Sheehan, *Neighborhood buries another child*, CHICAGO TRIBUNE, Mar. 19, 2006.

¹⁵⁹ Omar Sofradzija, *Processions to honor Prendes*, LAS VEGAS REVIEW-JOURNAL, Feb. 7, 2006.

¹⁶⁰ Veronika Belenkaya et al., *Uzi maniac shot by cops. Tied to 3 attacks on city's finest*, NEW YORK DAILY NEWS, Jan. 22, 2006.

¹⁶¹ Stephen Kudak & Sarah Lundy, *Cops: Suspect admits killing 2 campers in Ocala forest*, ORLANDO SENTINEL, Jan. 28, 2006.

¹⁶² CBS 8 WISH, Indianapolis, IN, Jan. 5, 2006.

¹⁶³ CBS 12 KSLA, Shreveport, LA, Jan. 2, 2006.



- **Harper Woods, Michigan. December 31, 2005.** A 40-year-old man was shot sixteen times with an assault weapon while standing on his front porch around 3:15 p.m. and died from his injuries. His wife and daughters were in the house at the time of the shooting. His murder, occurring on the last day of the year, was the first murder of 2005 in his town.¹⁶⁴
- **Miami, Florida. December 28, 2005.** A man dressed in all black used an assault weapon to fire multiple rounds into a house killing a 20-year-old man and injuring another man who was hit in the leg.¹⁶⁵
- **Fortville, Indiana. December 13, 2005.** A man slapped a female relative and fired a round from an assault weapon into his driveway then barricaded himself in his house and threatened to shoot anyone who came to the door. When the 8-hour standoff ended, police found more than 10 weapons in the home.¹⁶⁶
- **Tacoma, Washington. November 20, 2005.** A 20-year-old male opened fire in a Tacoma mall, wounding six. The shooter took four hostages, all of whom were released unharmed.¹⁶⁷

San Francisco, California. October 14, 2005. 22-year-old Derna Wysinger and his two-year-old son, Naemon, were killed when a man opened fire on their car with an assault weapon. The toddler's mother, Jazmanika Ridout, was shot in the foot and survived. The family was leaving the home of the toddler's great aunt, who had been babysitting Naemon so that Wysinger and Ridout could go on a date.¹⁶⁸

- **North Braddock, Pennsylvania. August 12, 2005.** A man was found dead, shot in the back and head. Police found assault rifle bullet casings near the body.¹⁶⁹
- **Denton County, Texas. August 9, 2005.** In a night-long standoff at his home, a man fired his SKS assault rifle at police to avoid being arrested. After shooting an officer in the leg and refusing to negotiate, police shot and killed the suspect.¹⁷⁰
- **New Orleans, Louisiana. August 8, 2005.** While driving, a man was shot and killed when an occupant of another car opened fire with an AK-47 assault rifle.¹⁷¹

¹⁶⁴ NBC 51 WDIV, Detroit, MI, Jan. 4, 2006.

¹⁶⁵ *Man killed in early morning shooting*, MIAMI HERALD, Dec. 28, 2005.

¹⁶⁶ *Eight-hour standoff ends peacefully*, THEINDYCHANNEL.COM, Dec. 13, 2005 available at: <http://www.theindychannel.com/news/5524484/detail.html> (last visited Sept. 29, 2008).

¹⁶⁷ *Suspect: 'follow screams', Man opens fire at mall in Tacoma; 6 wounded*, AKRON BEACON JOURNAL, Nov. 22, 2005.

¹⁶⁸ Christopher Heredia, *San Francisco police ask public for help in finding shooting suspect*, SAN FRANCISCO CHRONICLE, Oct. 16, 2005.

¹⁶⁹ Michael Hasch, *Shooting victim was teen suspect's uncle*, PITTSBURGH TRIBUNE REVIEW, Aug. 17, 2005.

¹⁷⁰ Domingo Ramirez Jr., *Trooper is shot; suspect is killed*, FORT WORTH STAR-TELEGRAM, Aug. 9, 2005.



- **West Palm Beach, Florida. June 25, 2005.** A man was killed and his 9-year-old daughter severely wounded when a man fired into their parked car with an assault weapon that police believe had been converted to fully automatic.¹⁷²
- **Cincinnati, Ohio. June 22, 2005.** Assailants armed with SKS-type assault rifles sprayed over forty armor-piercing bullets in twenty seconds, hitting two women leaving a grocery store.¹⁷³
- **Livingston County, Kentucky. June 2, 2005.** A deputy was shot when he responded to a domestic disturbance call placed by a couple's 18-year-old daughter. When the officer entered the home, a male fired at least 8 rounds from an assault rifle at him, hitting him four times and killing him. The officer was able to fire one round which killed the gunman.¹⁷⁴
- **Fresno, California. May 31, 2005.** A man fired at least eight shots from an assault rifle at two veteran police officers sitting in their patrol car outside the police K-9 facility. The police later found a partially loaded 30 round magazine in the assailant's car.¹⁷⁵
- **Kansas City, Missouri. May 29, 2005.** After being pulled over for a routine traffic stop, a recently fired elementary school janitor shot a Highway Patrol trooper nine times with a 9 mm assault rifle.¹⁷⁶
- **Tulsa, Oklahoma. May 29, 2005.** A gunman fired more than 20 shots from an assault rifle at an apartment building security guard, wounding the guard and hitting his car and surrounding buildings.¹⁷⁷
- **Camden, New Jersey. May 21, 2005.** A mother of three young children was killed by a stray bullet fired from an AK-47 during a shoot-out.¹⁷⁸
- **Jackson, Mississippi. May 18, 2005.** A man fired at least 17 shots from an SKS assault rifle and 9 mm pistol at police during a traffic stop.¹⁷⁹

¹⁷¹ Walt Philbin, *Three men killed in seven hours: All are shot to death on New Orleans streets*, NEW ORLEANS TIMES PICAYUNE, Aug. 9, 2005.

¹⁷² *Gun owners trade in arms, W. Palm Beach shootings spark city buyback*, SOUTH FLORIDA SUN-SENTINEL, July 10, 2005.

¹⁷³ *Two wounded in West End*, CINCINNATI POST, June 24, 2005.

¹⁷⁴ *Livingston County Kentucky Deputy Sheriff killed in gunfight*, LMPD.com, June 3, 2005, available at: <http://www.lmpd.com/index.php?name=News&file=article&sid=291&theme=AutoPrint> (last visited Sept. 30, 2008).

¹⁷⁵ *Two held in assault-rifle attack on two officers*, FRESNO BEE, June 1, 2005.

¹⁷⁶ *Accused man tells trooper he's sorry*, KANSAS CITY STAR, May 30, 2005.

¹⁷⁷ *Security guard at apartment is shot*, TULSA WORLD, May 29, 2005.

¹⁷⁸ *Two more men arraigned in fatal street shoot-out*, THE PHILADELPHIA INQUIRER, June 1, 2005.

¹⁷⁹ *Bond denied for man in shootout*, SUN HERALD, July 20, 2005.



Clayton County, Georgia. April 23, 2005. High school senior Larry Bishop Jr. was killed, and three other teens were wounded, when a gunman opened fire on a group of partygoers. 18-year old Artavious Rashad Abercrombie was arrested in connection with the crime.¹⁸⁰

- **Miami, Florida. April 10, 2005.** Three men were injured during a dispute in a strip club parking lot when a fourth man fired an AK-47 at them.¹⁸¹
- **Canton, Texas. April 8, 2005.** A man shot his son's football coach in the chest with an AK-47 after a dispute.¹⁸²
- **Houston, Texas. April 8, 2005.** Two robbers armed with AK-47s fired nearly twenty rounds at police during a shoot-out outside a pawnshop.¹⁸³
- **New Orleans, Louisiana. March 27, 2005.** A woman was shot in the chest outside her apartment with an AK-47 when she refused to give her purse to two armed robbers.¹⁸⁴

Pittsburgh, Pennsylvania. March 16, 2005. 16-year-old Keith Watts was killed, and two other students were injured, when a shooter fired at least eight rounds from an AK-47 into their parked vehicle.¹⁸⁵

- **Dallas, Texas. March 15, 2005.** Three people were killed after a man fired an assault rifle at them through the sunroof of his car.¹⁸⁶
- **Schertz, Texas. March 3, 2005.** After being pulled over, a man fired more than 30 bullets from a handgun and AK-47 at a state police officer.¹⁸⁷
- **Tyler, Texas. February 25, 2005.** A gunman with a history of domestic violence and a felony conviction, who was reportedly fighting with his ex-wife over child support for their two youngest children, shot over 50 rounds from an SKS assault rifle on the steps of his local courthouse when his ex-wife exited the building. His ex-wife was killed along with a bystander who tried to shoot the gunman. The shooter's 23-year-old son and three law enforcement officers were wounded during the shooting, including a 28-year-old deputy who was in grave condition. The

¹⁸⁰ *Teen faces murder charge*, THE ATLANTA JOURNAL-CONSTITUTION, May 28, 2005.

¹⁸¹ *Pair of early-morning shootings leave six hurt*, MIAMI HERALD, April 11, 2005.

¹⁸² *Gunman attacks coach at school*, FORT WORTH STAR-TELEGRAM, April 8, 2005.

¹⁸³ *Pawnshop heist ends in bloody shootout*, HOUSTON CHRONICLE, April 7, 2005.

¹⁸⁴ *Jeff woman shot in struggle with thief*, THE TIMES-PICAYUNE, March 29, 2005.

¹⁸⁵ *Schools need permission to shield kids from threats*, PITTSBURGH POST-GAZETTE, March 18, 2005.

¹⁸⁶ *Police say revenge went awry for slaying suspects*, DALLAS MORNING NEWS, March 18, 2005.

¹⁸⁷ *Man indicted in Schertz shootout*, SAN ANTONIO EXPRESS-NEWS, March 24, 2005.



gunman fled the scene but was pursued and shot by police when he exited his car and shot toward officers.¹⁸⁸

- **Los Angeles, California. February 24, 2005.** A disgruntled Los Angeles municipal employee opened fire with an AK-47 after being reprimanded at work, killing his supervisor and another employee.¹⁸⁹

Akron, Ohio. February 24, 2005. A man shot and killed his girlfriend and her seven year old son using an AR-15 assault rifle, then fired more than one-hundred rounds at a dozen law enforcement officers as he fled the murder scene. The gunman was arrested the next morning inside the apartment of a Kent State University student, who he also murdered with the AR-15 assault rifle. Police subsequently seized 21 weapons kept by the suspect, including an Uzi and an AK-47.¹⁹⁰

- **Las Vegas, Nevada. February 15, 2005.** A suspected murderer fled from police as his girlfriend fired an assault rifle with a 100 round magazine at pursuing police vehicles. The man was wanted in connection with a drug related murder and for a nonfatal shooting. The man also had convictions for attempted manslaughter and armed robbery, and was suspected of shooting at a Louisiana police officer five months earlier.¹⁹¹
- **Ulster, New York. February 13, 2005.** A gunman fired more than 60 shots from an AK-47 assault rifle in the Hudson Valley Shopping Mall, wounding two and causing tens of thousands of dollars of damage before being apprehended. A few hours earlier, the shooter had purchased armor-piercing ammunition from a nearby Wal-Mart.¹⁹²
- **Lebanon, Tennessee. February 10, 2005.** A second grade student found a Tec-9 inside a closet and brought it to school in his backpack, where it was confiscated by police. The gun was not fired but sixteen bullets were discovered in the magazine.¹⁹³
- **Dayton, Ohio. January 31, 2005.** Three teens were shot with a Russian-made assault rifle following an argument at a grocery store.¹⁹⁴

¹⁸⁸ Bill Hanna & Jack Douglas Jr., *Rampage in Tyler leaves three dead, four wounded*, FORT WORTH STAR-TELEGRAM, Feb. 25, 2005; Jack Douglas Jr. & Bill Hanna, *Police order emergency trace on weapon used in shootings*, FORT WORTH STAR-TELEGRAM, FEB. 26, 2005.

¹⁸⁹ *2 Are Shot to Death at Maintenance Yard*, LOS ANGELES TIMES, Feb. 25, 2005.

¹⁹⁰ Ed Meyer, *Police eye semiautomatic rifles, Brimfield officials want to be prepared after recent shooting rampage that killed 3 people*, AKRON BEACON JOURNAL, Feb. 24, 2005.

¹⁹¹ Brian Haynes, *Wild chase ends in arrests*, LAS VEGAS REVIEW-JOURNAL, Feb. 19, 2005.

¹⁹² *Mall Gunman Had Columbine Fixation, an Official Says*, THE NEW YORK TIMES, Feb. 15, 2005.

¹⁹³ WKRN TV NEWS 2, Nashville, TN, Feb. 10, 2005.

¹⁹⁴ Kelli Wynn, *Assault weapon used in shooting, police say*, DAYTON DAILY NEWS, Feb. 2, 2005.



- **Ravena, Ohio. January 21, 2005.** Three people were killed, including a mother and her seven year old son, when a man fired at least 18 bullets from an assault rifle.¹⁹⁵

Jackson, Tennessee. January 11, 2005. Donna Renee Jordan, 31, David Gordon, 41, and Jerry Hopper, 61, were killed when Jordan's estranged husband, David Jordan, opened fire in a Tennessee Department of Transportation maintenance garage. Two other employees, Larry Taylor and James Goff, were shot and wounded. When David Jordan was arrested shortly after the shootings, police found an SKS assault rifle, a 12-gauge shotgun, and two pistols in his truck. Jordan's wife, whom he shot four times, left behind two children and two stepchildren.

- **Ceres, California. January 9, 2005.** A 19-year-old Marine armed with an SKS assault rifle shot two police officers, killing one, in a gun battle outside a liquor store.¹⁹⁶
- **Newington, Connecticut. December 31, 2004.** A former correction officer used a fully automatic M-16 to fatally shoot a Newington policeman after the officer responded to a domestic disturbance call.¹⁹⁷
- **New Orleans, Louisiana. December 23, 2004.** A mentally challenged 19-year-old was chased through the streets with a high-powered assault rifle before being gunned down outside his former elementary school.¹⁹⁸
- **Hayward, Wisconsin. November 21, 2004.** After being asked to leave another hunter's property, a 36-year-old man opened fire with an SKS semiautomatic rifle, killing six members of a hunting party and wounding two.¹⁹⁹
- **Oak Creek, Wisconsin. November 5, 2004.** A man wearing body armor and armed with a machine gun fled the hotel room where he murdered his girlfriend, firing 30 to 40 rounds down the hotel hallway, killing one man and injuring two others.²⁰⁰
- **Portland, Oregon. October 28, 2004.** A 31-year-old aimed two machine guns out his front window to guard the marijuana growing operation run from his home, which was less than 400 feet from an elementary school. Police seized 29 guns from his home, including several AK-47s and Uzis, a MAC-10 submachine gun and a .50

¹⁹⁵ Stephen Dyer, *Murder suspect pleads insanity*, AKRON BEACON JOURNAL, Feb. 8, 2005.

¹⁹⁶ *Cop, gunman dead: Marine killed after shooting officers*, THE MODESTO BEE, Jan. 11, 2005.

¹⁹⁷ *Officer shot, held hostage*, HARTFORD COURANT, Dec. 31, 2004.

¹⁹⁸ *Barbarity beyond belief*, THE TIMES-PICAYUNE, Dec. 23, 2004.

¹⁹⁹ *Wisconsin Shooting Rampage*, ST. PAUL PIONEER PRESS, Nov. 23, 2004.

²⁰⁰ *2 dead, 2 wounded in hotel shootings*, MILWAUKEE JOURNAL SENTINAL, Nov. 6, 2004.



caliber anti-aircraft gun. He was later sentenced to more than eight years in prison.²⁰¹

- **Minneapolis, Minnesota. October 21, 2004.** A store clerk died after being shot in the chest with an assault rifle during a botched robbery attempt.²⁰²
- **Oakland, California. September 22, 2004.** A 16-year-old honor student was killed on the sidewalk near her home after being struck by errant assault rifle fire.²⁰³

²⁰¹ Local news – Washington County, THE OREGONIAN, May 4, 2006.

²⁰² *3 teens charged with clerk's slaying*, ST. PAUL PIONEER PRESS, Nov. 2, 2004.

²⁰³ *Girl, 16, gunned down in Oakland drive-by*, THE OAKLAND TRIBUNE, Sept. 24, 2004.



Endnotes

- ¹ *Ferri Used Guns That California Ban Does Not Forbid*, SAN FRANCISCO EXAMINER, July 4, 1993.
- ² Michael Janofsky, *Columbine killers thank gun suppliers taped comments revealed in hearing*, CLEVELAND PLAIN DEALER, Nov. 13, 1999.
- ³ *Cult's Massive Weapons Purchases Stir Up a Furor Over Federal Regulation*, FORT WORTH STAR-TELEGRAM, May 2, 1993.
- ⁴ *Satellite College Campus Helps to Heal the Scars at San Ysidro Massacre*, LOS ANGELES TIMES, Mar. 30, 1989; *A 77-Minute Moment in History That Will Never Be Forgotten*, LOS ANGELES TIMES, July 16, 1989.
- ⁵ *The Kinds of Guns School Killer Used*, SAN FRANCISCO CHRONICLE, Jan. 19, 1989; Michael Taylor & Leslie Guevarra, *Myterious Scrawlings and Slogans, School Killer's Last Days, Toy Army in his Room*, SAN FRANCISCO CHRONICLE, Jan. 19, 1989.
- ⁶ In an appendix of this report, we have included 27 pages of assault weapons shootings that have occurred in just the last four years. Moreover, this list is not comprehensive. It is merely representative examples.
- ⁷ ATF, *Assault Weapons Profile* 19 (1994)
- ⁸ Judith Bonderman, *In Search of Justice: Compensation for Victims of Assault Weapon Violence*, 20 PRODUCT SAFETY & LIABILITY REP. 25 (June 26, 1992). There are numerous examples of test-firing that display the firepower of semi-automatic assault weapons on YouTube. See, e.g., <http://www.youtube.com/watch?v=nCMEqCPCvV4>; <http://www.youtube.com/watch?v=cYRsPzUYMM4>; and <http://www.youtube.com/watch?v=A75O0-QoJJI>.
- ⁹ ATF, *Assault Weapons Profile*, *supra* note 7, at 19 (emphasis added).
- ¹⁰ *Id.*
- ¹¹ *Assault rifles concern police*, MONTGOMERY ADVERTISER, May 25, 2006.
- ¹² ATF, *Assault Weapons Profile*, *supra* note 7, at 20.
- ¹³ See *infra* p. 15.
- ¹⁴ Dep't of Treasury, *Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles* 38 (1998).
- ¹⁵ ATF, *Report and Recommendations of the ATF Working Group on the Importability of Certain Semi-Automatic Rifles* (July 6, 1989)
- ¹⁶ Dep't of Treasury, *Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles*, *supra* note 14.
- ¹⁷ Christopher S. Koper, *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, U. PA. JERRY LEE CENTER OF CRIMINOLOGY 3 (June 2004). [Quotation in report spells out 'assault weapons' & 'large capacity magazines' while the actual quotation uses the abbreviations 'AWs' & 'LCMs'].
- ¹⁸ Press Release, Mayor Hahn, Chief Bratton Unite With Leaders Across Country To Demand Renewal Of Assault Weapons Ban (Apr. 27, 2004) (available at www.lacity.org).
- ¹⁹ Christopher S. Koper, *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, *supra* note 17, at 87. [Quotation in report spells out 'assault weapons' while the actual quotation uses the abbreviation 'AWs'].



²⁰ See International Association of Chiefs of Police, *Taking a Stand: Reducing Gun Violence in Our Communities: Report and Recommendations from the IACP Great Lakes Summit on Gun Violence 26* (2007) (noting that FBI data indicated that 41 of the 211 law enforcement officers slain in the line of duty between January 1, 1998 and December 31, 2001, were killed with assault weapons. See also, H.R. Rep. No. 103-489 (1994) at 14-15 (citing testimony about several assault weapons shootings); *Cops Under Fire: Law Enforcement Officers Killed With Assault Weapons or Guns With High Capacity Magazines*, Handgun Control, Inc. (now the Brady Center to Prevent Gun Violence) (1995).

²¹ The Officer Down Memorial Page, Inc. collects information on officers killed in the line of duty. See <http://www.odmp.org/>.

²² *SAPD Details Monday Shooting Investigation*, KSAT12-TV, San Antonio, Texas, Sept. 10, 2008.

²³ Brady McCombs & Alexis Huicochea, *Officer on life support after crosstown pursuit*, ARIZONA DAILY STAR, June 2, 2008.

²⁴ Joseph A. Gambardello, *Liczbinski suspect's girlfriend to stand trial*, PHILADELPHIA INQUIRER, July 17, 2008; *Officer shot, killed after bank robbery*, NBC 10.COM, May 3, 2008; See Sergeant Stephen Liczbinski, [www.odmp.org](http://www.odmp.org/officer/19359-sergeant-stephen-liczbinski), available at: <http://www.odmp.org/officer/19359-sergeant-stephen-liczbinski> (last visited Sept. 30, 2008).

²⁵ David Ovalle et. al., *The murder and the manhunt started in a South Miami-Dade townhouse, zigzagged...*, MIAMI HERALD, Sept. 15, 2007.

²⁶ See Officer Frank Charles Denzinger, [odmp.org](http://www.odmp.org/officer/18926-officer-frank-charles-denzinger), available at: <http://www.odmp.org/officer/18926-officer-frank-charles-denzinger> (last visited Sept. 30, 2008).

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⁷⁹ *Gun Land – Are guns bought in the U.S. ending up in the hands of terrorists?*, NOW WITH BILL MOYERS, Nov. 15, 2002.

⁸⁰ *ATF: Phoenix Gun Dealer Supplied Mexican Drug Cartels*, ABC NEWS, May 6, 2008.

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⁸⁵ 22-year-old Rupinder “Benny” Oberoi was shot in the lower back outside his place of work in Silver Spring, Maryland on September 14th. 52-year-old liquor store manager Claudine Parker was shot and killed as she and a coworker closed the store in Montgomery, Alabama. 45-year-old beauty supply store manager named Hong Im Ballenger was shot and killed outside a store she managed in Baton Rouge, Louisiana on September 23rd.

⁸⁶ Premkumar A. Walekar of Olney, Maryland, a 54-year-old male cabdriver, was shot and killed with the Bushmaster assault rifle at a Mobil gas station in Aspen Hill, Maryland on October 3rd.

⁸⁷ James L. “Sonny” Buchanan, Jr. of Abingdon, VA, a 39-year-old landscaper, was shot and killed with the Bushmaster assault rifle while mowing grass at a car dealership in White Flint, Maryland On October 3.

⁸⁸ Linda Franklin, a 47-year-old FBI employee was shot and killed with the Bushmaster assault rifle while loading packages with her husband in their car in the parking garage of a Home Depot in Seven Corners Shopping Center in Fairfax County, Virginia On October 14.

⁸⁹ Second Amended Complaint, Halberstam v. S.W. Daniel, Inc., No. 95-C3323 (E.D.N.Y.1998), Nov. 19, 1997.



⁹⁰ *CIA Killings Prompt Scrutiny on 2 Fronts; Fairfax Loophole Expedited Gun Purchase*, WASHINGTON POST, Feb. 11, 1993.

⁹¹ Robert O'Harrow, Jr. *Kansi's Shadowy Stay in U.S. Leaves a Hazy Portrait*, WASHINGTON POST, Mar 3, 1993.

⁹² On March 21, 1989, ATF announced a temporary suspension of the importation of five assault weapons. On March 29, 1989, ATF expanded the scope of the suspension to cover all assault weapons "indistinguishable in design, appearance and function to the original five" and established a working group to decide whether to make this import ban permanent. On March 30, 1989, a gun importer challenged ATF's authority to suspend the importation of these weapons. The Eleventh Circuit Court of Appeals upheld ATF's authority to issue the import suspensions. *Gun South, Inc. v. Brady*, 877 F.2d 858 (11th Cir. 1989). ATF then issued its working group report and, pursuant to 18 U.S.C. § 925(d)(3), made the import ban permanent. ATF, *Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles* *supra* note 15.

⁹³ In April 1998, ATF determined that the 1989 ban on the importation of assault rifles remained valid and expanded the import ban to include rifles with the "ability to accept a detachable large capacity military magazine" because those weapons "cannot fairly be characterized as sporting rifles." ATF, *Department of the Treasury Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles*, *supra* note 14.

⁹⁴ See ATF, *Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles*, *supra* note 15, at 5-8 (describing numerous military features of assault weapons).

⁹⁵ *Police Fear a Future of Armored Enemies*, USA TODAY, Mar. 3, 1997.

⁹⁶ Declaration of Leonard J. Supenski in Support of Plaintiffs' Joint Opposition to Navegar, Inc.'s Motion for Summary Judgment or, in the Alternative, Summary Adjudication at 8, In re 101 California Street Bldg., No. 959316 (Sup. Ct. Cal. 1996).

⁹⁷ Jim Zumbo, *Assault Rifles for Hunters?*, available at: http://razoreye.net/mirror/zumbo/zumbo_assault_rifles.html (last visited Oct. 7, 2008).

⁹⁸ *District of Columbia v. Heller*, 128 S.Ct. 2783 (2008).

⁹⁹ The Court was careful to announce only a limited Second Amendment right that was tied to guns used for self-defense in the home. *Id.* at 2821-22. "[W]hatever else [the Second Amendment] leaves to future evaluation, it surely elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home." *Id.* at 2821. "[T]he enshrinement of constitutional rights necessarily takes certain policy choices off the table. These included the absolute prohibition of handguns held and used for self-defense in the home." *Id.* at 2822. "In sum, we hold that the District's ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense." *Id.* at 2821-22.

¹⁰⁰ *Id.* at 55.

¹⁰¹ See *infra* p. 1, *Assault Weapons are Designed to Slaughter People*.

¹⁰² Those include California, which passed the nation's first statewide ban in May 1989, as well as New Jersey (1990), Hawaii (1991), Connecticut (1993), Maryland (1994), Massachusetts (1998), and New York (2000). California expanded its ban in 2000 to include all semiautomatic rifles or pistols that have the ability to accept a detachable magazine and contain any one of a series of military-style features similar to the list found in the federal ban. CAL. PENAL CODE § 12276.1.

¹⁰³ See *infra* p. 14, *Assault Weapons Have No Sporting or Self-Defense Purpose*.

¹⁰⁴ See, e.g., *Benjamin v. Bailey*, 662 A.2d 1226 (Conn. 1995); *Robertson v. Denver*, 874 P.2d 325 (Colo. 1994); *Arnold v. City of Cleveland*, 616 N.E.2d (Ohio 1993).

¹⁰⁵ Hearings Before the Committee on the Judiciary on S. 639 and S. 653, U.S. Senate, 103d Cong. 1 (Aug. 3, 1993) (statement of Hon. Joseph Biden).



¹⁰⁶ The law was intended to cover “copies or duplicates” of named firearms, 18 U.S.C. § 921(30)(A), but it was never successfully applied to ban any of the copycat weapons that emerged after the ban unless they also violated the two-features test.

¹⁰⁷ The data available at the time of the study went up through the end of 2001.

¹⁰⁸ The conclusions in the On Target study were similar to an analysis of assault weapons traced to crime done for United States Senators Dianne Feinstein and Charles Schumer. This analysis showed that the proportion of banned assault weapons traced to crime dropped by more than 65% while the ban was in effect, according to ATF crime gun trace data. See report released on Nov. 5, 2003, available at <http://feinstein.senate.gov/03Releases/r-assaultweprate1.htm>.

¹⁰⁹ In addition to the Brady Center’s study, the U.S. Department of Justice, National Institute of Justice conducted a study, mandated by the Act, of the short-term impact on crime of the assault weapons ban. The study, published in 1999, found that the ban had “clear short-term effects on the gun market,” leading to semiautomatic assault weapons “becom[ing] less accessible to criminals because there was at least a short-term decrease in criminal use of the banned weapons.” Jeffrey A. Roth & Christopher S. Koper, *Impacts of the 1994 Assault Weapons Ban: 1994-96* 1, 9 (U.S. Dep’t of Justice, National Institute of Justice 1999) (available at <http://www.ncjrs.org/pdffiles1/173405.pdf>).

¹¹⁰ One of the principal authors of that interim study published a follow-up analysis of the effects of the federal ban in June 2004. Christopher S. Koper, *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, U. PA. JERRY LEE CENTER OF CRIMINOLOGY, *supra* note 17. That study documented a dramatic reduction in the incidence of assault weapon use in crime while the ban was in effect. The study found, according to ATF data, that assault weapons, as a percentage of total crime gun traces, fell 70% from 1992-93 to 2001-02. *Id.* at 44. Indeed, the study found it “remarkable” that the annual number of assault weapons traced to crime did not increase during the period the ban was been in effect, even though, due to far more comprehensive tracing of crime guns by ATF, the number of total guns traced to crime increased almost 200% during that same period. *Id.* As the study noted, these results were consistent with the findings of the Brady Center in its On Target report, discussed above. *Id.* at 44, n.43. Koper’s study attributed these declines in the frequency of assault weapon use in crime to the statute itself, in contradiction to the assertions made by some commentators that the decline was due to other factors. The study found that the decline in frequency of assault weapon traces did not begin until 1994, the year of the ban, and concluded that “the ban prevent[ed] a few thousand crimes with assault weapons annually.” *Id.* at 52, n.61.

¹¹¹ The firearms listed in this data are considered by ATF to be “crime guns,” which means they have been illegally possessed, used in a crime, or suspected of having been used in a crime. ATF, *The Youth Crime Gun Interdiction Initiative, Crime Gun Trace Analysis Reports: The Illegal Youth Firearms Market in 27 Communities* 5 (1999).

¹¹² CAL. PENAL CODE § 12276.1.

¹¹³ H.R. 1022, 110th Cong. (2007).

¹¹⁴ See <http://www.pollingreport.com/guns.htm>.

¹¹⁵ *Id.*

¹¹⁶ Majority of U.S. adults favors continuing ban on sales of assault rifles, according to latest Harris poll, Sept. 24, 2004, available at: http://www.harrisinteractive.com/harris_poll/index.asp?PID=498 (last visited Oct. 3, 2008).

¹¹⁷ *Survey: 8 out of 10 Illinois voters favor banning assault weapons*, WBBM 780 NEWS, Chicago, IL, Mar. 22, 2007.

¹¹⁸ Numerous newspaper editorials and columnists are in favor of the reinstatement of an assault weapons ban. See, e.g., *Our leaders are fighting to bring back the national assault weapons ban*, DAILY PENNSYLVANIAN, May 29, 2008; Brian Scheid, *Rendell: Reinstate weapons ban*, BUCKS COUNTY COURIER TIMES, May 12, 2008; David Gambacorta, *In wake of Liczbinski slaying, a push for assault-weapon ban*,



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¹¹⁹ See Press Release, Brady Campaign to Prevent Gun Violence, Jim and Sarah Brady “Personally Offended” by Gun Lobby Efforts to Falsify Reagan Record (June 16, 2004) available at: <http://www.bradycampaign.org/media/release.php?release=565> (quoting letter from President Reagan).

¹²⁰ See Press Release, Brady Campaign to Prevent Gun Violence, Former Presidents Ford, Carter, Clinton Urge President Bush to Save the Assault Weapons Ban (June 7, 2004) available at: <http://www.bradycampaign.org/media/release.php?release=569>.



EXHIBIT 18

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

- (B) a handgun grip;
- (C) a fixed magazine with the capacity to accept more than 5 rounds;
- (D) a forward grip; or
- (E) a grenade, flare or rocket launcher.

(6) A semiautomatic handgun that has the ability to accept a detachable magazine and has one or more of the following:

- (A) the capacity to accept a detachable magazine at some location outside of the handgun grip;
- (B) a threaded barrel;
- (C) a barrel shroud; or
- (D) a second handgun grip.

(7) A semiautomatic version of an automatic handgun.

(8) A semiautomatic handgun with a fixed magazine that has the capacity to accept more than 15 rounds.

(9) A machine gun.

(10) All of the following rifles, including any copies or duplicates thereof with the capability of any such weapon:

(A) All AK types, including the following:

(i) AK, AK47, AK47S, AK-74, AKM, AKS, ARM, MAK90, MISR, NHM90, NHM91, Rock River Arms LAR-47, SA85, SA93, Vector Arms AK-47, VEPR, WASR-10, and WUM

(ii) IZHMAASH Saiga AK

(iii) MAADI AK47 and ARM

(iv) Norinco 56S, 56S2, 84S, and 86S

(v) Poly Technologies AK47 and AKS.

(B) All AR types, including the following:

(i) AR-10

(ii) AR-15

(iii) Armalite M15 22LR Carbine

(iv) Armalite M15-T

(v) Barrett REC7

(vi) Beretta AR-70

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- (vii) Bushmaster ACR
- (viii) Bushmaster Carbon 15
- (ix) Bushmaster MOE series
- (x) Bushmaster XM15
- (xi) Colt Match Target Rifles
- (xii) DoubleStar AR rifles
- (xiii) DPMS Tactical Rifles
- (xiv) Heckler & Koch MR556
- (xv) Olympic Arms
- (xvi) Remington R-15 rifles
- (xvii) Rock River Arms LAR-15
- (xviii) Sig Sauer SIG516 rifles
- (xix) Smith & Wesson M&P15 rifles
- (xx) Stag Arms AR rifles
- (xxi) Sturm, Ruger & Co. SR556 rifles.
- (C) Barrett M107A1.
- (D) Barrett M82A1.
- (E) Beretta CX4 Storm.
- (F) Calico Liberty Series.
- (G) CETME Sporter.
- (H) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR 110PC.
- (I) Fabrique Nationale/FN Herstal FAL, LAR, 22 FNC, 308 Match, L1A1 Sporter, PS90, SCAR, and FS2000.
- (J) Feather Industries AT-9.
- (K) Galil Model AR and Model ARM.
- (L) Hi-Point Carbine.
- (M) HK-91, HK-93, HK-94, HK-PSG-1, and HK USC.
- (N) Kel-Tec Sub-2000, SU-16, and RFB.
- (O) SIG AMT, SIG PE-57, Sig Sauer SG 550, and Sig Sauer SG 551.

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- (P) Springfield Armory SAR-48.
- (Q) Steyr AUG.
- (R) Sturm, Ruger Mini-14 Tactical Rifle M-14/20CF.
- (S) All Thompson rifles, including the following:
 - (i) Thompson M1SB
 - (ii) Thompson T1100D
 - (iii) Thompson T150D
 - (iv) Thompson T1B
 - (v) Thompson T1B100D
 - (vi) Thompson T1B50D
 - (vii) Thompson T1BSB
 - (viii) Thompson T1-C
 - (ix) Thompson T1D
 - (x) Thompson T1SB
 - (xi) Thompson T5
 - (xii) Thompson T5100D
 - (xiii) Thompson TM1
 - (xiv) Thompson TM1C.
- (T) UMAREX UZI Rifle.
- (U) UZI Mini Carbine, UZI Model A Carbine, and UZI Model B Carbine.
- (V) Valmet M62S, M71S, and M78.
- (W) Vector Arms UZI Type.
- (X) Weaver Arms Nighthawk.
- (Y) Wilkinson Arms Linda Carbine.

(11) All of the following handguns, including any copies or duplicates thereof with the capability of any such weapon:

- (A) All AK-47 types, including the following:
 - (i) Centurion 39 AK handgun
 - (ii) Draco AK-47 handgun

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- (iii) HCR AK-47 handgun
 - (iv) IO, Inc. Hellpup AK-47 handgun
 - (v) Krinkov handgun
 - (vi) Mini Draco AK-47 handgun
 - (vii) Yugo Krebs Krink handgun.
- (B) All AR-15 types, including the following:
- (i) American Spirit AR-15 handgun
 - (ii) Bushmaster Carbon 15 handgun
 - (iii) DoubleStar Corporation AR handgun
 - (iv) DPMS AR-15 handgun
 - (v) Olympic Arms AR-15 handgun
 - (vi) Rock River Arms LAR 15 handgun.
- (C) Calico Liberty handguns.
- (D) PSA SA58 PKP FAL handgun.
- (E) Encom MP-9 and MP-45.
- (F) Heckler & Koch model SP-89 handgun.
- (G) Intratec AB-10, TEC-22 Scorpion, TEC-9, and TEC-DC9.
- (H) Kel-Tec PLR 16 handgun.
- (I) The following MAC types:
- (i) MAC-10
 - (ii) MAC-11
 - (iii) Masterpiece Arms MPA A930 Mini Pistol, MPA460 Pistol, MPA Tactical Pistol, and MPA Mini Tactical Pistol
 - (iv) Military Armament Corp. Ingram M-11
 - (v) Velocity Arms VMAC.
- (J) Sig Sauer P556 handgun.
- (K) Sites Spectre.
- (L) All Thompson types, including the following:
- (i) Thompson TA510D

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(ii) Thompson TA5.

(M) All UZI types, including Micro-UZI.

(12) All of the following shotguns, including any copies or duplicates thereof with the capability of any such weapon:

(A) Franchi LAW-12 and SPAS 12.

(B) All IZHMASH Saiga 12 types, including the following:

(i) IZHMASH Saiga 12

(ii) IZHMASH Saiga 12S

(iii) IZHMASH Saiga 12S EXP-01

(iv) IZHMASH Saiga 12K

(v) IZHMASH Saiga 12K-030

(vi) IZHMASH Saiga 12K-040 Taktika.

(C) Streetsweeper.

(D) Striker 12.

(13) All belt-fed semiautomatic firearms, including TNW M2HB.

(14) Any combination of parts from which a firearm described in subparagraphs (1) through (13) can be assembled.

(15) The frame or receiver of a rifle or shotgun described in subparagraph (1), (2), (5), (9), (10), (12), (13), or (18).

(16) A sawed-off shotgun.

(17) A short-barrel rifle.

(18) A .50 caliber rifle.

(b) An “assault weapon” shall not include any firearm that:

(1) is manually operated by bolt, pump, lever, or slide action:

(2) has been rendered permanently inoperable. “Permanently inoperable” means a firearm which is incapable of discharging a projectile by means of an explosive and incapable of being restored to a firing condition; or

(3) is an antique firearm.

(c) For purposes of this definition of “assault weapon” the following terms apply:

(1) “barrel shroud” means a shroud that is attached to, or partially or completely encircles, the barrel of a firearm so that the shroud protects the user of the firearm from heat generated by the barrel. The term

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does not include (i) a slide that partially or completely encloses the barrel; or (ii) an extension of the stock along the bottom of the barrel which does not completely or substantially encircle the barrel.

(2) “detachable magazine” means an ammunition feeding device that can be removed from a firearm without disassembly of the firearm action.

(3) “fixed magazine” means an ammunition feeding device that is permanently fixed to the firearm in such a manner that it cannot be removed without disassembly of the firearm.

(4) “folding, telescoping, or detachable stock” means a stock that folds, telescopes, detaches or otherwise operates to reduce the length, size, or any other dimension, or otherwise to enhance the concealability, of a firearm.

(5) “forward grip” means a grip located forward of the trigger that functions as a handgun grip.

(6) “rocket” means any simple or complex tubelike device containing combustibles that on being ignited liberate gases whose action propels the device through the air and has a propellant charge of not more than 4 ounces.

(7) “grenade, flare or rocket launcher” means an attachment for use on a firearm that is designed to propel a grenade, flare, rocket, or other similar device.

(8) “handgun grip” means a grip, a thumbhole stock, or any other part, feature or characteristic that can function as a grip.

(9) “threaded barrel” means a feature or characteristic that is designed to allow for the attachment of a device such as a firearm silencer or a flash suppressor.

(10) “belt-fed semiautomatic firearm” means any repeating firearm that:

(i) utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round;

(ii) requires a separate pull of the trigger to fire each cartridge; and

(iii) has the capacity to accept a belt ammunition feeding device.

(11) “.50 caliber rifle” means a centerfire rifle capable of firing a .50 caliber cartridge. The term does not include any antique firearm, any shotgun including a shotgun that has a rifle barrel, or any muzzle-loader which uses black powder for hunting or historical re-enactments.

(12) “.50 caliber cartridge” means a fixed cartridge in .50 BMG caliber, either by designation or actual measurement, that is capable of being fired from a centerfire rifle. “.50 caliber cartridge” does not include any memorabilia or display item that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as live ammunition or shotgun ammunition with a caliber measurement that is equal to or greater than .50 caliber.

“Corrections officer” means wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of an offense.

“Department” means the department of police.

EB001198

“Duty-related firearm” shall mean any firearm which is authorized by any law enforcement agency or employer to be utilized by their personnel in the performance of their official duties.

“Firearm” means any device, by whatever name known, which is designed or restored to expel a projectile or projectiles by the action of any explosive, expansion of gas or escape of gas. Provided, that such term shall not include:

- (1) any pneumatic gun, spring gun, paint ball gun or B-B gun which either expels a single globular projectile not exceeding .18 inch in diameter and which has a maximum muzzle velocity of less than 700 feet per second or breakable paint balls containing washable marking colors;
- (2) any device used exclusively for line- throwing, signaling, or safety and required or recommended by the United States Coast Guard or Interstate Commerce Commission; or
- (3) any device used exclusively for firing explosives, rivets, stud cartridges, or any similar industrial ammunition.

“Firearm case” means any firearm case, carrying box, shipping box or other similar container that is designed for the safe transportation of the firearm.

“FOID” means the Firearm Owner's Identification Card issued pursuant to the Act.

“High capacity magazine” means a magazine, belt, drum, feed strip, or similar device, including any such device joined or coupled with another in any manner, that has an overall capacity of more than 15 rounds of ammunition. A “high capacity magazine” does not include an attached tubular device to accept, and capable of operating only with, .22 caliber rimfire ammunition.

“Laser sight accessory” means a laser sighting device which is either integrated into a firearm or capable of being attached to a firearm.

“Licensed shooting range facility” means a shooting range facility that is duly licensed pursuant to Chapter 4-151.

“Licensee of a licensed shooting range facility” or “licensee” means any person issued a shooting range facility license under Chapter 4-151.

“Machine gun” means any firearm which can fire multiple rounds of ammunition by a single function of the firing device or one press of the trigger.

“Peace officer” means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses.

“Sawed-off shotgun” means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun, whether by alteration, modification or otherwise, if such weapon, as modified, has an overall length of less than 26 inches.

“Short-barreled rifle” means a rifle having one or more barrels less than 16 inches in length, and any weapon made from a rifle, whether by alteration, modification, or otherwise, if such weapon, as modified, has an overall length of less than 26 inches.

EB001199

“Superintendent” means the superintendent of the department or his designated representative.

“Safety mechanism” means a design adaption or nondetachable accessory that lessens the likelihood of unanticipated use of the handgun.

“Trigger lock” means a device that when locked in place by means of a key, prevents a potential user from pulling the trigger of the firearm without first removing the trigger lock by use of the trigger lock’s key.

“Manager”, “Employee”, “Range Master”, “CCL”, “Shooting range patron” and “Shooting range facility” have the meaning ascribed to those terms in Section 4-151-010.

(Added Coun. J. 7-2-10, p. 96234, § 4; Amend Coun. J. 7-6-11, p. 3073, § 4; Amend Coun. J. 1-17-13, p. 45370, § 4; Amend Coun. J. 7-17-13, p. 57262, § 1; Amend Coun. J. 9-11-13, p. 59869, § 3)

8-20-085 High capacity magazines and certain tubular magazine extensions – Sale and possession prohibited – Exceptions.

(a) It is unlawful for any person to carry, possess, sell, offer or display for sale, or otherwise transfer any high capacity magazine or tubular magazine extension for a shotgun. This section shall not apply to corrections officers, members of the armed forces of the United States, or the organized militia of this or any other state, and peace officers, to the extent that any such person is otherwise authorized to acquire or possess a high capacity magazine or tubular magazine extension for a shotgun, and is acting within the scope of his duties, or to any person while in the manufacturing, transportation or sale of high capacity magazines or tubular magazine extension for a shotgun to people authorized to possess them under this section.

(b) Any high capacity magazine or tubular magazine extension for a shotgun carried, possessed, displayed, sold or otherwise transferred in violation of this section is hereby declared to be contraband and shall be seized by and forfeited to the city.

(Added Coun. J. 7-2-10, p. 96234, § 4; Amend Coun. J. 7-17-13, p. 57262, § 1)

EB001200

EXHIBIT 19

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

Statement of Professors of Constitutional Law: The Second Amendment and the Constitutionality of the Proposed Gun Violence Prevention Legislation

January 30, 2013

Several proposed reforms to the nation's gun laws, including universal background checks and restrictions on high-capacity ammunition magazines and assault weapons, are now pending before Congress. Concerns have been raised that these measures might violate the Second Amendment. We, the undersigned professors with expertise in constitutional law, write to address those concerns.

In 2008, the U.S. Supreme Court held that the Second Amendment, which provides, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed," guarantees an individual's right to have a functional firearm in the home for self-defense. The Court's decision in that case, *District of Columbia v. Heller*, struck down a D.C. law that effectively barred the use of any firearm for self-defense. The law is now clear that the government may not completely disarm law-abiding, responsible citizens. The Court also made clear, however, that many gun regulations remain constitutionally permissible. "Like most rights," the Court explained, "the right secured by the Second Amendment is not unlimited." Writing for the Court, Justice Antonin Scalia explained that restrictions on "dangerous and unusual" weapons are constitutional and that "nothing in our opinion should be taken to cast doubt" on laws that prohibit "the possession of firearms by felons or the mentally ill" or laws that impose "conditions and qualifications on the commercial sale of arms."

In this sense, Justice Scalia recognized in *Heller* that, like other constitutional rights, the Second Amendment is not an absolute. The First Amendment, for example, provides that "Congress shall make no law . . . abridging the freedom of speech," but the Supreme Court has long and consistently held that some types of speech – for example, defamation, obscenity and threats – can be regulated; that some people – for example, public employees, members of the military, students and prisoners – are subject to greater restrictions on their speech than others; and that the government can reasonably regulate the time, place and manner of speech. As Justice Scalia explained in *Heller*, the rights guaranteed by the Second Amendment are likewise subject to appropriate regulation in order to enhance public safety.

In acknowledging the presumptive constitutionality of laws designed to prevent gun violence, including restrictions on who has access to firearms and what types of

firearms they may have, *Heller* is consistent with the history of the right to keep and bear arms. The founding fathers who wrote and ratified the Second Amendment also had laws to keep guns out of the hands of people thought to be untrustworthy. Such laws were necessary to ensure that the citizen militia referenced in the Second Amendment was “well regulated.” In the 1800s, many states restricted the sale or public possession of concealable firearms. In the early twentieth century, the federal government restricted access to unusually dangerous weapons, such as machine guns, and states barred people convicted of certain felonies from possessing firearms. Laws such as these were routinely upheld by the courts, which recognized the legitimacy of legislative efforts to keep the most dangerous weapons out of the hands of the most dangerous people.

While the permissibility of any particular reform depends on its details, the reforms currently being considered by Congress are clearly consistent with the Second Amendment. We express no view on the effectiveness or desirability of the policies reflected in the various proposals, but we all agree that none infringes the core right identified by the Court in *Heller*.

Universal background checks, especially those conducted instantaneously through the National Instant Background Check System, do not impose a significant burden on law-abiding citizens. Yet background checks may provide an important safeguard against easy access to guns by members of criminal street gangs, other felons, and the mentally ill. As with other rights that have eligibility criteria, such as the right to vote, the right to keep and bear arms is not offended by neutral measures designed to ensure that only eligible, law-abiding citizens exercise the right. Moreover, background checks imposed at the point of sale are typical of the “conditions and qualifications on the commercial sale of arms” recognized by the Supreme Court in *Heller*.

Restrictions on the manufacture and sale of high-capacity ammunition magazines and assault weapons are also consistent with the Second Amendment. In a recent opinion authored by Judge Douglas Ginsburg and joined by Judge Karen Henderson, the U.S. Court of Appeals for the District of Columbia Circuit held that such regulations are consistent with the Second Amendment and with the Supreme Court’s decision in *Heller*. The court of appeals recognized such weapons and magazines are not necessary for individual self-defense – what *Heller* called the “core lawful purpose” of the Second Amendment. Restrictions on high-capacity magazines and assault weapons, the court of appeals held, do “not effectively disarm individuals or substantially affect their ability to defend themselves.” The Second Amendment, like the First Amendment, does not prevent lawmakers from enacting reasonable regulations that do not seriously interfere with the core right guaranteed by the Constitution.

The Supreme Court has clearly held that the Second Amendment preserves the right of law-abiding citizens to have a firearm in the home for self-defense. As both the historical tradition of the right to bear arms and the Court’s decision suggest,

reasonable and limited measures to enhance public safety that do not unduly burden that right are consistent with the Second Amendment.

Signed,

Bruce Ackerman
Sterling Professor of Law and Political Science, Yale Law School

Albert W. Alschuler
Julius Kreeger Professor Emeritus, The University of Chicago Law School

Mitchell N. Berman
Richard Dale Endowed Chair in Law, The University of Texas School of Law

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University affiliation provided for identification purposes only.

EXHIBIT 20

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction



Woman Wrestled Fresh Ammo Clip From Tucson Shooter as He Tried to Reload

TUCSON, Ariz. Jan. 9, 2011

By KEVIN DOLAK and JUSTIN WEAVER via WORLD NEWS

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Team of Heroes Takes Down Arizona Gunman

NEXT VIDEO
Female Hero Stopped Shooter From Reloading

AUTO START: ON | OFF

Patricia Maisch looks like a grandmother, but she is being hailed as a hero today for helping to stop alleged Tucson shooter Jared Loughner by wresting away a fresh magazine of bullets as he tried to reload.

Maisch, 61, effectively disarmed the shooter as several men pounced on him and threw him to ground. As they struggled to hold him down, Maisch joined the scrum on the ground, clinging to the gunman's ankles.

Maisch and her fellow heroes -- identified as Bill Badger, Roger Sulzgeber and Joseph Zamudio -- stopped the carnage after 20 people were shot, including Rep. Gabrielle Giffords. Six people died.

"[I] knew right away it was a gun... I heard a continuation of shots," Maisch told a news conference today.

Maisch, who has a crown of snow-white hair, was standing towards the back of the line to greet and snap a photo with Giffords at the "Congress in Your Corner" event at a Safeway grocery store.

Speaking to the press today, Maisch recalled how she stopped Loughner as he tried to reload his Glock 9 mm weapon.

"I could see him coming. [He] shot the lady next to me," Maisch said.

As he was shooting, she said, she was expecting to be hit and she wondered what it would feel like.

There was "lots of blood and confusion," she said.

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She considered trying to run away, she said, but thought that would make her more of a target, so she laid down on the ground. But then something unexpected happened.

"Then he was next to me on the ground," she said. "The gentleman knocked him down.

"I kneeled over him. He was pulling a magazine [to reload] and I grabbed the magazine and secured that. I think the men got the gun, and I was able to get the magazine," she said.

Maisch said Badger and Sulzgeber both sat on the gunman while she held his ankles down. Police said that Zimudie helped by hanging on to Loughner's legs.

Sulzgeber was reportedly standing with his wife, third in line to meet with Giffords, while Zimudie was in the nearby Walgreens and came running out once he heard the shooting.

"I thought I would be shot. I am thankful for those two brave men," Maisch said. "I am not a hero. The other guys are. I just assisted getting the clip."

Badger, a 74-year-old retired army colonel living in Tucson, told Pottsville, Pa.'s Republican-Herald how he helped capture Loughner, and that he was grazed in the back of the head by a bullet.

The Heroes of the Tucson Shooting

"I heard the shots but I thought they were fireworks at first," Badger told the newspaper. "I wasn't sure they were shots until I actually saw the shooter, and I was sure he was really shooting bullets when I felt the sting on the back of my head."

According to Badger, who the Republican-Herald confirmed was treated for an injury at a hospital, he was the first person standing next to a row of chairs leading to Giffords when the first shots rang out.

Badger told the paper, "I turned and saw him running down the line of people on the chairs. He ran between me and the store. Someone hit him with a chair and he flinched a little. That's when I grabbed his left arm. Someone grabbed his right arm and we got him to the ground.

"The other guy put his knee into the back of his neck and I grabbed him around the throat. We held him until police got there. While we had him on the ground I saw blood running and it wasn't until then I realized it was coming from the back of my head," Badger said.

Speaking outside her home this evening, Maisch said that when she noticed that one of the men was bleeding from the head, she ran into the Safeway to get paper towels.

"I put a compress on the man's head while he was securing the shooter," she said.

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Courtesy Shawn and Jennea Gordley



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EXHIBIT 21

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction



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Sandy Hook Shooter's Pause May Have Aided Students' Escape

Detectives reviewing Lanza's psychiatric records

December 23, 2012 | By EDMUND H. MAHONY, DAVE ALTIMARI and JON LENDER, daltimar@courant.com, The Hartford Courant

As many as a half-dozen first graders may have survived Adam Lanza's deadly shooting spree at Sandy Hook Elementary School because he stopped firing briefly, perhaps either to reload his rifle because it jammed, according to law enforcement officials familiar with the events.

A source said that the Bushmaster rifle that Lanza used in the shootings is at the state police forensic laboratory undergoing several tests, including tests to determine whether it was jammed.



A Bushmaster semi-automatic rifle, similar to the type used by Adam Lanza... (MICHELLE MCLOUGHLIN, REUTERS)

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The children escaped from the first-grade classroom of teacher Victoria Soto, one of the six educators Lanza killed in Newtown after shooting his way through a glass door with the .223-caliber semiautomatic rifle on the morning of Dec. 14.

On Friday, detectives obtained and began examining records related to psychiatric care Lanza had received in an attempt to determine a motive. Several friends of his mother have said that he suffered from Asperger's syndrome but authorities have not confirmed that or indicated it had anything to do with the shootings.

Lanza killed 27 people — 20 children, four teachers, the school principal, a school psychologist and his mother, Nancy — before shooting himself in the head as police began arriving at the school.

The arriving officers encountered a shocking scene in Soto's classroom. Lanza had shot her, as well as special education teacher Anne Marie Murphy and six of Soto's 6- and 7-year old students. Seven of Soto's students were found huddled and unharmed in a classroom closet, apparently hidden by Soto when she heard shooting. The other students fled the classroom.

Based on initial statements from surviving children and the fact that unfired bullets from Lanza's rifle were found on the ground, detectives suspect that some students were able to run to safety when Lanza stopped firing, probably for a short period of time, the officials said.

It is possible that Lanza, who reloaded the rifle frequently, mishandled or dropped a magazine and unfired bullets fell to the floor, they said.

But it also is possible, they said, that the mechanism that fed bullets into the rifle jammed, causing Lanza to remove the magazine and clear the weapon. Unfired bullets could have fallen to the classroom floor during that process as well, law enforcement officials said.

The six children who escaped Lanza's rampage ran to a home a short distance from the school. Upon reaching the home, one of the boys told the owner that "we obeyed the rules, we stayed on the sidewalk," one of the officials said.

The authorities have learned generally from the children who ran away that something may have happened to Lanza's rifle that caused him to stop firing. The substance of the statements, which are not entirely consistent, is that a piece of the weapon, probably a magazine holding live bullets, was dropped or fell to the classroom floor.

Investigators have decided not to formally interview the children, based on advice from Yale child psychologists. Given the chaotic nature of the scene, it is also possible that some children escaped while Lanza was shooting others in the room.

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State police are expected to wrap up work at the school and release the school as a crime scene in the next few days. They still are trying to determine how many shots Lanza fired.

Lanza killed himself in Soto's classroom with one of the two pistols he carried into the building. He killed himself as police entered the building.

Police found a loaded 20-round shotgun in the trunk of the car similar to what is known as a "street sweeper." Police believe that Lanza didn't bring it into the school because he couldn't carry all of the weapons and ammunition. Lanza, who was about 6 feet tall, weighed barely 110 pounds, law enforcement sources said.

The few people who knew Lanza have portrayed him in the days since the mass shootings as an awkward, emotionally isolated, withdrawn young man. He attended public schools in Newtown, but at times was home-schooled by his mother, who was said by authorities and others to be the only person with whom he was socially engaged.

Lanza lived with his mother. He had two bedrooms and used one of them to keep computer equipment on which he is said to have enjoyed playing video games involving violent war games.

Before the shootings at the elementary school, Lanza shot his mother four times with a .22-caliber rifle as she lay in bed. He left the rifle at the house. All the guns were properly registered to Nancy Lanza.

Adam Lanza also broke apart his computer equipment in a way that has prevented authorities from retrieving data that could reveal with whom he may have corresponded or played video games.

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EXHIBIT 22

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

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SAN FRANCISCO POLICE CHIEF GREG SUHR
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 SAN FRANCISCO VETERAN POLICE
OFFICERS ASSOCIATION, LARRY
14 BARSETTI, RAINERIO GRANADOS,
ARTHUR RITCHIE, and RANDALL LOW,

15 Plaintiffs,

16 vs.

17 THE CITY AND COUNTY OF SAN
FRANCISCO, THE MAYOR OF SAN
18 FRANCISCO, EDWIN LEE in his official
capacity, THE CHIEF OF THE SAN
19 FRANCISCO POLICE DEPARTMENT,
GREG SUHR, in his official capacity, and
20 DOES 1-10,

21 Defendants.
22
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28

Case No. CV 13-5351 WHA

**CITY AND COUNTY OF SAN FRANCISCO'S
OPPOSITION TO PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

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INTRODUCTION

Large-capacity magazines make guns more deadly by allowing a shooter to fire a large number of bullets without pausing to reload. They have been shown in study after study to increase the lethality of criminal attacks where they are used, especially in public mass-shootings, yet all available empirical evidence shows that they are almost never used for self-defense purposes. For that reason, they have been restricted in many jurisdictions, including in the State of California since 2000 under a law that Plaintiffs do not challenge here.

The Second Amendment is compatible with the reasonable regulation of firearms. Under the test applied by nearly all circuits since *Heller v. District of Columbia*, 554 U.S. 570 (2008), including the Ninth Circuit, intermediate scrutiny is appropriate for most firearms regulations except those that lay a heavy burden on the core right to keep and bear arms for self-defense. San Francisco’s Police Code § 619 is not such a regulation. It leaves San Franciscans free to defend themselves with any gun of their choosing and limits only the kind of magazine they use to equip that gun. Because this insubstantial burden serves San Francisco’s objective of reducing the supply and use of a deadly item, San Francisco’s large-capacity magazine ban is constitutional. This Court should deny Plaintiffs’ request for a preliminary injunction.

STATEMENT OF FACTS

Large-capacity magazines (“LCMs”) are detachable ammunition boxes or drums that contain more than 10 rounds of ammunition and feed that ammunition into a semiautomatic firearm, whether a handgun or a long gun. S.F. Police Code § 619(b) (Declaration of Christine Van Aken (“Van Aken Dec.”), Ex. 1); Declaration of Christopher S. Koper (“Koper Dec.”) ¶ 5. A semiautomatic firearm fires one bullet for each pull of the trigger and then automatically loads the next round in preparation for the next shot. *Id.* at 3 n.5. Semiautomatic firearms that accept a detachable magazine can be equipped either with an LCM or with a standard-capacity magazine containing 10 rounds or fewer. S.F. Police Code § 619(a)(4); Declaration of SFPD Captain David S. Lazar (“Lazar Dec.”) ¶ 10.

I. History of Large-Capacity Magazine Restrictions

Large-capacity magazines have been extensively regulated in the United States for decades. In 1989, the U.S. Department of the Treasury, charged with developing guidelines for which firearms

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1 could be imported into the United States, determined that the ability to accept a large-capacity
2 detachable magazine was a signature characteristic of military firearms, and that detachable LCMs did
3 not serve any sporting purpose. U.S. Dep’t of the Treasury, *1989 Report and Recommendation of the*
4 *ATF Working Group on the Importability of Certain Semiautomatic Rifles*, July 6, 1989, at 6¹ (Van
5 Aken Dec., Ex. 2); U.S. Dep’t of the Treasury, *Study on the Sporting Suitability of Modified*
6 *Semiautomatic Assault Rifles*, Apr. 1998, at 3 (Van Aken Dec., Ex. 3). It prohibited importation of
7 certain rifles on the basis of that and other findings detailed in its reports. Koper Dec. ¶ 38 n.18.

8 During the 1980s and 1990s, assault weapons were used in a number of notorious mass
9 shootings, including several in California. Koper ¶ 9.² Concerned about these events and increasing
10 reports of drug dealers and other criminals using assault weapons and LCMs, Congress passed the
11 federal Violent Crime Control and Law Enforcement Act, in September 1994. *See* H.R. Rep. 103-489,
12 at 32-33 (1994) (Van Aken Dec., Ex. 4). This statute prohibited the possession or transfer of all
13 “large-capacity ammunition feeding devices,” defined as those with the capacity to accept more than
14 10 rounds, except those lawfully possessed at the time of the bill’s enactment.³ *See* Pub. L. 103-322,
15 Sept. 13, 1994, 108 Stat. 1796, 1998-2000 (formerly codified at 18 U.S.C. § 922(w)). The law, which
16 also prohibited the possession or transfer of assault weapons (except for those manufactured before
17 1994) expired by its own terms in 2004. *Id.*, 108 Stat. at 2000.

18 But in 2000, before the federal ban expired, California adopted its own legislation prohibiting
19 the manufacture, import, keeping or offering for sale, giving, or lending of large-capacity magazines.
20 Cal. Stats. 1999, ch. 129, §§ 3, 3.5 (Ex. 5 to Van Aken Dec.), presently codified at Cal. Penal Code
21 § 32310. This prohibition is more restrictive than the federal ban in that it does not permit people who
22 lawfully possessed large-capacity magazines in 2000 to transfer them within California. Thus, under
23 the combined effect of federal and state law, the only large-capacity magazines that are lawfully
24

25 ¹ All exhibit page references are to the document’s internal pagination, where available.

26 ² The term “assault weapons” generally includes semiautomatic pistols, rifles, and shotguns
with military features. *See* Koper Dec. ¶ 6 n.6.

27 ³ Plaintiffs contend that San Francisco’s use of the term “large-capacity magazines” in its
28 ordinance and presumably in this brief is “pejorative[.]” and that this is a “term[.] of opprobrium.”
at 5:5-8. But the term is a common one that has been used in federal and state law for decades.

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1 possessed in San Francisco by civilians were manufactured before 1994 and acquired by someone
2 living in California before 2000, or by someone in connection with law enforcement service between
3 2000 and the present. The City is aware of no estimates of how many large-capacity magazines are
4 lawfully possessed in San Francisco, but they are surely few. *See* Zimring Decl. ¶ 14.

5 The federal government, California, and San Francisco are not alone in restricting the supply of
6 large-capacity magazines. Prior to 2013, at least eight other jurisdictions restricted the possession or
7 sale of ammunition magazines on the basis of capacity.⁴ In 2013, after the horrific December 2012
8 Sandy Hook Elementary School shooting, in which 20 first-graders were murdered by a shooter armed
9 with an assault weapon and several large-capacity magazines,⁵ four states and several local
10 governments tightened their LCM restrictions or enacted new restrictions.⁶ The United States
11 Congress also considered two bills to restrict large-capacity magazines, but these bills failed. *See*
12 Weisman, “Senate Blocks Drive for Gun Control,” *N.Y. Times*, Apr. 17, 2013 (Van Aken Dec., Ex.
13 16). Many of the restrictions that states successfully enacted have been challenged by gun-rights
14 advocates in court, but all have withstood these challenges to date. *See infra* Section II.A.

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16
17 ⁴ *See* Haw. Rev. Stat. § 134-8(c) (prohibiting possession of LCMs capable of use with pistols);
18 Mass. Gen. Laws Ann. ch. 140, §§ 121, 131M (enacted as 1998 Mass. Stats. ch. 180, § 8) (prohibiting
19 sale or possession of LCMs); 2002 Md. Sess. Laws ch. 26, § 2 (excerpted at Van Aken Dec., Ex. 6, at
20 2) (prohibiting sale of magazine with capacity of more than 20 rounds); N.J. Stat. Ann. §§ 2C:39-1(y),
21 39-3(j) (prohibiting possession of magazines with capacity of more than 15 rounds except magazines
22 grandfathered under 1990 law); 2000 N.Y. Sess. Laws ch. 189, § 11 (Van Aken Dec., Ex. 7, at 14)
(prohibiting LCMs except those manufactured before September 13, 1994); City of Rochester, N.Y.,
City Code No. 47-5 (prohibiting possession of pistol magazines containing more than 17 rounds or
rifle magazines containing more than five rounds) (Van Aken Dec., Ex. 8, at 4, 7); D.C. Code § 7-
2506.01 (prohibiting possession of LCMs); Chicago, Ill. Muni. Code §§ 8-20-010, 8-20-075
(prohibiting possession of magazines with capacity greater than 15 rounds) (Van Aken Dec., Ex. 9).

23 ⁵ *See Report of the State’s Attorney for the Jud. Dist. of Danbury on the Shootings at Sandy*
Hook Elementary School, Nov. 25, 2013 (“*Sandy Hook Report*”), at 1-2 (Van Aken Dec., Ex. 10).

24 ⁶ *See* 2013 Colo. Stats. H.B. 13-1224 (Van Aken Dec., Ex. 11) (prohibits magazines with
25 capacity to hold more than 15 rounds; grandfathers previously possessed magazines); 2013 Conn. Acts
26 P.A. 13-3, § 23 (Reg. Sess.) (Van Aken Dec., Ex. 12) (prohibits LCM possession except those owned
27 prior to the ban and registered with state authorities); 2013 Md. Sess. Laws ch. 427, § 1 (Van Aken
28 Dec., Ex. 13, at 15) (reducing magazine restriction to 10-round capacity); 2013 N.Y. Sess. Laws ch. 1,
§§ 38, 41-b (Van Aken Dec., Ex. 14, at 20, 22) (prohibiting LCM possession; eliminating
grandfathered exceptions); *see also* Sunnyvale, Cal., Muni. Code § 9.44.050 (prohibiting possession of
LCMs) (Van Aken Dec., Ex. 15); Cook County, Ill. Muni. Code § 54-212 (prohibiting possession of
LCMs).

II. The Use of Large-Capacity Magazines Increases the Lethality of Criminal Attacks

The case for restricting large-capacity magazines, as these many jurisdictions have done, is simple. By increasing the number of bullets that a shooter can quickly and easily fire, these oversized magazines increase the potential lethality of criminal attacks. S.F. Police Code § 619 (a)(5); Koper Dec. ¶ 7; Declaration of Franklin E. Zimring (“Zimring Dec.”) ¶¶ 16, 19; H.R. Rep. 103-489, *supra*, at 35. It cannot be seriously disputed that a shooter using a semiautomatic weapon equipped with an LCM can fire off a large number of rounds faster than a shooter who must reload several times to achieve the same number of discharges. *See* Declaration of Massad Ayoob (“Ayoob Decl.”) ¶¶ 28-29.

No doubt for that very reason, large-capacity magazines are the accessory of choice for shooters bent on maximum destruction, such as Gian Luigi Ferri, who used semiautomatic pistols equipped with large-capacity magazines to kill nine people and wound six people at the San Francisco law offices of Pettit and Martin in 1993. Koper Dec. ¶ 9. Indeed, there is a remarkably high correlation between mass shootings and the use of LCMs. *Id.* ¶¶ 9-10; Zimring Dec. ¶ 18. In the last thirty years, in instances of mass shootings where the magazine capacity used by a killer could be determined, researchers found that 86% of the mass shootings involved a large-capacity magazine. Koper Dec. ¶ 14; *see also* Declaration of Lucy P. Allen (“Allen Dec.”) at ¶ 17 (85% correlation).

Mass shootings involving LCMs are more lethal than other mass shootings. In cases where an oversized magazine was used, an average of about four more people were killed in each shooting and an average of about nine more people were wounded compared to shootings using standard-capacity magazines. Koper Dec. ¶ 20. These differences are statistically significant. *Id.* Other studies have confirmed the dramatically enhanced violent power of LCMs. Dr. Allen found an average of 22 fatalities or injuries per mass shooting with a large-capacity magazine compared to only nine without. Allen Dec. ¶ 14. Another study found that use of LCMs and assault weapons in recent mass shootings was associated with a 151% increase in number of people shot and a 63% increase in deaths. *See* Mayors Against Illegal Guns, *Analysis of Recent Mass Shootings*, Sept. 2013, at 3 (Van Aken Dec., Ex. 35).

The same pattern holds for other crimes. Large-capacity magazines are disproportionately used in the murders of law-enforcement officers. Prior to 2004, a time when about 20% of handguns

1 and long guns were equipped with LCMs, LCMs were used in somewhere between 31% to 41% of
2 gun murders of police. Koper Dec. ¶ 18 & Ex. D at 160, 162. Indeed, across all kinds of gun attacks,
3 those committed with semiautomatic weapons, including LCMs, tend to result in more shots fired,
4 more people wounded, and more wounds per victim than attacks with other weapons. Koper Dec.
5 ¶¶ 21-26. These results have been confirmed in multiple studies. *Id.* There is also evidence
6 suggesting that the particularly large ammunition capacities of assault weapons, along with their
7 military-style features, have special attraction for criminals, who purchase them at higher rates than
8 those without criminal histories or arrest records. Koper Dec. ¶ 11 & Ex. C at 17.

9 Facing an offender equipped with a large-capacity magazine is a particularly dangerous event
10 for a police officer. Lazar Dec. ¶ 8. When a shooter pauses, even briefly, to reload a weapon, police
11 officers have the chance to take tactical action, such as by advancing or taking cover. A shooter who
12 does not have to reload does not give police that opportunity. *Id.*; Van Aken Dec. Ex. 18 (media
13 accounts where shooters were subdued by police or bystanders during reloading). The danger that
14 LCMs pose to police officers in San Francisco is not hypothetical. San Francisco police officers have
15 been shot at and murdered by shooters with LCMs. Lazar Dec. ¶¶ 8-9 & Ex. A.

16 In addition to the immense human toll of gun murders committed using LCMs, every act of
17 gun violence results in high social costs. The lifetime medical costs per gunshot injury are nearly
18 \$30,000, and studies estimate the full societal costs from gun violence to be \$1 million per shooting.
19 Koper Dec. ¶¶ 53-54. If these estimates are correct, then even a 1% reduction in shootings nationally
20 could result in hundreds of millions of dollars in savings. *Id.* ¶ 54.

21 **III. Plaintiffs’ Evidence Does Not Rebut This Showing of Increased Lethality**

22 To combat any claim that LCMs are more dangerous than standard-capacity magazines,
23 Plaintiffs offer the declaration of criminologist Gary Kleck. Because this is the only evidence that
24 Plaintiffs offer that relies on social science evidence, it bears special attention.

25 Dr. Kleck’s work on guns and gun violence has been widely discredited in other contexts. He
26 has famously estimated that 2.5 million Americans use a gun defensively against a criminal attacker
27 each year. *See* Cook et al., “The Gun Debate’s New Mythical Number: How Many Defensive Uses
28 Per Year?”, *J. of Pol’y Analysis & Mgmt*, Vol. 16, No. 3, 1997, at 463 (Van Aken Dec., Ex. 19). This

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1 estimate, based on self-reported survey responses, is unreliable. For instance, the survey numbers that
2 Dr. Kleck relied on show 132,000 perpetrators killed or wounded by defenders every year—
3 approximately the same number of people whom hospitals report were killed by gunshots or received
4 treatment for gunshot wounds each year. *Id.* at 465. It cannot be that every gunshot is a self-defense
5 gunshot. Also according to these survey numbers, more guns are wielded to defend against rapes each
6 year than there are actual rapes or attempted rapes each year. *Id.* at 466. It turns out that asking
7 people about their subjective experiences of using guns is just not a very reliable social science
8 method. For that reason, Dr. Kleck’s claim about defensive gun use has been called an “outrageous
9 number” with “no reasonable basis.” *Id.* at 463 (internal quotation marks omitted). “All attempts at
10 external validation [have] reveal[ed] it to be a huge overestimate.” Hemenway, *Private Guns, Public*
11 *Health*, 2004, at 67 (excerpt at Van Aken Dec., Ex. 20).

12 Dr. Kleck’s analysis is no more reliable in this case. His declaration attempts to show, for
13 instance, that LCMs are not often used in mass shootings, and he states that, of the 57 mass shootings
14 between 1994 and July 2014 that he studied, “no LCM was used in . . . 35 incidents (or about 61%).”
15 Kleck Dec. ¶ 14. This is a deeply misleading assertion: A review of the appendix to Dr. Kleck’s
16 declaration reveals that his dataset of mass shootings included only *three* incidents where a magazine
17 of standard capacity was used, 30 incidents where magazine capacity was *unknown*, and 22 incidents
18 where a large-capacity magazine was known to be used. *Id.* at pp. 14-36. In other words, when Dr.
19 Kleck tells the Court that LCMs were not used in 35 incidents, what he means is that either LCMs
20 were not used or magazine capacity was not reported. If one only counts instances where magazine
21 capacity is known, the figure is 22 out of 25 incidents, or 88%.

22 Dr. Kleck also argues that magazine capacity does not make a difference because shooters in
23 mass killings do not achieve rates of fire that are any faster than they could achieve by reloading a new
24 magazine. Kleck Dec. ¶¶ 18-19 & p. 13. This, too, is specious. Dr. Kleck bases his rate-of-fire
25 estimates on media accounts of the number of shots and the length of shooting. But he includes in his
26 dataset several instances where the shooter was known not to have fired continuously but to have
27 walked from place to place during the event to seek out more victims, such as the 2012 Sandy Hook
28 Elementary School shooting and the 2007 Virginia Tech massacre. *See Sandy Hook Report, supra*, at

1 1-2; *Mass Shootings at Virginia Tech: Report of the Review Panel*, Aug. 2007, at 27-28 (Van Aken
2 Dec., Ex. 21). Thus, even assuming that media accounts of the duration of events like these are
3 reliable, Dr. Kleck’s rate-of-fire estimate is simply not an approximation of how fast a mass shooter
4 with a large-capacity magazine can fire. And if it were, it would be contradicted by the account
5 Plaintiffs offer from Massad Ayoob, who reports, “A highly skilled police officer or competitive
6 shooter may be able to accomplish a reload in two seconds. Most people take considerably longer;
7 especially someone who is under the mental duress typically experienced during an attack.” Ayoob
8 Dec. ¶ 27. “By contrast, simply pulling the trigger again on a pistol that still has more ammunition in
9 it can be accomplished in a fraction of a second.” *Id.* ¶ 28.

10 Most importantly, Dr. Kleck’s central contention—that use of LCMs almost never makes a
11 difference in the lethality of mass shootings—is wrong. He asserts that magazine capacity makes a
12 difference to injuries or deaths only where the shooter possesses only one gun and only one LCM,
13 since shooters who have more than one gun or magazine could simply switch guns or magazines to
14 keep firing. Kleck Dec. ¶ 14. He reports that there have been no such cases since 1994. *Id.* There are
15 many problems with this analysis. First, Dr. Kleck is wrong that shooters infrequently have only one
16 gun; Dr. Lucy Allen’s analysis showed a single gun in 41% of mass shooting incidents. Allen Dec.
17 ¶ 17. Dr. Kleck apparently used an incomplete dataset, as he did not include a number of the single-
18 gun incidents that Dr. Allen found using the very well-publicized *Mother Jones* dataset. *Compare*
19 Allen Dec. table 1 (listing, for example, single-gun shootings in 2013 in Hialeah, Florida; and
20 Herkimer, New York) *with* Kleck Dec. at p. 35 (reporting no mass shootings in 2013). Second, Dr.
21 Kleck offers no reason why it is just as fast to switch guns or magazines as it is to keep shooting with
22 the same magazine, and the Ayoob Declaration contradicts that view. Ayoob Dec. ¶¶ 27-28. Third,
23 Dr. Kleck misses the forest for the trees: His narrow criteria for when an LCM matters *exclude the*
24 *single incident where he admits that a shooter was tackled while reloading*—that is, where actual
25 events proved that magazine capacity mattered—because that shooter had three guns and three LCMs.
26 Kleck Dec. ¶ 15; *id.* at p. 17. Plainly, real life demonstrates that Dr. Kleck’s criteria for materiality of
27 LCM use are too narrow.

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1 And indeed, real life demonstrates this in many more instances. The shooter who wounded
 2 Gabrielle Giffords and killed six others, including a federal judge, was tackled by bystanders while he
 3 was reloading, according to first-hand accounts of the incident. Dolak & Weaver, *Woman Wrestled*
 4 *Fresh Ammo Clip from Tucson Shooter as He Tried to Reload*, ABC News, Jan. 9, 2011 (Van Aken
 5 Decl., Ex. 22).⁷ In addition to the 1998 Oregon mass shooting where Dr. Kleck acknowledges the
 6 shooter was subdued while reloading, Kleck Dec. ¶ 15, the 1993 Long Island Railroad commuter train
 7 shooter was tackled as he attempted to load a fresh 15-round LCM in his pistol. *See* H.R. Rep. No.
 8 103-322, *supra*, at 33.⁸ And law enforcement sources have stated that a half-dozen children may have
 9 been able to escape from Sandy Hook Elementary School while the shooter was switching magazines.
 10 Mahoney *et al.*, “Sandy Hook Shooter’s Pause May Have Aided Students’ Escape,” *Hartford Courant*,
 11 Dec. 23, 2012 (Van Aken Dec., Ex.) at 1;⁹ *see also* Declaration of John J. Donohue III (“Donohue
 12 Decl.”) ¶ 11 & n.4 (families estimate 11 children saved during Newtown shooter’s reloading).

13 Mass shootings are not the only instances where a killer’s pause to reload has saved lives. In
 14 less well-known incidents where multiple bullets are fired but fatalities are fewer, there are many
 15 occasions where shooters have been subdued while reloading. *See* Van Aken Dec., Ex. 18 (media
 16 reports concerning 42 such incidents). In a case challenging New York State’s LCM ban last year, Dr.
 17 Kleck filed a declaration claiming, inconsistently with his declaration in this case, that he knew of only
 18 one mass shooting event where bystanders had intervened, the 1993 L.I.R.R. shooting described
 19 above, and that “[b]ystander intervention was feasible in that case *only because of its unique location*,”
 20 *i.e.* on a train where bystanders were forced to remain close to the shooter. Declaration of Gary Kleck,
 21 Dkt. 23-9, *NYSRPA v. Cuomo*, Civil No. 1-13-cv-00291, at 4 (Van Aken Dec., Ex. 38) (emphasis
 22 added). The 42 accounts San Francisco has located where bystanders or police intervened during a
 23

24 ⁷ Notably, this event, too, is excluded from Dr. Kleck’s account of cases where LCM use was
 25 material because the shooter had four magazines.

26 ⁸ This shooter had multiple magazines as well. *See* Clines, “Death on the L.I.R.R.,” *New York*
 27 *Times*, Dec. 9, 1993 (Van Aken Dec., Ex. 23).⁹ These officials attributed the children’s escape either to
 28 the shooter’s pause to reload or to a jammed rifle. But the rifle was later tested and functioned
 properly. *Sandy Hook Report, supra*, 22.

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 jammed rifle. But the rifle was later tested and functioned properly. *Sandy Hook Report, supra*, 22.

1 shooter's reloading, in a wide variety of locations, demonstrates that Dr. Kleck's understanding is
2 deeply mistaken.

3 Finally, Dr. Kleck offers no evidence to contradict Dr. Koper's and Dr. Allen's empirical
4 evidence that mass shootings with LCMs, or indeed any kinds of crimes committed with LCMs, result
5 in more fatalities and more injuries than with standard-capacity magazines.

6 **IV. Large-Capacity Magazines Are Not Useful for Self-Defense in the Home**

7 There is no credible evidence whatsoever that prohibiting San Franciscans from using large-
8 capacity magazines will impact their ability to defend themselves. The direct case that Plaintiffs make
9 that civilians need military or police firepower in the home is based solely on a handful of anecdotes
10 from across the country, most of them decades old, some of them involving police action or offensive
11 action by the shooter, and nearly all occurring outside the home. *See* Ayoob Decl. ¶¶ 5-9 & n.3; Van
12 Aken Dec., Exs. 25 (Gonzalez account: 1997); 26 (Neel account: 1994; Neel decided to come to the
13 aid of a police officer); 27 (Honeycutt account: 2004; Honeycutt fired 15 rounds at close range into
14 someone who "approach[ed] with a gun).

15 But Plaintiffs present no evidence whatsoever that such occurrences are widespread, and the
16 great weight of the evidence is to the contrary. Even Dr. Kleck has admitted elsewhere that most
17 criminal uses of guns, and most defensive uses of guns, result in few if any shots fired. Kleck, *Point*
18 *Blank: Guns & Violence in America* (1991) (2d paperback ed. 2009), at 111 (Van Aken Dec., Ex. 28)
19 ("Only a tiny fraction of criminal gun assaults involves anyone actually being wounded, even
20 nonfatally, and one would expect the same to be true of defensive gun uses").¹⁰ Gun-rights supporters
21 maintain databases of "self-defense stories" to illustrate the need for firearms in the home, but these
22 stories only illustrate that rarely are more than a few shots fired. Allen Dec. ¶ 7. Dr. Allen's analysis
23 of this database for the last three years showed an average of 2.1 bullets fired by defenders, and there
24 were *no* incidents where the defender reporting firing more than 10 bullets. *Id.* ¶ 9. And an analysis
25 of earlier "self-defense stories" printed on a pro-gun website reported that "the average and median

26 _____
27 ¹⁰ Dr. Kleck is reported elsewhere by Harvard public health specialist David Hemenway as
28 stating, "There is little or no need for a gun for self-protection [for most Americans] because there's so
little risk of crime. People don't believe it, but it's true. You just can't convince most Americans
they're not at serious risk." Hemenway, *Private Guns, supra*, at 64. EB001232

1 number of shots fired was 2,” and that “[r]eloading was required in only 3 incidents,” one of which
 2 involved an escaped lion. Werner, *The Armed Citizen: A Five-Year Analysis* (Van Aken Dec., Ex. 29,
 3 at 3-4). Even where a defender faced multiple offenders, only a few shots were needed. In fact, “[t]he
 4 most common responses of criminals upon being shot were to flee immediately or expire. With few
 5 exceptions, criminals ceased their advances immediately upon being shot. Even small caliber
 6 handguns displayed a significant degree of instant lethality (30 per cent immediate one shot kills)
 7 when employed at close range.” *Id.* at 4. Plaintiffs’ witness Massad Ayoob has said much the same
 8 thing. Although the declaration he filed in this case insists that LCMs are needed for self-defense, in
 9 his 2012 book, the *Gun Digest Book of Concealed Carry*, Ayoob writes, “The bottom line is, it’s not
 10 about ‘what gun you have,’ so much as it’s about ‘did you have a gun?’” (Van Aken Dec., Ex. 30.)

11 Indeed, LCMs can be a hazard to bystanders when employed by home defenders. As one
 12 police official said, “because of the potential harm to others in the household, passersby, and
 13 bystanders, too much firepower is a hazard. Indeed, in most self-defense scenarios, the tendency is for
 14 defenders to keep firing until all bullets have been expended.” Brady Ctr. to Prevent Gun Violence,
 15 *Assault Weapons: Mass Produced Mayhem*, 2008, p. 16 (Van Aken Dec., Ex. 31); *see Lazar Dec.* ¶ 6.

16 The risk that home defenders will fire too many shots with LCMs seems to be one that
 17 Plaintiffs obliquely admit when they argue that home defenders need LCMs because they miss so
 18 often. Dr. Kleck cites a study that police have a rate of hitting their targets 37%, and argues that home
 19 defenders need LCMs because they will miss at comparable rates. Kleck Dec. ¶ 23. The fact that a
 20 person misses a lot does not seem to be a very good reason to give him a magazine with more bullets.
 21 But even if it were, Dr. Kleck’s argument is just more speculation. The 37% hit rate for police that he
 22 cites is not a per-bullet hit rate, it is a per-incident hit rate. *Id.* There is no reason why the per-bullet
 23 hit rate for civilians would be the same as the per-incident hit rate for officers. That is especially true
 24 because police officers often fire in difficult circumstances, such as while chasing a fleeing felon, that
 25 would not occur in home defense. Lazar Dec. ¶ 7. And in any event, even if Kleck were correct that a
 26 civilian is likely to miss with 63% of his bullets, he is still likely to hit a target with a legal 10-round
 27 magazine. Kleck has to hypothesize *four or more* attackers to arrive at a scenario where a standard
 28 magazine is insufficient, Kleck Dec. ¶ 23, but he offers no evidence that this is a realistic prospect.

V. Plaintiffs Fail to Show that Large-Capacity Magazines Are in Common Use for Self-Defense

Plaintiffs contend that large-capacity magazines are popular and widespread based on two kinds of evidence: First, they point to many kinds of popular handguns and long guns that are sold standard with large-capacity magazines, Monfort Dec. Exs. B-D; and second, they offer the declaration of James Curcuruto, an analyst for a gun-industry group. This evidence does not establish their point.

Mr. Curcuruto submits a declaration that purports to attach a report describing his estimate that there are 75 million LCMs in private hands in America. Dkt. 18. No such report is attached. Perhaps Mr. Curcuruto meant to include an exhibit that he filed in a case challenging Sunnyvale’s LCM prohibition. Van Aken Dec., Ex. 32. But if so, this exhibit is purely conclusory. While federal data provides an aggregate number of long guns and handguns sold, it does not disaggregate the numbers of each make or model sold, nor does Mr. Curcuruto explain how “[f]irearms industry professionals” then attributed numbers of each magazine to the firearms sold. Curcuruto Dec. ¶¶ 11-12. This self-serving estimate deserves little weight. Nor is it probative that Plaintiffs have identified a lot of advertisements for guns that are sold standard with LCMs in firearms catalogs. Monfort Dec., Exs. B-D. None of that establishes the actual number of those guns that are sold, and in any event those guns are not sold with LCMs in California, where such sales have been illegal for nearly 15 years. *See* Cal. Penal Code § 32310; Lazar Dec. ¶ 10.

Moreover, even if Plaintiffs were correct that 75 million LCMs are in private hands in this country, that still does not establish that LCMs are widely used for self-defense. First, Plaintiffs offer no evidence directly establishing use for self-defense, and Plaintiffs’ indirect evidence about the utility of LCMs for self-defense is dubious for the reasons discussed above. Second, it is highly likely that LCM ownership is very concentrated. Gun ownership in America has been dropping as a percentage of households for decades. Donohue Dec. ¶¶ 3-5. Yet gun sales have risen at the same time. Donohue Dec. ¶ 7. One trend driving these sales is the sale of more weapons, and more powerful weapons, to a smaller group of gun enthusiasts. *See generally* Violence Policy Center, *The Militarization of the U.S. Civilian Firearms Market*, June 2011 (Van Aken Dec., Ex. 33); Donohue

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1 Dec. ¶¶ 6-8. And studies directly show that gun ownership itself is very concentrated: 20% of gun
2 owners possess 65% of the nation’s guns. *Id.* ¶ 6. Thus, it is likely that LCMs are similarly collected
3 by a small number of enthusiasts, and there is no evidence to indicate that they are widely popular,
4 much less in common use for the purpose of self-defense. *Id.* ¶¶ 9-10.

5 **ARGUMENT**

6 The Second Amendment right is *not* “a right to keep and carry any weapon whatsoever in any
7 manner whatsoever and for whatever purpose.” *Heller*, 554 U.S. at 626. Instead, “[s]tate regulation
8 under the Second Amendment has always been more robust than of other enumerated rights.”
9 *Kachalsky v. County of Westchester*, 701 F.3d 81, 100 (2d Cir. 2012). “[W]hen the fledgling republic
10 adopted the Second Amendment, an expectation of sensible gun safety regulation was woven into the
11 tapestry of the guarantee.” *Nat’l Rifle Ass’n v. Bureau of Alcohol, Tobacco & Firearms*, 700 F.3d 185,
12 200 (5th Cir. 2012).

13 Even as the Supreme Court recognized that the individual right to keep and bear arms applies
14 to state and local laws, it acknowledged that “state and local experimentation with reasonable firearms
15 regulation will continue under the Second Amendment.” *McDonald v. City of Chicago*, 561 U.S. --,
16 130 S. Ct. 3020, 3046 (2010) (quotation marks omitted). Lower courts have heeded that admonition
17 by keeping familiar firearms laws intact, and only striking down extreme restrictions that make it
18 substantially more difficult to keep a handgun or long gun in the home for self-defense. *See, e.g., Ill.*
19 *Ass’n of Firearms Retailers v. City of Chicago*, -- F. Supp. 2d --, 2014 WL 31339 (N.D. Ill. Jan. 6,
20 2014) (striking city regulation prohibiting all sales of firearms).

21 This is not such a case. Large-capacity magazine restrictions are a familiar and widespread
22 form of regulation that protect against real and proven harms. And because LCMs have little to no
23 value for self-defense, LCM restrictions have no appreciable impact on the ability of citizens to defend
24 themselves in the home or elsewhere. The Ninth Circuit has held that the proper evaluation of
25 firearms laws under the Second Amendment first asks whether the restricted item is protected at all
26 and then, if it is protected, to apply intermediate or strict scrutiny depending on how close the
27 restriction comes to the core of Second Amendment rights and the degree of the burden it imposes.
28 *United States v. Chovan*, 735 F.3d 1127 (9th Cir. 2013). Because Police Code § 619 imposes very

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1 little burden on Plaintiffs’ rights, leaving them able to use any semiautomatic weapon they choose so
 2 long as that weapon is equipped with a magazine of 10 rounds or less, it should be evaluated under
 3 intermediate scrutiny. Police Code § 619 readily passes that scrutiny. Indeed, it is arguable that
 4 LCMs are not protected items at all under the Second Amendment.

5 Plaintiffs argue for Police Code § 619’s unconstitutionality by largely ignoring *Chovan* and
 6 advancing an interpretation of *Heller* that no court has adopted. They argue that any firearm (or,
 7 presumably, a firearm accessory like a magazine) that is in “common use” may not be prohibited, full
 8 stop. But *Heller* does not support this approach. *Heller*’s “common use” test is a test for whether the
 9 firearm is protected at all. 554 U.S. at 627. *Heller* does not say that all “common use” firearms are
 10 immune from regulation, as Plaintiffs contend.

11 Finally, Plaintiffs are not entitled to a preliminary injunction on this record. Even assuming
 12 that the deprivation of a large-capacity magazine causes them irreparable harm, despite the continuing
 13 availability of many other firearms and accessories, their merits showing is so weak, and the balance
 14 of equities so strongly in San Francisco’s favor, that this Court should deny relief.

15 **I. Preliminary Injunction Standard**

16 “A preliminary injunction is an extraordinary remedy never awarded as of right.” *Winter v.*
 17 *Natural Res. Defense Council*, 555 U.S. 7, 24 (2008). “A plaintiff seeking a preliminary injunction
 18 must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in
 19 the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is
 20 in the public interest.” *Id.* at 20. A plaintiff who has proved likely irreparable harm and raised serious
 21 questions going to the merits may obtain an injunction if the balance of hardships tips sharply in the
 22 plaintiff’s favor. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011).

23 **II. Plaintiffs Are Unlikely to Succeed on the Merits of Their Claims.**

24 **A. Intermediate Scrutiny Should Apply Because the LCM Ban Does Not Impact Plaintiffs’ Ability to Defend Themselves in the Home or Elsewhere.**

25 With *Chovan*, 735 F.3d 1127, the Ninth Circuit adopted the approach to evaluating Second
 26 Amendment claims after *Heller* that the majority of circuits have adopted.¹¹ In light of the Supreme
 27

28 ¹¹ The Second Circuit applies rational basis review to firearms restrictions that do not substantially burden the Second Amendment right. *See infra* n.18.

1 Court’s admonition that not all arms are protected by the Second Amendment, *see Heller*, 554 U.S. at
2 1133, the first step of this test is to determine “whether the challenged law imposes a burden on
3 conduct falling within the scope of the Second Amendment’s guarantee.” *Chovan*, 735 F.3d at 1134
4 (quoting *United States v. Marzzarella*, 614 F.3d 85, 89 (3d Cir. 2010)); *id.* at 1136 (adopting test
5 articulated in *Marzzarella*). If the challenged law in fact burdens conduct protected by the Second
6 Amendment, the court then selects an appropriate level of scrutiny, which “depend[s] on ‘the nature of
7 the conduct being regulated and the degree to which the challenged law burdens the right.’” *Id.* at
8 1138 (quoting *Chester*, 628 F.3d 673, 682 (4th Cir. 2010)). The closer the law comes to burdening the
9 core of the Second Amendment right—“the right of law-abiding, responsible citizens to use arms in
10 defense of hearth and home,” *Heller*, 554 U.S. at 635—the greater scrutiny it should draw. But a law
11 that permits armed self-defense in the home and merely regulates some types of arms, leaving a person
12 “free to possess any otherwise lawful firearm,” operates like a “regulation of the manner” in which
13 persons may lawfully exercise their Second Amendment rights, and is therefore subject only to
14 intermediate scrutiny. *Marzzarella*, 614 F.3d at 97 (cited with approval in *Chovan*, 628 F.3d at 1138);
15 *see also Nat’l Rifle Ass’n*, 700 F.3d at 195 (applying intermediate scrutiny to ban on some handgun
16 sales to young adults); *United States v. Skoien*, 614 F.3d 638, 641 (7th Cir. 2010) (en banc).

17 *Chovan* evaluated the constitutionality of a complete ban on firearms possession for domestic
18 violence misdemeanants, 18 U.S.C. § 922(g). It is difficult to imagine a more complete abrogation of
19 the right to bear arms for those affected by § 922(g), and *Chovan* made clear that domestic violence
20 misdemeanants were not completely excluded from claiming Second Amendment protection. 628
21 F.3d at 1137. But because they were not law-abiding citizens, their rights were outside the core of that
22 protection, and *Chovan* applied only intermediate scrutiny to the law disarming them, notwithstanding
23 the “quite substantial” degree of the burden they bore. *Id.* at 1137-38.

24 By articulating a two-part test—looking both to the degree of the burden, and the burden’s
25 proximity to the core of the right—*Chovan* teaches that only where a law *significantly* burdens the
26 core Second Amendment right to keep and bear arms in the home will strict scrutiny apply. *Id.* at
27 1138. Otherwise, *Chovan* would have had no reason to articulate a two-part test, and could have
28 rested on the fact that domestic violence misdemeanants were not law-abiding citizens.

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1 Even assuming Plaintiffs’ Second Amendment rights are impacted at all by San Francisco’s
2 LCM ban, *but see infra* Section II.D., intermediate scrutiny is the appropriate level of scrutiny to apply
3 under the *Chovan* test, for two reasons. First, the LCM ban indirectly impacts conduct within the
4 home but does not single out home defense for its zone of regulation. *See* S.F. Police Code § 619(c)
5 (banning possession of LCMs regardless of location).¹² Thus, it does not discriminate against the
6 conduct at the zenith of the Second Amendment’s protection. *Cf. Turner Broad. Sys., Inc. v. FCC*, 512
7 U.S. 622, 642 (content-based discrimination requires strict scrutiny under the First Amendment).

8 More importantly, the degree of burden that the LCM ban imposes on Plaintiffs’ ability to
9 defend themselves in the home with firearms is so modest that intermediate scrutiny must apply here.
10 Although Plaintiffs claim on page 2 of their brief (“Br.”) that San Francisco’s ban is “at the extreme
11 end of the gun control continuum,” a footnote on the same page acknowledges the reality that the State
12 of California has prohibited the manufacture or sale of LCMs for fourteen years. Br. at 2 n.1 (citing
13 Cal. Penal Code §§ 32310, 32400-32450). Plaintiffs do not challenge California’s laws, but those laws
14 prevent most people who did not own an LCM in 2000 from acquiring one. Assuming they own
15 LCMs legally as they aver, Plaintiffs are the beneficiaries of a grandfathered exemption, not
16 representatives of the interests of most Californians. *See* Zimring Dec. ¶ 14. Far from being an
17 extreme example of gun control, San Francisco’s ordinance merely closes a loophole in a longstanding
18 state law that state actors have been unable, as yet, to muster the political will to close.¹³

19 But even if California had no prohibition on acquiring LCMs, and San Francisco stood alone,
20 its ban would still be subject only to intermediate scrutiny because of the triviality of the ban’s burden
21 on self-defense. As discussed above at pages 9-10, there is simply no credible evidence whatsoever

22 ¹² Plaintiffs do not say whether they are entitled under California to carry firearms openly or
23 concealed in San Francisco, but Larry Barsetti is a retired law enforcement officer who has the right to
24 carry firearms in public absent some disqualifying reason. Cal. Penal Code §§ 26300 *et seq.* The
25 Ninth Circuit has not yet decided whether the Second Amendment’s protections extend outside of the
26 home at all, but other circuits that have considered this have determined that this conduct, if protected
27 at all, is not at the core of the Second Amendment’s concern. *Kachalsky*, 701 F.3d at 89; *Woollard v.*
28 *Gallagher*, 712 F.3d 865, 876 (4th Cir. 2013); *Drake v. Filko*, 724 F.3d 426, 430-31 (3d Cir. 2013).
But see Moore v. Madigan, 702 F.3d 933, 940 (7th Cir. 2012) (Illinois’s prohibition on all public
carrying of firearms was categorically unconstitutional).

¹³ A bill to eliminate the state loophole for grandfathered large-capacity magazines passed the
California Senate but failed in the California Assembly during the most recent legislative session, Cal.
S.B. 396 (2012-13 Sess.)

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1 that having a magazine with more than 10 rounds makes a home defender any safer, and in fact
 2 oversized magazines can make home defense less safe by increasing the likelihood that a defender will
 3 discharge more errant rounds and harm the innocent. *See* Kleck ¶ 37 (asserting that 63% of home
 4 defenders' shots will go astray); Lazar ¶¶ 5-6 (errant rounds create risks to bystanders). Simply
 5 because Plaintiffs can imagine a hyperbolic scenario where they may need large-capacity magazines to
 6 defend themselves does not mean that these magazines are useful or necessary for self-defense.
 7 Because the empirical evidence indicates that Plaintiffs can fully vindicate their right to self-defense in
 8 the home using standard-capacity magazines in the vast run of circumstances they may encounter, any
 9 burden on self-defense here is so minor that only intermediate scrutiny is warranted.

10 This conclusion is underscored by decisions from other circuits on which *Chovan* relies. In
 11 *Heller v. District of Columbia*, 670 F.3d 1244 (D.C. Cir. 2011) ("*Heller II*"), the D.C. Circuit
 12 considered the District of Columbia's prohibition on the possession of assault weapons and LCMs.
 13 Applying the same two-step test first set out in *Marzzarella* and later adopted in this circuit in *Chovan*,
 14 *Heller II* assumed that possession of LCMs and assault weapons was entitled to at least some Second
 15 Amendment protection,¹⁴ but held that the District of Columbia's ordinance was nonetheless subject to
 16 intermediate scrutiny in light of the modest burden it imposed:

17 [W]e determine the appropriate standard of review by assessing how severely
 18 the prohibitions burden the Second Amendment right. Unlike the law held
 19 unconstitutional in *Heller*, the laws at issue here do not prohibit the possession
 20 of 'the quintessential self-defense weapon,' to wit, the handgun. 554 U.S. at
 21 629, 128 S. Ct. 2783. Nor does the ban on certain semiautomatic rifles prevent
 22 a person from keeping a suitable and commonly used weapon for protection in
 23 the home or for hunting Although we cannot be confident the prohibitions
 24 impinge at all upon the core right protected by the Second Amendment, we are
 25 reasonably certain the prohibitions do not impose a substantial burden upon that
 26 right.

27 670 F.2d at 1262. Because "the prohibition of semi-automatic rifles and large-capacity magazines
 28 does not effectively disarm individuals or substantially affect their ability to defend themselves," it is
 akin to a regulation of the manner in which an individual may exercise Second Amendment rights.¹⁵

¹⁴ *Heller II* declined to decide whether LCMs and assault weapons are protected by the Second Amendment at all, stating "we cannot be certain whether these weapons are commonly used or are useful specifically for self-defense or hunting." 670 F.3d at 1261.

¹⁵ *See also Hightower v. City of Boston*, 693 F.3d 61, 71 (1st Cir. 2012) ("large capacity firearm" was not a "weapon[] of the type characteristically used to protect the home").

1 It leaves open “ample alternative channels” for self-defense and is therefore subject only to
2 intermediate scrutiny. *Id.* Applying that test, *Heller II* held that the District of Columbia’s ordinance
3 readily survived that burden. *Id.* at 1262-64. The D.C. Circuit’s reasoning applies with full force here
4 in light of the overwhelming empirical evidence that large-capacity magazines are almost never
5 needed for self-defense in the home or elsewhere. Intermediate scrutiny is the appropriate test.

6 *Chovan* also extensively cites *United States v. Marzzarella*, 614 F.3d 85. *See Chovan*, 735
7 F.3d at 1136-38. *Marzzarella* held that the federal law criminalizing possession of firearms with
8 obliterated serial numbers did not “severely limit the possession of firearms” and left the defendant
9 free to possess any otherwise lawful firearm for self-defense. 614 F.3d at 97. It was subject only to
10 intermediate scrutiny because it was not a prohibition on exercise of Second Amendment rights but
11 instead regulated merely “the form in which that conduct occurs.” *Id.* Here, too, San Francisco’s
12 LCM ban does not prohibit the use of broad classes of firearms but only limits the kind of magazine,
13 and thus the number of bullets, that may be loaded in any otherwise lawful firearm at one time. It is a
14 regulation that controls not whether someone can use a firearm in self-defense or not but instead how
15 he may equip it. Under the reasoning of *Marzzarella*, it is subject only to intermediate scrutiny.

16 In fact, application of intermediate scrutiny here is consistent with every decision that San
17 Francisco has located concerning the effect of LCM prohibitions, or assault weapons prohibitions,¹⁶ on
18 the right to keep and bear arms. Since 2008, in addition to the *Heller II* decision by the district and
19 circuit courts of D.C., three federal district courts have refused to strike down prohibitions on LCMs
20 and assault weapons. In *Tardy v. O’Malley*, Civil No. CCB-13-2861, the District of Maryland denied
21 a TRO to opponents of Maryland’s prohibition on possession of assault weapons and LCMs because it
22 did not impinge on the plaintiffs’ ability to carry handguns in the home or other long guns. Order &
23 TRO Hr’g Tr. at pp. 66-71 (D. Md. Oct. 1, 2013) (Van Aken Dec., Exs. 34 and 35). *Tardy* applied the

24
25 ¹⁶ Cases discussing assault weapons regulations are relevant here because they, too, involve the
26 regulation of arms that their proponents claim are in common use, yet which are regulated because
27 they are unusually dangerous. *See, e.g.*, H.R. Rep. 103-489, *supra*. They are also relevant because
28 one of the features that characterize assault weapons are their ability to accept LCMs. *See, e.g.*, U.S.
Dep’t of the Treasury, *1989 Report and Recommendation, supra*, at 6; *Robertson v. City & County of*
Denver, 874 P.2d 325, 333 n.16 (Colo. 1994) (“Two salient features of assault weapons which make
them particularly threatening are their capability for a rapid rate of fire”—a capability they share with
all semiautomatic weapons—“and the ability to fire many rounds without reloading.”).

1 same two-step test that *Chovan* adopted. *See Tardy*, TRO Hr’g Tr. at p. 68 (citing *United States v.*
 2 *Chester*, 628 F.3d 673 (4th Cir. 2010)); *Chovan*, 735 F.3d at 1136 (adopting *Chester*’s two-step test).
 3 In *New York State Rifle & Pistol Ass’n, Inc. v. Cuomo*, the Western District of New York granted
 4 summary judgment in favor of the state on its LCM and assault weapons ban. – F. Supp. 2d –, 2013
 5 WL 6909955, at *12 (Dec. 31, 2013). It held that intermediate scrutiny should apply to the ban
 6 because prohibiting assault weapons and LCMs was akin to a time, place and manner restriction on the
 7 use of firearms, leaving open ample alternative channels for self defense. *Id.* at *13. And it concluded
 8 that the assault weapon and LCM ban was ultimately constitutional under intermediate scrutiny,
 9 although it struck as arbitrary New York’s limit on loading a magazine with more than seven rounds.
 10 *Id.* at *14-*19.¹⁷ Finally, in *Kampfer v. Cuomo*, the Northern District of New York held that the
 11 state’s assault weapons ban did not substantially burden an individual’s Second Amendment rights at
 12 all in light of the number of alternative firearms available to him to use for self-defense, and thus
 13 warranted no heightened scrutiny at all. No. 6:13-cv-82 (GLS/ATB), 2014 WL 49961, at *5-*6
 14 (N.D.N.Y. Jan. 7, 2014).¹⁸

15 Even before the United States Supreme Court recognized in 2008 that the Second
 16 Amendment’s protection could be claimed by individuals, many state courts had held that assault
 17 weapons bans and large-capacity magazine bans were consistent with state constitutional guarantees of
 18 an individual right to keep and bear arms. *See Robertson v. City & County of Denver*, 874 P.2d 325,
 19 332-33 & n.16 (Colo. 1994) (local assault weapons ban was a reasonable safety regulation in part in
 20 light of “the ability [of assault weapons] to fire many rounds without reloading”); *Benjamin v. Bailey*,
 21 662 A.2d 1226, 1232-35 (Conn. 1995) (state assault weapons ban was “reasonable regulation” of right
 22 to bear arms); *Arnold v. Cleveland*, 616 N.E.2d 163, 164 n.1, 171-73 (Ohio 1993) (local assault
 23

24 ¹⁷ The Second Circuit has a slightly different Second Amendment test than the two-step test
 25 adopted by most circuits. The Second Circuit applies rational basis scrutiny to restrictions that do not
 26 place “any marginal, incremental or even appreciable restraint on the right to keep and bear arms.”
 27 *United States v. DeCastro*, 682 F.3d 160, 166 (2d Cir. 2012). For restrictions that impose a greater
 28 burden than that, the Second Circuit, like the Ninth, chooses a form of heightened scrutiny based on
 the degree of the burden and its proximity to the core of the right. *See Kachalsky*, 701 F.3d at 93-94.

¹⁸ *See also* Statement of Professors of Constitutional Law: The Second Amendment and the
 Constitutionality of the Proposed Gun Violence Prevention Legislation (Jan. 30, 2013) (Van Alken
 Dec. Ex. 39) (submitted to Congress re: 2013 proposal to prohibit LCMs & assault weapons).

1 weapons ban, where assault weapons were defined in terms of their ability to accept 20+ round
2 magazines, was constitutional); *Beaver v. City of Dayton*, No. 13871, 1993 WL 333641 (Ohio Ct.
3 App. Aug. 30, 1993) (upholding municipal assault weapons regulation against state constitutional
4 challenge); *Cincinnati v. Langan*, 640 N.E.2d 200, 206 (Ohio Ct. App. 1994) (upholding local ban on
5 large-capacity magazines and semiautomatic weapons); *Oregon State Shooting Ass'n v. Multnomah*
6 *County*, 858 P.2d 1315 (Or. Ct. App. 1993) (rejecting state constitutional challenge to regulation on
7 sale of assault weapons). *Cf. Olympic Arms v. Buckles*, 301 F.3d 384 (6th Cir. 2002) (on equal
8 protection challenge, finding federal assault weapons ban to serve rational basis; noting that ability to
9 accept LCMs “makes a weapon potentially more dangerous”); *Kasler v. Lockyer*, 23 Cal.4th 472, 490-
10 91 (2000) (rejecting equal protection challenge to California’s assault weapons ban in light of
11 dangerousness of assault weapons).¹⁹

12 Plaintiffs contend that, if this Court does not categorically invalidate San Francisco’s LCM ban
13 under *Heller* (a contention San Francisco rebuts in Section II.C., below), it should at least apply strict
14 scrutiny under *Chovan* because the ban operates on self-defense within the home and “is particularly
15 severe.” Br. at 16:17-25. As for why this ban is “particularly severe,” Plaintiffs reiterate that it
16 operates in the home, Br. at 17:1, and then they contend that the impact of the ban is severe because it
17 is a “government-imposed reduction on the ammunition capacity of citizens’ commonly used
18 firearms,” where “millions of Americans routinely select *firearms capable of accepting more than ten*
19 *rounds* for self-defense.” Br. at 17:5-8 (emphasis added).

20 Plaintiffs do not explain how the number of people affected by a regulation is an indicator of
21 how burdensome the regulation is for each person it affects. Perhaps Plaintiffs mean to argue that the
22 popularity of “firearms capable of accepting more than ten rounds” demonstrates that they are useful
23 for self-defense. Br. at 17:6. But notice what is missing from their argument: any claim that LCMs
24 themselves, rather than *firearms capable of accepting LCMs*, are commonly selected by Americans for

25 _____
26 ¹⁹ Long before the current controversy over LCM and assault weapons restrictions, states
27 frequently prohibited entire classes of weapons, such as pistols or other concealable firearms, on the
28 basis of their particular dangerousness. These regulations were upheld as reasonable even under state
constitutional guarantees of an individual right to bear arms. *See generally* Brief for Professional
Historians and Law Professors as *Amici Curiae*, *Heller v. District of Columbia*, D.C. Cir. No. 10-7036
at pp. 18-24 (Van Aken Dec., Ex. 40). EB001242

1 self-defense. In fact, most semiautomatic handguns and rifles are capable of accepting many kinds of
2 magazines, including magazines of less than 10-round capacity. *See* Koper Dec. ¶ 6; Lazar Dec. ¶ 10.
3 Plaintiffs’ contention says only that Americans prefer semiautomatics. And even if these millions of
4 Americans chose LCMs to equip their semiautomatics, that would not demonstrate that LCMs are
5 chosen *for self-defense* rather than for other purposes, like hunting, target practice, or competitive
6 shooting. *See Heller II*, 670 F.3d at 1261. But perhaps most importantly, while people may prefer
7 some kinds of firearms equipment over others, and may even believe that is in the service of self-
8 defense, this does not necessarily make it so. Here, Plaintiffs argue nothing more than that the
9 possibility of “potentially deadly consequences in the event of a self-defense emergency,” if LCMs are
10 not available to them, constitutes “a severe burden triggering strict scrutiny.” Br. at 17:9-10. In short,
11 just the unrealistic possibility that they could someday require an exceptionally large magazine for
12 self-defense creates an entitlement to that magazine, in Plaintiffs’ view, and they have no need to show
13 (and cannot show) that such a scenario is likely in even the smallest degree.

14 Under that view of the *Chovan* test, firearms law would look dramatically different than it does
15 today. The LCM bans and assault weapons bans of California and eight other states would fail.²⁰
16 Other familiar restrictions like bans on Saturday night specials or sawed-off shotguns would be in
17 doubt if their proponents could articulate any scenario where they might be useful for self-defense.
18 *See* Zimring Dec. ¶ 11. And governments would have few tools to stop or slow an arms race of more
19 and more powerful weapons sold on civilian markets. *See generally* Violence Policy Center, *The*
20 *Militarization of the U.S. Civilian Firearms Market*, *supra*. Nothing in *Chovan* or *Heller* requires such
21 a result, in light of the overwhelming evidence that LCMs are unnecessary for effective self-defense.

22 **B. The LCM Ban Is Constitutional Because It Advances San Francisco’s Compelling**
23 **Interest in Mitigating Gun Violence.**

24 Under intermediate scrutiny, San Francisco’s ban on possession of large-capacity magazines is
25 constitutional if “the government’s stated objective [is] significant, substantial, or important; and

26 _____
27 ²⁰ For LCM bans, *see supra* at pp. 3-4. For assault weapons bans, *see* Cal. Penal Code
28 §§ 30600 *et seq.*; Conn. Gen. Stat. § 53-202c; D.C. Code § 7-2502.02; Haw. Rev. Stat. Ann. § 134-8;
Md. Code Ann., Crim. Law §§ 4-301 *et seq.*; Mass. Gen. Laws Ann. ch. 140, § 131M; N.J. Stat. Ann.
§ 2C:39-5(f); N.Y. Penal Law § 265.02(7). EB001243

1 [there is] a reasonable fit between the challenged regulation and the asserted objective.” *Chovan*, 735
2 F.3d at 1139. The LCM ban meets that test.

3 “The regulation of firearms is a paramount issue of public safety, and recent events . . . are a
4 sad reminder that firearms are dangerous in the wrong hands. *Osterweil v. Bartlett*, 706 F.3d 139, 143
5 (2d Cir. 2013) (O’Connor, J.) (citing James Barron, *Gunman Massacres 20 Children at School in*
6 *Connecticut; 28 Dead, Including Killer*, N.Y. Times, Dec. 15, 2012, at A1). Plaintiffs do not dispute
7 that the public safety aims of Police Code § 619 are compelling, nor could they.

8 San Francisco’s ban on large-capacity magazines bears a substantial relationship to this
9 interest. LCM bans operate by decreasing the supply of LCMs that are available. When they are in
10 effect long enough, they depress the supply of LCMs that are available for criminal uses. Koper Dec.
11 ¶ 39. That, in turn, has been shown to have an effect on criminal uses of LCMs. *Id.* ¶¶ 45-51. Thus,
12 Plaintiffs’ argument that San Francisco’s ban will be ineffective because it will affect only the law-
13 abiding and not criminals, Br. at 21-22, misses the point. Koper Dec. ¶ 39.

14 Plaintiffs also criticize San Francisco’s LCM ban because, they contend, the federal assault
15 weapons ban and LCM ban did not impact crime. Br. at 19. But the only academic studies of that ban
16 on which they rely were conducted by Dr. Koper, who believes that it had a limited but meaningful
17 effect, and that its effect would have grown had it not grandfathered existing magazines and assault
18 weapons and had it not expired after 10 years. Koper Dec. ¶¶ 45-52. Plaintiffs mischaracterize Dr.
19 Koper’s views by relying on his work to suggest otherwise. As he attests, Police Code § 619 is “a
20 reasonable and well-constructed measure that is likely to advance San Francisco’s interest in
21 protecting its citizens and its police force,” especially if it is “adopted in other jurisdictions as well.”
22 Koper Dec. ¶¶ 57-58.

23 In any event, the criticisms Plaintiffs mount of the LCM ban are ultimately disagreements with
24 San Francisco’s legislative choices. On intermediate scrutiny, courts defer to legislative judgments
25 about whether a measure is substantially related to a compelling state goal. *Kachalsky*, 701 F.3d at 97;
26 *see also United States v. Carter*, 669 F.3d 411, 418 (4th Cir. 2012). “In the context of firearm
27 regulation, the legislature is ‘far better equipped than the judiciary’ to make sensitive policy judgments
28 (within constitutional limits) concerning the dangers in carrying firearms and the manner to combat

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1 those risks.” *Kachalsky*, 701 F.3d at 97 (quoting *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 665
2 (1994)). Plaintiffs’ evidence falls far short of overcoming San Francisco’s reasoned legislative
3 judgment here.

4 **C. Plaintiffs Misread *Heller* When They Ask the Court to Strike Down Police Code
5 § 619 Categorically**

6 Plaintiffs contend that the LCM ban is categorically invalid because large-capacity magazines
7 are “typically possessed by law-abiding citizens for lawful purposes.” Br. at 9 (quoting *Heller*, 554
8 U.S. at 625). Thus, they claim, this Court should treat it the same as the Supreme Court treated the
9 District of Columbia’s handgun ban in *Heller*, and strike it down without resort to any standard of
10 review. As discussed above at pages 11-12, Plaintiffs’ evidentiary showing of the popularity of LCMs
11 is speculative and says nothing about whether they are in common use for self-defense, particularly in
12 California, where they have been illegal for purchase since 2000. But more importantly, Plaintiffs
13 misread *Heller* and the common-use test.

14 Under Plaintiffs’ methodology, the test is this: One looks for whether a firearm (or a firearm
15 accessory, as here) is in “common use” by counting the numbers of that firearm or accessory in
16 circulation. Then, if the number is sufficiently high, the government either can *never* prohibit the sale
17 of that firearm, no matter what dire harm it is someday is proven to cause, or the government can only
18 prohibit its sale if that prohibition withstands strict scrutiny.

19 That would be a perverse test indeed. For the government, it would give incentives to prohibit
20 any new firearms technology as soon as it is developed, lest it become popular and thus unregulable,
21 no matter what its consequences. And it would put a great deal of power in the hands of firearms
22 manufacturers to boost new products at any cost—including the militarized novelty products that that
23 industry has focused on selling to committed gun owners as the number of gun-owning households in
24 America has dropped, *see* Violence Policy Center, *The Militarization of the U.S. Civilian Firearms*
25 *Market, supra*, at 1, 15, 40; Testimony of Laurence H. Tribe before Senate Judiciary Committee, Feb.
26 12, 2013, at 14 (Van Aken Dec. Ex. 36). Such a test would also place the constitutionality of firearms
27 prohibitions in the hands of enthusiasts who could determine the content of constitutional protections
28 simply by stockpiling new items. *Cf.* Donohue Decl. ¶ 8.

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1 *Heller* does not demand such a strange test. *Heller* explains, in Section III of the majority
2 opinion, that “the right secured by the Second Amendment is not unlimited.” 554 U.S. at 626. To
3 illustrate the limited nature of the right, *Heller* states that “nothing in our opinion should be taken to
4 cast doubt on” a host of “presumptively lawful regulatory measures,” *id.* at 626-27 & n.26, and that the
5 Second Amendment does not protect all arms. For example, the Second Amendment extends no
6 protection at all to arms that are not “in common use at the time.” *Id.* at 627 (quoting *United States*
7 *v. Miller*, 307 U.S. 174, 179 (1939); see also Tribe Testimony, *supra*, at 11 (“[T]he Court carefully
8 frames the scope of the Second Amendment to cover *only* firearms ‘in common use at the time.’”).
9 Such arms can be entirely prohibited without further judicial inquiry. *Heller*, 554 U.S. at 625.

10 But when, in the following Section IV, *Heller* applies these principles to the District of
11 Columbia’s handgun ban, it does *not* say the converse, *i.e.*, that arms in common use cannot be
12 prohibited. Instead, in striking down the handgun ban “[u]nder any of the standards of scrutiny that
13 [the Court has] applied to enumerated constitutional rights,” *Heller* emphasizes both the breadth of
14 D.C.’s ban—“a prohibition of an entire class of ‘arms’”—and how singularly well-suited handguns are
15 for self-defense purposes. 554 U.S. at 628-29. Indeed, *Heller* could hardly have emphasized the
16 utility of handguns for self-defense more: It calls them “the quintessential self-defense weapon,” it
17 lists the many reasons why people prefer handguns to long guns in the event of a self-defense
18 emergency, it says they are “the most preferred firearm in the nation,” and it calls them “the most
19 popular weapon chosen by Americans for self-defense in the home.” *Id.*

20 None of that is true of large-capacity magazines. Police Code § 619 does not prohibit “an
21 entire class of arms” but instead certain varieties of magazines, a type of equipment that can be used
22 with many classes of arms. All otherwise legal varieties of handguns and long guns remain available
23 to Plaintiffs. And far from being singularly well-suited to self-defense, large-capacity magazines are
24 almost never useful in self-defense situations.

25 Moreover, even if large-capacity magazines were useful for self-defense, it would still be
26 inappropriate to apply *Heller*’s categorical treatment of handgun prohibitions to Police Code § 619,
27 because large-capacity magazines are not a class of arms at all. *Heller* defined “arms” as “weapons
28 of offence, or armour of defence.” 554 U.S. at 581 (quoting Samuel Johnson, 1 Dictionary of the

1 English Language 106 (4th ed.) (reprinted 1978)). “Thus, the most natural reading of ‘keep Arms’ in
2 the Second Amendment is to ‘have weapons.’” *Id.* at 582. Large-capacity magazines are a piece of
3 equipment used to make weapons more deadly; they are not themselves weapons and they are not an
4 integral part of any weapon, since smaller magazines can also be used in their stead. Prohibiting them
5 does not categorically infringe the right to bear arms.

6 **D. Alternatively, Large-Capacity Magazines Are Outside the Second Amendment’s**
7 **Protections Entirely.**

8 “‘Dangerous and unusual weapons’” are not protected by the Second Amendment at all.
9 *Heller*, 554 U.S. at 627 (quoting 4 Blackstone’s Commentaries 148-49 (1976)). At least in California,
10 where they have been prohibited for nearly 15 years except to law enforcement and those who owned
11 them before the ban took effect, it is arguable whether large-capacity magazines are within the scope
12 of the Second Amendment at all. And Plaintiffs offer no evidence, beyond anecdote and speculation,
13 that the purpose for which LCMs are possessed is self-defense or other lawful purposes.²¹

14 Large-capacity magazines show remarkable parallels with short-barreled shotguns. The
15 National Firearms Act of 1934 imposed a prohibitively high tax on guns with particularly dangerous
16 features, including rifles with reduced barrels. 8 Stat. 1236 (26 U.S.C. §§ 5801-5821). At the time,
17 long guns were the most popular guns in circulation, constituting 74% of the guns manufactured
18 during the first half of the 20th Century. Zimring Dec. ¶¶ 10-11. Thus, the National Firearms Act
19 restricted citizens’ ability to modify most privately owned guns to make them more dangerous. *Id.*
20 ¶ 11. The Supreme Court upheld this provision against a Second Amendment challenge. *United*
21 *States v. Miller*, 307 U.S. 174, 183 (1939). *Heller* later interpreted *Miller* as holding that the Second
22 Amendment did not protect short-barreled shotguns at all because they were dangerous and unusual
23 weapons. 554 U.S. at 625.

24 The parallels to this case are plain: LCMs are equipment that can be used with semiautomatic
25 weapons, which are popular firearms in their day, just as long guns were the essential firearm when

26 _____
27 ²¹ LCMs are not useful for sporting purposes. The majority of states prohibit their use in
28 hunting, and federal agencies have consistently confirmed they are not well-suited for sporting
10, 16-18 (Van Aken Dec., Ex. 37). EB001-247

1 *Miller* was decided. Yet a modification to a popular firearm that makes it more dangerous—and that
2 is commonly used for unlawful purposes but offers no advantage for nearly all lawful uses—is not
3 protected by the Second Amendment at all. This Court should reject Plaintiffs’ challenge on this basis
4 as well.

5 **III. THE REMAINING PRELIMINARY INJUNCTION FACTORS FAVOR SAN FRANCISCO.**

6 Plaintiffs contend that irreparable injury flows from the denial of their Second Amendment
7 rights. But in view of the speculative nature of their claims that LCMs are necessary for self-defense,
8 they cannot show that they are likely to suffer irreparable harm if they must surrender their LCMs or
9 store them outside of San Francisco while this lawsuit is pending.²² A speculative showing of harm is
10 insufficient to obtain injunctive relief. *Winter*, 555 U.S. at 20 (harm must be “likely”).

11 For the same reasons, Plaintiffs have failed to establish that “the balance of equities tips in
12 [their] favor, and that an injunction is in the public interest.” *Id.* Like a host of other jurisdictions,
13 including the State of California, San Francisco restricts the possession of large-capacity magazines in
14 order to prevent their criminal use. The compelling public safety interest underlying Police Code
15 § 619 tips the equities decisively away from Plaintiffs. This Court should deny Plaintiffs’ motion.

16
17
18 Dated: January 16, 2014

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19
20
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EDWIN LEE, and SAN FRANCISCO POLICE CHIEF
GREG SUHR

25
26
27 ²² If they surrender their LCMs and later win this case, but cannot buy new LCMs because of
28 California’s prohibition on the transfer of LCMs, that is a consequence of their failure to challenge the
state ban and not something that can create irreparable harm here.

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EXHIBIT 23

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

[ORAL ARGUMENT NOT YET SCHEDULED]

CASE NO. 10-7036

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

DICK ANTHONY HELLER, ABSALOM JORDAN,
WILLIAM CARTER, AND MARK SNYDER

APPELLANTS,

V.

THE DISTRICT OF COLUMBIA AND
ADRIAN M. FENTY, MAYOR, DISTRICT OF COLUMBIA,

APPELLEES.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

**BRIEF FOR PROFESSIONAL HISTORIANS AND LAW PROFESSORS
SAUL CORNELL, PAUL FINKELMAN, STANLEY N. KATZ, AND
DAVID T. KONIG AS *AMICI CURIAE* IN SUPPORT OF APPELLEES**

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CERTIFICATE AS TO PARTIES, RULINGS AND RELATED CASES

Pursuant to Circuit Rule 28(a)(1)(A), the undersigned counsel of record certifies as follows:

(A) **Parties and Amici.** To *amici*'s knowledge, all parties, intervenors, and *amici* appearing in this court are listed in the Brief for Appellees, other than the professional historians and law professors filing this brief as *amici curiae* in support of Appellees.

(B) **Ruling Under Review.** References to the ruling at issue appear in the Brief for Appellants.

(C) **Related Cases.** References to related cases appear in the Brief for Appellants.

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*Authorities upon which we chiefly rely are marked with asterisks.

INTERESTS OF *AMICI CURIAE* AND SUMMARY OF ARGUMENT

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INTRODUCTION AND SUMMARY OF ARGUMENT

In *District of Columbia v. Heller*, the Court observed that “the right secured by the Second Amendment is not unlimited,” and that “nothing in our opinion should be taken to cast doubt on” the validity of various historical regulations of gun use. 128 S. Ct. 2783, 2816-17 (2008). It identified some of these historical regulations, such as laws prohibiting “the possession of firearms” by certain types of persons, laws “imposing conditions and qualifications” on gun sales, and noted “the historical tradition of prohibiting the carrying of ‘dangerous and unusual weapons.’” *Id.*

The regulations at issue here fall within the tradition of historical gun use regulations identified in *Heller*. The use of registration requirements to regulate firearms has been a consistent and common historical practice in the United States. For example, early laws regulating the militias, which at the time comprised “the body of all citizens capable of military service,” required regular weapons inspections and registration with the States. Early registration laws often extended even more broadly, as several states conditioned the ownership of firearms on the swearing of an oath of loyalty and also required the recordation of related information. And states and cities continued to use registration requirements into the twentieth century by enacting laws designed to control the new dangers arising from the use of handguns in densely populated urban centers.

State and local governments have also exercised their police powers throughout our nation’s history to limit and ban the use of particularly dangerous weapons and ammunition. At or near the time of the founding, governments regulated the storage of gunpowder in order to protect against fires and accidental shootings. By the early nineteenth century, governments placed many limitations on the use and carrying of certain classes of concealable weapons, which were perceived to pose unique dangers to the citizenry. And state legislatures continued to enact broad restrictions on the possession of dangerous weapons in the years

following adoption of the Fourteenth Amendment. All of these restrictions (if challenged at all) have by and large been upheld by the courts.

ARGUMENT

I. STATES AND MUNICIPALITIES HAVE LONG IMPOSED REQUIREMENTS AKIN TO THE DISTRICT'S REGISTRATION REGULATIONS, AND THESE REQUIREMENTS HAVE BEEN UNDERSTOOD TO BE CONSISTENT WITH THE RIGHT TO BEAR ARMS.

From the nation's founding until today, states have used registration requirements to regulate the possession of firearms. During the founding period, these state and local laws included registration and training requirements, as well as requirements that persons eligible for militia service subject their personal firearms to regular inspection. Several states even conditioned the exercise of gun rights on individual registration with local governments and the swearing of an oath of loyalty to the State. Governments also continued to use registration schemes throughout the nineteenth and twentieth centuries to protect the public safety, most recently as a tool to control new dangers arising from the use of handguns in densely populated urban centers.

A. States in the Early Republic Regularly Conditioned the Right to Bear Arms on Registration, Training, and Reporting with the Authorities.

1. Registration requirements and similar laws date back to the militia-related origins of the Second Amendment. In the early Republic, militias were crucial to the nation's defense, and were responsible for "repelling invasions and

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suppressing insurrections.” *District of Columbia v. Heller*, 128 S. Ct. 2783, 2800 (2008). Thus, the Second Amendment states that a “well regulated Militia” is “*necessary to the security of a free State.*” U.S. Const. amend. II (emphasis added). As with the individual right to bear arms, the State militias were “assumed by Article I [and the Bill of Rights] already to be *in existence*” at the time of ratification. *See Heller*, 128 S. Ct. at 2800. Early militias did not consist merely of persons with specialized training or weaponry. Rather, “the conception of the militia at the time of the Second Amendment’s ratification was the body of all citizens capable of military service, who would bring the sorts of lawful weapons that they possessed at home to militia duty.” *Id.* at 2817.¹ Accordingly, during the founding era, most States enacted militia laws regulating large portions of the population deemed eligible for service. *See, e.g.*, 1776 Mass. Acts at 15-22; 1778 N.Y. Laws at 62-71; Act of Mar. 20, 1780, ch. CLXVII, 1780 Pa. Laws 347; Act of Feb. 5, 1782, 1782 Del. Laws 3; Act of Mar. 26, 1784, 1784 S.C. Acts 68; Act of May 8, 1792, 1792 Conn. Pub. Acts 440.

State militia laws generally required that all persons eligible for service submit to training and registration with appropriate authorities, and also required

¹ In New York, for example, the militia consisted of “every able bodied male person Indians and slaves excepted residing within [the] State from sixteen years of age to fifty.” Act of Apr. 3, 1778, ch. 33, 1778 N.Y. Laws 62, 62. In Massachusetts, the militia was divided into different groups, but generally included any “able-bodied Male Persons . . . from sixteen Years old to fifty.” Act of July 19, 1776, ch. I, § 1, 1776 Mass. Acts 15, 15.

those same individuals to submit their arms for inspection. *See* Saul Cornell & Nathan DeNino, *A Well Regulated Right: The Early American Origins of Gun Control*, 73 *Fordham L. Rev.* 497, 508-10 (2004). For example, in South Carolina the Governor could order regimental musters at least once a year, and individual companies could be mustered every two months. *See* 1784 S.C. Acts at 68. In New York, members were required to attend a regimental parade in April and November of every year. *See* 1778 N.Y. Laws at 65. During these parades, the “the arms, ammunition and accoutrements of each man [were] examined, and the defaulters . . . noted.” *Id.* Also noted were the names of those who failed to attend altogether. Individuals who either failed to attend, or whose arms failed inspection, were fined, and the names of those absent were sent to the governor or brigadier general for appropriate disciplinary action. *Id.* Similarly, in Massachusetts, the clerk of each company was required biannually to make “an exact List of [each man in the] Company, and of each Man’s Equipments.” 1776 Mass. Acts at 18. These lists were sent on to the company’s and the regiment’s commanding officers. *Id.* In addition, those who neglected their duties, either by failing to muster or by neglecting their firearms, faced steep fines. *Id.* at 19.

George Washington similarly expressed his understanding that the nation’s security demanded that its citizens submit to regular inspection of their firearms. Thus, Washington stated that the federal militia ought to be “regularly Mustered

and trained, and to have their Arms and Accoutrements inspected at certain appointed times, not less than once or twice in the course of every [year].” George Washington, Sentiments on a Peace Establishment (May 2, 1783), in 3 The Founders’ Constitution 129 (Philip B. Kurland & Ralph Lerner eds., 1987).

The Supreme Court explained in *Heller* that the Framers codified the right to bear arms in the Second Amendment with the aim of protecting and preserving militias as they existed at the time of the founding—including the laws and regulations described above, which were necessary to the militias’ continued existence. *See* 128 S. Ct. at 2801. Accordingly, these laws and regulations, which included requirements that gun-owners regularly assemble for weapons training, submit their firearms for inspection, and identify themselves to the state, would have been understood to be consistent with (and indeed supportive of) the right to bear arms in the early Republic.

2. States in the early Republic also enacted loyalty statutes requiring all males over a certain age to identify themselves and swear allegiance to state and local authorities, or else to be disarmed. These loyalty statutes effectively conditioned the very possession of firearms in the general population on registration and other requirements more burdensome than those at issue in this case.

Virginia, for instance, enacted a law requiring citizens to take a recorded loyalty oath or face disarmament. The law stated that “allegiance and protection are reciprocal, and those who will not bear the former are not entitled to the benefits of the latter,” and accordingly conditioned the possession of arms by “all free born male inhabitants . . . above the age of sixteen years” on the taking of an “oath or affirmation before some one of the justices of the peace of the county, city, or borough, where they shall respectively inhabit.” Act of May 5, 1777, ch. III, 1777 Va. Acts 8. Additionally, the justices of the peace were directed to “make a tour of the county, and tender the oath . . . to every free born male person above the age of sixteen,” to *record* the name and information of oath-takers, and to “cause . . . recusants to be disarmed.” *Id.*

Similar requirements were enforced in states that, as the Supreme Court concluded, had adopted provisions “analog[ous] to the Federal Second Amendment” in their constitutions prior to the ratification of the Bill of Rights. *Heller*, 128 S.Ct. at 2802-03. Pennsylvania’s 1776 Constitution, for example, guaranteed “[t]hat the people have a right to bear arms for the defence of themselves and the state.” Pa. Decl. of Rights § XIII (1776), in 5 *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws* 3081, 3083 (Francis N. Thorpe ed., 1909); *Heller*, 128 S. Ct. at 2802. One year after the ratification of its Constitution, the Pennsylvania government passed the Test Acts,

which required each male white inhabitant above the age of eighteen years to *register* his name with the local justice of the peace and take a loyalty oath before the State or else “be disarmed by the lieutenant or sublieutenants of the City or County [where he inhabits].” *See* Act of June 13, 1777, ch. 21, 1777 Pa. Laws 61, 62-63.

Similarly, Massachusetts required that “every Male Person above sixteen Years of Age . . . who shall neglect or refuse to subscribe a printed or written [loyalty oath] . . . shall be disarmed, and have taken from him . . . all such Arms, Ammunition and Warlike Implements, as by the strictest Search can be found in his Possession or belonging to him.” Act of Mar. 14, 1776, ch. VII, 1776 Mass. Acts 31, 32; *c.f. Heller*, 128 S. Ct. at 2803. A related provision authorized state officials to search a non-compliant person’s home for any weapons, and to seize those weapons upon evidence that he violated the registration and oath requirements. 1776 Mass. Acts at 32-33.

B. States Have Continued to Use Registration for the Sale, Transfer, or Possession of Firearms to Protect the Public Safety

State and local governments continued to use registration to protect the public safety into the twentieth century, primarily as a tool to address new dangers arising from firearms becoming cheaper, deadlier, and more readily available in more densely populated urban centers.

The expanding economy in the nineteenth century increased the availability of pistols and other weapons used for personal self-defense. See Saul Cornell, *A Well-Regulated Militia: The Founding Fathers and the Origins of Gun Control in America* 137 (2006). Major cities, including Boston, Philadelphia, New Orleans, and New York began to issue revolvers to their police forces for the first time. See, e.g., Roger Lane, *Policing the City: Boston, 1822-1885* (1967); Dennis Rousey, *Policing the Southern City: New Orleans, 1805-1889* (1996). The growth of urban centers was also bringing more people of more varied backgrounds closer together than ever before. This combination of urbanization and the increased availability of firearms brought new dangers, and gun-related homicide rates steadily increased. See *Revolver Killings Fast Increasing; Legislative Measure to be Urged for Curbing the Sale of Firearms*, *New York Times*, Jan. 30, 1911.

States and localities once again turned to registration and licensing requirements to address these public safety concerns. An assassination attempt on New York's Mayor William J. Gaynor in 1910, for example, led the state to consider its first major gun reform, which included significant licensing and registration requirements. See Cornell, *A Well Regulated Militia*, *supra*, at 197. The legislation, which was signed into law on May 29, 1911, required the issuance of a license by the local government for the possession of a pistol, revolver, or other concealable firearm. See Act of May 25, 1911, ch. 195, § 1, 1911 N.Y. Laws

442, 443. It also directed sellers to record the “date of sale, name, age, occupation and residence of every purchaser of such a pistol, revolver or other firearm, together with the calib[er], make, model, manufacturer’s number or other mark of identification on such pistol, revolver or other firearm.” *Id.* § 2, 1911 N.Y. Laws at 444.

Many other states enacted similar licensing and registration requirements during this period. Although the details of these varied, as a general matter they required individuals to provide detailed information to, and obtain permission from, a government official in order to bear arms. In addition, some states required inspection of weapons and obtaining particular licenses. For example:

- In California, any person selling, leasing, or transferring a firearm of the type which could be concealed was required to “keep a register” containing information about the sale and the purchaser, and the seller and the purchaser were directed to sign a form with the information and submit it to government officials. Act of May 4, 1917, ch.145, § 7, 1917 Cal. Laws 221, 222-23.
- Connecticut made it a crime for any person to “carry . . . any pistol [or] revolver . . . unless such person shall have been granted a written permit issued and signed by the mayor or chief of police of a city, warden of a borough, or the first selectman of a town, authorizing such person to carry such weapon or instrument within such city, borough or town.” Act of Apr. 10, 1917, ch. 129, 1917 Conn. Laws 98, 98.
- Georgia made it “unlawful for any person to have or carry about his person, in any county in the State of Georgia, any pistol or revolver without first taking out a license from the Ordinary of the respective counties in which the party resides.” Act of Aug. 12, 1910, No. 432, § 1, 1910 Ga. Laws 134, 134. A public official was directed to “keep a record of the name of the person taking out such license, the name of the maker of the fire-arm to be

carried, and the caliber and number of the same.” *Id.* § 2, 1910 Ga. Laws at 135.

- A Nevada law made it “unlawful for any person . . . to wear, carry or have concealed upon his person, in any town any . . . pistol . . . or other dangerous weapon, without first obtaining permission from the Board of County Commissioners.” Act of Mar. 17, 1903, ch. CXIV, § 1, 1903 Nev. Laws 208, 208-09.
- A New Hampshire law provided that “[t]he selectmen of towns or the mayor or the chief of police of cities may, upon the application of any person issue a license to such person to carry a loaded pistol or revolver in this State, if it appears that the applicant is a suitable person to be so licensed.” Act of Apr. 6, 1909, ch. 114, § 3, 1909 N.H. Laws 451, 451-52.
- Oregon law stated that “[n]o person shall carry in any city, town or municipal corporation of this State any pistol, revolver or other firearm . . . of a size which may be concealed upon his or her person, without a license or permit therefor, issued to him or her [by the local government] . . .” Act of Feb. 21, 1917, ch. 377, § 1, 1917 Or. Laws 804.
- In West Virginia, it was a misdemeanor to “carry about [one’s] person any revolver or other pistol,” but a license could be obtained by publishing in a newspaper notice of intent to acquire a license, and making a showing to a circuit court judge that the applicant was of good moral character and had cause for carrying a weapon. Act of Apr. 23, 1925, ch. 95, 1925 W.V. Laws 389, 389-90.
- Hawaii also generally prohibited carrying a pistol or revolver outside the home without a license. Small Arms Act, Act 206, 1927 Haw. Laws 209. Licenses were issued by “[t]he judge of a court of record or the sheriff of a county, or city and county . . . if it appears that the applicant has good reason to fear an injury to his person or property, or has any other proper reason for carrying a pistol or revolver, and that he is a suitable person to be so licensed.” *Id.* § 7, 1927 Haw. Laws at 210.
- Michigan enacted a law that required “any person within this State who owns weapons or has in his possession a pistol” to “present such weapon for safety inspection to the commissioner or chief of police A certificate of inspection shall thereupon be issued . . . [and] mailed to the commissioner of public safety and filed and indexed by him and kept as a permanent official

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record for a period of six years.” Act of June 2, 1927, No. 372, § 9, 1927 Mich. Laws 887, 891.

For these reasons, it has been common practice for jurisdictions across the United States to condition the right to bear arms on an individual’s willingness to provide information to government officials and register his or her firearms.

II. STATES AND MUNICIPALITIES HAVE LONG BANNED DANGEROUS WEAPONS, AND COURTS HAVE UPHELD THESE REGULATIONS AS CONSISTENT WITH THE RIGHT TO BEAR ARMS.

Since the Founding, states and municipalities have possessed broad “police power” to enact safety regulations protecting the public. *See* William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* 53-54 (1996). Jurisdictions have exercised their police powers to regulate arms in many ways, including, as explained above, with laws akin to the registration requirements challenged here. But one constant has been that governments have repeatedly banned weapons that the community views to be particularly dangerous in that jurisdiction. That was the case with gunpowder in cities in the eighteenth century, with certain types of knives and handguns in nineteenth-century states and towns, and with certain types of semi-automatic weapons and ammunition in more recent years. And courts have repeatedly upheld these types of bans of dangerous weapons against constitutional challenges.

A. States and Cities Have Historically Outlawed Dangerous Weapons.

1. In one early form of regulation, several states regulated the storage of gunpowder in order to protect against the accidental discharge of a weapon during a fire, in some instances effectively banning the possession of loaded weapons in the home.² As Chief Justice Marshall observed, “[t]he power to direct the removal of gunpowder is a branch of the police power, which unquestionably remains, and ought to remain, with the States.” *Brown v. Maryland*, 25 U.S. (12 Wheat.) 419, 443 (1827). He explained that “[t]he removal or destruction of infectious or unsound articles is, undoubtedly, an exercise of that power.” *Id.* at 444.

Shortly thereafter, other states, including Ohio, Tennessee, and Virginia, enacted laws regulating the discharge of guns, particularly in potentially crowded public places like the town square.³ Since the Founding, then, states and local

² See, e.g., Act of June 26, 1792, ch. 10, 1792 Mass. Acts 208; Act of Apr. 13, 1784, ch. 28, 1784 N.Y. Laws 627; Act of Dec. 6, 1783, ch. 1059, 11 Pa. Stat. 209; see also *Heller*, 128 S. Ct. at 2819 (stating that the Massachusetts law would have been construed to permit self-defense and, “[i]n any case, we would not stake our interpretation of the Second Amendment upon a single law, in effect in a single city”); *id.* at 2849 (Breyer, J., dissenting) (describing various laws regulating gunpowder). Antebellum courts repeatedly upheld such regulations. See, e.g., *Foote v. Fire Dep’t of New York*, 5 Hill 99, 101 (N.Y. Sup. Ct. 1843) (“The statute is a mere police regulation—an act to prevent a nuisance to the city”); *Williams v. City Council*, 4 Ga. 509, 512 (1848).

³ See, e.g., Act of Feb. 17, 1831, ch. 834, § 6, in 3 *The Statutes of Ohio and of the Northwestern Territory 1740* (Salmon P. Chase ed., 1835); Act of Dec. 3, 1825, ch. 292, § 3, 1825 Tenn. Priv. Acts 306; Act of Jan. 30, 1847, ch. 79, 1846-1847 Va. Acts 67; Act of Feb. 4, 1806, ch. 94, 1805-1806 Va. Acts 51.

governments have regulated arms when necessary to protect citizens from such threats to public safety as fires and accidental shootings.

2. In the early part of the nineteenth century, the states were confronted with an additional problem concerning firearms. In the years since the colonial era, weapons had grown smaller and cheaper, and the practice of traveling with concealed weapons, such as handguns and knives, had become both common and dangerous. *See* Cornell, *A Well-Regulated Militia, supra*, at 137-40. Perceiving a threat to their citizens' safety, many state legislatures responded to this new danger by enacting laws prohibiting the carrying of concealed weapons. *See id.* at 140. Kentucky passed the first of these in 1813, prohibiting the wearing of a "pocket pistol, dirk, large knife, or sword in a cane, concealed as a weapon," with a narrow exception for "when traveling on a journey." Act of Feb. 13, 1813, ch. 89, 1813 Ky. Acts 100, *in* Cramer, *supra*, at 143-44. Louisiana passed a similar ban the same year. Other states soon followed suit.⁴

Several states went further in response to this new threat, deciding not only to outlaw the carrying of concealed weapons, but to proscribe entire classes of concealable weapons, which by their nature posed threats to public safety. In 1837, for example, Alabama imposed a tax on the sale or giving of Bowie Knives

⁴ See statutes from Alabama, Virginia, Arkansas, and Indiana, *in* Clayton E. Cramer, *Concealed Weapon Laws of the Early Republic: Dueling, Southern Violence, and Moral Reform* 145-46, 150-52 (1999), and from Ohio, Act of Mar. 18, 1859, 1859 Ohio Laws 56.

or Arkansas Tooth-picks. *See* Act of June 30, 1837, 1837 Ala. Acts 11, *in Cramer, supra*, at 146. The following year, Tennessee altogether banned the wearing, sale, or giving of the same weapons. *See* Act of Jan. 27, 1838, ch. CXXXVII, 1837-1838 Tenn. Pub. Acts 200, *in Cramer, supra*, at 148-49; *see also* Cornell, *A Well-Regulated Militia, supra*, at 142 (describing the Alabama and Tennessee statutes as “more robust” than earlier statutes by “effectively moving from regulation to prohibition of certain classes of weapons”). The Founders understood the protections of the Second Amendment to apply to these edged weapons, as they were typically associated with the militia. *See* Saul Cornell, *The Original Meaning of Original Understanding: A Neo-Blackstonian Critique*, 67 Md. L. Rev. 150, 157 n.42 (2007). It was therefore generally recognized in the period before the Civil War that American governments could react to threats to the public safety through reasonable regulation of the right to bear arms, including outlawing certain classes of particularly dangerous weapons.

3. States continued to enact broad restrictions on the possession of weapons in the years following the Civil War. These regulations were more pervasive than those enacted during the antebellum period. Even when new state constitutions contained a right to bear arms not expressly subject to legislative regulation,⁵

⁵ *See* Ala. Const. of 1868, art. I, § 28; Ark. Const. of 1868, art. I, § 5; Del. Const. of 1897, art. I, § 20; Or. Const. of 1857, art. I, § 27; Pa. Const. of 1874, art. I, § 21;

legislatures still regulated firearms.⁶ Several even imposed outright bans on handguns.

The most common regulations of the period were concealed-weapons laws. At least fifteen states prohibited the carrying of concealed pistols and deadly weapons, some explicitly covering all firearms or all weapons.⁷ Although three of these statutes created exceptions for travelers, persons on their own premises, or those with a legitimate fear of attack,⁸ the majority contained no such exceptions.

But concealed-weapons laws were not the only legislative prerogative exercised at the time. At least four states banned the possession of all non-military handguns. Tennessee criminalized carrying, “publicly or privately, any . . . belt or pocket pistol, revolver, or any kind of pistol, except the army or navy pistol, usually used in warfare, which shall be carried openly in the hand.” 1879 Tenn.

S.C. Const. of 1868, art. I § 28; S.D. Const. of 1889, art. VI, § 24; Wash. Const. of 1889, art. I, § 24; Wyo. Const. of 1889, art. I, § 24.

⁶ See Act of Apr. 1, 1881, 1881 Ark. Acts 191; Act of Feb. 18, 1885, ch. 8, § 1–4, 1885 Or. Laws 33; 1880 S.C. Acts 448, § 1; S.D. Terr. Pen. Code § 455 (1877); Wash. Code § 929 (1881); 1876 Wyo. Laws ch. 52, § 1.

⁷ See Act of Apr. 1, 1881, 1881 Ark. Acts 191; Colo. Rev. Stat. § 149, at 229 (1881); Fla. Act of Feb. 12, 1885, ch. 3620, § 1; Ill. Act of Apr. 16, 1881; Ky. Gen. Stat., ch. 29, § 1 (1880); Neb. Cons. Stat. § 5604 (1893); 1879 N.C. Sess. Laws, ch. 127; N.D. Pen. Code § 457 (1895); Act of Feb. 18, 1885, ch. 8, §§ 1–4, 1885 Or. Laws 33; 1880 S.C. Acts 448, § 1; S.D. Terr. Pen. Code § 457 (1877); Tex. Act of Apr. 12, 1871; 1869–1870 Va. Acts 510; Wash. Code § 929 (1881); W. Va. Code ch. 148, § 7 (1870).

⁸ See Neb. Cons. Stat. § 5604 (1893); 1879 N.C. Sess. Laws, ch. 127; 1880 S.C. Acts 448, § 1.

Pub. Acts, ch. 186. The only persons exempted from the statute were military personnel and those performing specified law enforcement functions. *Id.* Perhaps most pertinent here, the Tennessee Supreme Court construed the act to apply even “upon one’s own farm or premises, or in fact in *any place.*” *Dycus v. State*, 74 Tenn. 584, 585 (1880) (emphasis added); *see also Barton v. State*, 66 Tenn. 105, 105-06 (1874).

Tennessee was not alone in such regulation. Wyoming likewise forbade anyone from “bear[ing] upon his person, concealed or openly, any fire-arm or other deadly weapon, within the limits of any city, town or village.” 1876 Wyo. Laws ch. 52, § 1. Arkansas and Texas enacted similar bans. *See* Act of Apr. 1, 1881, No. 96, 1881 Ark. Acts 191; Tex. Act of Apr. 12, 1871. States also outlawed the sale of non-military pistols,⁹ or prohibited specific weapons elected officials determined were public dangers.¹⁰

Municipalities likewise enacted their own regulations. Dodge City, Kansas, for example, banned the carrying of pistols and other dangerous weapons in response to violence accompanying western cattle drives. *See* Dodge City, Kan., Ordinance No. 16, § XI (Sept. 22, 1876); Robert R. Dykstra, *The Cattle Towns* 121-22 (1968).

⁹ *See* Ark. Act of Apr. 1, 1881; 1879 Tenn. Pub. Acts, ch. 96.

¹⁰ *See* Fla. Act of Aug. 8, 1868; Ill. Act of Apr. 16, 1881; 1850 Mass. Laws, ch. 194, § 2; N.D. Pen. Code § 457 (1895); S.D. Terr. Pen. Code § 455 (1877).

B. Courts Have Historically Upheld Restrictions On Dangerous Weapons

1. In the early Republic, state courts repeatedly upheld arms-regulating statutes against constitutional attack, even when the pertinent state constitution explicitly protected the right to bear arms. *See, e.g., Day v. State*, 37 Tenn. 496, 499 (1857); *Aymette v. State*, 21 Tenn. 154, 159-61 (1840) (right to keep weapons is unqualified, but right to bear arms for purposes other than the common defense can be regulated); *State v. Buzzard*, 4 Ark. 18, 21 (1842); *State v. Chandler*, 5 La. Ann. 489, 489-90 (1850) (upholding a ban on concealed weapons that was “absolutely necessary to counteract a vicious state of society, growing out of the habit of carrying concealed weapons”); *State v. Jumel*, 13 La. Ann. 399, 400 (1858) (upholding a concealed-weapons law because it only banned a “*particular mode* of bearing arms which is found dangerous to the peace of society”); *State v. Reid*, 1 Ala. 612, 616-17 (1840) (holding that it was permissible for the state to regulate weapons “merely to promote personal security” by prohibiting the wearing of weapons “in such a manner as is calculated to exert an unhappy influence upon the moral feelings of the wearer, by making him less regardful of the personal security of others”). Courts thus recognized that states and localities had authority to exercise their police powers to regulate weapons deemed particularly dangerous.

Against this backdrop, there are two major outliers. The first is *Bliss v. Commonwealth*, 12 Ky. 90, 91, 93 (1822), in which the Kentucky Supreme Court declared Kentucky's concealed-weapons ban in conflict with its Constitution. As commentators in the era of the Fourteenth Amendment recognized, *Bliss* is properly understood as the exception, not the rule, in judicial decisions involving challenges to gun-safety regulations. See 2 Joel Prentiss Bishop, *Commentaries on the Criminal Law* § 125, at 75-76 (4th ed. 1868). And, indeed, it was so anomalous that the legislature responded by amending the state constitution to allow a concealed-weapons ban. See Ky. Const. of 1850, art. XIII, § 25.

The second outlier is *Nunn v. State*, in which the Georgia Supreme Court used broad language in upholding a constitutional challenge against part of a Georgia law banning the open carry of a horseman's pistol. *Nunn v. State*, 1 Ga. 243, 251 (1846). The same court, however, upheld the portion of the law which prohibited the carry of "certain weapons secretly." And the Georgia Supreme Court has since taken a narrow reading of *Nunn*, stating on two separate occasions that "evidently [*Nunn*] was never intended to hold that men, women, and children had some inherent right to keep and carry arms or weapons of every description, which could not be infringed by the legislature, unless as a result of the constitutional provision under consideration." *Strickland v. State*, 137 Ga. 1, 8 (1911); *Carson v. State*, 241 Ga. 622, 627-28 (1978). Indeed, the Georgia

Supreme Court later cited *Nunn* in *upholding* a 1910 law that prohibited any person from carrying a revolver without a license. *Strickland*, 137 Ga. at 8.

Similarly, the vast majority of state and local laws regulating or outlawing dangerous arms were upheld as paradigmatic examples of the exercise of police power. “The acknowledged police power of a State extends often to the destruction of property. A nuisance may be abated. Every thing prejudicial to the health or morals of a city may be removed.” *Thurlow v. Massachusetts (The License Cases)*, 46 U.S. (5 How.) 504, 589-91 (1847) (McLean, J., dissenting). This power, Justice McLean explained, is “essential to self-preservation, and exists, necessarily, in every organized community. It is, indeed, the law of nature, and is possessed by man in his individual capacity. He may resist that which does him harm, whether he be assailed by an assassin, or approached by poison.” *Id.* at 589. Thus, for example, in light of the “explosive nature of gunpowder, a city may exclude it” as an “act[] of self-preservation.” *Id.* For “[i]ndividuals in the enjoyment of their own rights must be careful not to injure the rights of others.” *Id.*

2. In the wake of the Civil War and adoption of the Fourteenth Amendment, courts continued to recognize state legislative authority to regulate dangerous weapons, including handguns. The Tennessee Supreme Court’s *Andrews v. State* decision is illustrative. 50 Tenn. 165, 171 (1871). The plaintiffs there challenged

a statute forbidding any person to “publicly or privately carry any . . . pocket pistol . . . or revolver,” Tenn. Act of June 11, 1870, asserting “that it is in violation of, and repugnant to” the Second Amendment of the U.S. Constitution and Tennessee’s constitution. 50 Tenn. at 171. The court interpreted the statute to “amount[] to a prohibition to keep and use such weapon for *any and all purposes*.” *Id.* at 187 (emphasis added). Although the court held that the federal Constitution did not limit the state legislature, *id.* at 175, it interpreted the state right-to-bear-arms provision *in pari materia* with the Second Amendment, *id.* at 177. Nevertheless, this right did not extend to “every thing that may be useful for offense or defense.” *Id.* at 179. Weapons such as the pocket pistol and revolver could be prohibited *altogether*. *Id.* Even the use of weapons such as “the rifle . . . , the shot gun, the musket, and repeater,” could “be subordinated to such regulations and limitations as are or may be authorized by the law of the land, passed to subserve the general good.” *Id.* at 179-80; *see also State v. Wilburn*, 66 Tenn. 57, 59-60 (1872).

Similarly, the Arkansas Supreme Court upheld that state’s prohibition on carrying pistols. *See Fife v. State*, 31 Ark. 455 (1876). Tracking the reasoning of *Andrews*, the Arkansas Supreme Court upheld that State’s prohibition as a lawful “exercise of the police power of the State without any infringement of the constitutional right” to bear arms. *Id.* at 461. So, too, the Texas Supreme Court

upheld a conviction for carrying an unloaded pistol for the purpose of getting it repaired, and concluded that such carrying is not “in any way protected either under the State or Federal Constitution.” *English v. State*, 35 Tex. 473, 473, 478 (1871).

Courts in Georgia, West Virginia, and Oklahoma followed suit. *See Hill v. State*, 53 Ga. 472, 474 (1874); *State v. Workman*, 35 W. Va. 367, 373 (1891); *Ex parte Thomas*, 97 P. 260, 262 (Okla. 1908). In the Georgia case, the author of the Court’s opinion noted that he was “at a loss to follow the line of thought that extends the guarantee”—in the state Constitution of the “right of the people to keep and bear arms”—“to the right to carry pistols, dirks, Bowie-knives, and those other weapons of like character, which, as all admit, are the greatest nuisances of our day.” *Hill*, 53 Ga. at 474.

C. Leading Treatises Recognized States’ and Cities’ Authority to Regulate Arms to Protect the Public Safety.

Major legal treatises, including those from the earliest periods of American history cement the conclusion that governments were widely understood to have broad authority to regulate and ban dangerous weapons. In *Heller*, the Supreme Court cited John Norton Pomeroy’s treatise as representative of “post-Civil War 19th-century sources” commenting on the right to bear arms. 128 S. Ct. at 2812. As the Court noted, Pomeroy observed that while “[t]he object of” the Second Amendment “is to secure a well-armed militia,” “a militia would be useless unless

the citizens were enabled to exercise themselves in the use of warlike weapons,” and so the government “is forbidden by any law or proceeding to invade or destroy the right to keep and bear arms.” John Norton Pomeroy, *An Introduction to the Constitutional Law of the United States* 152 (1868). The very next sentence in Pomeroy’s treatise is: “But all such provisions, all such guarantees, must be construed with reference to their intent and design. This constitutional inhibition is certainly not violated by laws forbidding persons to carry dangerous or concealed weapons, or laws forbidding the accumulation of quantities of arms with the design to use them in a riotous or seditious manner.” *Id.* at 152-53.

One early commentator on the right to bear arms similarly observed that the “right in the people to keep and bear arms, although secured by . . . the constitution, is held in subjection to the public safety and welfare.” Joel Tiffany, *A Treatise on Government, and Constitutional Law* 394 (1867). Even where there is a right to bear arms, “the peace of society and the safety of peaceable citizens plead loudly for protection against the evils which result from permitting other citizens to go armed with dangerous weapons.” *The Right to Keep and Bear Arms for Public and Private Defence*, 1 Cent. L.J. 259, 287 (Hon. John F. Dillon & Seymour D. Thompson, eds., 1874). And so the law must “strike some sort of balance between these apparently conflicting rights.” *Id.*

In his authoritative survey of police power, published in 1904, Ernst Freund reviewed nineteenth-century weapons regulations to conclude that the constitutional guarantees of the Second Amendment and similar state constitutional provisions had “not prevented the very general enactment of statutes forbidding the carrying of concealed weapons, and the *possession or use of certain deadly weapons.*” Ernst Freund, *The Police Power: Public Policy and Constitutional Rights* 90-91 (1904) (emphasis added). He deemed this a classic illustration of the more general principle whereby “constitutional rights must if possible be so interpreted as not to conflict with the requirements of peace, order and security.” *Id.* at 91.

CONCLUSION

For the foregoing reasons this Court should affirm the decision below.

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Dated: September 20, 2010 *Attorney for Amici Curiae*

CERTIFICATE OF COMPLIANCE WITH RULE 29(d)

In accordance with D.C. Circuit Rule 29(d), the undersigned certifies that the accompanying brief is necessary. *Amici* are Professional Historians and Law Professors who have taught courses and published scholarship on the Second Amendment and legal and constitutional history. The Supreme Court in *Heller v. District of Columbia*, 128 S. Ct. 2783 (2008), looked to historical gun regulations in determining the Second Amendment's application to current gun laws. *Amici* are not aware of any other brief in this case that describes in detail the history of registration requirements and regulations of dangerous weapons dating back to the early Republic.

Dated: September 20, 2010

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CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2010, I caused a true and accurate copy of the Brief for Professional Historians and Law Professors Saul Cornell, Paul Finkelman, Stanley N. Katz, and David T. Konig as *Amici Curiae* in Support of Appellees to be served upon the following counsel for the parties via the Court's ECF system:

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EXHIBIT 24

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

2002 Maryland Laws Ch. 26 (H.B. 11)

MARYLAND 2002 SESSION LAWS
REGULAR SESSION

Additions are indicated by <<+ Text +>>; deletions by <<- Text ->>. Changes in tables are made but not highlighted.

Ch. 26
H.B. No. 11
CRIMINAL LAW

AN ACT concerning

Criminal Law

FOR the purpose of adding a new article to the Annotated Code of Maryland, to be designated and known as the “Criminal Law Article”, to revise, restate, and recodify the laws of the State relating to criminal law; revising, restating, and recodifying certain provisions relating to consignment of agricultural products and other goods, humane slaughter of livestock, disposition of certain materials and returnable containers, use of organizational insignia, operation of junkyards and automobile recycling facilities, powers of child welfare organizations, citations for certain alcoholic beverages violations, certain alcoholic beverages violations and crimes, debt adjustment, false advertising, required reports of certain injuries, misuse of certain food containers, operation of certain vessels and related boating provisions, real estate settlements, fortune telling, and local animal control; defining certain terms; providing for the construction and application of this Act; providing for the continuity of certain units and the terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interests, licenses, registrations, certifications, and permits; providing a delayed effective date for certain provisions of this Act; and generally relating to Maryland criminal laws.

BY repealing Article 27—Crimes and Punishments Section 2 and the subheading “Abduction”; 2A and the subheading “Accessory After the Fact”; 3 and the subheading “Adultery”; 4 and the subheading “Appropriating Property by Bailee”; 5 through 11 and the subheading “Arson and Burning”; 12 through 12A–7 and the subheading “Assault”; 18 and 19 and the subheading “Bigamy”; 20 and the subheading “Blasphemy”; 21 and the subheading “Boating”; 22 through 27 and the subheading “Bribery; Obstructing Justice”; 27A through 27C and the subheading “Bulletproof Body Armor”; 28 through 35B and the subheading “Burglary and Related Offenses”; 35C and 35D and the subheading “Abuse of Children or Vulnerable Adults”; 35E and the subheading “Child Selling”; 36 and the subheading “Carrying or Wearing Weapon”; 36A and the subheading “Carrying Deadly Weapons on Public School Property”; 36A–1 and the subheading “Disarming a Law Enforcement Officer”; 36B, 36D, 36E(l), 36F(c) through (g), (i), and (k), 36G, and 36H; 36H–1 through 36H–6 and 36K; 38 through 40 and the subheading “Conspiracy”; 40A and the subheading “Clove Cigarettes—Sales Prohibited”; 40B and the subheading “Code Grabbing”; 41 and 41A and the subheading “Contraceptives—Sale by Vending Machines”; 44 through 58 and the subheading “Counterfeiting and Forgery”; 59 through 70E and the subheading “Cruelty to Animals”; 79A and the subheading “Debt Adjustment”; 80 and the subheading “Defaulters”; 81 through 87 and the subheading “Desecration of the National or State Flag”; 111 through 118 and the subheading “Destroying, Injuring, etc., Property Maliciously”; 120A and the subheading “Grocery Carts”; 120B and the subheading “Food Packages or Containers”; 121 and 122 and the subheading “Disturbing the Public Peace and Disorderly Conduct”; 123 and 124 and the subheading “Harassment and Stalking”; 125 ½ and the subheading “Interference in Athletic Events”; 125A and the subheading “Emergency Communications—Interference”; 126 through 135 and the subheading “Embezzling Property and Writings”; 136 through 139 and the subheading “Escape and Contraband in Places of Confinement”; 139A through 139D and the subheading “Destructive Devices”; 140 through 144 and the subheading “Bad Checks”; 145 and 146 and the subheading “Credit Card Offenses”; 150 through 151C and the subheading “False Statements”; 152 and 153 and the subheading “Female Sitters”; 156 and the subheading “Fire

EB001286

Also in the introductory language of subsection (a) of this section, the former effective date “June 1, 1994” is deleted as obsolete.

In subsection (a)(2) of this section, the former phrase “in the State” is deleted because the State's jurisdiction is limited to activities within the State.

Defined terms: “Assault pistol” § 4–301

“Person” § 1–101

<< MD CRIM LAW § 4–304 >>

<<+4–304. Same—Seizure and disposition.+>>

<<+A law enforcement unit may seize as contraband and dispose of according to regulation an assault pistol transported, sold, transferred, purchased, received, or possessed in violation of this subtitle.+>>

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36H–4.

The word “unit” is substituted for the former word “agency” to conform with standard terminology used to describe governmental bodies. *See* General Revisor's Note to article.

The Criminal Law Article Review Committee notes, for the consideration of the General Assembly, that it is unclear which “regulation” on contraband and disposal the law enforcement unit may use—that of the State, the United States, or a local government.

Defined term: “Assault pistol” § 4–301

<< MD CRIM LAW § 4–305 >>

<<+4–305. Detachable magazines—Prohibited.+>>

<<+(a) Scope.+>>

<<+This section does not apply to a .22 caliber rifle with a tubular magazine.+>>

<<+(b) Prohibited.+>>

<<+A person may not manufacture, sell, offer for sale, purchase, receive, or transfer a detachable magazine that has a capacity of more than 20 rounds of ammunition for a firearm.+>>

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36H–5(b).

The former reference to “any type of” firearm is deleted as surplusage.

Defined term: “Person” § 1–101

<< MD CRIM LAW § 4–306 >>

<<+4–306. Penalties.+>>

<<+(a) In general.+>>

<<+A person who violates this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.+>>

<<+(b) Use in a felony or crime of violence.+>>

<<+(1) A person who uses an assault pistol, or a magazine that has a capacity of more than 20 rounds of ammunition, in the commission of a felony or a crime of violence as defined in Article 27, § 441 of the Code is guilty of a misdemeanor and on conviction, in addition to any other sentence imposed for the felony or crime of violence, shall be sentenced under this subsection.+>>

<<+(2)(i) For a first violation, the person shall be sentenced to imprisonment for not less than 5 and not exceeding 20 years.+>>

<<+(ii) The court may not impose less than the minimum sentence of 5 years.+>>

<<+(iii) The mandatory minimum sentence of 5 years may not be suspended.+>>

EB001287

EXHIBIT 25

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

BILL TEXT:

STATE OF NEW YORK

S. 8234

A. 11535

SENATE - ASSEMBLY

June 22, 2000

IN SENATE -- Introduced by Sens. PDAVAN, SPANO, GOODMAN, BALBONI, LACK, MARCELLINO, RATH, VELELLA -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Silver, Dinowitz, Matusow, Weisenberg, Koon, Abbate, Arroyo, Aubry, Bea, Boyland, Brennan, Brodsky, D. Butler, Cahill, Canestrari, Carroz-za, Clark, A. Cohen, M. Cohen, Colton, Cook, Cymbrowitz, Davis, Denis, Diaz, DiNapoli, Englebright, Espaillat, Eve, Farrell, Galef, Gantt, Glick, Gottfried, Grannis, Green, Greene, Griffith, Hikind, Hochberg, Hoyt, John, Kaufman, Lafayette, Lentol, Lopez, Luster, Magnarelli, Markey, Mayersohn, Mazzairelli, McEneny, Millman, Morelle, Nolan, Norman, Ortiz, Perry, Pheffer, Pretlow, Ramirez, Rhodd-Cummings, Rivera, Sanders, Seddio, E. C. Sullivan, Vann, Weinstein, Weprin, Wright) -- (at request of the Governor) -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, the general business law and the penal law, in relation to assault weapons and large capacity ammu- nition feeding devices, gun locking devices, creating a ballistic identification databank, sales of firearms, rifles or shotguns at gun

EB001289

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

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

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

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

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11535 S. 8234 2 A. LBD12429-

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

8 § 2. Subparagraph (v) of paragraph (b) of subdivision 3 of
section
9 220.30 of the criminal procedure law, as amended by chapter 33 of
the
10 laws of 1999, is amended to read as follows:

11 (v) A plea of guilty, whether to the entire indictment or part of
the
12 indictment, for any crime other than a violent felony offense as
defined
13 in section 70.02 of the penal law, may not be accepted on the
condition

14 that it constitutes a complete disposition of one or more other
indict-
15 ments against the defendant wherein is charged the class D violent
felo-
16 ny offenses of criminal possession of a weapon in the third degree
as
17 defined in subdivision four [~~of~~], five, seven or eight of section
265.02
18 of the penal law; provided, however, a plea of guilty, whether to
the
19 entire indictment or part of the indictment, for the class A
misdemeanor
20 of criminal possession of a weapon in the fourth degree as defined
in
21 subdivision one of section 265.01 of the penal law may be accepted
on
22 the condition that it constitutes a complete disposition of one or
more
23 other indictments against the defendant wherein is charged the
class D
24 violent felony offense of criminal possession of a weapon in the
third
25 degree as defined in subdivision four of section 265.02 of the penal
law
26 when the defendant has not been previously convicted of a class A
misde-
27 meanor defined in the penal law in the five years preceding the
commis-
28 sion of the offense.

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

31 § 396-ee. Sale of certain weapons; locking devices therefor. (1)
No
32 person, firm or corporation engaged in the retail business of
selling
33 rifles, shotguns or firearms, as such terms are defined in
section
34 265.00 of the penal law, shall sell, deliver or transfer any such
rifle,
35 shotgun or firearm to another person unless the transferee is
provided
36 at the time of sale, delivery or transfer with a gun locking device
and
37 a label containing the quoted language specified in subdivision two
of
38 this section is either affixed to such rifle, shotgun or firearm
or
39 placed in the container in which such rifle, shotgun or firearm is
sold,
40 delivered or transferred. For the purposes of this section, the
term
41 "gun locking device" shall mean an integrated design feature or
an
42 attachable accessory that is resistant to tampering and is effective
in

43 preventing the discharge of such rifle, shotgun or firearm by a
44 person
45 who does not have access to the key, combination or other mechanism
46 used
47 to disengage the device. The division of state police shall develop
48 and
49 promulgate rules and regulations setting forth the specific devices
50 or
51 the minimum standards and criteria therefor which constitute an
52 effec-
53 tive gun locking device.

49 (2) Every person, firm or corporation engaged in the retail
50 business
51 of selling rifles, shotguns or firearms, as such terms are defined
52 in
53 section 265.00 of the penal law, shall, in the place where such
54 rifles,
55 shotguns or firearms are displayed or transferred to the purchaser,
56 post
57 a notice conspicuously stating in bold print that: "The use of a
58 locking
59 device or safety lock is only one aspect of responsible firearm
60 storage.

55 For increased safety firearms should be stored unloaded and locked in
61 a
62 S. 8234 3 A.

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63 location that is both separate from their ammunition and inaccessible
64 to
65 children and any other unauthorized person."

66 (3) Any person, firm or corporation who fails to comply with
67 the
68 provisions of this section shall be guilty of a violation punishable
69 as
70 provided in the penal law. Any person, firm, or corporation who fails
71 to
72 comply with the provisions of this section after having been
73 previously
74 convicted of a violation of this section shall be guilty of a class
75 A
76 misdemeanor, punishable as provided in the penal law.

77 § 4. The general business law is amended by adding a new section
396-
78 ff to read as follows:
79 § 396-ff. Pistol and revolver ballistic identification databank.

80 (1)
81 For the purposes of this section, the following terms shall have
82 the
83 following meanings:

84 (a) "Manufacturer" means any person, firm or corporation possessing
85 a
86 valid federal license that permits such person, firm or corporation
87 to
88 engage in the business of manufacturing pistols or revolvers or
89 ammuni-
90 tion therefor for the purpose of sale or distribution.

18 (b) "Shell casing" means that part of ammunition capable of being
19 used
20 in a pistol or revolver that contains the primer and propellant
21 powder
22 to discharge the bullet or projectile.
23 (2) On and after March first, two thousand one, any manufacturer
24 that
25 ships, transports or delivers a pistol or revolver to any person in
26 this
27 state shall, in accordance with rules and regulations promulgated by
28 the
29 division of state police, include in the container with such pistol
30 or
31 revolver a separate sealed container that encloses:
32 (a) a shell casing of a bullet or projectile discharged from
33 such
34 pistol or revolver; and
35 (b) any additional information that identifies such pistol or
36 revolver
37 and shell casing as required by such rules and regulations.
38 (3) A gunsmith or dealer in firearms licensed in this state
39 shall,
40 within ten days of the receipt of any pistol or revolver from a
41 manufac-
42 turer that fails to comply with the provisions of this section,
43 either
44 (a) return such pistol or revolver to such manufacturer, or (b)
45 notify
46 the division of state police of such noncompliance and thereafter
47 obtain
48 a substitute sealed container through participation in a program
49 oper-
50 ated by the state police as provided in subdivision four of
51 this
52 section.
53 (4) The division of state police shall no later than October
54 first,
55 two thousand, promulgate rules and regulations for the operation
56 of a
57 program which provides a gunsmith or a dealer in firearms licensed
58 in
59 this state with a sealed container enclosing the items specified
60 in
61 subdivision two of this section. The program shall at a minimum:
62 (a) be operational by January first, two thousand one;
63 (b) operate in at least five regional locations within the state;
64 and
65 (c) specify procedures by which such gunsmith or dealer is to
66 deliver
67 a pistol or revolver to the regional program location closest to his
68 or
69 her place of business for testing and prompt return of such pistol
70 or
71 revolver.
72 (5) On and after March first, two thousand one, a gunsmith or
73 dealer

50 in firearms licensed in this state shall, within ten days of
delivering
51 to any person a pistol or revolver received by such gunsmith or
dealer
52 in firearms on or after such date, forward to the division of
state
53 police, along with the original transaction report required by
subdivi-
54 sion twelve of section 400.00 of the penal law, the sealed
container
55 enclosing the shell casing from such pistol or revolver either
(a)
56 received from the manufacturer, or (b) obtained through participation
in
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1 the program operated by the division of state police in accordance
with
2 subdivision four of this section.
3 (6) Upon receipt of the sealed container, the division of state
police
4 shall cause to be entered in an automated electronic databank
pertinent
5 data and other ballistic information relevant to identification of
the
6 shell casing and to the pistol or revolver from which it was
discharged.
7 The automated electronic databank will be operated and maintained by
the
8 division of state police, in accordance with its rules and
regulations
9 adopted after consultation with the Federal Bureau of Investigation
and
10 the United States Department of Treasury, Bureau of Alcohol, Tobacco
and
11 Firearms to ensure compatibility with national ballistic technology.
12 (7) Any person, firm or corporation who knowingly violates any of
the
13 provisions of this section shall be guilty of a violation, punishable
as
14 provided in the penal law. Any person, firm or corporation who
knowingly
15 violates any of the provisions of this section after having been
previ-
16 ously convicted of a violation of this section shall be guilty
of a
17 class A misdemeanor, punishable as provided in the penal law.

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

20 ARTICLE 39-DD
21 SALE OF FIREARMS, RIFLES OR SHOTGUNS
22 AT GUN SHOWS
23 Section 895. Definitions.
24 896. Operation of a gun show.
25 897. Sale of a firearm, rifle or shotgun at a gun show.

26 § 895. Definitions. For the purposes of this article:
 27 1. "Gun show" means an event sponsored, whether for profit or not,
 by
 28 an individual, national, state or local organization, association
 or
 29 other entity devoted to the collection, competitive use, sporting
 use,
 30 or any other legal use of firearms, rifles or shotguns, or an event
 at
 31 which (a) twenty percent or more of the total number of exhibitors
 are
 32 firearm exhibitors or (b) ten or more firearm exhibitors are
 participat-
 33 ing or (c) a total of twenty-five or more pistols or revolvers
 are
 34 offered for sale or transfer or (d) a total of fifty or more
 firearms,
 35 rifles or shotguns are offered for sale or transfer. The term gun
 show
 36 shall include any building, structure or facility where firearms,
 rifles
 37 or shotguns are offered for sale or transfer and any grounds used
 in
 38 connection with the event.
 39 2. "Firearm exhibitor" means any person, firm, partnership,
 corpo-
 40 ration or company that exhibits, sells, offers for sale, transfers,
 or
 41 exchanges firearms, rifles or shotguns at a gun show.
 42 3. "Gun show operator" means any person, firm, partnership,
 corpo-
 43 ration or company that organizes, produces, sponsors or operates a
 gun
 44 show.
 45 4. "Firearm" has the same meaning as that term is defined in 18
 U.S.C.
 46 921(a)(3), but shall not include an "antique firearm" as that term
 is
 47 defined in 18 U.S.C. 921(a)(16).
 48 5. "Rifle" has the same meaning as that term is defined in 18
 U.S.C.
 49 921(a)(7).
 50 6. "Shotgun" has the same meaning as that term is defined in 18
 U.S.C.
 51 921(a)(5).
 52 § 896. Operation of a gun show. 1. A gun show operator shall:
 53 (a) at all times during such show conspicuously post and
 maintain
 54 signs stating "A National Instant Criminal Background Check must
 be
 55 completed prior to all firearm sales or transfers, including sales
 or
 56 transfers of rifles or shotguns". Signs must be posted at all
 entrances

1 to the gun show, at all places where admission tickets to the gun
show
2 are sold and not less than four additional locations within the
grounds
3 of the gun show;
4 (b) notify all firearm exhibitors in writing that a national
instant
5 criminal background check must be completed prior to all firearm
sales
6 or transfers, including sales or transfers of rifles or shotguns; and
7 (c) provide access at the gun show to a firearm dealer licensed
under
8 federal law who is authorized to perform a national instant
criminal
9 background check where the seller or transferor of a firearm, rifle
or
10 shotgun is not authorized to conduct such a check by (i)
requiring
11 firearm exhibitors who are firearm dealers licensed under federal
law
12 and who are authorized to conduct a national instant criminal
background
13 check to provide such a check at cost or (ii) designating a
specific
14 location at the gun show where a firearm dealer licensed under
federal
15 law who is authorized to conduct a national instant criminal
background
16 check will be present to perform such a check at cost. Any
firearm
17 dealer licensed under federal law who performs a national instant
crimi-
18 nal background check pursuant to this paragraph shall provide the
seller
19 or transferor of the firearm, rifle or shotgun with a copy of the
United
20 States Department of Treasury, Bureau of Alcohol, Tobacco and
Firearms
21 Form ATF F 4473 and such dealer shall maintain such form and make
such
22 form available for inspection by law enforcement agencies for a
period
23 of ten years thereafter.
24 2. Whenever the attorney general shall believe from evidence
satisfac-
25 tory to him or her that a gun show operator has violated any of
the
26 provisions of this section, the attorney general may bring an action
or
27 special proceeding in the supreme court for a judgment enjoining
the
28 continuance of such violation and for a civil penalty in an amount
not
29 to exceed ten thousand dollars. If it shall appear to the
satisfaction
30 of the court or justice that the defendant has violated any
provisions

31 of this section, no proof shall be required that any person has
been
32 injured thereby nor that the defendant intentionally violated
such
33 provision. In such action preliminary relief may be granted under
arti-
34 cle sixty-three of the civil practice law and rules. In connection
with
35 any such proposed application, the attorney general is authorized
to
36 take proof, issue subpoenas and administer oaths in the manner
provided
37 in the civil practice law and rules.

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

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

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

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

54 (c) Class D violent felony offenses: an attempt to commit any of
the
55 class C felonies set forth in paragraph (b); assault in the
second
56 degree as defined in section 120.05, stalking in the first degree,
as

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1 defined in subdivision one of section 120.60, sexual abuse in the
first
2 degree as defined in section 130.65, course of sexual conduct against
a
3 child in the second degree as defined in section 130.80,
aggravated

4 sexual abuse in the third degree as defined in section 130.66,
criminal
5 possession of a weapon in the third degree as defined in
[subdivisions]
6 subdivision four, five [and], six, seven or eight of section 265.02,
and
7 intimidating a victim or witness in the second degree as defined
in
8 section 215.16.

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

14 § 7. Paragraph (b) and the opening paragraph of paragraph (c)
of
15 subdivision 2 of section 70.02 of the penal law, as amended by
chapter
16 33 of the laws of 1999, are amended to read as follows:

17 (b) Except as provided in subdivision six of section 60.05 and
subdi-
18 vision four of this section, the sentence imposed upon a person
who
19 stands convicted of a class D violent felony offense, other than
the
20 offense of criminal possession of a weapon in the third degree
as
21 defined in [subdivisions] subdivision four [and], five, seven or
eight

22 of section 265.02, must be in accordance with the applicable
provisions
23 of this chapter relating to sentencing for class D felonies
provided,
24 however, that where a sentence of imprisonment is imposed which
requires
25 a commitment to the state department of correctional services,
such
26 sentence shall be a determinate sentence in accordance with
paragraph

27 (c) of subdivision three of this section.
28 Except as provided in subdivision six of section 60.05, the
sentence
29 imposed upon a person who stands convicted of the class D violent
felony
30 offenses of criminal possession of a weapon in the third degree
as
31 defined in [subdivisions] subdivision four [and], five, seven or
eight

32 of section 265.02 or the class E violent felonies of attempted
criminal

33 possession of a weapon in the third degree as defined in
[subdivisions]

34 subdivision four [~~and~~], five, seven or eight of section 265.02 must
 be a
 35 sentence to a determinate period of imprisonment, or, in the
 alterna-
 36 tive, a definite sentence of imprisonment for a period of no less
 than
 37 one year, except that:
 38 § 8. Subdivision 3 of section 265.00 of the penal law, as amended
 by
 39 chapter 264 of the laws of 1988, is amended to read as follows:
 40 3. "Firearm" means (a) any pistol or revolver; or (b) a shotgun
 having
 41 one or more barrels less than eighteen inches in length; or (c) a
 rifle
 42 having one or more barrels less than sixteen inches in length; or
 (d)
 43 any weapon made from a shotgun or rifle whether by alteration,
 modifica-
 44 tion, or otherwise if such weapon as altered, modified, or otherwise
 has
 45 an overall length of less than twenty-six inches; or (e) an
assault
 46 weapon. For the purpose of this subdivision the length of the barrel
 on
 47 a shotgun or rifle shall be determined by measuring the distance
 between
 48 the muzzle and the face of the bolt, breech, or breechlock when
 closed
 49 and when the shotgun or rifle is cocked; the overall length of a
 weapon
 50 made from a shotgun or rifle is the distance between the extreme ends
 of
 51 the weapon measured along a line parallel to the center line of
 the
 52 bore. Firearm does not include an antique firearm.
 53 § 9. Subdivisions 8 and 9 of section 265.00 of the penal law,
 subdi-
 54 vision 8 as amended by chapter 588 of the laws of 1972 and
 subdivision 9
 55 as amended by chapter 462 of the laws of 1974, are amended to read
 as
 56 follows:

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

6 9. "Dealer in firearms" means any person, firm, partnership,
 corpo-

7 ration or company who engages in the business of purchasing,
selling,
8 keeping for sale, loaning, leasing, or in any manner disposing of,
any
9 assault weapon, large capacity ammunition feeding device, pistol
or
10 revolver.

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

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

18 22. "Assault weapon" means (a) a semiautomatic rifle that has an
abil-
19 ity to accept a detachable magazine and has at least two of the
follow-
20 ing characteristics:
21 (i) a folding or telescoping stock;
22 (ii) a pistol grip that protrudes conspicuously beneath the action

of
23 the weapon;
24 (iii) a bayonet mount;
25 (iv) a flash suppressor or threaded barrel designed to accommodate
a
26 flash suppressor;
27 (v) a grenade launcher; or
28 (b) a semiautomatic shotgun that has at least two of the

following
29 characteristics:
30 (i) a folding or telescoping stock;
31 (ii) a pistol grip that protrudes conspicuously beneath the action

of
32 the weapon;
33 (iii) a fixed magazine capacity in excess of five rounds;
34 (iv) an ability to accept a detachable magazine; or
35 (c) a semiautomatic pistol that has an ability to accept a

detachable
36 magazine and has at least two of the following characteristics:
37 (i) an ammunition magazine that attaches to the pistol outside of
the
38 pistol grip;
39 (ii) a threaded barrel capable of accepting a barrel extender,
flash
40 suppressor, forward handgrip, or silencer;
41 (iii) a shroud that is attached to, or partially or completely
encir-
42 cles, the barrel and that permits the shooter to hold the firearm
with
43 the nontrigger hand without being burned;

44 (iv) a manufactured weight of fifty ounces or more when the pistol
is
45 unloaded;
46 (v) a semiautomatic version of an automatic rifle, shotgun or
firearm;
47 or
48 (d) any of the weapons, or functioning frames or receivers of
such
49 weapons, or copies or duplicates of such weapons, in any caliber,
known
50 as:
51 (i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs
(all
52 models);
53 (ii) Action Arms Israeli Military Industries UZI and Galil;
54 (iii) Beretta Ar70 (SC-70);
55 (iv) Colt AR-15;
56 (v) Fabrique National FN/FAL, FN/LAR, and FNC;
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1 (vi) SWD M-10, M-11, M-11/9, and M-12;
2 (vii) Steyr AUG;
3 (viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and
4 (ix) revolving cylinder shotguns, such as (or similar to) the
Street
5 Sweeper and Striker 12;
6 (e) provided, however, that such term does not include: (i) any
rifle,
7 shotgun or pistol that (A) is manually operated by bolt, pump, lever
or
8 slide action; (B) has been rendered permanently inoperable; or (C) is
an
9 antique firearm as defined in 18 U.S.C. 921(a)(16);
10 (ii) a semiautomatic rifle that cannot accept a detachable
magazine
11 that holds more than five rounds of ammunition;
12 (iii) a semiautomatic shotgun that cannot hold more than five
rounds
13 of ammunition in a fixed or detachable magazine;
14 (iv) a rifle, shotgun or pistol, or a replica or a duplicate
thereof,
15 specified in Appendix A to section 922 of 18 U.S.C. as such weapon
was
16 manufactured on October first, nineteen hundred ninety-three. The
mere
17 fact that a weapon is not listed in Appendix A shall not be construed
to
18 mean that such weapon is an assault weapon; or
19 (v) a semiautomatic rifle, a semiautomatic shotgun or a
semiautomatic
20 pistol or any of the weapons defined in paragraph (d) of this
subdivi-
21 sion lawfully possessed prior to September fourteenth, nineteen
hundred
22 ninety-four.

23 23. "Large capacity ammunition feeding device" means a magazine,
belt,
24 drum, feed strip, or similar device, manufactured after September
thir-
25 teenth, nineteen hundred ninety-four, that has a capacity of, or
that
26 can be readily restored or converted to accept, more than ten rounds
of
27 ammunition; provided, however, that such term does not include
an
28 attached tubular device designed to accept, and capable of
operating
29 only with, .22 caliber rimfire ammunition.

30 § 11. Subdivisions 4, 5 and 6 of section 265.02 of the penal
law,
31 subdivision 4 as added by chapter 1041 of the laws of 1974,
subdivision
32 5 as amended by chapter 175 of the laws of 1981 and subdivision 6
as
33 added by chapter 378 of the laws of 1998, are amended and two new
subdi-
34 visions 7 and 8 are added to read as follows:

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

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

45 (6) [~~He~~] Such person knowingly possesses any disguised gun[~~-~~]; or
46 (7) Such person possesses an assault weapon; or
47 (8) Such person possesses a large capacity ammunition feeding
device.

48 § 12. Section 265.10 of the penal law, subdivisions 1 and 2 as
amended
49 by chapter 378 of the laws of 1998, subdivision 3 as amended by
chapter
50 695 of the laws of 1987, subdivision 4 as amended by chapter 233 of
the
51 laws of 1980, subdivision 5 as amended by chapter 3 of the laws of
1978
52 and subdivision 7 as amended by chapter 1041 of the laws of 1974,
is
53 amended to read as follows:

54 § 265.10 Manufacture, transport, disposition and defacement of
weapons

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

8 2. Any person who transports or ships any machine-gun, firearm
silenc-
9 er, assault weapon or large capacity ammunition feeding device
or
10 disguised gun, or who transports or ships as merchandise five or
more
11 firearms, is guilty of a class D felony. Any person who transports
or
12 ships as merchandise any firearm, other than an assault weapon,
switch-
13 blade knife, gravity knife, pilum ballistic knife, billy,
blackjack,
14 bludgeon, metal knuckles, Kung Fu star, chuka stick, sandbag or
slung-
15 shot is guilty of a class A misdemeanor.

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

24 4. Any person who disposes of any of the weapons, instruments
or
25 appliances specified in subdivision one of section 265.01,
except a
26 firearm, is guilty of a class A misdemeanor, and he is guilty of a
class
27 D felony if he has previously been convicted of any crime.

28 5. Any person who disposes of any of the weapons, instruments,
appli-

29 ances or substances specified in section 265.05 to any other
person
30 under the age of sixteen years is guilty of a class A misdemeanor.

31 6. Any person who wilfully defaces any machine-gun, large
capacity

32 ammunition feeding device or firearm is guilty of a class D felony.

33 7. Any person, other than a wholesale dealer, or gunsmith or dealer
in

34 firearms duly licensed pursuant to section 400.00, lawfully
in

35 possession of a firearm, who disposes of the same without first
notify-

36 ing in writing the licensing officer in the city of New York and
coun-

37 ties of Nassau and Suffolk and elsewhere in the state the
executive

38 department, division of state police, Albany, is guilty of a
class A

39 misdemeanor.

40 § 13. Subdivision 1 of section 265.11 of the penal law, as amended
by

41 chapter 310 of the laws of 1995, is amended to read as follows:

42 (1) sells, exchanges, gives or disposes of a firearm or large
capacity

43 ammunition feeding device to another person; or

44 § 14. Subdivision 3 of section 265.15 of the penal law, as amended
by

45 chapter 219 of the laws of 1995, is amended to read as follows:

46 3. The presence in an automobile, other than a stolen one or a
public

47 omnibus, of any firearm, large capacity ammunition feeding
device,

48 defaced firearm, defaced rifle or shotgun, defaced large capacity
ammu-

49 nition feeding device, firearm silencer, explosive or incendiary
bomb,

50 bombshell, gravity knife, switchblade knife, pilum ballistic
knife,

51 metal knuckle knife, dagger, dirk, stiletto, billy, blackjack,
metal

52 knuckles, chuka stick, sandbag, sandclub or slungshot is
presumptive

53 evidence of its possession by all persons occupying such automobile
at

54 the time such weapon, instrument or appliance is found, except under
the

55 following circumstances: (a) if such weapon, instrument or appliance
is

56 found upon the person of one of the occupants therein; (b) if such
weap-

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1 on, instrument or appliance is found in an automobile which is
being

2 operated for hire by a duly licensed driver in the due, lawful and
prop-

er 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 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 competi-

36 tion under the auspices of or approved by an association or
organization
37 described in paragraph 7-a of this subdivision for the purpose of
load-
38 ing and firing the same by a person at least eighteen years of age
but
39 under the age of twenty-one who has not been previously convicted of
a
40 felony or serious offense, and who does not appear to be, or
pose a
41 threat to be, a danger to himself or to others; provided however,
that
42 such possession shall be of a pistol or revolver duly licensed to
and
43 shall be used under the immediate supervision, guidance and
instruction
44 of, a person specified in paragraph seven of this subdivision.

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

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

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

4 read as follows:
5 11. Possession of a [~~pistol or revolver~~] firearm or large
capacity
6 ammunition feeding device by a police officer or sworn peace officer
of
7 another state while conducting official business within the state of
New
8 York.

9 16. The terms "rifle," "shotgun," "pistol," "revolver," and
 "firearm"
 10 as used in paragraphs three, four, five, seven, seven-a, seven-b,
 nine,
 11 nine-a, ten, twelve, thirteen and thirteen-a of this subdivision
 shall
 12 not include a disguised gun or an assault weapon.
 13 § 18. Subdivision 1 of section 400.00 of the penal law, as amended
 by
 14 chapter 446 of the laws of 1997, is amended to read as follows:
 15 1. Eligibility. No license shall be issued or renewed pursuant to
 this
 16 section except by the licensing officer, and then only after
 investi-
 17 gation and finding that all statements in a proper application for
 a
 18 license are true. No license shall be issued or renewed except for
 an
 19 applicant (a) twenty-one years of age or older, provided, however,
that
 20 where such applicant has been honorably discharged from the
United
 21 States army, navy, marine corps, air force or coast guard, or
the
 22 national guard of the state of New York, no such age restriction
shall
 23 apply; (b) of good moral character; [~~(b)~~] (c) who has not been
 convicted
 24 anywhere of a felony or a serious offense; [~~(c)~~] (d) who has
 stated
 25 whether he or she has ever suffered any mental illness or been
 confined
 26 to any hospital or institution, public or private, for mental
 illness;
 27 [~~(d)~~] (e) who has not had a license revoked or who is not
 under a
 28 suspension or ineligibility order issued pursuant to the provisions
 of
 29 section 530.14 of the criminal procedure law or section eight
 hundred
 30 forty-two-a of the family court act; [~~(e)~~] (f) in the county of
 West-
 31 chester, who has successfully completed a firearms safety course
 and
 32 test as evidenced by a certificate of completion issued in his or
 her
 33 name and endorsed and affirmed under the penalties of perjury by a
 duly
 34 authorized instructor, except that: (i) persons who are
 honorably
 35 discharged from the United States army, navy, marine corps or
 coast
 36 guard, or of the national guard of the state of New York, and
 produce
 37 evidence of official qualification in firearms during the term
 of

38 service are not required to have completed those hours of a
firearms
39 safety course pertaining to the safe use, carrying, possession,
mainte-
40 nance and storage of a firearm; and (ii) persons who were licensed
to
41 possess a pistol or revolver prior to the effective date of this
para-
42 graph are not required to have completed a firearms safety course
and
43 test; and [~~(f)~~] (g) concerning whom no good cause exists for the
denial
44 of the license. No person shall engage in the business of gunsmith
or
45 dealer in firearms unless licensed pursuant to this section. An
appli-
46 cant to engage in such business shall also be a citizen of the
United
47 States, more than twenty-one years of age and maintain a place of
busi-
48 ness in the city or county where the license is issued. For such
busi-
49 ness, if the applicant is a firm or partnership, each member
thereof
50 shall comply with all of the requirements set forth in this
subdivision
51 and if the applicant is a corporation, each officer thereof shall
so
52 comply.

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

55 2. Types of licenses. A license for gunsmith or dealer in
firearms
56 shall be issued to engage in such business. A license for a pistol
or
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1 revolver, other than an assault weapon or a disguised gun, shall
be
2 issued to (a) have and possess in his dwelling by a householder;
(b)
3 have and possess in his place of business by a merchant or
storekeeper;
4 (c) have and carry concealed while so employed by a messenger
employed
5 by a banking institution or express company; (d) have and
carry
6 concealed by a justice of the supreme court in the first or second
judi-
7 cial departments, or by a judge of the New York city civil court or
the
8 New York city criminal court; (e) have and carry concealed while
so
9 employed by a regular employee of an institution of the state, or of
any

10 county, city, town or village, under control of a commissioner
of
11 correction of the city or any warden, superintendent or head keeper
of
12 any state prison, penitentiary, workhouse, county jail or other
institu-
13 tion for the detention of persons convicted or accused of crime or
held
14 as witnesses in criminal cases, provided that application is made
there-
15 for by such commissioner, warden, superintendent or head keeper;
(f)
16 have and carry concealed, without regard to employment or place
of
17 possession, by any person when proper cause exists for the
issuance
18 thereof; and (g) have, possess, collect and carry antique pistols
which
19 are defined as follows: (i) any single shot, muzzle loading pistol
with
20 a matchlock, flintlock, percussion cap, or similar type of
ignition
21 system manufactured in or before 1898, which is not designed for
using
22 rimfire or conventional centerfire fixed ammunition; and (ii) any
repli-
23 ca of any pistol described in clause (i) hereof if such replica--
24 (1) is not designed or redesigned for using rimfire or
conventional
25 centerfire fixed ammunition, or
26 (2) uses rimfire or conventional centerfire fixed ammunition which
is
27 no longer manufactured in the United States and which is not
readily
28 available in the ordinary channels of commercial trade.
29 § 20. Subdivision 8 of section 400.00 of the penal law, as amended
by
30 chapter 320 of the laws of 1992, is amended to read as follows:
31 8. License: exhibition and display. Every licensee while
carrying a
32 pistol or revolver shall have on his or her person a license to
carry
33 the same. Every person licensed to possess a pistol or revolver
on
34 particular premises shall have the license for the same on such
prem-
35 ises. Upon demand, the license shall be exhibited for inspection to
any
36 peace officer, who is acting pursuant to his or her special duties,
or
37 police officer. A license as gunsmith or dealer in firearms shall
be
38 prominently displayed on the licensed premises. A gunsmith or dealer
of
39 firearms may conduct business temporarily at a location other than
the

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40 location specified on the license if such temporary location is
the
41 location for a gun show or event sponsored by any national, state,
or
42 local organization, or any affiliate of any such organization devoted
to
43 the collection, competitive use or other sporting use of firearms.

Any
44 sale or transfer at a gun show must also comply with the provisions
of
45 article thirty-nine-DD of the general business law. Records of

receipt
46 and disposition of firearms transactions conducted at such
temporary
47 location shall include the location of the sale or other disposition
and
48 shall be entered in the permanent records of the gunsmith or dealer
of
49 firearms and retained on the location specified on the license.

Nothing
50 in this section shall authorize any licensee to conduct business
from
51 any motorized or towed vehicle. A separate fee shall not be required
of
52 a licensee with respect to business conducted under this
subdivision.

53 Any inspection or examination of inventory or records under this
section
54 at such temporary location shall be limited to inventory consisting
of,
55 or records related to, firearms held or disposed at such
temporary

56 locations. Failure of any licensee to so exhibit or display his or
her

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1 license, as the case may be, shall be presumptive evidence that he
or
2 she is not duly licensed.

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

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

12 this state.
13 2. The superintendent of the division of state police, in
cooperation
14 with the United States department of treasury, bureau of alcohol,
tobac-
15 co and firearms and district attorneys in New York state, shall
develop
16 and implement a strategy for the interdiction of guns illegally
entering
17 New York from supplier states. The strategy shall include
identifying
18 and prosecuting gun traffickers and suppliers of such guns who may
be
19 violating federal, state or local laws, and cooperating with the
United
20 States department of treasury, bureau of alcohol, tobacco and
firearms
21 and appropriate prosecutorial agencies and law enforcement agencies
in
22 supplier states in the investigation and enforcement of such
laws.
23 District attorneys are authorized to enter into collaborative
agreements
24 with prosecutorial and other governmental agencies and entities
in
25 supplier states in an effort to stop the movement of illegal guns
into
26 New York.
27 3. The commissioner of the division of criminal justice services
shall
28 award grant monies to district attorneys for programs which are
designed
29 to interdict the flow of illegal guns across New York state borders.
In
30 order to qualify for such grant monies, a district attorney must
submit
31 an application to the commissioner of the division of criminal
justice
32 services in accordance with guidelines prescribed by the division
of
33 criminal justice services. The application shall identify a
strategy
34 and implementation plan for preventing the entry of illegal guns
across
35 New York's borders. Funds awarded under this section shall not be
used
36 to supplant federal, state or local funds. No more than fifty
percent
37 of the funds available pursuant to this section in any one fiscal
year
38 shall be awarded for programs within a single city, county, town
or
39 village.
40 4. The superintendent of the division of state police shall
establish
41 and maintain within the division a criminal gun clearinghouse
as a

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42 central repository of information regarding all guns seized,
forfeited,
43 found or otherwise coming into the possession of any state or local
law
44 enforcement agency which are believed to have been used in the
commis-
45 sion of a crime. The superintendent of the division of state
police
46 shall adopt and promulgate regulations prescribing reporting
procedures
47 for such state or local law enforcement agencies, including the form
for
48 reporting such information. In addition to any other information
which
49 the superintendent of the division of state police may require, the
form
50 shall require (a) the serial number or other identifying information
on
51 the gun, if available and (b) a brief description of the
circumstances
52 under which the gun came into the possession of the law
enforcement
53 agency, including the crime which was or may have been committed
with
54 the gun.

55 5. In any case where a state or local law enforcement agency
investi-
56 gates the commission of a crime in this state and a specific gun
is

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1 known to have been used in such crime, such agency shall submit
a
2 request to the national tracing center of the United States
Department
3 of Treasury, bureau of alcohol, tobacco and firearms to trace the
move-
4 ment of such gun and such federal agency shall be requested to
provide
5 the superintendent of the division of state police and the local
law
6 enforcement agency with the results of such a trace. This
subdivision
7 shall not apply where the source of a gun is already known to a
local
8 law enforcement agency.

9 § 22. The state finance law is amended by adding a new section 97-
www
10 to read as follows:
11 § 97-www. Gun trafficking interdiction fund. 1. There is hereby
estab-
12 lished in the custody of the state comptroller a special fund to
be
13 known as the "gun trafficking interdiction fund".
14 2. Such fund shall consist of all moneys appropriated for the
purpose

15 of such fund, all other moneys credited or transferred to such
fund
16 pursuant to law, all moneys required by the provisions of this
section
17 or any other law to be paid into or credited to such fund, and
all
18 moneys received by the fund or donated to it.
19 3. Moneys of such fund shall be available for appropriation and
allo-
20 cation to the division of criminal justice services for the purpose
of
21 funding the gun trafficking interdiction program as set forth in
section
22 two hundred thirty of the executive law.
23 4. Moneys shall be paid out on the audit and warrant of the
comp-
24 troller on vouchers certified or approved by the commissioner of
the
25 division of criminal justice services.

26 § 23. Subdivision 1 of section 400.10 of the penal law, as added
by

27 chapter 531 of the laws of 1984, is amended to read as follows:

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

33 (b) Whenever a person reports the theft or loss of a firearm, rifle
or
34 shotgun to any [~~peace officer,~~] police department or sheriff's
office,
35 the officer or department receiving such report shall forward notice
of
36 such theft or loss to the division of state police via the New
York

37 [~~State Automated Criminal Justice Information System~~] Statewide
Police
38 Information Network. The notice shall contain information in
compliance

39 with the New York Statewide Police Information Network Operating
Manual,
40 including the caliber, make, model, manufacturer's name and
serial
41 number, if any, and any other distinguishing number or
identification
42 mark on the weapon.

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

45 3. Notwithstanding any other provision of law, a violation of
para-
46 graph (a) of subdivision one of this section shall be punishable only
by

47 a fine not to exceed one hundred dollars.

48 § 25. The legislature believes that many needless deaths caused
by

49 firearms may be prevented by the use of personalized firearms,
more

50 commonly known as "smart guns", which may only be fired by the
author-

51 ized user. As an important first step in the possible use of this
new

52 type of personalized or "smart gun", the legislature is hereby
directing

53 the division of state police to conduct a comprehensive study of
the

54 feasibility of requiring the use of personalized firearms in this
state.

55 2. The superintendent of the division of state police shall,
in

56 consultation with the United States Secretary of the Treasury, bureau
of

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1 alcohol, tobacco and firearms, the National Law Enforcement
and

2 Correction Technology Lab located in Rome, New York, and such
other

3 private and public entities as the superintendent deems
appropriate,

4 conduct a comprehensive study of the availability and effectiveness
of

5 existing technology for the use of personalized firearms, commonly
known

6 as "smart guns" which may only be fired by the authorized user.
Such

7 study, shall include, but not be limited to, an examination of
the

8 availability and effectiveness of personalized firearms that
incorporate

9 within their design, and as part of their original manufacture,
technol-

10 ogy which limits their operational use and an examination of the
avail-

11 ability and effectiveness of technology to transform non-
personalized

12 firearms into personalized firearms. Such technology may involve a
vari-

13 ety of systems, such as mechanical or electronic systems, which
restrict

14 the operation of the firearm through radio frequency tagging,
touch

15 memory, remote control, fingerprint, magnetic encoding or other
auto-

16 mated user identification systems. In addition, the superintendent
shall

17 examine and evaluate reports and studies conducted on the use of
person-

18 alized firearms.

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19 The superintendent of the division of state police shall, in
collab-
20 oration with the United States Secretary of the Treasury, bureau
of
21 alcohol, tobacco and firearms, the National Law Enforcement
and
22 Correction Technology Lab located in Rome, New York, and such
other
23 public or private entities as the superintendent deems
appropriate,
24 formulate the necessary testing procedures for personalized firearms
and
25 test such firearms and prototypes of firearms or observe the testing
of
26 firearms and prototypes of firearms, to evaluate the effectiveness
and
27 safety of such firearms, including, but not limited to, whether
such
28 personalized firearms effectively preclude or prevent the
personalized
29 characteristics of such firearms from being deactivated.
30 A report, with recommendations, shall be submitted to the governor
and
31 the legislature not later than October 1, 2001. As part of such
report,
32 the superintendent of the division of state police shall make
recommen-
33 dations as to the feasibility or desirability of requiring the use
of
34 personalized firearm technology for all firearms
manufactured,
35 possessed, sold, offered for sale, received, transferred,
shipped,
36 transported or distributed within this state, including whether, or
to
37 what extent the use of personalized firearm technology may not be
appro-
38 priate for certain categories of firearms. For purposes of this
section,
39 the terms: (a) "authorized user" means the person who lawfully owns
the
40 firearm or a person to whom the owner has given express consent
to
41 lawfully use the firearm; and (b) "firearm" means a pistol or
revolver.
42 § 26. Nothing in this act shall be construed to prohibit a
munici-
43 pality or other unit of local government from adopting or maintaining
a
44 stricter standard regulating the subject matters contained in
sections
45 three, ten or the amendments made to paragraph (a) of subdivision 1
of
46 section 400.00 of the penal law by section eighteen of this act by
local
47 law or ordinance.

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

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

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1 1. Sections one through three, six through nineteen and twenty-
 three
 2 and twenty-four of this act shall take effect on the first day of
 Novem-
 3 ber next succeeding the date on which it shall have become a
 law;
 4 provided, further, however, that effective immediately the division
 of
 5 state police is authorized and directed to promulgate such rules
 and
 6 regulations as may be necessary to effectuate the provisions of
 sections
 7 three and four of this act; provided, further, that the amendments
 to
 8 subdivision 3 of section 265.00 of the penal law made by section
 eight
 9 of this act shall apply to offenses committed in violation of
 article
 10 265 or 400 of the penal law on or after the first day of November
 next
 11 succeeding the date on which this act shall have become a law; and

12 2. The gun trafficking interdiction program and gun tracer
 program
 13 contained in section twenty-one of this act shall take effect
 November
 14 1, 2000, provided further, however, that the superintendent of the
 divi-
 15 sion of state police is authorized and directed to immediately
 adopt,
 16 amend and promulgate such rules and regulations as may be necessary
 and
 17 desirable to effectuate the purposes of sections twenty-one and
 twenty-
 18 two of this act.

EXHIBIT 26

Declaration of Roderick M. Thompson in Support of Sunnyvale's Opposition to Plaintiffs' Motion for Preliminary Injunction

City of Rochester, NY
Sunday, January 12, 2014

Chapter 47. DANGEROUS ARTICLES

[HISTORY: Adopted by the Rochester City Council 11-25-1941. Amendments noted where applicable.]

§ 47-1. (Reserved)

Editor's Note: Former § 47-1, Squawkers, was repealed 11-10-1987 by Ord. No. 87-370.

§ 47-2. Darts, arrows and pointed instruments.

[Amended 6-22-1954; 10-13-1987 by Ord. No. 87-347]

No person shall sell, offer for sale, keep for sale, give, loan or lease to any person under 18 years of age any metal-tipped arrow or sharp pointed wooden or plastic arrow, or any sharp pointed wooden, plastic or metal instrument or weapon, so weighted and constructed as to be capable of being thrown or hurled to strike a person or object with its sharpest point, commonly known as a "dart"; or any sword, machete or knife other than a folding pocketknife with no blade more than three inches in length; nor shall any person under 18 years of age possess any such object. The provisions of this section shall not apply to the use of bows and arrows and darts in supervised recreation programs and on archery ranges.

§ 47-3. (Reserved)

Editor's Note: Former § 47-3, Writing implements made of glass, was repealed 11-10-1987 by Ord. No. 87-370.

§ 47-4. Storage and display of firearms, ammunition and explosives.

Editor's Note: Former § 47-4, Sale or gift of dangerous weapons, was repealed 3-16-1993 by Ord. No. 93-62.

[Added 9-24-1996 by Ord. No. 96-297]

A. Purpose and intent. The Council finds that it is necessary to regulate the commercial storage, possession and display of firearms, ammunition or explosives pursuant to § 139-d of the General Municipal Law in order to provide for the public health, safety and welfare of all persons in the City of Rochester. The Council finds that the location of such activities close to residential uses is not compatible with residential uses and can pose a danger to residents through fire or explosion or as a result of burglaries at such locations. The Council therefore intends to regulate the location of such activities and to place additional regulations upon those activities in order to assure that such activities are conducted in a safe manner. The restrictions found herein shall be in addition to restrictions found in Chapter 120 of the Municipal Code, Zoning Code, and whichever regulations are more restrictive shall be

applicable to any potential location where such activities are to be conducted.

[Amended 11-19-2002 by Ord. No. 2002-354]

- B. Location. The storage, possession or display of firearms, ammunition or explosives within a building occupied by a residential use, or within a building located within 100 feet of any residential use, which distance shall be measured from the closest point of the building, or portion thereof, used for the storage, possession or display of firearms, ammunition or explosives to the nearest point of the lot line of the property with a residential use, is hereby prohibited.
- C. Standards of design, construction and maintenance of buildings and structures in which firearms, ammunition or explosives are stored.
 - (1) Perimeter doorways. All perimeter doorways shall meet one of the following:
 - (a) A windowless steel security door equipped with a high-security cylinder lock;
 - (b) A windowed metal door that is equipped with a high-security cylinder lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half-inch diameter no further than six inches apart, or metal grating of at least nine gauge which has no spaces larger than six inches wide measured in any direction, affixed to the exterior or interior of the door; or
 - (c) A metal grate or a metal folding scissors gate of at least nine gauge which has no spaces larger than six inches wide measured in any direction that is padlocked and affixed to the premises independent of the door and doorframe when the premises is not open for business.
 - (2) Windows. All windows shall be covered with steel bars of a least one-half-inch diameter no further than six inches apart; or metal grating of at least nine gauge which has no spaces larger than six inches wide measured in any direction, affixed to the exterior or interior of the window frame; or a metal grate or a metal folding scissors gate of at least nine gauge which has no spaces larger than six inches wide measured in any direction that is padlocked and affixed to the premises independent of the door and doorframe when the premises is not open for business.
 - (3) Heating, ventilating, air-conditioning and service openings. All heating, ventilating, air-conditioning and service openings shall be secured with steel bars, metal grating or an alarm system.
 - (4) Alarm systems. Any building or structure used for the storage, possession and display of firearms, ammunition or explosives shall be protected by an alarm system which, when activated, directly notifies either a security guard on duty at the location, the Emergency Communications Center (through a designated line other than 911), an answering service or a central station, of a fire or smoke or intrusion or attempted intrusion into the premises. If an answering service or central station is used, the answering service or central station shall provide the service of receiving on a continuous basis through trained employees, emergency signals from the alarm systems and, thereafter, immediately relaying the message by live voice to 911.
- D. Visibility of interior to be maintained at all times. The interior of any building or structure used for the storage, possession and display of firearms, ammunition or explosives shall be visible through any windows at all times when open for business, and no drapes or blinds should be used that would block the view of police or passersby who might observe unusual activity within the premises. The exterior of the premises shall be illuminated at night and during the hours when business is not conducted within.
- E. Combustible materials. Combustible materials shall not be stored in any building or structure or

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that portion thereof used for the storage, possession and display of firearms, ammunition or explosives.

F. Fire-extinguishing equipment. Fully operable listed fire-extinguishing equipment shall be maintained in any building or structure used for the storage, possession and display of firearms, ammunition or explosives and made easily accessible.

G. Smoking and open flames prohibited. Smoking, matches, spark-producing devices and open flames shall be prohibited in any building or structure or that portion thereof used for the storage, possession and display of firearms, ammunition or explosives.

H. Standards of security for storage of firearms, ammunition or explosives.

(1) Storage of ammunition and explosives. All ammunition and explosives shall be stored in compliance with 9 NYCRR 1176 et seq. and 12 NYCRR 39 et seq. Further, all ammunition when being displayed shall be kept in locked cases or behind the counter in an area not accessible to the public.

(2) Storage of firearms when open for business.

(a) No firearms shall be stored, exhibited or displayed in windows of the premises.

(b) Firearms storage or inventory areas shall be physically separated from counter and display areas and access to these areas shall be carefully controlled.

(c) All firearm display cases shall be kept locked and secured at all times and not readily accessible to the public. All keys to such display cases shall not leave the control of authorized personnel.

(d) Trigger locks which disable firearms and prevent them from functioning must be locked to each firearm at all times, or the firearms must be secured in a locked case or be otherwise locked, or the firearms must be dispensed in an area behind the counter that is not accessible to the public. These requirements shall not apply to a firearm being shown to a customer, being repaired, or otherwise being worked on.

(3) Storage of firearms when not open for business. When not open for business, all firearms shall be stored in accordance with one of the following:

(a) All firearms shall be stored in a locked fireproof safe or vault located in the business premises;

(b) All firearms must be secured by a hardened steel rod or cable of at least 1/8 inch in diameter through the trigger guard of the firearm. The steel cord or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the ready removal of the firearms from the premises; or

(c) All firearms shall be secured in a manner that prevents the ready removal of the firearms from the premises, as approved by the Chief of Police or the Chief's designee.

I. The regulations provided for herein shall not apply to the personal possession, use or ownership of firearms or ammunition therefor.

§ 47-5. Firearms, shotguns, rifles and other dangerous weapons.

Editor's Note: For additional provisions relating to firearms, see Ch. 43, Cemeteries, § 43-11, and Ch. 79, Parks, § 79-5.

[Amended 9-11-1951; 1-11-1955; 5-10-1960; 1-27-1970 by Ord. No. 70-36; 5-28-1974 by Ord. No. 74-180; 5-27-1986 by Ord. No. 86-163; 3-16-1993 by Ord. No. 93-62] EB001320

A. Purpose and intent. The Council finds that violent crime is a serious problem in the City and

firearms and other dangerous weapons are frequently used in the commission of crimes, particularly homicides and assaults. The possession of such weapons also often leads to accidental deaths and injuries. The possession and use of assault weapons and ammunition feeding devices for criminal purposes is increasing and poses a serious danger to public safety. The use of weapons by persons under the influence of drugs and/or alcohol can readily lead to serious injury or death. The possession of weapons in public facilities and places also poses a serious danger to public safety. The possession of toy or imitation weapons which substantially duplicate actual weapons poses a danger to the person possessing the weapon and to others. In order to promote and protect the health, safety and welfare of the public, the Council finds it necessary to place restrictions upon the possession and use of such weapons. The restrictions imposed by this section are intended to be in addition to restrictions found in state law and are not intended to conflict with state law provisions.

B. As used in this section, the following terms shall have the meanings indicated:

AIR GUN

Any pistol, revolver, rifle or shotgun which fires projectiles by means of a spring or compressed air or other gas, instead of an explosive.

[Amended 12-15-2009 by Ord. No. 2009-410 Editor's Note: This ordinance provided an effective date of 1-11-2010.]

AMMUNITION

Explosives suitable to be fired from a firearm, machine gun, pistol, revolver, rifle, shotgun, assault weapon or other dangerous weapon.

AMMUNITION FEEDING DEVICE

Magazines, belts, feedstrips, drums or clips capable of being attached to or utilized with any center-fire rifle, shotgun or pistol which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger which, in the case of a rifle or shotgun holds in excess of five cartridges, or in the case of a pistol holds in excess of 17 cartridges.

ASSAULT WEAPON

- (1) Any center-fire rifle or shotgun which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which is loaded or capable of being loaded with a combination of more than six cartridges in the ammunition feeding device and chamber combined. For the purposes of this section, a weapon is capable of being loaded if it is possessed by one who, at the same time, possesses:
 - (a) In the case of a rifle, a fixed or detachable ammunition feeding device which is attached to or utilized with or capable of being attached to or utilized with such rifle and which has a capacity of more than five cartridges; or
 - (b) In the case of a shotgun, an ammunition feeding device which is attached to or utilized with or capable of being attached to or utilized with such shotgun and which has a capacity of more than five cartridges.
- (2) A center-fire rifle or shotgun which employs the force of expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which has:
 - (a) A flash suppressor attached to the weapon reducing muzzle flash;
 - (b) A grenade launcher;
 - (c) A sighting device making a target visible at night;
 - (d) A barrel jacket surrounding all or a portion of the barrel to dissipate heat therefrom; or

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- (e) A multi-burst trigger activator.
- (3) Any stockless pistol grip shotgun.
- (4) The following weapons manufactured prior to the effective date of this section.
[NOTE: This section was found unconstitutional by the Honorable Charles J. Siragusa, Supreme Court Justice, Monroe County, in Citizens for a Safer Community v. City of Rochester, Index No. 93-08421.]
- (5) For purposes of this section, the term "assault weapon" shall not include any of the following:
 - (a) Any weapon which has been modified to render it permanently inoperable or permanently make it a device no longer defined as an "assault weapon";
 - (b) Weapons that do not use cartridges or shells;
 - (c) Manually operated bolt-action weapons, lever-action weapons, slide-action weapons or single-shot weapons;
 - (d) Multiple-barrel weapons, revolving-cylinder weapons except shotguns, weapons that use exclusively a rotary Mannlicher-style magazine; or
 - (e) Any antique firearm as defined in § 265.00 of the New York State Penal Law or any curio or relic as defined under United States law which is possessed by a licensed collector in accordance with United States Law.

DISPOSE OF

To dispose of, give away, give, lease, loan, keep for sale, offer, offer for sale, sell, transfer or otherwise dispose of.

DRUG

Any substance listed in § 3306 of the Public Health Law of the State of New York.

DWELLING

As defined in Chapter 120 of the Municipal Code, Zoning Code.

[Amended 11-19-2002 by Ord. No. 2002-354]

FIREARM

Any pistol or revolver; or a shotgun having one or more barrels less than 18 inches in length or any weapon made from a shotgun (whether by alteration, modification or otherwise) if such weapon as modified has an overall length of less than 26 inches; or a rifle having one or more barrels less than 16 inches in length or any weapon made from a rifle (whether by alteration, modification or otherwise) if such weapon as modified has an overall length of less than 26 inches. For purposes of this definition, 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. Such definition, except as otherwise indicated, shall include both loaded and unloaded firearms, except that it shall not include any antique firearm as defined in federal or New York State law or any curio or relic as defined under United States law which is possessed by a licensed collector in accordance with United States law.

PARK

As defined in § 79-1 of the Municipal Code.

POSSESS

Have physical possession or otherwise to exercise dominion or control over. The presence in an automobile of any firearm, rifle or shotgun which is openly visible is presumptive evidence of its possession by all persons occupying such automobile at the time such

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firearm, rifle or shotgun is found, except if such firearm, rifle or shotgun is found in a vehicle for hire.

PUBLIC FACILITY

Any building or facility owned, leased, operated or controlled by or on behalf of any government, municipality or public authority or corporation within the boundaries of the City, except buildings or facilities used for educational purposes.

PUBLIC PLACE

Any street, including the sidewalk portion thereof, park, playground, recreation area, cemetery or lot owned, leased, operated or controlled by or on behalf of any government, municipality or public authority or corporation within the boundaries of the City, which is generally accessible to the public, except grounds used for educational purposes.

RIFLE

A weapon designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

SHOTGUN

A weapon designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

C. No person shall possess a loaded or unloaded firearm, rifle, shotgun or air gun, or a dagger, dangerous knife, dirk, razor or stiletto, in a public place or public facility in the City. This prohibition shall not apply to:

- (1) A police officer or peace officer authorized to possess the same;
- (2) A government employee or licensed security guard authorized or required by employment or office to possess the same while acting within the scope of such employment;
- (3) A person in the military service of the State of New York or the United States when duly authorized to possess the same;
- (4) A person transporting a rifle or shotgun in a motor vehicle in the City in accordance with the provisions of § 11-0931, Subdivision 2, of the New York State Environmental Conservation Law, or otherwise transporting an unloaded rifle, shotgun or air gun in the City, provided that the same is completely enclosed or contained in a nontransparent carrying case and either:
 - (a) Said carrying case is locked; or
 - (b) A locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired;
- (5) An authorized person who, for the purpose of shooting practice, possesses a weapon at an established target range in a public place other than a park or public facility;
- (6) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law; or
- (7) Possession of a firearm by a person licensed to carry a firearm pursuant to § 400.00 of the Penal Law or possession or transportation by a gunsmith or dealer in firearms in accordance with a license issued by the State of New York or the United States, except that this subsection shall not apply in a park or a public facility other than a parking garage.

D. No person shall store a firearm, rifle, shotgun or air gun in a dwelling in the City unless said

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firearm, rifle, shotgun or air gun is completely enclosed or contained in a nontransparent locked carrying case or in a locked gun rack, cabinet, closet or safe, or a locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired. This requirement shall not apply to a rifle, shotgun or licensed firearm carried on the body of the owner or within such close proximity of the owner that the owner can retrieve it as quickly and easily as if it were carried on the owner's body.

E. No person shall dispose of any firearm, rifle, shotgun, air gun or ammunition in the City. This prohibition shall not apply to:

- (1) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States;
- (2) A person disposing of the same to a gunsmith or dealer in firearms duly licensed by the State of New York or the United States;
- (3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law;
- (4) A person disposing of a licensed firearm in accordance with law;
- (5) Disposition by intestate or testamentary bequest; or
- (6) A person disposing of a rifle, shotgun, air gun or ammunition to a family member.

F. No person shall possess an assault weapon or an ammunition feeding device in the City. This prohibition shall not apply to:

- (1) A police officer or peace officer authorized to possess the same;
- (2) A person in the military service of the State of New York or the United States when duly authorized to possess the same;
- (3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law; or
- (4) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police officers or persons in the military service or for delivery outside of the City.

G. No person shall dispose of an assault weapon or ammunition feeding device in the City. This prohibition shall not apply to:

- (1) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law; or
- (2) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police officers or persons in the military service or for delivery outside of the City.

H. No person shall carry a firearm, shotgun, rifle or air gun in the City while such person has 1/10 of 1% or more by weight of alcohol in the person's blood as shown by chemical analysis of the person's blood, breath, urine or saliva.

I. No person shall carry a firearm, shotgun, rifle or air gun in the City while in an intoxicated condition.

J. No person shall carry a firearm, shotgun, rifle or air gun in the City while the person's ability to safely carry such weapon is impaired by the use of a drug.

K. Any person who carries a firearm, shotgun, rifle or air gun in this City shall be deemed to have given consent to a breath test and a chemical test of the person's breath, blood, urine or saliva for the purpose of determining the alcoholic or drug content of the person's blood, provided that any test is administered at the direction of a police officer having reasonable grounds therefor. A chemical test must be administered within two hours after such person has been placed under arrest for a violation of this section or any other law or ordinance involving the use or possession of a firearm, rifle, shotgun or air gun, or within two hours after

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a breath test indicates that alcohol has been consumed by such person. Upon the trial of any action arising out of an arrest for a violation of Subsection **H, I** or **J** of this section, the court shall admit evidence of the amount of alcohol or drugs in the blood of the person carrying the firearm, shotgun, rifle or air gun as shown by a test administered pursuant to this section. Evidence of a refusal to submit to a chemical test shall be admissible in any trial, proceeding or hearing based upon a violation of such subsections, but only upon a showing that the person was given sufficient warning, in clear and unequivocal language, of the effect of such refusal and the person persisted in such refusal.

L. [NOTE: This section was found unconstitutional by the Honorable Charles J. Siragusa, Supreme Court Justice, Monroe County, in Citizens for a Safer Community v. City of Rochester, Index No. 93-08421.]

M. Discharge of weapons; permits.

(1) No person shall discharge an air gun, shotgun, rifle, assault weapon, machine gun, submachine gun or a firearm of any kind or description in the City, except police officers, peace officers, members of the military and persons holding permits as in this subsection provided.

(2) The Chief of Police is hereby authorized to grant permits for the discharge of shotguns at clay pigeons at any particular location or for the discharge of weapons at target ranges subject to such restrictions and conditions as the Chief may deem necessary. Any person holding such a permit shall obey all the restrictions and conditions contained herein.

N. The owner of a firearm, shotgun, rifle, assault weapon, machine gun or submachine gun, which becomes lost or stolen, shall report the loss or theft to the Rochester Police Department within 24 hours after the loss or theft is discovered or reasonably should be discovered. The owner of such a weapon shall store the weapon in a safe and secure manner as required in Subsection **D** of this section and shall check such weapon at least once each week, or immediately upon returning to the City if the owner is absent from the City for more than one week. Failure to perform such a check shall not be a defense to a prosecution for a violation of this subsection.

[Added 9-15-1998 by Ord. No. 98-345 Editor's Note: This ordinance also relettered former Subsections N and O as Subsections O and P.]

O. Notwithstanding the penalties contained in § 47-8, a violation of any provision of this section shall be punishable by a fine not to exceed \$1,000 or by imprisonment not to exceed 180 days, or by both such fine and imprisonment.

P. The provisions of this section are severable, and if any of its provisions shall be held unconstitutional or invalid, the decision of the court shall not affect or impair any of the remaining provisions of the same. It is hereby declared to be the intention of the Council that this section would have been adopted had such unconstitutional or invalid provision not been included herein. If any term or provision of this section shall be declared unconstitutional, invalid or ineffective in whole, or in part, by a court of competent jurisdiction, then to the extent that it is not constitutional, invalid or ineffective, such term or provision shall be in force and effect, nor shall such determination be deemed to invalidate the remaining terms or provisions thereof.

§ 47-6. (Reserved)

Editor's Note: Former Subsection A of § 47-6, Barbed wire, as amended, was redesignated as § 39-307D and former Subsection B was deleted 4-15-1997 by Ord. No. 97-133.

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§ 47-7. Discarded refrigerators and other containers.

[Added 9-8-1953]

It shall be unlawful for any person, firm or corporation to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight door or lock which may not be released for opening from inside of said icebox, refrigerator or container. It shall be unlawful for any person, firm or corporation to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight snap-lock or other device thereon without first removing the said snap-lock or doors from said icebox, refrigerator or container.

§ 47-8. Penalties.

[Amended 7-22-1969 by Ord. No. 69-329]

Any person or corporation violating any of the provisions of this chapter shall, upon conviction be punishable by a fine not exceeding \$150, or by imprisonment not exceeding 15 days, or by both such fine and imprisonment, or by a penalty of not less than \$5 nor more than \$500 to be recovered by the City of Rochester in a civil action.

EB001326

EXHIBIT 27

To

**Declaration of Roderick M. Thompson in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction**

DEATH ON THE L.I.R.R.: The Rampage; Gunman in a Train Aisle Passes Out Death

By FRANCIS X. CLINES
Published: December 09, 1993

When the gunman emptied his first clip into passengers at the rear of the car and stopped to reload, Kevin Zaleskie, crouching in panic a few seats farther along, realized he had one small chance to flee before aim was taken at him as the stalker worked the aisle, shooting to the right, then to the left, as methodical as if he were taking tickets.

"I got up to run, but the aisle was jammed with someone," Mr. Zaleskie, a financial analyst for I.B.M., said today, recalling what he thought would be the violent ending of his life amid the most banal routine of commuting home. "I didn't think I was going to get out. I was very panicky. I ducked back down in the seat. The guy was moving in my direction, shooting again." A Ticket and a Gun

The rampage by the gunman aboard the 5:33 evening commuter train from Pennsylvania Station had moved Mr. Zaleskie and 80 other passengers in the third car from the easiest of lulling habits to an instantaneous scramble of terror and fear.

A man intent on murder who carefully paid for his ticket back in New York City was firing methodically with a 9-millimeter pistol, a hallmark of modern America's pathology of violence and fear. In three minutes of gunfire, he reduced the defenseless commuters in the third car to casualties on a one-sided battlefield.

As the gunman was finally brought to ground, tackled by one brave passenger and pinned by two others as he sought to reload his pistol for a third 15-shot rampage, David Farrell joined a reinforcement group that came from hiding to grab his legs and arms. "We held on and the gunman said, 'Oh God, what did I do? What did I do? I deserve whatever I get.' "

One of the men who subdued him could be heard commanding again and again from within the bloody scrimmage: "Stay where you are. Shut up. Shut up. Shut up."

Passengers farther away in the train would not discover the carnage until well after the gunman was subdued and the first of his 25 victims limped or were carried onto the Long Island Rail Road platform. One passenger, William A. Warshowsky, had scrambled for his life from the gunman's approach, leaped with a crowd into the darkness from the stopped train and ran all the way home, finally checking his body for wounds and celebrating his survival intact.

Another passenger, Margaret Richards, was amazed even beyond the bloodied windows and three victims she saw slumped tightly together with head wounds, when she saw the gunman handcuffed later in a patrol car. "He was very calm. No emotions showing. Everything fine, you know, 'dum-de-dum,' " she related, songlike. "And then someone came over from all the blood of the train and lost it and began shouting, 'How can he be sitting there so calm after everything he did?' "

In the moment after the gunman had been subdued, Mr. Zaleskie had turned in his mind from the next likely victim to someone of immeasurable good fortune. In a minute, he was taking off his necktie and began making a tourniquet for a woman bleeding nearby, delivered from the terrifying stalker.

"The guy kept coming down the aisle with the gun," Mr. Zaleskie related of the height of the carnage. "And I just put my briefcase in front of my face and hunched down with two other people in the seat," he said, describing something close to fearful resignation. "He walked past, still shooting. And I didn't feel any bullets," the passenger continued in a very tight, very grateful monotone of recollection and survival.

At this point, more than a score of passengers were already cast about the car, wounded and bleeding, and the gunman tended his pistol, the second 15-shot clip exhausted.

"So he's reloading again and he was certainly going to keep shooting," Mr. Zaleskie recalled. "But someone yells, 'Grab him!' "

That was when one passenger tackled the gunman in the center of the car before he could get off another round and two more men piled onto him. The killer was pinned in a seat in the blood- and gore-smeared third car of the train, which had come to a stop at the Merillon Avenue station, panic spreading in all directions.

"A horror," said Mr. Zaleskie of the scene inside the car, suddenly quiet after the outrageous siege. "An absolute horror, and lying around in the aisles and in the seats, you see these people you never quite got to know across years of commuting," he said, his tone tinged with wonder. "Faces you recognize each day, but don't really know. And this horror has happened to them."

At the front of the car, Mr. Warshowsky had got up to wait by the door as the train approached the station when he heard the pop of the 9-millimeter gunfire and mistook it for something harmless, caps or fireworks. "A woman yelled, 'He's got a gun! He's shooting people!' " the passenger recalled, saying he was instantly moving in an adrenal blur, jumping down into a seat to hide as the bullets sprayed about the car.

"I heard 15 shots," said the 26-year-old purchasing department worker at The New York Times. "The gunman was pressing the trigger every half second or so. Going side to side shooting people. Not rapid fire, but pressing the trigger steadily -- pop, pop, pop. When he stopped to reload I made a run for the next car. We were trampling each other. I thought the guy was right at my back," said the New York City native, in his

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second year of suburban life.

In the next car, the second in the 12-car train, some passengers, unaware of the killing going on next door, seemed annoyed at the unruly influx. "Be calm," one shouted at Mr. Warshowsky, who joined a crowd that manually forced open a door as the train pulled into the station. He burst forth to freedom.

The gunman had moved backward down the aisle, suddenly, briefly, facing each victim as or after he fired. The gunman was identified by the police today as Colin Ferguson, a 35-year-old native of the island of Jamaica who authorities said was a rage-filled individual from a furnished room in Brooklyn.

Police officials reported that the suspect was carrying scraps of angry notes cast in racist tones but directed across a spectrum of institutions and ethnic groups, including whites, Asians and black officials police said he characterized in his angry jottings as corrupt and racist. None of his victims was black, and police officials, who described his siege as methodical and inclusive, were unable to say whether there were other black passengers aboard the train.

"This was the work of a deranged, maniacal person who for a variety of reasons decided to explode," said Chief Joseph Flynn of the Long Island Rail Road police.

When Mr. Warshowsky began fleeing, he saw a conductor peer into the bloody third car from the second, spot the gunman and make an about-face. The railroad defended the crew's performance, saying the engineer, informed of the shooting, thought it best not to open the doors immediately because two of the cars were not at the platform. A conductor finally managed to climb from a train window and open some doors from outside so the panicky throng could flee.

As the gunman had moved in vicious pathology down the aisle, one passenger heard a man suddenly shout, "I have seven kids. Please don't kill me." His fate was unknown.

Police detectives said it appeared that the gunman had been planning his foray for more than a week. In the aftermath, it was his relentlessness that was most often recalled with lingering fear.

In the fourth car, Lorraine Oltadel's first notion of something going wrong aboard the 5:33 was the sudden shout, "He is coming with a gun!"

She did not immediately comprehend the warning but looked into the third car and saw the full threat, gun in hand, leveling passengers. "There he was. He was coming."

Then came a pause free of gunfire. A man shouted, "I think he has run out of bullets." But then, Ms. Oltadel recalled, someone screamed anew in the train: "He's coming again."

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EB001329

EXHIBIT 28

To

**Declaration of Roderick M. Thompson in
Support of Sunnyvale's Opposition to
Plaintiffs' Motion for Preliminary
Injunction**

C

UCLA Law Review
June, 2009

Symposium

The Second Amendment and the Right to Bear Arms After D.C. v. Heller

*1171 THE HELLER PARADOX

[Dennis A. Henigan \[FNa1\]](#)

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In this Article, I argue that the Heller majority, in discovering a new Second Amendment right to possess guns for personal self-defense, engaged in an unprincipled abuse of judicial power in pursuit of an ideological objective. The ideological nature of Justice Scalia's opinion is revealed in his inconsistent brand of textualism, in which Scalia's own longtime insistence on the importance of context is cast aside as he interprets "the right of the people to keep and bear Arms" by divorcing it from its particular context in the Second Amendment. The majority's ideological approach is further revealed by Scalia's selective manipulation of the relevant historical record, particularly his dismissal of key elements of the Amendment's legislative history, misleading account of analogous state right-to-bear-arms guarantees, and misunderstanding of the "well regulated Militia." I find the majority opinion a paradox. Although its interpretation of the Second Amendment is driven by ideology, the opinion nevertheless is unlikely to pose a substantial constitutional threat to gun regulation and may actually weaken the Second Amendment as an argument against the adoption of new gun control laws. Finally, Heller, by taking a general gun ban "off the table" as a policy option, may eventually weaken the gun lobby's use of the slippery slope argument to frame the gun control debate in cultural terms, allowing a greater focus on the public safety benefits of specific reforms designed to reduce access to guns by dangerous persons.

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***1172** Introduction

Charlton Heston was nearing the end of his rousing speech to the 2000 National Rifle Association (NRA) Convention in Charlotte, North Carolina, where he accepted a third term as the group's president. After decrying “the divisive forces that would take freedom away,” [FN1] he hoisted in one hand, high above his head, a colonial-era musket, symbol of rebellion against the powerful to ensure American liberty. Then, in his booming baritone, Heston issued his trademark challenge to the faithful gathered to heed the call: “From my cold, dead hands!” [FN2]

Heston's musket drew a direct, visible link between the fight against tyranny that gave birth to our nation and the NRA's fight against the perceived tyranny of gun control. Patriots then and patriots now. For the committed NRA activist, moreover, Heston was symbolically drawing a connection to the Founding Fathers that is real, eternal and indelibly written into the charter of our freedoms--the Bill of Rights.

For the gun rights partisan, the Second Amendment is the trump card in the gun debate, the argument of last resort. The gun control advocate can talk about the far greater lethality of guns versus other weapons, [FN3] the thirty thousand Americans killed by gunfire every year, [FN4] and the need to regulate guns at least as much as other dangerous products like automobiles. But these arguments invariably draw the response that guns aren't like other dangerous products because the right to possess guns is uniquely protected by the Constitution.

There has, however, always been a problem with the NRA's use of the Second Amendment: Its words don't quite fit the NRA's narrative. If its intent was to guarantee a right to possess guns for private purposes like self-defense and hunting, its words seem oddly chosen:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear

Arms, shall not be infringed. [FN5]

*1173 The gun rights community has always been somewhat vexed by the language about the “well regulated Militia” and its necessity “to the security of a free State.” What are such words doing in a provision that guarantees the right to have guns to defend one's home and family? What is their function? Even the phrase “keep and bear Arms” seems strange. The Framers could have written something like: The right of the people to possess and use guns shall not be infringed. Why didn't they?

For many years, the NRA's primary strategy for dealing with the troublesome language about the “well regulated Militia” was to pretend it isn't there. The NRA headquarters building on Thomas Circle in Washington, D.C. long featured a heavily edited version of the Second Amendment on its façade. The first thirteen words were omitted.

Until its recent decision in *District of Columbia v. Heller*, [FN6] the U.S. Supreme Court had been unwilling to interpret the Second Amendment by ignoring half of its text. In fact, in *United States v. Miller*, [FN7] the Supreme Court's only extensive discussion of the Amendment prior to *Heller*, the Court assigned decisive importance to the militia language. In *Miller*, a unanimous Court held that the “obvious purpose” of the guarantee of the people's right to “keep and bear Arms” was “to assure the continuation and render possible the effectiveness” of state militia forces, and that the Amendment “must be interpreted and applied with that end in view.” [FN8] Indeed, in *Miller*, the Court upheld the defendants' indictment for transporting a sawed-off shotgun across state lines without complying with the National Firearms Act because there was no evidence that such a gun could have a “reasonable relationship to the preservation or efficiency of a well regulated militia.” [FN9] The Court further noted that it could not simply take judicial notice “that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense.” [FN10] The *Miller* Court found no reason to even address the question whether such a gun could have utility for self-defense or some other nonmilitia activity.

Prodigious historical research into the origins of the Second Amendment confirms that it was intended to address the distribution of military power in society, not the need to have guns for self-defense or other private purposes. [FN11] *1174 The Anti-Federalists, who opposed the Constitution as written and sought the addition of a Bill of Rights, were deeply worried that the Constitution had given Congress the power to raise a standing army (meaning a professional military force) that many feared would become a tool of federal tyranny, while also giving Congress excessive power over the state militias. The state militias were nonprofessional military forces composed of ordinary citizens and were regarded as a strong check on the power of a federal standing army.

Leading Anti-Federalists argued that the Constitution's grant of power to Congress to organize and arm the militia amounted to an exclusive power to do so, thus rendering the state militias vulnerable to federal hostility or neglect. For example, Anti-Federalist George Mason argued during the Virginia ratification debates that Congress' new power would allow Congress to destroy the militia by “rendering them useless--by disarming them . . . Congress may neglect to provide for arming and disciplining the militia; and the state governments cannot do it, for Congress has an exclusive power to arm them.” [FN12]

Historians tell us that the Second Amendment was an effort by the Federalist defenders of the Constitution to allay these concerns by making the keeping and bearing of arms in a state militia a “right of the people,” not dependent on federal action. [FN13] The Second Amendment was passed as a fail-safe provision, ensuring that the state militias would be armed, even if Congress abandoned them. In the words of Professors H. Richard Uviller and William Merkel, the Amendment was “concerned with federalism, and the preservation of states' capacities to defend themselves against disorder, insurrection, and invasion

whenever the national government should refrain from acting, or find itself unable to act under the federal military or militia powers.” [FN14]

For decades after Miller the lower courts consistently held that the Second Amendment guarantees the people the right to be armed only in *1175 connection with service in an organized state militia. [FN15] Since the state militia of the founding era--a system of compulsory military service imposed on much of the adult, male population--had long ago disappeared into the mists of time, the courts routinely upheld gun control laws of every conceivable variety against Second Amendment challenge. Indeed, the judicial consensus on the meaning of the Amendment had grown so strong that, in 1990, former Nixon Administration Solicitor General and Harvard Law School Dean Erwin Griswold wrote, “that the Second Amendment poses no barrier to strong gun laws is perhaps the most well-settled proposition in American constitutional law.” [FN16] A year later, former Chief Justice Warren Burger--a gun owner himself--accused the NRA of perpetrating a “fraud on the American public” by insisting that the right to be armed existed apart from service in an organized militia. [FN17]

Then in 2008, by a 5-4 vote, with Justice Scalia writing for the majority, joined by Justices Thomas, Kennedy, Roberts and Alito, the Supreme Court wiped away the consensus militia-purpose view in *District of Columbia v. Heller*. In striking down the District of Columbia's handgun ban, the Court found that the Second Amendment “elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home.” [FN18] The Court gave the NRA and its allies the interpretation of the Second Amendment they had long sought. The constitutional right to own guns for personal use--an article of faith for those who cheered Charlton Heston's upraised musket--was now a legal reality. Many observers treated the ruling as an unqualified victory for the opponents of gun control. Yet was it?

Heller is, in fact, the new paradox of the gun control debate. In *Heller*, the conservative majority on the Supreme Court did, indeed, make history by creating a new Constitutional right to be armed. It did so, however, only by engaging in an unprincipled abuse of judicial power in the pursuit of an ideological objective. Not quite *Bush v. Gore*, [FN19] but close. Yet, as argued below, *Heller* is *1176 likely to have relatively little impact as a legal weapon against other current and future gun laws. Indeed, and of even greater significance, it is likely to alter the public debate over gun control so as to weaken, not strengthen, the gun lobby's power to block sensible gun control proposals that will dominate the debate in the future.

To understand just how confounding the *Heller* paradox may turn out to be, we should begin by understanding how indefensible the decision is as a matter of Constitutional law.

I. *Heller* as Ideology

A. Text Without Context

We have seen that the NRA has conformed the Second Amendment's text to its own constitutional preconceptions by simply pretending that its first thirteen words were never written. Justice Scalia's majority opinion in *Heller* similarly obliterates half of the Amendment, but is somewhat more sophisticated in attempting to disguise its editing of the Constitution.

Justice Scalia is well known for his insistence that the text of the Constitution is of primary importance in deciding constitutional questions, not the search for the intent of the Framers [FN20] and not changes in society since the Constitution was drafted. [FN21] Yet the brand of textualism he uses to interpret the Second Amendment is inconsistent and artificial, showing

little respect for the words the Framers actually wrote and ratified.

Scalia's overarching inconsistency is his highly selective use of context to inform meaning. The core of his textual argument is devoted to listing various eighteenth and nineteenth century uses of the phrases "keep arms" and "bear arms" to refer to a right to be armed unrelated to militias. For example, he cites a 1734 text providing, "[y]et a Person might keep Arms in his House, or on his Estate, on the Account of Hunting, Navigation, Travelling, and on the Score of Selling them in the way of Trade or Commerce, or such *1177 Arms as accrued to him by way of Inheritance." [FN22] In this instance, the use of "keep Arms" does appear to refer to the possession of arms for private purposes unrelated to militias. But how do we know this? Only because the context in which the phrase appears suggests that it refers to nonmilitia activities.

To take another of Scalia's examples, he cites various state constitutional provisions, all enacted after the ratification of the Second Amendment, that guarantee "every citizen a right to bear arms in defence of himself and the State." [FN23] We know "bear arms" includes a nonmilitia right in those provisions only because of the context in which the phrase appears, particularly the phrase "defence of himself," suggesting private self-defense, not community defense as part of an organized militia. Scalia's own examples demonstrate that context is critical to meaning. As he wrote on another occasion, "[i]n textual interpretation, context is everything . . ." [FN24]

When it comes to the Second Amendment, however, Scalia interprets the phrase "keep and bear Arms" by ripping the phrase out of context; that is, by artificially separating the phrase from the words that precede it about ensuring "a well regulated Militia . . . necessary to the security of a free State" and determining its meaning without reference to the militia language. [FN25] Thus, the Heller majority arrives at the conclusion that the right guaranteed is "the individual right to possess and carry weapons in case of confrontation," prior to addressing the meaning of the militia language. [FN26]

The issue is not, however, whether the phrases "keep Arms" and "bear Arms" could have nonmilitia meanings in other contexts. The issue is the meaning of the phrase "keep and bear Arms" as it is used in the context of a provision of the Constitution declaring the importance of a "well regulated Militia to the security of a free State." Justice Scalia proudly points to the "many sources" presented in his opinion in which "bear arms" was used in "nonmilitary contexts," [FN27] but ignores the particular context in which the phrase appears in the Second Amendment. Moreover, Scalia's move to address the meaning of the right apart from its context is problematic even under his own definition of originalism. At the outset of his opinion, he defines the interpretive task as determining the "normal meaning" of the text *1178 "to ordinary citizens in the founding generation." [FN28] Even assuming this to be the proper definition of the Court's task, the issue should be: What would such ordinary citizens have understood to be the "right of the people to keep and bear Arms" in the context of the militia language?

Justice Scalia's opinion also notably insists on interpreting the phrase "keep and bear Arms" by slicing and dicing it into the phrases "keep Arms" and "bear Arms," before presenting multiple examples of the use of each phrase, in isolation from the other, in nonmilitia contexts. Only in passing does the opinion note the Massachusetts Declaration of Rights of 1780, [FN29] in which the two phrases appear joined together as "the right to keep and to bear arms," much as they appear in the Second Amendment. It is worth quoting the Massachusetts provision in its entirety, which Scalia does not do:

The people have a right to keep and to bear arms for the common defense. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it. [FN30]

Can there be any doubt that, in this provision, context establishes that the phrase “right to keep and to bear arms” refers entirely to military matters and has nothing whatever to do with private self-defense? The provision guarantees “a right to keep and to bear arms for the common defense,” and is followed by an articulation of the dangers of standing armies and the need for civilian control of the military. It is hardly surprising that the Supreme Judicial Court of Massachusetts has held, in *Commonwealth v. Davis*, [FN31] that this provision is directed at “service in a broadly based, organized militia,” and not “guaranteeing individual ownership or possession of weapons.” [FN32] The militia language of the Second Amendment functions in the same way to elucidate the meaning of a similar phrase as referring to military matters.

Incredibly, though, the *Heller* majority claims, without even acknowledging the *Davis* case, that the state's highest court has determined that the Massachusetts right is not confined to a state-organized militia. [FN33] While ignoring the controlling authority of *Davis*, the *Heller* opinion instead relies on an 1825 libel case, *Commonwealth v. Blanding*, [FN34] in which the scope of the *1179 “right to keep and to bear arms” was not even before the Court and which suggests only that the right to be armed does not extend to those who use arms irresponsibly. [FN35] The Scalia majority opinion in *Heller* thus concludes that, in the Massachusetts provision, the right is not confined to militia service, but rather “secured an individual right to bear arms for defensive purposes.” [FN36] This implausible reading of the Massachusetts language strongly suggests that Justice Scalia would find that the right to “keep and bear Arms” has a nonmilitia meaning in every possible context. What became of Scalia's conviction that in interpreting Constitutional text, “context is everything”? [FN37] When it comes to the Second Amendment, context apparently is nothing. Rather, the imperative to discover a right to be armed for self-defense is everything.

Justice Scalia's majority opinion disguises its unprincipled discarding of context through the sleight-of-hand of referring to the militia language as merely “prefatory” as opposed to the other “operative” language of the Amendment. It is critical to Scalia's argument that the importance of the militia language be diminished by labeling it as a “preface” or a “preamble.” It allows him to marshal the support of various rules of statutory construction regarding the limited role of such prefatory language. For example, he argues that although a prefatory clause may be used to resolve ambiguity in an operative clause, “a prefatory clause does not limit or expand the scope of the operative clause.” [FN38] Moreover, according to Scalia, “the preamble cannot control the enacting part of the statute in cases where the enacting part is expressed in clear, unambiguous terms.” [FN39] But, of course, the issue at hand is whether one can properly determine the meaning of the right guaranteed by the Second Amendment--and therefore determine whether the phrase “right of the people to keep and bear Arms” is ambiguous or clear--without first taking the militia language into account. Simply attaching the label “prefatory” or “preamble” to the militia language should not be sufficient to resolve that issue. [FN40]

*1180 Scalia's argument for interpreting the meaning of the right without regard to the militia language turns largely on what he seems to consider a self-evident analogy between the militia language of the Second Amendment and nonoperative “whereas” clauses in legislation, as well as an analogy to the nonoperative language in the preamble to the Constitution itself. [FN41] It is true that statutory language often is preceded by a series of “whereas” clauses discussing the problem the legislation is designed to address and stating its purpose, but having no independently enforceable effect as law. But the analogy of these “whereas” clauses to the militia language of the Second Amendment is invalid. The portion of the Constitution analogous to statutory “whereas” clauses is the Constitution's own preamble which, in language that speaks to the ages, sets out the broad values that “We the people” sought to pursue in establishing the new government--“to insure domestic Tranquility,” and “to secure the Blessings of Liberty to ourselves and our Posterity”--but is not independently enforceable as law. [FN42] The first thirteen words of the Second Amendment, however, are less operative than the remainder of its text only because five Justices of the Supreme Court have now decreed it to be so. [FN43]

Indeed, in his own writings, Justice Scalia has distinguished the Constitution's famous preamble from the remainder of the document, writing *1181 that the preamble sets forth only the “[t]he aspirations of those who adopted it,” while the “operative provisions of the document, on the other hand, including the Bill of Rights, abound in concrete and specific dispositions.” [FN44] Yet in *Heller*, when the goal is to create, by all means necessary, a new right unrelated to the militia, the Amendment's first thirteen words become the only portion of the Bill of Rights that is not operative. Justice Scalia's textualism apparently allows him to select the words of the Constitution that are operative, at least when it becomes necessary to support his predetermined conclusion about what the Constitution means. And there can be no doubt that, at least as to Justice Scalia himself, the *Heller* conclusion was predetermined. Over a decade before *Heller*, Scalia wrote that the Second Amendment concerned a “right of self-defense” that was “absolutely fundamental.” [FN45]

In deciding that some words of the Second Amendment are not operative, the *Heller* majority violated what the Supreme Court itself has called “the first principle of constitutional interpretation.” [FN46] This principle--applied first in *Marbury v. Madison* [FN47]--holds that the Constitution must be interpreted such that “real effect should be given to all the words its uses” [FN48] and that interpretations rendering some of its words “mere surplusage” must be avoided. [FN49] This principle is based on the profound respect accorded the constitutional text by the courts. As the Supreme Court phrased it long ago:

Every word appears to have been weighed with the utmost deliberation, and its full force and effect to have been fully understood. No word in the instrument, therefore, can be rejected as superfluous [FN50]

Well, at least until *Heller*. The phrase “mere surplusage” nicely describes the militia language under the *Heller* majority's reading of the Second Amendment. Long before the *Heller* decision, Justice Scalia had written that “textualism is no ironclad protection against the judge who wishes to impose his will” [FN51] What better proof of this statement can be offered than his own majority opinion in *Heller*?

Justice Scalia's peculiar brand of textualism thus “elevates above all other interests the right of responsible citizens to use arms in defense of hearth and *1182 home” [FN52] in a text in which this interest is entirely hidden and in which the “security of a free State,” not the security of “hearth and home” is the only expressed purpose of the guarantee. [FN53] This is ideology talking. It certainly is not constitutional interpretation.

B. Manipulating History

The *Heller* majority's arrogation of the power to edit the constitutional text is particularly disturbing in the case of the Second Amendment because the history of the Amendment's drafting by the First Congress demonstrates how important the Framers regarded the now-meaningless militia language. Indeed, the changes made in the Amendment's text by its ratifiers in the First Congress were made to the very language the *Heller* majority now has cast aside. Consider the text of the Amendment as originally drafted by James Madison and presented to the First Congress:

The right of the people to keep and bear arms shall not be infringed; a well armed, and well regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms, shall be compelled to render military service in person. [FN54]

The First Congress made the following changes to the text before ratifying it: (1) the reference to “well armed” in the description of the militia was deleted; (2) the description of the militia as “being the best security of a free country” was

changed to “necessary to the security of a free State”; (3) the language barring compelled military service of those “religiously scrupulous of bearing arms” was *1183 dropped; and (4) the position of the militia language in the Amendment was changed to make it more prominent. Other changes proved to be only temporary. For example, at one point in the process the words “composed of the body of the people” were inserted to describe the militia, but the phrase was deleted from the final version. [FN55]

The choice to begin the text with the militia language is particularly interesting because, without that change, Justice Scalia could not treat the militia language as merely prefatory, and therefore not operative. Under Madison's original version, there was nothing prefatory about the militia language; its placement in that version was itself inconsistent with its being a preface or prologue. Is it plausible that the First Congress sought to diminish the importance of the militia language by having it precede the guarantee of the right?

I will leave it to others to debate the significance of each of these changes in the Amendment's text. My point is only that they at least reflect the serious attention given by the Framers to the entire text of the Second Amendment, particularly the militia language. Why would the Framers have so actively edited these words if they, as does Justice Scalia, regarded them as merely aspirational (and thus analogous to the Constitution's preamble), having no effect whatever on the Amendment's meaning? Justice Scalia is well known for his view that constitutional interpretation should be governed by the “original meaning of the text, not what the original draftsmen intended.” [FN56] Thus, he places little importance on the “legislative history” of the Constitution, including its drafting history and the statements made by those involved in writing and ratifying the Constitution. The Heller opinion is a strong example of how his disdain for legislative history leads him to distort the “original meaning” of the text.

One aspect of the legislative history deserves special attention: the conscientious objection clause that appeared in Madison's draft but was deleted by the First Congress. The clause provided that “no person religiously scrupulous of bearing arms, shall be compelled to render military service in person.” The appearance of the provision in Madison's original version provides yet more context establishing that the right to “keep and bear Arms” had to do exclusively with military service.

The conscientious objector clause should end all doubt as to the meaning of the phrase “bear Arms” in the Amendment. Unless one subscribes to the absurdity that “bear arms” and “bearing arms” had different meanings within *1184 Madison's original proposal, the conscientious objection clause establishes forcefully that “bear Arms” in the Second Amendment refers to rendering military service. Justice Scalia responds by arguing that, since Quakers opposed not just military service, but the use of arms for any reason, the clause should be read to mean that “those opposed to carrying weapons for potential violent confrontation” would not be compelled to render military service in which such carrying of weapons would be required. [FN57] For Scalia, therefore, the conscientious objection clause is compatible with the view that “bear Arms” in the Amendment means to “carry Arms.” Of course, under Scalia's account, it would make far more sense for the conscientious objection clause to refer to persons “religiously scrupulous of keeping Arms,” rather than “bearing Arms,” unless we are to believe that a Quaker's religious objection is not to having arms, but rather to physically carrying them.

In any event, Justice Stevens' dissent destroys Scalia's speculation by quoting a similar conscientious objection clause from the Constitutional amendments proposed by Virginia's ratifying convention, in which Madison was an important participant. Two of the Virginia proposals had a transparently obvious influence on the text of the Second Amendment:

17th, That the people have a right to keep and bear arms; that a well regulated Militia composed of the body of the people trained to arms is the proper, natural and safe defence of a free State. That standing armies are dangerous to liberty, and therefore ought to be avoided, as far as the circumstances and protection of the Community will admit; and that in all cases the military should be under strict subordination to and be governed by the civil power.

19th, That any person religiously scrupulous of bearing arms ought to be exempted, upon payment of an equivalent to employ another to bear arms in his stead. [FN58]

Two points are important here. First, as demonstrated by the second sentence, the seventeenth proposal clearly uses the phrase “right to keep and bear arms” in an entirely military context. Second, the nineteenth proposal, by specifying that conscientious objectors must pay a fee to avoid military service, unequivocally uses “bear arms” to mean compelled military service, not the voluntary carrying of arms for self-defense. The notion that Madison *1185 was using “bearing arms” to have an entirely different meaning in his Second Amendment conscientious objector language is completely implausible. [FN59]

Even if Scalia's account of “bearing Arms” in the conscientious objector language were correct, the appearance of the clause in Madison's initial proposal would still be inexplicable under the Heller majority's view of the Second Amendment. Under that view, the original meaning of the Amendment was to guarantee individuals the right to choose to have a gun for private purposes or, presumably, to choose not to have a gun. If this was the meaning, why would it have ever occurred to Madison to include a clause allowing conscientious objection to compelled military service? Indeed, under this meaning, the internal logic of Madison's proposal would collapse. Madison's inclusion of a conscientious objector clause is comprehensible only if the right to “keep and bear Arms” in its text refers to the right to be armed in connection with service in the militia--service which, as we will see below, was compulsory, not a matter of choice. As Justice Stevens observed in dissent, “The State simply does not compel its citizens to carry arms for the purpose of private ‘confrontation,’ or for self-defense.” [FN60]

Justice Scalia's opinion cautions against reliance on text that was deleted from the Second Amendment, [FN61] but the legislative history, by illuminating why the conscientious objector provision was deleted, also undercuts Scalia's argument. The core objection to the clause was that it would be used to weaken the militia. Representative Elbridge Gerry argued, for example, that the clause would enable the government to “declare who are those religiously scrupulous, and prevent them from bearing arms.” [FN62] Gerry continued, “What, sir, is the use of the militia? It is to prevent the establishment of a standing army, the bane of liberty.” [FN63] It is certainly reasonable to assume that the clause was deleted because of this anticipated effect on the militia. On the other hand, one might also argue that it was deleted because it was unnecessary, indeed nonsensical, to have a conscientious objector exception in a provision having *1186 only to do with guaranteeing individuals the freedom to possess guns for private, nonmilitia use. However, there is certainly no evidence that this was the case.

According to Justice Scalia, the “most prominent” founding-era examples of the “unambiguous” use of “bear arms” to have a nonmilitia meaning were state constitutional provisions enshrining a right of citizens to “bear arms in defense of themselves and the state,” or “bear arms in defense of himself and the state.” [FN64] As noted above, the latter formulation provides a context for “bear arms” entirely different than the Second Amendment, since “defense of himself” strongly suggests a non-militia self-defense use. Moreover, all the examples of this formulation postdate the ratification of the Bill of Rights and could be regarded as efforts by states to grant a private, nonmilitia right entirely distinct from the militia-related right already granted by the federal Constitution. As to state declarations of rights in existence at the time of the framing, only two--Pennsylvania and Vermont--had right to bear arms provisions using the phrase “in defense of themselves and the state.” [FN65] Thus, even if Scalia is correct in his interpretation of this language, it would mean that, at the time of the ratification of the Second Amendment, only two states granted a right to bear arms for nonmilitia purposes. Moreover, even if Scalia is properly reading these two state provisions, it is certainly relevant that the language they used, “in defense of themselves,” does not appear in the

Second Amendment. [FN66]

However, strong evidence exists--entirely ignored by Justice Scalia (and by the dissenters as well)--that neither Pennsylvania's nor Vermont's guarantee had anything to do with private self-defense. Both the Pennsylvania and Vermont Constitutions at the time also had conscientious objection clauses similar to that in Madison's draft Second Amendment, in which the phrase "bearing arms" referred exclusively to military service. The Pennsylvania clause read: "Nor can any man who is conscientiously scrupulous of bearing arms be justly compelled thereto, if he will pay such equivalent." [FN67] The Vermont version was identical. [FN68] Language in these clauses allowing those "conscientiously*1187 scrupulous" of bearing arms to escape service by paying its "equivalent" (similar to the Virginia proposal discussed above) establishes that "bearing arms" referred to military service, not simply the carrying of guns. Thus, Scalia's interpretation of the right granted by Pennsylvania and Vermont requires the unlikely conclusion that their Constitutions used "bearing arms" to have a military meaning in one part of the document, and "bear arms" to have a nonmilitary meaning in another part of the same document. Given that "bear arms" had a military meaning, the reference to "defence of themselves" should thus be taken to concern defense of the community, an idea distinct from "defense of the state," which is a reference to a governmental entity. [FN69]

Scalia also avoids quoting the entirety of the Pennsylvania and Vermont provisions in which the "right to bear arms" appears. Pennsylvania's provision states as follows:

That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; And that the military should be kept under strict subordination to, and governed by, the civil power. [FN70]

Vermont's provision is similar:

That the people have a right to bear arms for the defence of themselves and the State; and as standing armies, in the time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power. [FN71]

By failing to quote the entirety of these provisions, the Heller majority again avoids the impact of context which, in these provisions, strongly suggests that their subject matter entirely concerned military affairs. Moreover, considerable historical scholarship, available to but ignored by the Heller Court, [FN72] indicates that the phrase "defence of themselves" in the Pennsylvania provision was addressed entirely to community, not personal, defense. [FN73]

*1188 What, therefore, do state constitutions at the time of the framing tell us about the Second Amendment? Contrary to Justice Scalia's suggestion that they "unambiguously" used "bear arms" to have a nonmilitia meaning, the weight of the evidence is that not a single state constitution at the time of the framing of the Second Amendment guaranteed a right to possess guns for personal self-defense. Moreover, the Massachusetts Declaration of Rights, as we have seen, guaranteed the "right to keep and bear Arms" entirely for community defense. One other state constitution--North Carolina's--gave the people "a right to bear arms for the defense of the State," in a provision similar to those in Massachusetts, Pennsylvania and Vermont, addressing the dangers of standing armies and the need for civilian control of the military. [FN74] The North Carolina provision is entirely ignored by Justice Scalia.

Given the preexisting state guarantees of a right to be armed for the common defense, and the relevant legislative history of the Second Amendment, it is entirely natural to read the Amendment as guaranteeing a right confined to militia service, having

nothing to do with individual self-defense. Just as telling, though, is the Framers' failure to adopt an alternative version, based on other proposals made at the time, that would have guaranteed an individual right for private, nonmilitia purposes.

We have seen that Madison's original proposal bore a striking resemblance to the militia-based proposed amendment of the Virginia ratification convention. Justice Stevens' dissenting opinion cites proposals originating in other states that guaranteed the right to be armed, with no reference to the militia. [FN75] For example, the New Hampshire proposal read: "Congress shall never disarm any Citizen unless such as are or have been in Actual Rebellion." Another proposal, rejected by the Pennsylvania ratifying convention, read:

That the people have a right to bear arms for the defense of themselves and their own State, or the United States, or for the purpose of killing game; and no law shall be passed for disarming the people or any of them unless for crimes committed, or real danger of public injury from individuals . . . [FN76]

*1189 Like the Virginia proposal, this language was then followed by expressions of the dangers of standing armies and the need for civilian control of the military. But the reference to "killing game" and the far-reaching prohibition on disarming law-abiding citizens, indicate that the "right to bear arms" in the defeated Pennsylvania proposal was not confined to militia service. No such language appeared in the Virginia proposal and nothing like it appears in the Second Amendment.

Justice Stevens' dissent points to another proposal, which failed to muster a majority in the Massachusetts ratification convention: "[T]hat the said Constitution never be construed to authorize Congress to . . . prevent the people of the United States, who are peaceable citizens, from keeping their own arms." [FN77] It is surely instructive that this broader formulation was rejected by the Massachusetts Convention, while the narrower "common defense" language was already part of the Massachusetts Constitution and remains in that Constitution to the present day. These broader formulations of the right to be armed presumably were known by Madison and the First Congress. [FN78] The Heller majority offers no explanation for the Framers' failure to adopt such language, if their intent was to guarantee a broad, personal right.

If the Heller majority's reading of the Second Amendment is right, then Madison and the First Congress sought to guarantee a nonmilitia right by choosing language emphasizing the importance of a "well regulated Militia," while avoiding other available formulations making no reference to the militia at all. Unlikely, to say the least. [FN79]

In place of the well established principle that the Constitution must be interpreted to give each word meaning and effect, Justice Scalia's opinion *1190 substitutes a new principle--for which he cites no support in prior Supreme Court cases--that the only requirement is that there be a "logical connection" between words and phrases in the Constitution. [FN80] Having determined, without reference to the militia language, that the Second Amendment guarantees a right to have arms for self-defense, Scalia then finds that the only remaining task is to ensure that this right "is consistent with the announced purpose" expressed in the militia clause. [FN81] He finds this consistency by asserting that the right to be armed for self-defense "further the purpose of an effective militia no less than (indeed, more than) the dissent's interpretation." [FN82] However, Justice Scalia is reduced to arguing for a disconnect between the "central component" of the Second Amendment right--which he says is "self-defense"--and the entirely separate reason the right was "codified"--which he says was "to prevent elimination of the militia." [FN83] Scalia offers no justification for reading the Amendment in a manner which creates a dissonance between the nature of the right and the reason the right was written into the Constitution. The idea of such a disconnect simply demonstrates the lengths to which the Heller majority was willing to go to resist a natural and internally consistent reading of the Second Amendment. In any event, the majority's own requirement that there at least be a logical connection between the

militia language and the right to be armed for self-defense is not met under its reading of the Amendment.

Scalia's claimed logical connection is based on a gross misunderstanding of the nature of the "well regulated Militia" and how it was armed. In the Founding Era, the militia was not, as Justice Scalia seems to presume, simply an unorganized "pool" of "able-bodied men" from which the Congress had the power to organize an effective fighting force. [FN84] By its very nature, a militia existed only to the extent that it was organized. Indeed, the definition of "militia" in Noah Webster's famous dictionary--cited by Scalia himself [FN85]--undercuts the concept of an unorganized militia: "The militia of a country are the able bodied men organized into companies, regiments and brigades . . . and required by law to attend military exercises on certain days only, but at other times left to pursue their usual occupations." [FN86]

Justice Scalia is correct in observing that the militia existed prior to the Constitution, but he is wrong in asserting that it was an unorganized collection *1191 of individuals. The state militias existing at the time of the Constitution were creatures of state law. As discussed in Justice Stevens' dissent, these preexisting state militia statutes imposed extensive requirements on those enrolled in the militia. Of greatest significance for Second Amendment purposes was the common requirement that militiamen "keep arms" in their homes for use when called to militia duty. Stevens quotes the Virginia militia law requiring militiamen to "constantly keep the aforesaid arms, accoutrements, and ammunition, ready to be produced whenever called for by his commanding officer." [FN87] In fact, one year after the Constitution was ratified, Congress enacted the Second Militia Act of 1792, requiring that each militiaman, "within six months" after enrollment in the new federally-organized militia, "provide himself with a good musket or firelock." [FN88] Thus, not only was the militia inherently organized, but the arming of the militia was a matter of government command, not simply reliance on the individual choices of militiamen to acquire guns.

Justice Scalia describes the militia at the time of ratification as "the body of all citizens capable of military service, who would bring the sorts of lawful weapons that they possessed at home to militia duty." [FN89] He fails to mention that these militiamen were required by law to keep militia weapons at home. As Justice Stevens comments, "'keep and bear arms' thus perfectly describes the responsibilities of a framing-era militia member." [FN90]

*1192 Once the founding-era militia is properly understood as a government-organized system of compulsory armed service involving much of the adult male population, it becomes plain that there is no logical connection between the militia and a guaranteed right to possess guns for purposes unrelated to militia service. Nor is there any logic to the inclusion of language about the importance of the militia in a provision guaranteeing the right to possess guns "in defense of hearth and home." [FN91]

According to Justice Scalia, reading the Second Amendment as protecting only the right to "keep and bear Arms" in an organized militia "fits poorly" with the description of the "the people" as the holder of the right. [FN92] But the fit is poor only if it is assumed that the right is unrelated to militia service, which, of course, is precisely the issue at hand. If "the people" have the right to be armed only to the extent that they are armed in connection with militia service, then there is no awkwardness of fit between "the people" and the nature of the right. There is no question that the Second Amendment right is granted to "the people." The issue is the nature and scope of the right granted to "the people." [FN93]

Nor does Justice Scalia's insistence that the Second Amendment guarantees a preexisting right help to decide the issue. As we have seen, the militia system as an institution of state government preexisted the Constitution; indeed, the Articles of Confederation had required that "every state shall always keep up a well regulated and disciplined militia, sufficiently armed

and accoutered, and shall provide and constantly have ready for use, in public stores, a due number of field pieces and tents and a proper quantity of arms, ammunition and camp equipage.” [FN94] Moreover, as we also have seen, state constitutions pre-dating the Second Amendment had referred to the people’s “right to keep and bear arms for the common defence” [FN95] and to the people’s “right to bear arms *1193 for the defence of the State.” [FN96] There is no basis for Justice Scalia’s assumption that a preexisting right to be armed could not be militia related. [FN97]

A principled approach to interpreting the Second Amendment--that is, one not determined, by hook or by crook, to arrive at a predetermined conclusion--would surely look to the Amendment’s text as an integrated whole, reading each word in context and giving each a functional meaning. Instead, the Heller majority’s slice and dice approach--surgically removing the second half from its connection to the first half, then carving up the phrase “keep and bear Arms”--gives the Amendment a meaning that would have been foreign to those who ratified it. Moreover, Justice Scalia’s opinion is devoid of any evidence that ordinary citizens in the founding generation would have interpreted the Amendment by blinding themselves to its first thirteen words, then attaching separate meanings to “keep Arms” and “bear Arms,” before ensuring a logical connection between the various words of the Amendment. In showing the folly of the Court’s approach, I cannot improve on Justice Stevens’ analogy to the parable of the six blind men and the elephant. He applied the parable to what he called “the Court’s atomistic, word-by-word approach”:

In the parable, each blind man approaches a single elephant; touching a different part of the elephant’s body in isolation, each concludes that he has learned its true nature. One touches the animal’s leg, and concludes that the elephant is like a tree; another touches the trunk and decides that the elephant is like a snake; and so on. Each of them, of course, has fundamentally failed to grasp the nature of the creature. [FN98]

In approaching the meaning of the words and phrases of the Second Amendment in isolation from one another, the Heller majority, too, failed to grasp the nature of the Amendment as a whole.

It is not surprising that the Heller majority opinion has been the subject of scathing scholarly attack for its results-oriented approach. Indeed, some of the sharpest criticism has come from conservative legal theorists with a long *1194 history of opposition to judicial activism. [FN99] In an extraordinary article disclosing his own family’s gun violence tragedy some years ago, Pepperdine University law professor Douglas Kmiec, who once shared an office with Samuel Alito in the Reagan Justice Department, praised Justice Scalia’s career of “reminding his fellow judges how important it is not to read their own personal experiences or desires into the law.” [FN100] But Kmiec found that principle dishonored in Scalia’s Heller opinion. “From their high bench on that morning,” he wrote, “it would not be the democratic choice that mattered, but theirs. Constitutional text, history, and precedent all set aside.” [FN101]

Judge Richard Posner of the U.S. Court of Appeals for the Seventh Circuit, undoubtedly the most prolific conservative legal thinker of our time, found the Heller decision to be “evidence that the Supreme Court, in deciding constitutional cases, exercises a freewheeling discretion strongly flavored with ideology.” [FN102] Commenting on the sheer length of Scalia’s majority opinion (almost twenty thousand words), Posner found it “evidence of the ability of well-staffed courts to produce snow jobs.” [FN103]

A third broadside has come from Judge J. Harvie Wilkinson III of the U.S. Court of Appeals for the Fourth Circuit, who was on the short list for the Supreme Court throughout the George W. Bush Administration. Judge Wilkinson is somewhat more charitable than Kmiec and Posner to the evidence offered by the Heller majority. Nevertheless, he sees Heller as im-

proper “judicial lawmaking” in defiance of conservative legal principles counseling restraint and deference to the judgments of popularly elected legislatures. [FN104] “In fact,” Wilkinson writes, “Heller encourages Americans to do what conservative jurists warned for years they should not do: bypass the ballot and seek to press their political agenda in the courts.” [FN105] Wilkinson especially singles out Justice Scalia for committing the same sins of judicial activism in Heller that Scalia has spent a career denouncing in *Roe v. Wade*. [FN106]

*1195 III. Heller as a Legal Weapon to Attack Gun Control Laws

As internally inconsistent, manipulative, and ideologically driven as the Heller majority opinion is in manufacturing a new right to have handguns in the home, the majority's discussion of the implications of this right is likely to make it a less-than-potent legal weapon against other gun laws.

Section III of the majority opinion features some extraordinary language suggesting that a wide range of gun control laws do not violate the new right: “Like most rights, the right secured by the Second Amendment is not unlimited.” [FN107] According to the Court, “[T]he right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” [FN108] It is highly unusual for a court, in interpreting the Constitution, to comment on the constitutionality of laws not before it, particularly when it is not citing prior court rulings on the issue. The Heller majority, however, goes out of its way to offer the assurance that “nothing in our opinion should be taken to cast doubt” on a wide range of gun control laws, which the Court said remain “presumptively lawful” under the Court's ruling. [FN109] These include:

- “[L]aws imposing conditions and qualifications on the commercial sale of arms” (a category broad enough to include background checks, waiting periods, licensing, registration, safety training, limits on large-volume sales, etc.);
- “[P]rohibitions on [gun] possession by felons and the mentally ill;”
- “[P]rohibitions on carrying concealed weapons” (a more restrictive policy than simply requiring a license to carry concealed weapons);
- “[L]aws forbidding the carrying of firearms in sensitive places such as schools and government buildings;” and;
- Bans on “dangerous and unusual weapons” (which could include machine guns and assault weapons). [FN110]

As if this list were not enough to make the NRA squirm, the Court added that these “presumptively lawful regulatory measures” are given “only as examples” and that the list “does not purport to be exhaustive.” [FN111]

The Court also stated that its analysis does not “suggest the invalidity of laws regulating the storage of firearms to prevent accidents,” [FN112] which presumably *1196 would include laws against leaving loaded guns accessible to children. [FN113] It is equally significant that the Court, in commenting on the many cases in which gun laws have been upheld against Second Amendment challenge under the militia-purpose view, cautioned that “it should not be thought that the cases decided by these judges would necessarily have come out differently under a proper interpretation of the right.” [FN114]

Why did the Heller majority so gratuitously suggest that its historic ruling recognizing a constitutional right to be armed for self-defense may have only a limited practical impact on gun control laws? What effect is Section III likely to have on national gun policy?

First, it seems reasonably clear that these comments function as a direct response to the dissenters' argument that the Heller majority has launched the Supreme Court on an endless and treacherous adventure in making life-and-death policy decisions

about guns. Justice Stevens' dissent charges the majority with improperly entering a “political thicket” and warns that the District of Columbia's law “may well be just the first of an unknown number of dominoes to be knocked off the table.” [FN115] Justice Breyer's dissent predicts that the Heller ruling “will encourage legal challenges to gun regulation throughout the Nation . . . , will leave the Nation without clear standards for resolving those challenges,” and will threaten “to leave cities without effective protection against gun violence and accidents during that time.” [FN116] “As important,” writes Justice Breyer, “the majority's decision threatens severely to limit the ability of more knowledgeable, democratically elected officials to deal with gun-related problems.” [FN117] Read in the context of these critiques, the majority's discussion of other gun laws can be seen as effectively moving other dominoes away from the edge of the table, thus ensuring that gun policy issues will continue largely to be decided by elected officials, free of activist second-guessing by federal courts.

Second, it is not unreasonable to speculate that much of the Section III language was inserted as the price of getting four other Justices to join Justice Scalia's opinion. Intuitively, it seems unlikely that such language originated with Justice Scalia (one of former Vice President Dick Cheney's hunting *1197 buddies and an obvious gun enthusiast), rather than being a concession by him to other Justices. The language strongly indicates that one or more of the Justices in the majority were willing to join Scalia's opinion only if it allowed substantial continued deference to legislative decisionmaking on gun policy. Such deference is of substantial benefit to public safety, given the strong evidence that even modest gun control laws can be successful. [FN118]

Third, although the Court did not expressly adopt a constitutional standard for the future evaluation of gun laws, its discussion of other presumptively constitutional laws surely must be read as a rejection of the strict scrutiny standard used in certain First Amendment cases and urged on the Court by the respondent. [FN119] Such a standard would have required courts reviewing gun laws to determine whether the law being challenged is “narrowly tailored to achieve a compelling government interest.” [FN120] Though the prevention of death and injury from gunfire would seem to qualify as a compelling government interest, the requirement that the law be narrowly tailored would invite activist judges to decide that gun control laws they don't like are insufficiently narrow in their impact on gun rights. Whereas strict scrutiny would have erected a strong presumption against the constitutionality of gun control laws, requiring narrow tailoring to overcome the presumption, the Heller majority described a lengthy list of gun control measures as *1198 presumptively lawful. As Justice Breyer accurately noted in dissent, [FN121] the Heller majority thus implicitly rejected strict scrutiny.

Although the Heller majority makes some comparison of its new Second Amendment right to our First Amendment rights, [FN122] the majority's surprising Section III commentary on gun control laws, and failure to invoke strict scrutiny, suggest that at least some Justices in the majority understand that the right to possess handguns in the home is materially different in nature from our First Amendment rights. As interpreted by Heller, the Second Amendment, unlike the First Amendment, guarantees a right to possess a lethal weapon. It should be obvious, but bears saying anyway, that the right to possess lethal weapons affects the public's interest in safety and security more directly than the right to express oneself about lethal weapons (among other topics). Researchers have found, for example, a strong association between gun prevalence and high homicide rates, suggesting that “an increase in gun prevalence causes an intensification of criminal violence--a shift toward greater lethality, and hence greater harm to the community.” [FN123] Pro-gun advocates will continue to make indefensible analogies to the First Amendment, like David Kopel of the libertarian Independence Institute who asserts that “[g]uns are like books or churches.” [FN124] But it is hard to maintain that the Heller decision treats guns like books or churches.

It is unclear how the majority derived its categories of presumptively lawful gun control measures. Although the majority

seems to attach great importance to whether the gun restrictions at issue are longstanding, the opinion leaves unclear how longstanding they must be. [FN125] It also is unclear whether a specific restriction (such as a waiting period) must be longstanding, or whether the specific restriction must be part of a category of restrictions (such as laws imposing conditions and qualifications on the sale of arms) that is longstanding. Some initial lower court rulings applying *Heller* reject the idea that the *1199 specific restriction at issue must have historical antecedents, requiring only that the specific restriction be of the kind found presumptively lawful in *Heller*. [FN126]

But even granting its uncertain scope, the Section III discussion is nonetheless of great significance to the constitutional assessment of other gun laws. It is likely to be interpreted by the lower federal courts as indicating a sharp and decisive distinction between laws (like the District of Columbia law at issue in *Heller*) that function to ban guns commonly possessed in the home for self-defense, and other laws that regulate guns, even strictly, yet allow individuals, not governments, to make the ultimate decision about gun ownership. Such a distinction should serve to frustrate efforts to expand the scope of the right beyond the possession of guns for self-defense in the home, as well as to make it difficult to successfully challenge regulations that affect the right, but do not unduly burden its exercise. Although some will dismiss the Court's discussion of other gun laws as dicta, it is likely to be among the most influential dicta in the Court's history.

The *Heller* ruling is already prompting an avalanche of Second Amendment lawsuits and legal claims. The NRA's Wayne LaPierre called the ruling "the opening salvo," telling his members that the fight "is just beginning." [FN127] Within forty-eight hours of the *Heller* decision, the NRA and its allies filed six lawsuits against local jurisdictions with handgun bans. [FN128] Within months of *Heller*, the NRA was talking about the need to "expand its reach." [FN129] *Heller* has also been embraced by criminal defense lawyers anxious to challenge the *1200 gun laws under which their clients are being prosecuted. [FN130] Indeed, the vast majority of legal claims based on *Heller* likely will arise in criminal cases.

There is no question that there is greater uncertainty about the constitutionality of gun regulation after *Heller*. It is also regrettable that government lawyers will need to consume public resources to fend off efforts to persuade courts to use *Heller* to second-guess the wisdom of judgments about gun policy made by elected officials. Moreover, future changes in the Supreme Court's composition may well affect the strength of the new right to be armed as a legal weapon against gun control laws. Based on the *Heller* decision alone, however, it seems likely that the vast majority of gun laws will ultimately survive the post-*Heller* attacks. [FN131] When the constitutional dust settles, the legal significance of our newly found constitutional right to have handguns in the home may prove to be more symbol than substance.

III. *Heller* and the Second Amendment as an Argument Against Gun Control

We have seen that *Heller* may pose only a limited threat to the future constitutionality of gun laws less restrictive than a broad gun ban. Although the legal risk to gun laws may be low, there is yet another possible impact of *Heller* to consider. *Heller* gives guns a protected constitutional status enjoyed by no other product. Doesn't that special status help the gun lobby to argue forcefully against analogies between guns and other dangerous products for which government regulation is commonplace and widely accepted?

For example, one might draw an analogy between guns and automobiles. Our nation has long been comfortable with laws requiring that drivers be licensed, that they demonstrate basic competency before being given a license, that the government retain records of sales transactions involving autos, and that autos meet minimum safety standards. The argument could be

made that guns should be subject to at least these kinds of regulations.

*1201 The cars/guns analogy may draw the response that the Constitution guarantees a right to possess guns, but not cars. Before *Heller* it was possible to dispute this asserted constitutional protection for guns. Not so after *Heller*. We have seen that, from a strictly legal standpoint, *Heller* does not seem to create a new presumption against gun control laws generally. But does it create a new presumption against gun control in the public's mind, placing a greater burden on gun control advocates to justify their proposals as sound policy?

Heller would appear to have this impact on the gun control debate if support for gun control before *Heller* were dependent, to a substantial extent, on the public's belief that the Second Amendment guarantees only a militia-related right. Public opinion polls show that super-majorities of the public have long supported a broad gun control agenda, the only exception being a ban on handguns. For example, a recent poll shows that 87 percent of those surveyed favor requiring background checks on all private sales at gun shows. [FN132] Registration of handguns is supported by 75 percent of Americans. [FN133] If this support were somehow premised on the public's conviction that the Constitution does not protect a right to gun ownership for private purposes, then *Heller*, by destroying that premise, could be expected to shake the foundation of the public's support for gun control.

But, in fact, public opinion surveys have long shown that the public believes that the Second Amendment is concerned with personal rights, not militias. A 1995 U.S. News & World Report poll reported that 75 percent of Americans believe that “the Constitution guarantees you the right to own a gun.” [FN134] On the day *Heller* was argued in the Supreme Court, the Washington Post released a nationwide poll showing that 72 percent of those surveyed believe the Second Amendment “guarantees the right of individuals to own guns,” while only 20 percent said it guarantees “only the right of the states to maintain militias.” [FN135] On the day the *Heller* ruling was issued, a Gallup Poll was released asking the question, “Do you believe the Second Amendment to the U.S. Constitution guarantees the rights of Americans to own guns, or do you believe it only guarantees members of state militias such as National *1202 Guard units the right to own guns?” [FN136] Seventy-three percent of those surveyed chose the individual rights option, while only 20 percent said the right was confined to militias. [FN137] While one could quarrel with the wording of some of these poll questions, they do suggest that the militia-purpose view--long dominant in the courts--has not seriously penetrated the public's consciousness in the modern era.

This means that a large majority of Americans believes simultaneously in a broad gun control agenda and in a broad interpretation of the Second Amendment. For the general public, the *Heller* ruling is consistent with what it already understood to be true: The Second Amendment guarantees a right to have guns, but that right is not absolute and is subject to sensible restrictions.

Given the public's longstanding view of how the Second Amendment affects gun control, *Heller* may actually weaken the argument that gun control proposals should be rejected because the Constitution guarantees a right to possess guns.

Before *Heller*, there were two primary responses to the Second Amendment argument available to gun control advocates. First, they could argue that the courts had already determined that the Second Amendment relates only to the militia and thus was no barrier to gun control laws. Although this argument was true, it did not conform to the public's beliefs about the Amendment's meaning--beliefs that were difficult to alter given the constant din of gun lobby propaganda on the constitutional issue, the fact that courts don't issue press releases about their rulings, and the strangeness to modern ears of the words “well

regulated Militia.” [FN138] Second, gun control advocates could assert that even if the Second Amendment extended beyond militia service, no rights are absolute and the right to be armed surely should be subject to reasonable restrictions. This argument had substantial persuasive appeal before *Heller* because it was consistent with public attitudes. It has even greater appeal after *Heller*, given the *Heller* Court's reassuring language about the presumptive constitutionality of gun regulation. When pro-gun partisans trot out the Second Amendment--joyfully citing *Heller*--they can now be met with the response that the *Heller* opinion itself--written by one of the most conservative and *1203 gun-loving Justices in recent history--found no inconsistency between the Second Amendment and a host of gun regulations.

Barack Obama's message about guns during the 2008 campaign took full advantage of *Heller* in successfully overcoming the NRA's virulent opposition (and his own reference to “bitter” people who “cling to guns”). [FN139] Obama constantly emphasized his support for the Second Amendment--and, specifically, for the *Heller* interpretation--while not backing down from his record of support for reasonable gun laws. [FN140] His message was consistent with *Heller* and reflected the views of most Americans.

As we have seen, the public's support for gun control in the modern era has not been premised on a belief that the Second Amendment guarantees only a militia-related right. The polling data suggest that the views of most Americans about gun control are not dependent on their beliefs about the Second Amendment. Indeed, it is more true to say that most Americans simply accommodate their views about the Second Amendment to their views about gun control. If they think gun control is sound public policy, they will conclude that it is not prohibited by the Constitution.

Putting the point another way, few Americans who believe that gun control laws save lives will nevertheless oppose them because they think they violate the Second Amendment. And because most Americans support gun control laws, they believe the Second Amendment to be of secondary importance. For many years, the Pew Research Center has asked Americans whether they think it is more important to “protect gun owners' rights” or “control gun ownership.” [FN141] In April 2008, 58 percent of those surveyed said it was more important to “control gun ownership,” while only 37 percent said it was more important to “protect gun owners' rights.” [FN142] The results were virtually identical in 1993, fifteen years before. [FN143]

*1204 For all the Second Amendment's symbolic and emotional importance to the NRA, the gun lobby has never convinced the public that gun control violates our constitutional values. By both recognizing gun rights and, at the same time, confirming the public's long-held belief that gun regulation is entirely compatible with those rights, *Heller* is likely, over the long term, to further diminish the importance of the Second Amendment argument as a barrier to the enactment of strong gun laws.

IV. *Heller*, the Slippery Slope, and the Gun Control Debate

A common refrain of gun control opponents is that even modest regulation of guns is but the first step down a slippery slope toward more draconian gun restrictions. Indeed, there may be no other public policy issue where the slippery slope argument is as frequently used. [FN144] Wayne LaPierre of the NRA invoked the argument as a key reason to oppose a waiting period for handgun purchases:

This brings us back to the real intent behind waiting periods. Waiting periods are only a first step. Regardless of what they promise to do or not to do, they are nothing more than the first step toward more stringent “gun control”

measures.

Some people call it “the camel’s nose under the tent,” some call it “the slippery slope,” some call it a “foot in the door,” but regardless of what you call it, it’s still the same--the first step. [FN145]

The NRA has made it clear what it sees at the bottom of the slippery slope--the end of private ownership of firearms: “The plan is now obvious to all who would see: First Step, enact a nationwide firearms waiting period law. Second Step, when the waiting period doesn’t reduce crime, and it won’t, enact a nationwide registration law. Final Step, confiscate all the registered firearms.” [FN146]

Although slippery slope arguments are commonly used in other public policy debates, they are especially important to the gun lobby for several reasons.

First, because it is difficult for the pro-gun forces to persuasively argue that such reasonable and popular measures as waiting periods, background checks, licensing and safety training, registration of gun sales, curbs on large-volume gun sales, and mandatory consumer safety standards are objectionable *1205 in their own right, it becomes essential to argue that they will ultimately lead to policies that have far less popular support and may be more difficult to justify. For example, given the reality that gun traffickers buy large numbers of handguns from dealers and that few law-abiding gun owners really need to buy more than one handgun per month, the benefits of a national law restricting large volume sales appear to substantially outweigh any inconvenience to ordinary gun owners. [FN147] For this reason, the NRA’s strategy is to suggest that the real problem with such laws is that they set a dangerous precedent that would lead to far greater restrictions in the future. Thus, the NRA argues that “one-gun-a-month” could be changed to “one-per-year,” “one-per-lifetime” or “none-ever”. [FN148] This is classic slippery slope argumentation. Since the NRA knows it is on weak ground if the issue is whether large-volume handgun purchases should be prohibited, it recasts the issue to be whether the government should have the power to ban all gun purchases.

Second, the NRA must sell the slippery slope argument to convince gun owners and sportsmen that they have an important stake in the gun control fight. Polls consistently show that gun owners, and even those who identify themselves as members of the NRA, actually support the gun control proposals that are anathema to the gun lobby’s leadership. 61 percent of gun owners favor registration of handguns, while 62 percent favor requiring a police permit to purchase a handgun. [FN149] Even most self-identified NRA members support handgun registration and mandatory safety training before purchasing a firearm. [FN150] This must be quite discomfiting to the NRA. If the NRA’s core constituency does not view gun control as a threat to gun ownership, the foundation of the organization’s political power will weaken. It is essential to the NRA’s long-term viability that any gun control proposal be viewed by millions of Americans as an attack on guns as valued personal possessions. Indeed, the NRA’s strategy is to go even further--to portray even modest gun control as an attack on a way of life for which the gun is both an important tool and, more importantly, a powerful symbol. Charlton *1206 Heston spoke to the 2000 NRA Convention of the “sacred stuff” that “resides in that wooden stock and blued steel.” [FN151] “When ordinary hands can possess such an extraordinary instrument,” he said, “that symbolizes the full measure of human dignity and liberty.” [FN152]

Framing the gun issue as one of cultural values immediately elevates the stakes in the gun debate because it suggests that gun control proposals may be seen as attacks on a set of core beliefs that define many Americans, particularly those in rural areas for whom guns embody important values of self-reliance and personal liberty. For the gun lobby, it is strategically critical that the debate be conducted in these terms. If the gun debate is seen as addressing only the efficacy of specific, practical proposals to reduce death and injury, then the NRA is on shaky ground, because even its own members do not have strong objections to many such proposals. However, if the gun debate is seen as fundamentally about larger issues involving the value

systems of millions of gun-owning Americans, then the NRA is able to radicalize and mobilize those Americans who see their values as under attack. Gun control is then seen as an attack on gun-owning Americans and how they live their lives.

The NRA's Congressional allies understand well the importance of making the gun issue about culture and values. In the summer of 2006, House Republicans unveiled their legislative priorities, calling them the "American Values Agenda." [FN153] One of the bills would have made it more difficult for the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to revoke the licenses of gun dealers who violate the law. [FN154] How, it may be asked, is protecting lawless gun dealers an American value? I'm not sure how the House Republicans would respond, but it seems clear that they would go to great lengths to cast the debate as about gun ownership as a core American value, not about whether it makes sense to curb the power of the ATF to crack down on lawbreaking dealers. The NRA issued a press release applauding the Republican leadership for including gun ownership rights in its American Values Agenda. [FN155]

For the gun lobby, then, the gun debate needs to be a debate about banning all guns. The slippery slope argument is the NRA's primary means *1207 of achieving this goal. As writer Osha Gray Davidson put it, "the religious fervor of many gun-owners when it comes to firearms restrictions also has its roots in a less mystical and more pragmatic concern: the fear that all gun-control laws lead inexorably to the complete confiscation of all firearms." [FN156]

After Heller, however, an obvious question comes to mind. If a ban on private ownership of guns is now unconstitutional under Heller, to what extent has the slippery slope argument been deprived of its power to inspire opposition to more modest gun regulations?

Even after Heller, there is no doubt that the gun lobby will try to frame gun control as a cultural issue, portraying gun control advocates as elitists who have nothing but contempt for gun owners and their values. But it is difficult to believe that this message will resonate with the same force among gun owners in the post-Heller era, in which the legal system has erected a new constitutional barrier to a general gun ban by declaring gun ownership for self-defense a constitutional right. The NRA will not stop insisting that the real agenda of gun control advocates is to ban all guns, but the reality is that such an agenda is now, in Justice Scalia's words, "off the table." [FN157]

After Heller, we may see the slippery slope argument assume a somewhat different form. Instead of arguing that regulation of guns will lead to eventual confiscation, the gun lobby may assert that each new restriction will lead to another restriction, which will lead to another restriction, and so on, until the burden and expense of gun ownership will be so great as to amount to a de facto gun ban, even if no law banning guns is ever passed.

It is hard to imagine that this "de facto gun ban" argument will ever generate the emotional response from gun owners that the gun lobby has long provoked with the "slippery slope to confiscation" argument. For one thing, Americans, including gun owners, have personal experience with extensive regulation of dangerous products--such as automobiles, pharmaceuticals, and alcohol--that has not amounted to a de facto ban on the products. Second, in states with extensive laws regulating the sale and possession of guns, such as California and New Jersey, there are still lots of guns and gun owners. Some of those gun owners no doubt complain about overregulation, but they have no argument that the existing restrictions amount to a de facto gun ban. Third, the Heller decision itself suggests a constitutional limit on the burdens that can be placed on gun possession. After Heller, opponents of gun laws will be free to argue to courts that the particular law at issue, judged in the *1208 context of other preexisting regulation, puts such a severe incremental burden on gun possession for self-defense in the home that it infringes the

Heller-created right.

Over the long term, therefore, Heller should lead to a weakening of gun owner activism against the gun control proposals likely to dominate the debate in the foreseeable future, such as mandating background checks on private gun sales at gun shows and elsewhere, or curbs on large-volume handgun sales. Indeed, at least one prominent figure in the gun rights movement has acknowledged this likely effect. In a revealing discussion on Los Angeles public radio a few days after the Heller ruling, Chuck Michel, a California lawyer who has long represented the NRA and other pro-gun groups, was asked about Heller's effect on gun registration and licensing. Here's what he said:

The problem has always been that registration and licensing led to confiscation and I . . . still think registration and licensing is . . . problematic in multiple respects . . . , but I think that now . . . there are a lot of people in the gun control movement who are really gun . . . banners. They're in favor of civilian disarmament. These folks are never going to get their way now as a result of this [Heller] opinion, so I think licensing and registration is . . . going to be . . . tougher to criticize. [FN158]

In a startling moment of candor, Mr. Michel had admitted that, because Heller has taken a general gun ban off the table, the slippery slope argument has lost power, making it more difficult for the NRA to successfully argue against licensing and registration.

By the same token, Heller may enhance the efforts of gun control advocates to frame the debate in terms of public safety, not cultural norms. It will help them force their opponents to explain why reforms like background checks for private sales, curbs on multiple sales, greater enforcement power for ATF, and consumer safety standards for guns can't work, or cause greater problems than they solve. If the debate can focus on the pros and cons of *1209 specific proposals, free from the distraction of the gun ban issue, gun control may well be on a new path to victory.

Heller also may make it harder, over the long run, for politicians to hide behind the slippery slope argument when opposing sensible gun laws. The argument has long furnished easy political cover for politicians anxious to curry favor with the gun lobby by opposing even modest reforms. Heller may put greater pressure on legislators to explain their opposition to such measures without resorting to imaginary threats of gun confiscation.

Conclusion: Heller as a Paradox

From this writer's particular vantage point as a gun control advocate, before the Heller ruling was handed down, the prospect of the Supreme Court addressing the constitutionality of a broad gun ban under the Second Amendment seemed loaded with an odd mixture of risk and promise.

The risk, of course, largely had to do with constitutional law. There was a concrete risk that the Court would issue the kind of ruling long sought by the gun lobby and radical libertarians--a ruling that would declare a personal right to gun possession closely analogous to our First Amendment rights, inviting courts to render their own judgments on the wisdom of laws enacted by our elected officials. Under the militia-purpose view of the Second Amendment, the disappearance of the citizen militia meant that gun control laws were virtually immunized from successful Second Amendment challenge. This, of course, guaranteed that the difficult policy and empirical issues raised by the gun control debate would be resolved in the legislative and political arenas where they belong. The Heller case could have resulted in a radically different constitutional regime under

which supporters of sensible gun laws, having won necessarily hard-fought legislative victories (thereby allowing the public's views to prevail) against a disproportionately influential gun lobby, would be faced with having to prove the case for stronger laws yet again before the federal judiciary.

In *Heller*, this did not happen. Although the Supreme Court defied constitutional text and history to create a new private right to be armed, it proceeded not only to limit its scope, but also to make it clear that a wide swath of gun control is entirely compatible with the new right. Put simply, the potential in *Heller* for grave legal risk to gun control likely was not realized. Moreover, in the public debate over gun control, advocates of stronger gun laws now can rely on an opinion written by Justice Antonin Scalia, and joined by four other solid conservatives, for the proposition that reasonable regulation of guns is consistent with the Second Amendment.

***1210** Though seldom discussed, before *Heller* it was possible to anticipate that a Supreme Court ruling taking broad gun bans off the table would have considerable benefits for gun control advocates long burdened by the slippery slope argument and its use to frame the issue as about cultural norms, not public safety and health. It is intriguing to wonder if the NRA's leadership may also have understood this before *Heller*, though it could never have publicly acknowledged it. From a pre-*Heller* perspective, however, the potential risk of a new constitutional barrier to gun laws, at least to many gun control supporters, seemed to outweigh the potential benefits from flattening the slippery slope. After the ruling, it is now possible to see *Heller* as perhaps the worst possible result for the gun lobby and the best possible result for gun control advocates. *Heller* seems unlikely to create substantial additional legal risk to other gun laws, while it deprives the gun lobby and its supporters of perhaps their most potent argument against stronger gun laws. The gun control movement may be somewhat embarrassed to benefit from a ruling that is so constitutionally indefensible, but a little embarrassment will be a small price to pay for stronger laws and countless lives saved.

So we return to the paradox of the *Heller* ruling. In *Heller* the gun rights advocates achieved vindication for their view of the meaning of the Second Amendment, though the Supreme Court had to abandon every pretense of devotion to neutral, principled constitutional adjudication to give them that victory. There is, however, good reason to believe that *Heller* may prove sharply disappointing to the gun lobby as a legal weapon against gun control laws short of a handgun ban, while weakening both the slippery slope argument and the constitutional argument itself as reasons to oppose gun regulation.

Viewing *Heller* from the perch of the NRA's leadership, an old expression comes to mind: Be careful what you wish for. It could come true.

[FN1]. A.B. Oberlin College (1973), J.D. University of Virginia School of Law (1977). Vice President for Law and Policy, Brady Center to Prevent Gun Violence, Washington, D.C. and author of *Lethal Logic: Exploding the Myths that Paralyze American Gun Policy* (Potomac Books 2009). The author is grateful to Professor Saul Cornell of Ohio State University and to Brian Siebel and Daniel Vice of the Brady Center's Legal Action Project for their useful suggestions. Errors and omissions are entirely the author's responsibility.

[FN1]. Charlton Heston, Opening Remarks to Members at the NRA Annual Meeting in Charlotte, North Carolina (May 20, 2000), available at <http://www.nra.org/Speech.aspx?id=6044>.

[FN2]. *Id.*

[FN3]. For a discussion of the differential lethality of guns, see Franklin E. Zimring & Gordon Hawkins, *Crime Is Not the Problem: Lethal Violence in America* 113-18 (1997).

[FN4]. See Nat'l Ctr. for Injury Control & Prevention, Ctr. for Disease Control, WISQARS Injury Mortality Reports, 1999-2005 (2005), http://webapp.cdc.gov/sasweb/ncipc/mortrate10_sy.html (select "Firearm" radio button under the section entitled "What was the cause or mechanism of the injury;" then press "submit request" button).

[FN5]. U.S. Const. amend. II.

[FN6]. 128 S. Ct. 2783 (2008).

[FN7]. 307 U.S. 174 (1939).

[FN8]. *Id.* at 178.

[FN9]. *Id.*

[FN10]. *Id.*

[FN11]. The historical case supporting the militia-purpose view was persuasively presented in a brief of amici curiae filed in *Heller* by fifteen academic historians. See Brief of Amici Curiae Jack N. Rakove et al., in Support of Petitioners, *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008) (No. 07-290). Only one professional historian--Professor Joyce Lee Malcolm of George Mason University Law School--filed a brief in *Heller* presenting historical arguments opposing the militia purpose view. See Brief of the CATO Institute and History Professor Joyce Lee Malcolm as Amici Curiae in Support of Respondent, *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008) (No. 07-290).

[FN12]. *District of Columbia v. Heller*, 128 S. Ct. 2783, 2833 (2008) (Stevens, J., dissenting) (quoting 3 Debates in the Several State Conventions, on the Adoption of the Federal Constitution 379 (Jonathon Elliot ed., 2d ed., Buffalo, Hein 1863)).

[FN13]. For a discussion of the militia purpose view of the Second Amendment from some of the leading historical texts, see generally Saul Cornell, *A Well Regulated Militia: The Founding Fathers and the Origins of Gun Control in America* (2006); *The Second Amendment in Law and History* (Carl Bogus ed., 2000); H. Richard Uviller & William G. Merkel, *The Militia and the Right to Arms, or, How the Second Amendment Fell Silent* (2002).

[FN14]. Uviller & Merkel, *supra* note 13, at 105.

[FN15]. See *Heller*, 128 S. Ct. at 2823 (Stevens, J., dissenting) ("Since our decision in *Miller*, hundreds of judges have relied on the view of the Amendment we endorsed there....").

[FN16]. Erwin N. Griswold, Phantom Second Amendment 'Rights', Wash. Post, Nov. 4, 1990, at C7.

[FN17]. See The MacNeil/Lehrer Newshour: Nuclear Nightmare? (PBS television broadcast Dec. 16, 1991).

[FN18]. *Heller*, 128 S. Ct. at 2821.

[FN19]. 531 U.S. 98 (2000). The description by Professor Alan Dershowitz of the Supreme Court's ruling in *Bush v. Gore*, in which a different conservative majority, in a 5-4 vote, ended the 2000 Presidential election by stopping the hand recount of Florida ballots, invokes a theme of unprincipled inconsistency also applicable to the *Heller* majority opinion: "[T]he disturbing aspect of this decision--the element that makes it different from any decision previously rendered by the Supreme Court--is that the justices were willing not just to ignore their own long-held judicial philosophies but to contradict them in order to elect the presidential candidate they preferred." Alan M. Dershowitz, *Supreme Injustice: How the High Court Hijacked Election 2000*, at 93 (2001).

[FN20]. In discussing statutory construction, Scalia approvingly quotes this remark of Justice Holmes: "Only a day or two ago--when counsel talked of the intention of a legislature, I was indiscreet enough to say I don't care what their intention was. I only want to know what the words mean." Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law* 22-23 (1997). He applies the same principle to constitutional interpretation. See *id.* at 37-38.

[FN21]. Justice Scalia is a sharp critic of the idea of a "Living Constitution." See *id.* at 41-47.

[FN22]. *Heller*, 128 S. Ct. at 2792 n.7 (citing John Ayliffe, *A New Pandect of Roman Civil Law* 195 (London 1734)).

[FN23]. *Id.* at 2793 (citing *Conn. Const. of 1818, art I, §17*, reprinted in *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws* 538 (Francis N. Thorpe ed., 1909)) [hereinafter Thorpe].

[FN24]. Scalia, *supra* note 20, at 37.

[FN25]. See *Heller*, 128 S. Ct. at 2789-90.

[FN26]. *Id.* at 2797.

[FN27]. *Id.* at 2795.

[FN28]. *Id.* at 2788.

[FN29]. See *id.* at 2803.

[FN30]. *Mass. Const. of 1780, pt. 1, art. XVII*, reprinted in 3 Thorpe, *supra* note 23, at 1892, 1892.

[FN31]. 343 N.E.2d 848 (Mass. 1976).

[FN32]. *Id.* at 849.

[FN33]. See 128 S. Ct. at 2803.

[FN34]. 20 Mass. (3 Pick.) 304 (1825).

[FN35]. See *id.* at 313-14.

[FN36]. *Heller*, 128 S. Ct. at 2803.

[FN37]. Scalia, *supra* note 20, at 37.

[FN38]. *Heller*, 128 S. Ct. at 2789.

[FN39]. *Id.* at 2789 n.3 (quoting 2A J.G. Sutherland, *Statutes and Statutory Construction* 146 (Norman J. Singer ed., 5th ed. 1992) (1943)).

[FN40]. Justice Scalia concedes that it “might be argued, we suppose, that the prologue itself should be one of the factors that go into the determination of whether the operative provision is ambiguous—but that would cause the prologue to be used to produce ambiguity rather than just to resolve it.” *Id.* at 2790 n.4. Again, this begs the question at hand: whether the militia language of the Second Amendment is appropriately consigned to secondary status as a mere prologue, or whether it should be regarded as providing the context necessary to determine the meaning of the right guaranteed. Scalia attempts to diminish the importance of the issue by claiming that “even if we considered the prologue along with the operative provision we would reach the same result we do today, since (as we explain) our interpretation of ‘the right of the people to keep and bear arms’ furthers the purpose of an effective militia no less than (indeed, more than) the dissent’s interpretation.” *Id.* (citation omitted). As explained *infra* pp. 1189-91, this assertion is based on a misunderstanding of the nature of the founding-era militia.

[FN41]. See *Heller*, 128 S. Ct. at 2789 n.3.

[FN42]. The sources cited by the *Heller* majority also address the effect of preambles to statutes, which are not independently enforceable because they are not considered part of the enactment, although they may furnish guidance in interpreting the words that are actually enacted into law. According to Sutherland, for example, “[a] preamble consists of statements which come before the enacting clause in a statute,” which “[b]ecause of its position preceding the enacting clause, it has often been said that matter in the preamble, not having been ‘enacted,’ cannot be given any binding legal effect.” Sutherland, *supra* note 39, at 145 (citing *Yazzo & M.V.R. Co. v. Thomas*, 132 U.S. 174 (1889)). Statutory preambles, understood this way, may be analogous to the preamble to the United States Constitution, but not to the militia language of the Second Amendment, unless that language is regarded as distinct from that which was enacted by the ratifiers of the Bill of Rights. There is no reason to believe that the First Congress thought it was enacting into law only the last half of the Second Amendment. As discussed *infra* pp. 1182-83, it is highly relevant that the militia language began its life (in James Madison’s initial proposal) following the

language guaranteeing the people the right to keep and bear arms, not preceding it. It strains credulity to believe that the First Congress, by changing the positioning of the militia language within the Second Amendment, sought to separate that language from that which it was “enacting” as part of the Bill of Rights, thereby making the militia language analogous to statutory preambles.

[FN43]. I am not here arguing that rules of statutory construction are not relevant to constitutional interpretation, but rather that, even if they are, the militia language of the Second Amendment is not analogous to “whereas” clauses in the preambles of statutes.

[FN44]. Scalia, *supra* note 20, at 134 (emphasis added).

[FN45]. *Id.* at 43.

[FN46]. *Wright v. United States*, 302 U.S. 583, 588 (1938).

[FN47]. See *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 174 (1803).

[FN48]. *Myers v. United States*, 272 U.S. 52, 151-52 (1926) (citing *Prout v. Starr*, 188 U.S. 537, 544 (1903)).

[FN49]. See *Wright*, 302 U.S. at 588.

[FN50]. *Holmes v. Jennison*, 39 U.S. 540, 571 (1840).

[FN51]. Scalia, *supra* note 20, at 132.

[FN52]. *District of Columbia v. Heller*, 128 S. Ct. 2783, 2821 (2008).

[FN53]. It is notable that the *Heller* majority largely avoids invoking the “insurrectionist theory” of the Second Amendment long urged by the National Rifle Association (NRA) and other gun partisans, emphasizing instead the right to have guns for personal self-defense in the home. The notion that the Second Amendment guarantees a right to be armed for potential insurrection against the government likely proved far too frightening to command a majority of the Supreme Court. Nevertheless, Justice Scalia veers close to this theory when, in discussing why the militia might be regarded as “necessary to the security of a free state,” he comments that “when the able-bodied men of a nation are trained in arms and organized, they are better able to resist tyranny.” *Id.* at 2801. This observation occurs in a self-contradictory paragraph in which he also observes that the militia “is useful in repelling invasions and suppressing insurrections.” *Id.* at 2800. Assuming that insurrection is the means by which the able-bodied men would resist tyranny, Scalia appears to be asserting that the militia is a means both to foment insurrection and suppress it. For a positive treatment of the insurrectionist theory, see generally Sanford Levinson, *The Embarrassing Second Amendment*, 99 *Yale L.J.* 637 (1989). For a critical treatment of the theory, see Garry Wills, *A Necessary Evil* 207-21 (1999). See also generally Dennis Henigan, *Arms, Anarchy and the Second Amendment*, 26 *Val. U. L. Rev.* 107 (1991) (arguing that the text and history of the Constitution contradict the insurrectionist theory).

[FN54]. *Heller*, 128 S. Ct. at 2835 (Stevens, J., dissenting) (quoting *The Complete Bill of Rights* 169 (Neil H. Cogan ed., 1997)).

[FN55]. For an insightful history of the consideration of the Second Amendment by the First Congress, see Uviller & Merkel, *supra* note 13, at 97-106.

[FN56]. Scalia, *supra* note 20, at 38.

[FN57]. *Heller*, 128 S. Ct. at 2796.

[FN58]. *Id.* at 2833 (Stevens, J., dissenting) (quoting 3 *Debates in the Several State Conventions on the Adoption of the Federal Constitution*, *supra* note 12, at 659) (emphasis added).

[FN59]. It also is worth noting that in the seventeenth Virginia proposal, as in Madison's original proposal to the First Congress, the militia language does not precede, but rather follows, the guarantee of the right. This forecloses Justice Scalia's gambit of diminishing the importance of the militia language by suggesting an analogue to statutory preambles. The text of the Virginia proposal underscores the point that it is highly unlikely that the Framers regarded the militia language in the Second Amendment as analogous to a statutory preamble, rather than simply viewing it as providing the necessary context in which to understand the meaning of the right being guaranteed, whether in the seventeenth Virginia proposal or in the Second Amendment.

[FN60]. *Heller*, 128 S. Ct. at 2836 (Stevens, J., dissenting) (citation omitted).

[FN61]. See *id.* at 2796 (majority opinion).

[FN62]. *Id.* at 2836 (Stevens, J., dissenting) (quoting *Creating the Bill of Rights* 182 (Helen E. Veit et al. eds., 1991)).

[FN63]. *Id.* at 2836 n.25 (quoting *Creating the Bill of Rights* *supra* note 62, at 182).

[FN64]. *Id.* at 2793 (majority opinion) (citing various state constitutions from the eighteenth and nineteenth centuries).

[FN65]. See Pa. Const. of 1776, Declaration of Rights, §VIII, reprinted in 5 Thorpe, *supra* note 23, at 3083; Vt. Const. of 1776, ch. 1, §X, available at http://avalon.law.yale.edu/18th_century/vt02.asp.

[FN66]. Justice Stevens, in dissent, appears to agree with the majority that the Pennsylvania and Vermont provisions confer a nonmilitia right, but notes the “contrast between those two declarations and the Second Amendment.” See *Heller*, 128 S. Ct. at 2825-26 (Stevens, J., dissenting).

[FN67]. Pa. Const. of 1776, Declaration of Rights, §VIII, *supra* note 65, at 3083.

[FN68]. Vt. Const. of 1776, ch. 1, §X, available at http://avalon.law.yale.edu/18th_century/vt02.asp.

[FN69]. As to the Heller majority's contention that "free State" in the Second Amendment really means "free country," 128 S. Ct. at 2800 (citations omitted), it is surely relevant that the First Congress altered Madison's proposal to change "being the best security of a free country" to "necessary to the security of a free State." If the First Congress had meant to say "free country," why did it change that very phrase? This is yet another example of how Justice Scalia is led astray by his refusal to examine legislative history.

[FN70]. Pa. Const. of 1776, Declaration of Rights, §XIII, *supra* note 65, at 3083.

[FN71]. Vt. Const. of 1777, ch. 1, art. 16, reprinted in 6 Thorpe, *supra* note 23, at 538.

[FN72]. See generally Brief of Amici Curiae Jack N. Rakove, et al. in Support of Petitioners, *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008) (No. 07-290) (providing an historical analysis supporting the position that the framers did not intend the Second Amendment to confer an individual right to bear arms).

[FN73]. See Saul Cornell, *The Early American Origins of the Modern Gun Control Debate: The Right to Bear Arms, Firearms Regulation, and the Lessons of History*, 17 *Stan. L. & Pol'y Rev.* 571, 578-81 (2006). See generally Nathan Kozuskanich, *Defending Themselves: The Original Understanding of the Right to Bear Arms*, 38 *Rutgers L.J.* 1041 (2007) (arguing that the Pennsylvania provision guaranteed neither a personal individual right nor a state right, but rather mandated that individual citizens bear arms so that they could participate in a militia in order to protect the public).

[FN74]. N.C. Const., Declaration of Rights, §XVII, reprinted in 5 Thorpe, *supra* note 23, at 2788.

[FN75]. See *District of Columbia v. Heller*, 128 S. Ct. 2783, 2834-35 (2008) (Stevens, J., dissenting).

[FN76]. *Id.* at 2834 (quoting *The Address and Reasons of Dissent of the Minority of the Convention of the State of Pennsylvania to Their Constituents* (1787), in 2 Bernard Schwartz, *The Bill of Rights* 665 (1971)).

[FN77]. *Id.* at 2834-35 (quoting Proposal from the Massachusetts State Convention (Feb. 6, 1788), in *The Complete Bill of Rights*, *supra* note 54, at 181).

[FN78]. Justice Scalia also places great weight on Article VII of the English Bill of Rights of 1689, see *id.* at 2798-99 (majority opinion), which reads "That the subjects which are protestants may have arms for their defense suitable to their condition and as allowed by law." Bill of Rights, 1689, 1 *W. & M., c. 2*, §7 (Eng.). However, Article VII functions as yet another example of a right to be armed expressed in a text that, as Justice Stevens notes, was "framed in markedly different language" than the Second Amendment, *Heller*, 128 S. Ct. at 2838 (Stevens, J., dissenting), yet was well known to the Framers of the American Bill of Rights.

[FN79]. Justice Scalia responds by insisting that Justice Stevens' view must be wrong because it "relies on the proposition, unsupported by any evidence, that different people of the founding period had vastly different conceptions of the right to keep

and bear arms.” [Heller, 128 S. Ct. at 2804](#). One would have thought that, to a self-described textualist like Justice Scalia, the most powerful evidence that different people had different conceptions of the right to be armed would be the vastly different ways in which the right was expressed in various texts written by different people. But, in a boldly circular argument, Justice Scalia insists that this cannot possibly be the case since “the Bill of Rights codified venerable, widely understood liberties,” *id.*, which he assumes included only the personal right to be armed for self-defense.

[FN80]. See *id.* at 2789-90.

[FN81]. *Id.* at 2790.

[FN82]. *Id.* at 2790 n.4.

[FN83]. See *id.* at 2801.

[FN84]. See *id.* at 2799-2800.

[FN85]. *Id.* at 2799.

[FN86]. *Id.* (quoting N. Webster, *American Dictionary of the English Language* (Philip Babcock Gove ed., Merriam-Webster 1989) (1828)).

[FN87]. *Id.* at 2830 (Stevens, J., dissenting) (quoting Acts Passed at a General Assembly of the Commonwealth of Virginia, ch. 1, §3, at 2 (1785)).

[FN88]. Ch. 33, 1 Stat. 271 (repealed 1903). This statute was responsive to the Anti-Federalist fear that animated the push for the Second Amendment, namely that Congress would fail to exercise its new power to organize and arm the militia. As noted at *supra* p. 1174, the Second Amendment was designed as a fail-safe measure to protect the citizen militia against the possibility of federal destruction through hostility or neglect. This is not, as suggested by the *Heller* majority, inconsistent with the division of federal and state authority over the militia in [Article I, §8 of the Constitution](#). See [Heller, 128 S. Ct. at 2802 & n.17](#). Rather, the Second Amendment contemplates the possibility that Congress would not exercise its new constitutional authority to organize and arm the militia. In that eventuality (which did not arise), the Second Amendment bars Congress from taking action to prevent the people from keeping and bearing arms in state militias. See Dennis A. Henigan, [Self-Inflicted Wounds: The D.C. Circuit on the Second Amendment](#), 18 *Geo. Mason U. Civ. Rts. L.J.* 209, 222 n.69 (2008).

[FN89]. [Heller, 128 S. Ct. at 2817](#).

[FN90]. *Id.* at 2830 (Stevens, J., dissenting). In response, Justice Scalia insists that using the early militia statutes to give a militia meaning to “keep Arms” “is rather like saying that, since there are many statutes that authorize aggrieved employees to ‘file complaints’ with federal agencies, the phrase ‘file complaints’ has an employment-related connotation. ‘Keep arms’ was simply a common way of referring to possessing arms, for militiamen and everyone else.” *Id.* at 2792 (majority opinion). This is yet another illustration of Justice Scalia’s misidentification of the issue. The Second Amendment issue is analogous to de-

termining the meaning of the term “file complaints” in a hypothetical statute providing that “aggrieved employees of federal agencies may file complaints to seek relief.” The phrase “file complaints” certainly has an employment-related meaning in that context, although its meaning may be unrelated to employment in other contexts. Similarly, the “right of the people to keep and bear Arms” cannot be determined apart from its particular context as part of a provision recognizing the importance of the militia, although in other contexts the phrase “keep Arms” may have a nonmilitia meaning.

[FN91]. *Id.* at 2821.

[FN92]. *Id.* at 2791.

[FN93]. Nor is there any force to Justice Scalia's argument that since the right is granted to “the people,” it means that all the people must be able to exercise the right, regardless of their participation in a militia. See *id.* at 2790-91. As Justice Stevens points out in dissent, even the majority view of the Second Amendment concedes that some of “the people” are disqualified from asserting the right—that is, those who are not “law-abiding, responsible citizens.” See *id.* at 2827 (Stevens, J., dissenting).

[FN94]. Articles of Confederation, art. VI.

[FN95]. *Heller*, 128 S. Ct. at 2802 (quoting *Mass. Const. of 1780 pt. 1, Art. XVII*, reprinted in 3 Thorpe, *supra* note 23, at 1888, 1892).

[FN96]. *Id.* (quoting N.C. Const. Declaration of Rights § XVII, reprinted in 5 Thorpe, *supra* note 23, at 2787, 2788).

[FN97]. Justice Scalia dismisses reliance on the legislative history of the Second Amendment as “dubious” because the “text was widely understood to codify a pre-existing right, rather than to fashion a new one.” *Id.* at 2804. Apart from citing no evidence that the Second Amendment was so widely understood, Scalia furnishes no explanation for why it would not be useful to examine legislative history to determine whether those who wrote and ratified the Second Amendment thought it codified a preexisting right, as well as to determine the content and scope of the right.

[FN98]. *Id.* at 2831 n.14 (Stevens, J., dissenting) (citing John Godfrey Saxe, *The Poems of John Godfrey Saxe* 135-36 (Boston, James R. Osgood and Co. 1873)).

[FN99]. See Adam Liptak, *Ruling on Guns Elicits Rebuke From the Right*, N.Y. Times, Oct. 21, 2008, at A15.

[FN100]. Douglas W. Kmiec, *Guns and the Supreme Court: Dead Wrong*, The-Tidings.com, July 11, 2008, <http://www.the-tidings.com/2008/071108/kmiec.htm>.

[FN101]. *Id.*

[FN102]. Richard A. Posner, *In Defense of Looseness: The Supreme Court and Gun Control*, New Republic, Aug. 27, 2008, at 32, 32.

[FN103]. Id. at 35.

[FN104]. See J. Harvie Wilkinson III, *Of Guns, Abortions, and the Unraveling Rule of Law*, 95 Va. L. Rev. 253, 273-76 (2009).

[FN105]. Id. at 254.

[FN106]. See id. at 256-57.

[FN107]. *Heller*, 128 S. Ct. at 2816.

[FN108]. Id.

[FN109]. Id. at 2816-17, 2817 n.26.

[FN110]. Id. at 2816-17.

[FN111]. Id. at 2817 n.26.

[FN112]. Id. at 2820.

[FN113]. Twenty-seven states have statutes imposing some form of criminal or civil liability for leaving guns accessible to children. See Legal Cmty. Against Violence, *Regulating Guns in America* 234-35 (2008). These laws are easily distinguishable from the District of Columbia gun storage law struck down in *Heller*, which the majority interpreted as requiring “that firearms in the home be rendered and kept inoperable at all times” thus making “it impossible for citizens to use them for the core lawful purpose of self-defense....” *Heller*, 128 S. Ct. at 2818.

[FN114]. *Heller*, 129 S. Ct. at 2815 n.24.

[FN115]. Id. at 2846 & n.39 (Stevens, J., dissenting).

[FN116]. Id. at 2868 (Breyer, J., dissenting).

[FN117]. Id.

[FN118]. For example, during the first ten years of the Brady Act, over 1.2 million criminals and other prohibited purchasers were blocked from buying guns from licensed dealers, Bureau of Justice Statistics, U.S. Dep't of Justice, *Background Checks for Firearm Transfers*, 2005, at 2 (2006), and the evidence suggests that the statute contributed to a historic decline in gun crime. During that same period, gun homicides dropped 37 percent, see Bureau of Justice Statistics, U.S. Dep't of Justice, *Key Facts at a Glance, Crimes Committed With Firearms, 1973-2006, Murders, Robberies, and Aggravated Assault in Which Firearms Were Used, Numbers of Offenses and Rates Per 100,000 Population, 1973-2006*, available at <http://>

www.ojp.usdoj.gov/bjs/glance/tables/guncrimetab.htm (last visited, May 26, 2009), driving a 34 percent decline in all homicides, Bureau of Justice Statistics, U.S. Dep't of Justice, Homicide Trends in the United States, Long Term Trends, Homicide Victimization 1950-2005, available at <http://www.ojp.usdoj.gov/bjs/homicide/tables/totalstab.htm> (last visited May 26, 2009), and nonlethal gun crimes plummeted an astounding 73 percent. See Bureau of Justice Statistics, U.S. Dep't of Justice, Key Facts at a Glance, Nonfatal Firearm-Related Violent Crimes, 1993-2005, available at <http://www.ojp.usdoj.gov/bjs/glance/tables/firearmnonfataltab.htm> (last visited May 26, 2009). In the five years preceding Brady, the percentage of violent crimes committed with firearms had increased every year. Bureau of Justice Statistics, U.S. Dep't of Justice, Key Facts at a Glance, Crime Committed With Firearms, 1973-2006, Percent of Murders, Robberies, and Aggravated Assaults in Which Firearms Were Used, 1973-2006, available at <http://www.ojp.usdog.gov/bjs/glance/tables/guncrimetab.htm> (last visited May 26, 2009).

[FN119]. See Respondent's Brief at 54-62, [District of Columbia v. Heller](#), 128 S. Ct. 2783 (2008) (No. 07-290).

[FN120]. [Heller](#), 128 S. Ct. at 2851 (Breyer, J., dissenting) (quoting [Abrams v. Johnson](#), 521 U.S. 74, 82 (1997)).

[FN121]. *Id.*

[FN122]. See *id.* at 2821 (majority opinion).

[FN123]. Philip J. Cook & Jens Ludwig, The Social Costs of Gun Ownership, 90 J. Pub. Econ. 379, 387 (2006); accord Matthew Miller et al., Rates of Household Firearm Ownership and Homicide Across US Regions and States, 1988-1997, 92 Am. J. Pub. Health 1988, 1989 (2002); Matthew Miller et al., State-level Homicide Victimization Rates in the US in Relation to Survey Measures of Household Firearm Ownership, 2001-2003, 64 Soc. Sc. & Med. 656, 660-61, 663 (2007).

[FN124]. James Oliphant, Gun-rights Ruling Could Ricochet Across Nation, Chi. Trib., Mar. 16, 2008.

[FN125]. Given that the *Heller* majority invokes post-Civil War commentary to inform our understanding of the Second Amendment, see [Heller](#), 128 S. Ct. at 2811-12, it would seem arbitrary for the Court to require that gun regulations have historical antecedents dating to the founding era to qualify as longstanding.

[FN126]. See, e.g., [United States v. Luedtke](#), 589 F. Supp. 2d 1018, 1021 (E.D. Wis. 2008) (“[T]he Court’s examples are best understood as representing the types of regulations that pass constitutional muster.”); [United States v. Booker](#), 570 F. Supp. 2d 161, 163 (D. Me. 2008) (finding a statute barring gun possession by persons convicted of misdemeanor crimes of domestic violence to be sufficiently similar to prohibitions on possession of guns by felons and the mentally ill to be included in list of “longstanding prohibitions” surviving Second Amendment scrutiny under *Heller*).

[FN127]. Wayne LaPierre, An Individual Right Affirmed, Am.'s 1st Freedom, Aug. 2008, at 8.

[FN128]. These challenges to local handgun ban laws raise the threshold issue of whether the new private right to possess handguns applies to states and the cities and counties that derive their existence from states. Because the District of Columbia is a federal district, with a hybrid of local and federal legislative authority, the *Heller* Court did not address whether the new right

to be armed applies as a limit on state and other local gun laws. See *Heller*, 128 S. Ct. at 2813 n.23. This raises the issue of “incorporation” of the Bill of Rights; that is, whether the Bill of Rights, though originally applicable only as a restraint on federal laws, has been “incorporated” against the states and their localities through the post-Civil War enactment of the Due Process Clause of the Fourteenth Amendment. Supreme Court precedent dating to the 1870s holds that the Second Amendment applies only to Congress, not the states. See *Presser v. Illinois*, 116 U.S. 252, 265 (1886); *United States v. Cruikshank*, 92 U.S. 542, 553 (1876). The incorporation issue is beyond the scope of our discussion here. But, as argued in the text, the *Heller* opinion suggests that, even if the post-*Heller* Second Amendment eventually is held to be incorporated against the states, most state and local gun laws short of a handgun ban will likely survive constitutional challenge.

[FN129]. Chris Cox, *The Court Speaks, and the Fight Goes On, Am.'s 1st Freedom*, Sept. 2008, at 51.

[FN130]. See e.g. *Luedtke*, 589 F. Supp. 2d at 1020 and cases cited therein.

[FN131]. This is particularly likely since the federal courts will be considering the constitutionality of gun control laws under *Heller* against the backdrop of decades of unsuccessful challenges to state gun laws brought under state “right to bear arms” provisions that have been interpreted to guarantee a personal right unrelated to the militia. As Professor Adam Winkler has demonstrated, forty-two states apply their “right to bear arms” as a personal, nonmilitia right, yet “[o]nly a fraction of state gun laws have been invalidated on the basis of the right to bear arms since World War II.” Adam Winkler, *The Reasonable Right to Bear Arms*, 17 *Stan. L. & Pol'y Rev.* 597, 599 (2006). *Heller*'s Section III comments will likely be used by the lower federal courts to support deferential Second Amendment review of gun laws similar to that employed by state courts under state constitutional provisions.

[FN132]. Press Release, Greenberg Quinlan Rosner Research and The Terrance Group, *Americans Support Common Sense Measures to Cut Down on Illegal Guns* (Apr. 10, 2008), available at http://www.mayorsagainstillegalguns.org/downloads/pdf/polling_memo.pdf.

[FN133]. David Hemenway, *Private Guns, Public Health* 163 (2004).

[FN134]. Gordon Witkin et al., *The Fight to Bear Arms*, *U.S. News & World Rep.*, May 22, 1995, at 28, 28.

[FN135]. *The Washington Post Poll: Most Say Amendment Covers Individuals and Militias*, *Wash. Post*, Mar. 16, 2008, available at <http://www.washingtonpost.com/wp-dyn/content/graphic/2008/03/16/GR2008031600072.html?sid=ST2008031502430>.

[FN136]. See Jeffrey M. Jones, *Americans in Agreement With Supreme Court on Gun Rights*, *Gallup*, June 26, 2008, <http://www.gallup.com/poll/108394/Americans-Agreement-Supreme-Court-Gun-Rights.aspx>.

[FN137]. *Id.*

[FN138]. Of course, in 1791, the public would have had no difficulty understanding the concept of a “well regulated Militia” in which the people have a right to keep and bear arms in defense of the community.

[FN139]. See Brady Campaign to Prevent Gun Violence, *Guns & the 2008 Elections: Common Sense Gun Laws Won, the NRA Lost, & What It Means* 8, 13 (2008), available at <http://www.bradycenter.org/xshare/pdf/reports/guns-2008election.pdf>.

[FN140]. On the day of the Heller ruling, Obama released a statement saying, “I have always believed that the Second Amendment protects the right of individuals to bear arms, but I also identify with the need for crime-ravaged communities to save their children from the violence that plagues our streets through common-sense, effective safety measures.” Press Release, Sen. Barack Obama, Statement of Barack Obama on Supreme Court decision in *District of Columbia v. Heller* (June 26, 2008), available at <http://my.barackobama.com/page/community/post/stateupdates/gG5NxL>. In that same statement, he reiterated his support for “closing the gun show loophole and improving our background check system, so that guns do not fall into the hands of terrorists or criminals.” *Id.*

[FN141]. Press Release, Pew Research Ctr. for the People & the Press, *Public Continues to Oppose Banning Handgun Sales* (May 14, 2008), available at <http://people-press.org/reports/pdf/419.pdf>.

[FN142]. *Id.*

[FN143]. See *id.*

[FN144]. For example, Professor Volokh frequently uses gun-related arguments in his general discussion of slippery slope arguments in Eugene Volokh, *The Mechanisms of the Slippery Slope*, 116 *Harv. L. Rev.* 1026 (2003).

[FN145]. Wayne LaPierre, *Guns, Crime and Freedom* 48 (1994).

[FN146]. Nat'l Rifle Ass'n Inst. for Legislative Action, *Firearms Registration: New York City's Lesson* (Jan. 27, 2000), <http://www.nraila.org/Issues/FactSheets/Read.aspx?ID=41>.

[FN147]. Three states--Virginia, Maryland, and California--have enacted laws prohibiting the purchase of more than one handgun in any thirty-day period. See Legal Cmty. Against Violence, *supra* note 113, at 140. Virginia's law has dampened the flow of handguns from Virginia dealers into the illegal market in the Northeast. See Douglas S. Weil & Rebecca C. Knox, *Effects of Limiting Handgun Purchases on Interstate Transfer of Firearms*, 275 *J. Am. Med. Ass'n* 1759, 1760 (1996).

[FN148]. Nat'l Rifle Ass'n Inst. for Legislative Action, *One Gun a Month: Rationing a Constitutionally-Protected Right* (Mar. 9, 2000), <http://www.nraila.org/Issues/FactSheets/Read.aspx?ID=140>.

[FN149]. Tom W. Smith, *Public Opinion on Gun Control* 53 (Dec. 2003) (unpublished manuscript, on file with author).

[FN150]. Douglas S. Weil & David Hemenway, *I am the NRA: An Analysis of a National Random Sample of Gun Owners*, 8 *Violence & Victims* 353, 361 (1993).

[FN151]. Heston, *supra* note 1.

[FN152]. *Id.*

[FN153]. See Mark Preston, House GOP Promotes Its “American Values Agenda,” Cnn.com, June 28, 2006, <http://www.cnn.com/2006/POLITICS/06/28/mg.thu>.

[FN154]. Bureau of Alcohol, Tobacco, Firearms, and Explosives (BAFTE) Modernization and Reform Act of 2006, H.R. 5092, 109th Cong. (2006)).

[FN155]. Press Release, Nat'l Rifle Ass'n Inst. for Legislative Action, NRA Applauds Congressional Leaders for Including Gun Ownership Rights in Their “American Values Agenda” (June 29, 2006), available at <http://www.nraila.org/GrassrootsAlerts/Read.aspx?ID=344>.

[FN156]. Osha Gray davidson, *Under Fire: The NRA and the Battle for Gun Control* 44 (1993).

[FN157]. *District of Columbia v. Heller*, 128 S. Ct. 2783, 2822 (2008).

[FN158]. Paul Helmke, President, Brady Campaign to Prevent Gun Violence, NRA: Gun Licensing and Registration “Tougher to Criticize” Now, Brady Blog, July 3, 2008, <http://www.bradycampaign.org/blog> (quoting To the Point: Does Gun Control Have a Future? (Public Radio International broadcast July 1, 2008)) (emphasis added). Moments later, Michel realized the implications of what he had said:

Well, let me just first clarify, so I don't get overly criticized by the members of the NRA that may be listening, you can't license a civil right. So, I'm not talking about a license to own a gun or to have a gun. There are certain types of licensing which will survive and others that won't....

Id. Though a noble attempt at self-preservation, this is hardly enough to negate Michel's acknowledgement of the unintended impact of *Heller* on the slippery slope argument.

EXHIBIT C

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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT)
HOCHSTETLER, WILLIAM DOUGLAS,)
12 DAVID PEARSON, BRAD SEIFERS, and)
ROD SWANSON,)

13)
14 Plaintiffs,)
15)

16 vs.)

17 THE CITY OF SUNNYVALE, THE)
MAYOR OF SUNNYVALE, ANTHONY)
18 SPITALERI, in his official capacity, THE)
CHIEF OF THE SUNNYVALE)
DEPARTMENT OF PUBLIC SAFETY,)
FRANK GRGURINA, in his official)
19 capacity, and DOES 1-10,)

20 Defendants.)
21)
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CASE NO: CV 13-05807 RMW

**PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION TO
MOTION FOR PRELIMINARY
INJUNCTION**

Date: February 21, 2014
Time: 9:00 a.m.
Location: San Jose Courthouse
Courtroom 6 – 4th Floor
280 South 1st Street
San Jose, CA 95113

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1 Plaintiffs seek preliminary relief to prevent the forced removal of constitutionally
2 protected magazines from their homes. They are not asking for military or police firepower. This
3 case is not about grenade launchers or automatic firearms. It involves the possession of common
4 magazines that are standard for many of the most popular firearms in the country. Retired and
5 active police officers, like millions of individuals, routinely choose them for in-home self-
6 defense. The City speculates its ban may reduce violent crime. But it ignores that criminal misuse
7 of constitutionally protected items does not justify the outright ban of all legitimate uses by law-
8 abiding citizens. Instead, the City asks the Court to require those seeking to vindicate their right
9 to use protected arms to establish they are used and required with sufficient frequency in actual
10 self-defense emergencies. Unsurprisingly, the City offers no support for this novel requirement.

11 **I. GOVERNMENT-INVENTED DESCRIPTIONS OF MAGAZINES AS “LARGE CAPACITY” ARE**
12 **RARE AND DO NOT CHANGE THE FACT THAT SUCH MAGAZINES ARE STANDARD**

13 Proponents of magazine bans often refer to the disfavored magazines as “large capacity”
14 or “mega magazines,” or they describe them as typically associated with military arms. Mot. 5. In
15 similar fashion, the City creates its own definition of “large capacity magazines” as those over ten
16 rounds and throughout its opposition refers only to magazines under ten rounds as “standard
17 capacity.” Opp’n 2, 18, 23. The City does so with full knowledge (or remarkable ignorance) that
18 magazines over ten rounds are standard equipment for many of the most popular handgun models
19 available. Mot. 4, 9, 13. It ignores testimony from an expert firearms historian explaining that a
20 firearm’s “standard” magazine capacity is that which it was intended to have. Helsley Decl. ¶ 3.
21 And it disregards that the vast majority of jurisdictions do not consider magazines over ten rounds
22 to be “large capacity.” Indeed, Plaintiffs found only *six states* that do. Monfort Supp. Decl. ¶¶
23 9,12-13, Exs. H-O. Rather than admit its ban covers many standard magazines, the City attempts
24 to unilaterally redefine “standard.” Its obvious hope is that the Court will adopt the falsehood that
25 magazines over ten rounds are not standard, but unusual, military-type equipment owned by only
26 fringe members of society. But try as it might, the City cannot refute that they are standard for
27 millions of common firearms.

28

1 **II. EXPERT TESTIMONY CONCERNING MEASURE C'S IMPACT ON RESIDENTS' SAFETY**

2 **A. The City Has Neither Shown Its Ban Will Reduce Crime Nor Rebutted the**
3 **Ban's Negative Impact on Public Safety**

4 The City theorizes that banning magazines over ten rounds will enhance public safety,
5 relying almost exclusively on statements by Dr. Christopher Koper that such bans may reduce
6 their use in crime. Opp'n 5 n.1, 24-25; Koper Decl. ¶¶ 50, 57-58; *but see* Pls.' Objs. ¶ 10-15. But
7 in 2004, before he was drafted to testify in support of the City's ban, Dr. Koper stated that "we
8 cannot clearly credit the [federal magazine] ban with any of the nation's recent drop in gun
9 violence." Koper Decl., Ex. C, p. 96. Even if his present belief could be verified, the City
10 establishes no causal link between use of these magazines in crime and increased casualties. And
11 no data suggests that bans would positively impact public safety. Kleck Decl. ¶ 33; Kleck Suppl.
12 Decl. ¶¶ 25-29. Indeed, Dr. Koper's 2004 report also concluded that "there has been no
13 discernible reduction in the lethality and injuriousness of gun violence" as a result of the
14 nationwide ban. Koper Decl., Ex. C, p. 96. This is unsurprising. While one might possess a
15 magazine over ten rounds in the commission of a crime, it is undisputed that few crimes involve
16 more than ten shots fired. Mot. 19. Ultimately, the use of such magazines makes no difference in
17 the outcome of the nearly all gun crimes. The City provides no evidence that it does. Its only
18 claim regarding increased shots fired refers to semiautomatic firearms generally, without
19 distinction between arms with magazines over ten rounds and those without. Opp'n 4; Koper
20 Decl. ¶¶ 20-25. And Dr. Koper recently stated that the Jersey City study, the most comprehensive
21 data set referenced in support of these claims, cannot support a finding that pistols with
22 magazines over ten rounds are more lethal than revolvers. Monfort Decl., Ex. G, pp. 185-87;
23 Koper Decl., Ex. C, p. 84.

24 On the other hand, Dr. Gary Kleck explains that bans on magazines over ten rounds do not
25 further public safety because, even if they could prevent criminals from obtaining such
26 magazines: (1) criminals rarely fire more than ten shots; and (2) mass shooters virtually never
27 need such magazines to inflict as much harm as they do. Kleck Decl. ¶¶ 7-8.

28 The City does not dispute Dr. Kleck's first point, but nonetheless advocates banning these
magazines as "mass shootings involving [them] injure and kill more people" than others. Opp'n 3.

1 But the City provides no evidence that use of these magazines, and not other factors like the
2 lethality of the shooters' intentions, were responsible for the higher casualty count. Without such,
3 this association is spurious and irrelevant. Kleck Suppl. Decl. ¶¶ 25-29.

4 Similarly, the City fails to dispute that magazine capacity only makes a difference in mass
5 shootings if the shooter has one firearm and one magazine or if a bystander is willing to subdue
6 the shooter during a magazine change, and that such scenarios are exceedingly rare. Kleck Decl.
7 ¶¶ 10-11; Kleck Suppl. Decl. ¶¶ 16-24. Improperly incorporating a brief from another case and
8 avoiding further exceeding page limits, Pls.' Objs. ¶ 5, the City attempts to sow doubt by simply
9 mischaracterizing Dr. Kleck's statements, Kleck Suppl. Decl. ¶¶ 31-46. The City itself provides
10 just one example of Dr. Kleck using imprecise language to describe the prevalence of these
11 magazines in mass shootings, a point he attributes to various assumptions regarding the reporting
12 of such incidents. Kleck Suppl. Decl. ¶ 15.

13 As evidence to counter Dr. Kleck's conclusions, the City provides only three events—*just*
14 *one in the last 18 years*—during which potential victims subdued mass shooters. Opp'n 17. But
15 reference to the 2011 Gabrielle Giffords shooting, the only incident Dr. Kleck hadn't previously
16 addressed, Kleck Suppl. Decl. ¶ 16, as support for the City's claims is problematic as media
17 accounts are unclear whether the shooter was subdued because he was reloading or because his
18 magazine failed. Kleck Suppl. Decl. ¶¶ 16, 22. The City also references the Sandy Hook tragedy,
19 but offers only speculation that a break in the shooting, which allowed people to escape, was due
20 to a magazine change. Kleck Suppl. Decl. ¶¶ 17-18.

21 Again, it is extremely rare that magazine capacity would ever make a difference in a mass
22 shooting. Kleck Decl. ¶¶ 7-8. And there is no evidence to suggest that taking magazines from the
23 homes of the law abiding would have any impact in those very few instances it does. Dr. Koper
24 himself recently conceded that he could not say that bans would likely reduce mass shootings or
25 the number of people injured in those incidents. Monfort Suppl. Decl., Ex. G, pp. 185-87.

26 Plaintiffs also provided declarations from a criminologist, a renowned self-defense expert
27 and a firearms expert, explaining the reasons why these magazines are effective and, in some
28 cases, crucial for self-defense. Ayoob Decl. ¶¶ 4-34; Helsley Decl. ¶¶ 11-14; Kleck Decl. ¶¶

1 20-34. They concluded that lacking these magazines in such situations makes a victim less safe.
2 The City provides no expert in any of those relevant fields in opposition. Instead, it dismisses
3 Plaintiffs’ concerns, citing economist Lucy Allen, for its claim that self-defense situations where
4 over ten rounds were fired are not widespread, making these magazines unnecessary. Opp’n 13-
5 15. Allen’s conclusion, however, was based on a fatally flawed analysis of “databases” of just 279
6 self-reported accounts of defensive gun uses. Opp’n 14, n.10. Any conclusions drawn from these
7 stories are highly suspect. Kleck Suppl. Decl. ¶¶ 1-14; Pls.’ Objs. ¶¶ 16-17.

8 Ultimately, it cannot be known with any degree of certainty how frequent self-defense
9 situations requiring more than ten rounds actually are. Kleck Decl. ¶¶ 2-3. But it is clear that such
10 incidents needn’t be all that frequent to be more widespread than crimes in which these
11 magazines actually affected the number of casualties. As Dr. Kleck points out, the number of such
12 crimes “may well be as low as three in the past 30 years.” Kleck Decl. ¶¶ 21-28, 43-47. On the
13 other hand, we know that self-defense incidents requiring more than ten shots are not so
14 uncommon. Plaintiffs, providing just a sampling of such events, describe *six* in the last 15 years
15 alone. Ayoob Decl. ¶¶ 4-16; *see also* Kleck Suppl. Decl. ¶¶ 11-14. On balance, taking magazines
16 from law-abiding citizens is detrimental to their safety.

17 **B. The Constitutionality of Categorical Bans on Protected Arms Does Not Turn**
18 **on Empirical Judgments About the Costs and Benefits of Prohibition**

19 The City believes the Ordinance could potentially increase public safety. Plaintiffs have
20 offered substantial evidence that the City’s law endangers lives. But ultimately, neither would be
21 determinative. The Supreme Court made clear that the validity of bans on common arms is not to
22 be determined by balancing Second Amendment rights against government interests. That balance
23 has already been struck. “The very enumeration of the right takes out of the hands of government
24 . . . the power to decide on a case-by-case basis whether the right is really worth insisting upon.”
25 *Dist. of Columbia v. Heller*, 554 U.S. 570, 634-35 (2008). Arms in common use for lawful
26 purposes are protected by the Constitution. *Id.* at 624. It is not the government’s role to decide
27 whether one’s right to those arms is actually worthwhile or whether the continued possession of
28 those arms is in their best interest. *But see* Opp’n 15 (claiming that the banned magazines are not
appropriate for “responsible” self-defense, a “requirement” that draws *no* support from case law).

1 If there were any lingering doubt, the Supreme Court dispelled it when it instructed that
2 Second Amendment cases will not “require judges to assess the costs and benefits of firearms
3 restrictions and thus to make difficult empirical judgments in an area in which they lack
4 expertise.” *McDonald v. City of Chicago*, 130 S. Ct. 3020, 3050 (2010). As Judge Posner wrote
5 for the Seventh Circuit, “the Supreme Court made clear in *Heller* that it wasn’t going to make the
6 right to bear arms depend on casualty counts.” *Moore v. Madigan*, 702 F.3d 933, 939 (2012).

7 **III. MAGAZINES OVER TEN ROUNDS ARE IN COMMON USE FOR LAWFUL PURPOSES AND**
8 **ARE THUS PROTECTED UNDER THE SECOND AMENDMENT**

9 The Second Amendment protects arms “in common use” for lawful purposes. Mot. 6. As
10 millions of Americans possess firearms equipped with the prohibited magazines, their protection
11 is not in doubt. Mot. 4-5, 8-9. Although *Heller* required no elaborate showing that handguns are
12 commonly chosen for self-defense, 554 U.S. at 629, and it is the City’s burden to prove its law
13 does not restrict protected conduct, *United States v. Chovan*, 735 F.3d 1127, 1136-37 (9th Cir.
14 2013) (citing with approval *Ezell v. City of Chicago*, 651 F.3d 684,701-04 (7th Cir. 2011)),
15 Plaintiffs offer substantial evidence that it does. The City does not counter most of it, but
16 implausibly claims the magazines are not in common use or are otherwise unprotected Opp’n 8-
17 17.¹

18 The City first argues that protections for magazines and other firearm components are not
19 determined by common usage because they are not “arms.” Opp’n 9-10. Instead, it advances a
20 novel test affording protection to components only if banning them would render firearms wholly
21 inoperable. Opp’n 10. The argument is without merit, and this new approach finds no support in
22 any court opinion to date. That *Heller* does not discuss magazines or ammunition is unsurprising,
23 given that it had a firearms ban before it. But magazines and ammunition are as crucial to an
24 operable firearm as the firearm itself. One would expect protections of these items to mirror those
25 of firearms. This is no doubt why every circuit to consider the protection of various firearm
26 components has employed a common use analysis. Mot. 6-7. The City ignores these cases,
27 including authority from the Ninth Circuit. And it offers no authority for its new test.

28 ¹ The City repeatedly references the State’s sales ban. Opp’n 1, 5, 13, 22. But even if it did
not “grandfather” in millions of these magazines in California, *Heller* plainly sets a national
standard for common use. 554 U.S. at 628 (handguns are preferred by “American society”).

1 The City next claims that magazines over ten rounds are unprotected because they are
2 “dangerous and unusual.” Opp’n 10-11, 15-18. Alone, the fact that a firearm is “dangerous” does
3 not distinguish it from any other. It is the very nature of firearms to be dangerous. The further
4 requirement that an arm be “unusual” comports with *Heller*’s emphasis on protecting arms in
5 common use. 554 U.S. at 624-25, 628-29. The City argues that the magazines are too dangerous
6 for “responsible” self-defense, Opp’n 15-16, but provides no evidence that they are *also* unusual.
7 Instead, it tries unsuccessfully to attack portions of Plaintiffs’ substantial evidence to the contrary.
8 The City first complains that Plaintiffs’ evidence, including a declaration and report from the
9 National Shooting Sports Foundation (NSSF), does not establish the number of firearms sold with
10 magazines over ten rounds. Opp’n 12-13. But NSSF is the trade association for the firearms
11 industry. Curcuruto Decl. ¶ 2. It is *uniquely* situated to gather and provide estimates of the
12 number of magazines in circulation based on federal data and input from industry members
13 familiar with magazine markets. Even if it weren’t, NSSF’s estimates are consistent with those of
14 the City’s own expert. Curcuruto Decl. ¶¶ 8, 13; Koper Decl. ¶ 36 (73.3 to 98.3 million such
15 magazines.)

16 Plaintiffs also provide advertisements depicting common firearms that are sold standard
17 with magazines over ten rounds. Monfort Decl. ¶ 4 & Ex. C. Oddly the City questions the ability
18 of this evidence to establish the number of those guns sold. Opp’n 13. But Plaintiffs never suggest
19 it does. This evidence is probative because it shows a significant share of firearms on the market
20 come *standard* with magazines over ten rounds. Mot. 4, 9. This is particularly compelling when
21 coupled with evidence regarding the consumer shift toward such firearms and their popularity for
22 self-defense. Helsley Decl. ¶ 10; Ayoob Suppl. Decl., Ex. E. The City cannot seriously contend
23 that some of the most popular firearms on the market, purchased by millions after passing
24 required background checks, are not commonly possessed for lawful purposes.

25 The City finally suggests that the millions of magazines in circulation are held by a “small
26 number of enthusiasts.” Opp’n 12-13. It bases its claim on studies showing that 20% of gun
27 owners own 65% of the firearms in America. Even if these studies were reliable and this pattern
28 of gun ownership applies equally to magazine ownership, each person would own roughly three

1 magazines on average, placing them in the hands of some *twenty-five million* people.

2 This should end the inquiry. But even under the novel hurdles imposed by the *Heller II*
3 panel to avoid strict scrutiny, the banned magazines are either “well-suited to or preferred for the
4 purpose of self-defense or sport.” 670 F.3d 1244, 1262 (D.C. Cir. 2011). In fact, they are both.

5 Regarding their sporting use, the City never disputes that these magazines are suitable,
6 and in fact essential, in the nation’s most popular competitive shooting sports. *But see* Mot. 12
7 n.9. The City’s reference to a federal restriction on importing certain firearms with magazines
8 over ten rounds does not establish that magazines are not commonly selected for sport. Opp’n 4.
9 Such magazines are widely manufactured, sold, and used in the U.S. for various sporting purposes
10 even if the ATF has not exempted them from limited importation restrictions.

11 That magazines over ten rounds are also suitable for self-defense is clear. Having
12 additional ammunition increases the chance of surviving an attack.² To support this rather obvious
13 point, Plaintiffs provide real-life examples of attacks that required over ten rounds. Ayoub Decl.
14 ¶¶ 4-16. They also show that magazines over ten rounds were developed for self-defense and that
15 they are marketed for and purchased by millions for that purpose. Helsley Decl. ¶¶ 4-11; Monfort
16 Decl., ¶¶ 4-5 & Ex. C. And they describe how the realities of criminal attacks make increased
17 ammunition capacity preferable. For instance, it is extremely difficult to change magazines when
18 facing attack and rarely does a victim have extra magazines. Additional rounds also aid in defense
19 against the threat of multiple attackers, each taking multiple shots to neutralize. Mot. 11-12.

20 Instead of addressing these points, the City claims that rarely more than a few shots are
21 fired in self-defense, criminals often retreat when being shot at, and 30% of the time an attacker
22 will be stopped with a single shot. Opp’n 14 n.10. But the City’s claims are based on flawed
23 analyses of a sampling of self-defense stories, not a comprehensive digest. Part II.A., *supra*; Pls.’
24 Objs. ¶¶ 16-17. Indeed, the City cites one study that includes only examples of *successful* self-

25
26 ² The City warns that if magazines over ten rounds are suitable for self-defense, machine
27 guns must also be protected. Opp’n 16. This is false. Courts must still find that the restricted arms
28 are in common use for lawful purposes, not simply that they could be useful. Unlike firearms with
magazines over ten rounds, machine guns are not preferred by millions for self-defense, and the
Supreme Court has explicitly upheld restrictions on these arms. *Heller*, 554 U.S. at 624-25.

1 defense, skewing the statistics by omitting scenarios in which defense was ineffective. Thompson
2 Decl., Ex. 13. Regardless, consider what its evidence *also* tells us. At times more than a few
3 bullets are necessary. Criminals do not always retreat or expire when shot at. And multiple shots
4 are required to incapacitate an aggressor 70% of the time. The benefit of additional ammunition
5 for self-defense is clear—and the City’s evidence is in harmony with Plaintiffs’ on this point.³

6 This is why millions prefer and routinely select the prohibited magazines, and firearms
7 equipped with them, for that purpose. Plaintiffs provide substantial evidence of this. They
8 establish that firearms with standard magazines over ten rounds—specifically marketed for self-
9 defense—are among the most popular-selling firearms in the country. Mot. 12-13. Indeed, Glock
10 handguns holding 15-17 rounds are “hugely popular” for self-defense. Mot. 13. And the entire
11 handgun market moved to pistols because they are able to hold more ammunition. Mot. 12.

12 The City ignores this evidence, and instead asks this Court to require Plaintiffs to prove a
13 sufficient frequency with which the prohibited arms are used and actually needed in a self-defense
14 emergency. Opp’n 13-15. In the City’s view, the government may flatly ban protected arms that
15 are commonly possessed for self-defense (i.e., they aren’t protected after all), unless Americans
16 often use and require those arms for that purpose. The City’s novel approach finds no support in
17 *Heller*. Not even *Heller II* goes so far. And the City provides no authority that does.

18 The City’s approach would allow bans on virtually any firearms. Most people will never
19 need to discharge a firearm in self-defense at all. Even fewer will require a particular firearm to
20 effectively defend themselves. But if frequency and necessity of use controlled, handguns would
21 not be protected from government bans because people seldom are attacked and, when they are, a
22 shotgun will usually do just fine. Conversely, the City could remove shotguns from the homes of
23 the law abiding because, while most owners might use them frequently for duck hunting or
24 recreation, most will never use them to shoot at intruders, and a handgun or a rifle would suffice.

25 The banned magazines, like other types of arms, are commonly chosen and kept by law-
26 abiding citizens for self-defense should they need them. *See Heller*, 554 U.S. at 584 (“bear arms”

27 ³ The City goes out of its way to appease law enforcement by implausibly reading the ban
28 to exempt *off-duty officers* and their *personal magazines*, Grgurina Decl., Ex. A, acknowledging
that magazines over ten rounds are suitable for law enforcement duties *and* in-home self-defense.

1 is to be “armed and ready . . . in a case of conflict”). Second Amendment protection has little to
2 do with the frequency of actual or necessary uses of particular arms in self-defense. Plaintiffs will
3 likely never need to discharge more than ten rounds (or any ammunition) in self-defense. But
4 much like having fire insurance, millions of Americans choose to have these standard magazines
5 and not need them, rather than risk needing them and not having them.

6 Short of taking testimony from the tens of millions of Americans who own magazines
7 with capacities over ten rounds, Plaintiffs provide substantial evidence that these magazines are
8 typically possessed for lawful purposes. The City largely ignores this evidence or dismisses it as
9 indirect. Opp’n 14. It neither disputes its veracity nor offers conflicting evidence. In sum, the City
10 has not proven the banned magazines are not in common use for lawful purposes.

11 **IV. THE CITY’S BAN MAY BE STRICKEN WITHOUT RESORT TO MEANS-END SCRUTINY**

12 The Ordinance is unconstitutional regardless of the level of scrutiny applied. Mot. 13-15.
13 The government has a legitimate interest in regulating protected arms to prevent criminal access,
14 but laws depriving virtuous citizens of lawful use are necessarily invalid. The City ignores the
15 weight of authority invalidating laws that ban constitutionally protected conduct without resort to
16 any level of scrutiny. Mot. 14-15. Instead, it argues that law-abiding citizens enjoy no right to
17 possess arms “in common use”—arms protected by the Second Amendment. Opp’n 11-12.

18 Limiting *Heller*’s exhaustive analysis of Second Amendment rights by its application to
19 the handgun ban before it, the City seems to suggest that only sweeping bans on arms as
20 commonly chosen for self-defense as handguns necessarily conflict with constitutional
21 guarantees. Opp’n 11-12. This reads *Heller* far too narrowly. When *Heller* turned to applying the
22 Second Amendment to D.C.’s handgun ban, it had already laid out its common use test for
23 determining which arms are protected. 554 U.S. at 629. Far from announcing some requirement
24 that arms must be the most commonly used to be safe from prohibition, the Supreme Court simply
25 needed not long detain itself over whether handguns were in common use. *Id.* Without
26 elaboration, it concluded “[i]t is enough to note, as we have observed, that the American people
27 have considered the handgun to be the quintessential self-defense weapon” and “handguns are the
28 most popular weapon chosen by Americans for self-defense in the home.” *Id.* Common use of

1 handguns for the lawful purpose of self-defense was plain to see. Equally obvious was that their
2 “complete prohibition” would violate the constitution under any standard. *Id.*

3 The City describes as “perverse” a test authorizing law-abiding citizens to possess
4 protected arms because those protections are dependant upon use by the American public. Opp’n
5 12. The City finds fault with this standard, claiming it prevents regulation of even the most
6 dangerous arms. Not so. The City may not like *Heller’s* announcement of protection for common
7 arms, but it is bound by it. And the Supreme Court’s common use framework does not foreclose
8 restrictions on arms suitable strictly for military use. Federal laws prohibiting such arms will
9 surely continue to be enacted as new arms are developed, much like the nationwide restrictions
10 we see today. But as to arms that plainly have civilian applications, where it is unlikely support
11 could be gathered to enact a federal ban, such arms rightly attain constitutional protection as they
12 become commonly chosen for lawful purposes—as *Heller* instructed. 554 U.S. at 624.

13 Contrary to the City’s claim, a small group will not drive protections. Opp’n 12. Such
14 would hardly establish “common use.” Magazines over ten rounds are protected not because a
15 small number of “enthusiasts” are “stockpiling” them, but because they are lawfully used by tens
16 of millions of Americans. Mot. 9. More importantly, arms that are commonly owned will not
17 become “immune from regulation.” Opp’n 11. Constitutional protection doesn’t prevent
18 regulation—it prevents prohibition. And while the City often calls its law a “regulation,” it is not.
19 The Ordinance removes protected arms from the homes of the law abiding. It is an outright ban.

20 Again, the Second Amendment would mean little if the government could ban protected
21 arms, so long as it does so in small enough increments. Mot. 16, n.11. The City never addresses
22 this point, but it warrants consideration. The City asks this Court to hold that it may ban protected
23 arms so long as it leaves ample alternative arms available such that it doesn’t effectively disarm
24 residents. Opp’n 20; *Heller II*, 670 F.3d at 1261. Beyond *Heller’s* express instruction that it is “no
25 answer” to suggest that other arms are available, the problem with this approach is revealed in the
26 following application. Handguns (in common use for lawful purposes) are a “class” of protected
27 arms. Broken down into various “subclasses,” the City may permissibly ban a subclass of
28 protected handguns, as the ban plainly would not keep anyone from possessing and using all or

1 even most handguns. And if Los Angeles then banned a second subclass, there likewise would be
2 no constitutional violation. Chicago could validly ban a third subclass, New York a fourth, and so
3 on until each ban on a subclass of handguns is upheld. But as the City continues to ban subclasses
4 of protected arms, at some point, residents would be deprived of “ample alternative” arms. Would
5 the last ban the City enacted then become unconstitutional, despite being valid elsewhere? Would
6 its previously enacted bans suddenly become unconstitutional? Plainly the government cannot
7 ban the possession of protected arms just because it doesn’t ban all or most of them in one fell
8 swoop.

9 In short, the Ordinance is inimical to Second Amendment protections for standard-
10 capacity magazines. It is appropriately stricken without expedition into the “ ‘levels of scrutiny’
11 quagmire.” *See United States v. Skoien*, 614 F.3d 638, 642 (7th Cir. 2010) (en banc).

12 **V. IF THE COURT ADOPTS A MEANS-END APPROACH, STRICT SCRUTINY MUST APPLY**

13 Magazines over ten rounds are protected by the Second Amendment. A flat prohibition on
14 their possession by all law-abiding citizens for in-home self-defense *commands* strict scrutiny.

15 In selecting a level of heightened scrutiny, *Chovan* considered the law’s proximity “to the
16 core of the Second Amendment” and “the severity of the law’s burden.” 735 F.3d at 1138. The
17 City incorrectly views these prongs as elements, suggesting that a law must both impact core
18 conduct and impose a severe burden to trigger strict scrutiny. Opp’n 7 & n.6. But *Chovan* does
19 not compel such a mechanical approach. *Chovan* and the cases it relies on settled on intermediate
20 scrutiny after finding the laws at issue to be outside the core and to place varying degrees of
21 burden on the right. 735 F.3d 1138; *Heller II*, 670 F.3d at 1266; *United States v. Chester*, 628
22 F.3d 673, 682-83 (4th Cir. 2010); *Marzzarella*, 614 F.3d at 97. *Chovan* does not foreclose
23 application of strict scrutiny to laws that, although not reaching the core of the right, nonetheless
24 severely burden protected conduct. And in no way does it require intermediate scrutiny for any
25 law striking the very center of the right’s core unless the burden is independently deemed severe.
26 If we are guided by First Amendment principles—and *Chovan* holds that we are, 735 F.3d at
27 1138—laws regulating core conduct command strict scrutiny no matter how severe the burden.
28 *See, e.g., Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 340 (2010). Indeed, the only

1 case to analyze *Chovan* in this Circuit held that “[a] regulation that threatens a core Second
 2 Amendment right is subject to strict scrutiny, while a less severe regulation that does not
 3 encroach on a core Second Amendment right is subject to intermediate scrutiny.” *Morris v. U.S.*
 4 *Army Corps of Enginrs.*, No. 13-00336, slip op. at 3 (D. Idaho Jan. 10, 2014); *see also* Mot. 14.

5 Regardless, the City’s ban substantially burdens core conduct, taking protected arms from
 6 the homes of law-abiding citizens. There is no harm more severe. The City trivializes this harm,
 7 claiming: (1) the availability of other arms suitable for self-defense alleviates the burden; and (2)
 8 that few people have access to these magazines and fewer need to fire more than ten shots in self-
 9 defense. Opp’n 13, 22-23. Plaintiffs address these points in turn.

10 Relying on *Heller II*, the City argues for intermediate scrutiny because its magazine ban
 11 does not “prevent a person from keeping a suitable and commonly used weapon for protection in
 12 the home.” Opp’n 20 (quoting 670 F.3d at 1261). It also cites two recent district court opinions
 13 from the Second Circuit, which applied only intermediate scrutiny to bans on “assault weapons”
 14 and magazines over ten rounds as they “ ‘do not effectively disarm individuals or substantially
 15 affect their ability to defend themselves.’ ” *N.Y. State Rifle & Pistol Ass’n, Inc. v. Cuomo*, No. 13-
 16 291S, 2013 WL 6909955, at *13 (W.D.N.Y. Dec. 31, 2013) (quoting *Heller II*, 670 F.3d at 1262);
 17 *Shew v. Malloy*, No. 13-739, 2014 WL 346859, at *7 (D. Conn. Jan. 30, 2014) (quoting *Heller II*,
 18 670 F.3d at 1262).⁴ But these cases simply highlight the constitutional problem with bans on
 19 subclasses of protected arms, *see* Part IV, *supra*, which by their nature leave alternative arms
 20 available for self-defense and would, in the City’s view, warrant only intermediate scrutiny.
 21 Taking the City’s argument to its natural conclusion, only total bans on all arms require strict
 22 scrutiny because alternative avenues for self-defense will always remain. Surely this cannot be.
 23 Judge Kavanaugh’s dissent in *Heller II* provides the most adept response to this flawed reasoning:

24

 25 ⁴ The City’s string cite of pre-*Heller* state court cases are not the weight of authority the
 26 City suggests. Opp’n 21. As state rights often differ significantly from their federal counterparts,
 27 the relevance of these cases is highly suspect. Further, not one case deals strictly with bans on
 28 magazines over ten rounds; most involve “assault weapons” bans, one involves magazines over 21
 rounds, and *just one* deals with the magazines at issue here. Opp’n 21. What’s more, the City
 references pre-*Heller* cases upholding bans on “entire classes of weapons, such as pistols or other
 concealable firearms,” Opp’n 21-22, n.14—the very sort of laws *Heller* found invalid under *any*
test. These cases simply show that courts have wrongly upheld bans on common, protected arms.

1 [It's] a bit like saying books can be banned because people can always read newspapers.
2 That is not a persuasive or legitimate way to analyze a law that directly infringes an
3 enumerated constitutional right. **Indeed, *Heller* itself specifically rejected this mode of
reasoning:** "It is no answer to say . . . that it is permissible to ban the possession of
handguns so long as the possession of other firearms (*i.e.*, long guns) is allowed."

4 *Id.* at 1289 (quoting 554 U.S. at 629) (Kavanaugh, J., dissenting) (emphasis added); *see also*
5 *Cincinnati v. Discovery Network*, 507 U.S. 410, 418 (1993) (striking "categorical prohibition on
6 the use of newsracks"). In any event, *Heller II* itself suggests that strict scrutiny is appropriate
7 here because the magazines are well-suited to and preferred for self-defense. Mot. 10-13, 17-18.

8 The City also claims *Marzzarella* supports application of intermediate scrutiny to any law
9 that leaves one "free to possess any otherwise lawful firearm." Opp'n 22. But *Marzzarella* does
10 not stand for so much. In reviewing a ban on unmarked firearms, the court found it significant
11 that Mr. Marzzarella could possess the exact same firearm with a serial number, a feature that
12 "does not impair the use or functioning of a weapon *in any way*. . . ." *Marzzarella*, 614 F.3d at 94
13 (emphasis added). The same is not true of limits on capacity, which *do* impact functionality.

14 The City next claims the burden is "minor" because most self-defense scenarios require
15 fewer than ten shots, dismissing Plaintiffs' safety concerns when more shots are necessary. Opp'n
16 23. But the severity of burden on one's rights does not rest on the number of people who see their
17 rights violated, but on how severe that burden is for each person harmed. *Heller* required no
18 showing that the need to use handguns in self-defense arose with any regularity, just that such
19 arms are commonly owned for that purpose. 554 U.S. at 629. Likewise, it is not required that the
20 number of times people fire more than ten shots in self-defense is sufficiently high before the
21 burden is significant. *See* Part III, *supra*. Even if the need to expend more than ten rounds is rare,
22 when the government dictates that one may not have more than ten rounds available for self-
23 defense, the consequences cannot be any more severe for those facing that very situation.

24 **VI. UNDER ANY LEVEL OF HEIGHTENED SCRUTINY, THE CITY'S BAN IS INVALID**

25 If the *government* fails to prove the restricted conduct is not protected by the Second
26 Amendment, it must prove that its law survives heightened scrutiny. *Chovan*, 735 F.3d at 1136-
27 37. Under heightened scrutiny, the City "must present more than mere anecdote and supposition."
28 *United States v. Playboy Entmt. Grp., Inc.*, 529 U.S. 803, 822 (2000). It must defend its law with

1 actual evidence. *Chester*, 628 F.3d at 683. The City has not met its burden.

2 The City provides little more than its theory that magazine bans promote public safety.
3 Opp'n 24-25. But its claim is rooted in flawed statistical arguments and supposition, "evidence"
4 that would be unacceptable in other rights contexts. *See City of Los Angeles v. Alameda Books,*
5 *Inc.*, 535 U.S. 425, 438 (2002). It points to nothing more than Dr. Koper's belief that such laws, if
6 in effect long enough, may impact crime by depressing the supply of the banned items to
7 criminals. Opp'n at 24-25; Koper Decl. ¶¶ 57-58. But Dr. Koper's present belief is not supported
8 by any empirical research on capacity-based magazine bans, including his own study regarding
9 the federal ban. *See Part II.A., supra*; Pls.' Objs. ¶ 13. Really, the City provides only speculation
10 that such bans reduce use of the banned magazines in crime. And it offers *no* evidence that taking
11 handgun magazines from law-abiding citizens will reduce violent crime. These unsupported
12 conclusions, if even considered by the voters, are not " 'reasonable inferences from substantial
13 evidence' " Opp'n 24 (quoting *Cuomo*, 2013 WL 6909955, at **17-18).

14 On the other hand, the City ignores the magazine ban's negative impact on public safety.
15 After explaining the disparate impact that magazine limits have on those acting in self-defense in
16 comparison to violent offenders who control the circumstances of their crimes, a self-defense
17 expert and a criminologist found the ban will disadvantage law-abiding citizens defending against
18 criminal attacks. Ayoob Decl. ¶¶ 4-34; Kleck Decl. ¶ 20-34. An impact that "is more likely, on
19 net, to harm the safety of [the City's] citizens than to improve it." Kleck Decl. ¶ 34. The City
20 provides *no expert in any relevant field* to rebut the weight of this evidence—only the memory of
21 one law enforcement official who claims not to recall an instance where Sunnyvale residents
22 could not defend themselves without a magazine over ten rounds. Opp'n 23; Grgurina Decl. ¶ 3;
23 *but see* Pls.' Objs. ¶¶ 21-23. Of course, this "evidence" says nothing of how often they *have* been
24 available and used for self-defense (by Sunnyvale residents or anyone).⁵

25 But even if the law could increase public safety, banning possession of protected arms by
26 the law abiding is not a valid means of reducing criminal misuse of those arms. Mot. 21-22, 25.

27 ⁵ Interestingly, the City limits its universe to Sunnyvale when considering how often one
28 might need a magazine over ten rounds in self-defense, even though it must look to the entire
country to argue gun crimes involving such magazines are common. Opp'n 13, 16, 22-23.

1 The City never attempts to establish, as it must, that the Ordinance is not “substantially
 2 broader than necessary” to meet its objectives (“reasonable fit” requires that the law is “not more
 3 extensive than necessary”). Mot. 18, 21; *Morris*, No. 13-00336, slip op. at 7; *but see* Opp’n 23-
 4 25. Instead of targeting criminal acquisition and use of these magazines, the City removes them
 5 from the homes of the law abiding. Mot. 21. It seems the City believes its purposes cannot be met
 6 if any such magazines remain in law-abiding residents’ homes because they may be stolen. Opp’n
 7 24. But prohibiting the exercise of Second Amendment rights based on the acts of the law
 8 breaking offends notions of constitutional liberty. Mot. 22 & n.17. If taking protected arms from
 9 law-abiding citizens is substantially related to reducing criminal misuse of those arms, the City
 10 could strip any protected arms from the law abiding (so long as it confiscates them in small
 11 enough increments to avoid strict scrutiny, apparently). *See* Parts IV-V, *supra*.

12 The City ignores that *Heller* itself would have been decided differently if this were so.
 13 Opp’n 20-21; *but see* Mot. 22. Even though handguns make up the majority of guns stolen and
 14 are involved in the vast majority of firearm-related homicides in the United States, *Heller*, 554
 15 U.S. at 697-98 (Breyer, J., dissenting), a flat ban on the possession of these protected arms lacks
 16 the necessary fit under *any level* of scrutiny, *id.* at 628-29 (maj. opn.). The City never explains
 17 why a ban on handguns, which are overwhelmingly preferred by criminals, is not substantially
 18 related to public safety interests. Nor does it explain how removing magazines from the law
 19 abiding is any more related to that interest, even though such magazines are used far less often in
 20 crime.

21 **VII. CONCLUSION**

22 Plaintiffs are likely to succeed on the merits, and they satisfy the remaining factors for
 23 preliminary relief. Mot. 23-24. The Court should preserve the status quo as this case proceeds.

24 Dated: February 10, 2014

MICHEL & ASSOCIATES, P.C.

25
 26 /s/ C.D. Michel

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27 Attorney for Plaintiffs

28

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LEONARD FYOCK, SCOTT HOCHSTETLER,
WILLIAM DOUGLAS, DAVID PEARSON,
BRAD SEIFERS, and ROD SWANSON

Plaintiffs

vs.

THE CITY OF SUNNYVALE, THE MAYOR OF
SUNNYVALE, ANTHONY SPITALERI, in his
official capacity, THE CHIEF OF THE
SUNNYVALE DEPARTMENT OF PUBLIC
SAFETY, FRANK GRGURINA, in his official
capacity, and DOES 1-10,

Defendants.

CASE NO: CV 13-05807 RMW

**SUPPLEMENTAL DECLARATION
OF GARY KLECK IN SUPPORT
OF MOTION FOR PRELIMINARY
INJUNCTION**

1 infer conclusions about a population from a sample would never draw the conclusions that Ms. Allen drew,
2 based on the sample she analyzed. This by itself is a strong indication that she is not an expert on these
3 matters.

4 4. Further, even if NRA staff had somehow selected a simple random sample of all DGUs, there were
5 far too few cases in the NRA sample analyzed by Allen. (n=279) to reliably estimate the share of DGU
6 incidents that involved more than 10 rounds being fired, if such incidents are relatively rare, though not as
7 rare as Allen claims. Consider the implications, for example, if just 1% of all DGUs involved over 10
8 rounds being fired. Since national surveys that have specifically asked about DGUs have consistently
9 indicated 0.5-3.5 million DGUs per year, it would be reasonable to assume an annual average of at least 1
10 million DGUs. *If this were the total frequency of DGUs, 1% would imply a number of DGU incidents with*
11 *over 10 rounds fired that was huge in absolute terms – about 10,000 per year.* Thus, this percentage does
12 not have to be very large in order for it to imply a huge absolute number of incidents.

14 5. Even if the NRA sample were a representative simple random sample of all DGUs, Allen's results
15 would not be statistically sufficient to reject the idea that 1% of DGUs involved over 10 rounds fired. Ms.
16 Allen's finding of 0% of DGUs with over 10 rounds fired *in her small sample of DGUs* is actually not
17 statistically inconsistent with the hypothesis that 1% of the *entire population* of DGUs involve over 10
18 rounds fired, since her 0% result is well within the bounds of what one could reasonably expect as a sample
19 result in a randomly selected sample of just 279 cases. Samples selected from larger populations of events
20 do not all perfectly resemble the population, since they are always subject to random sampling error. That
21 is, due to the random character of the sampling process, an analyst may, by pure chance, obtain a sample
22 that contains either more or fewer of the events of interest than would be the case if the sample resembled
23 the population perfectly.

25 6. The 95% confidence interval (CI) estimate of the percent of DGUs with over 10 rounds fired
26 (symbolized as p) is a range in which one would expect to find 95% of all the estimates one would obtain
27 if one selected an infinite number of samples of a given size. If one assumes that the true population
28

1 percentage is 1% ($p=.01$), the 95% CI is -0.17 to 2.17%. This is the result of the following computations:

2 7. The formula for the 95% CI is: p plus or minus 1.96 (square root of $(p \times q)/n$), where
3 $q=1-p$

4 8. If $p=.01$, then the 95% CI = 0.01 ± 1.96 (square root of $((.01 \times .99)/279)$) = $0.01 \pm$
5 $0.01168 = -0.00168$ to $.02168$, or -0.168% to 2.168%

6 9. This means that if the true population percentage of DGUs with over 10 rounds fired were 1%, and
7 one took an infinite number of random samples, each with 279 DGUs, one would expect 95% of sample
8 estimates of this percentage to be between -0.168% and 2.168%. Of course, percentages can't really go
9 below 0, but this is what statistical theory predicts.

10 10. In plain English, what this means is that even if 1% of all DGUs involved over 10 rounds, one
11 could nevertheless realistically expect to get a percentage of 0 in a sample of 279 DGUs, due solely to
12 random sampling error. Thus, getting a sample result of 0%, as Allen did, is not a statistically significant
13 result allowing one to reliably reject the idea that the percentage in the population of all DGUs with over 10
14 rounds fired is 1%.

15 11. Sunnyvale contends the evidence provided by Plaintiffs does not show there are "reasonable
16 grounds" to believe a crime victim would ever face multiple attackers requiring over 10 rounds to be fired
17 in defense; calling such scenarios "fantastical." The policy-relevant issue is whether DGUs in which
18 victims face multiple offenders in their homes occur *often enough* for the number of lives saved or injuries
19 avoided by defensive LCM use to exceed the number of such harms caused by LCM use by offenders.
20 Since the latter number is close to zero, even if crimes with multiple offenders were quite rare, they could
21 still result in far more harm averted by victim defensive use of LCMs than harm caused by offender use.

22 12. Suppose that only a tenth of 1% of DGUs involved victims facing multiple attackers in the home.
23 Since there are at least a million DGUs per year, this would imply 1,000 such DGUs a year, compared to
24 less than one mass shooting per year in which LCM use caused more casualties (or even the few mass
25 shooting generally per annum).

1 13. It is worth noting that the only reason I offered no evidence about the frequency of people facing
2 multiple offenders is simply because published NCVS data do not provide sufficiently detailed breakdowns
3 of number of offenders. Sunnyvale offers no evidence that such crimes do not occur frequently.

4 14. NCVS respondents, however, were asked for the exact number of offenders, so I therefore
5 examined an NCVS dataset I happened to have on my hard drive, covering the period 1992-1994. My
6 analysis of that dataset indicated that the NCVS estimated, for 1992-1994, that there were 30,497,554
7 violent crimes in which victims directly confronted offenders and could state the number of offenders. Of
8 these, 6,368,235 involved multiple offenders. Of these, 1,997,481 involved four or more offenders. Since
9 this total pertained to a three-year period, the annual average was 665,827. Thus, during that period
10 American crime victims faced four or more offenders in 665,827 violent crime incidents per year. This was
11 a peak crime period, but even if there were half as many in recent years, the annual total would be about
12 333,000. In short, by any reasonable standard, it is an eminently realistic prospect that an American crime
13 victim would face four or more offenders in a violent crime.
14

15 15. Sunnyvale characterizes my descriptions of typical mass shootings as “flawed and misleading.”
16 As purported evidence (aside from referring to a brief filed in a different case, which is addressed in
17 Paragraphs 31-46 below), Sunnyvale provides only one example of the way I addressed missing data. I
18 would say that my phrasing of some of my findings was not sufficiently precise, but not “flawed” or
19 “misleading.” Instead of saying that “no LCM was used in ... 35 incidents,” I should have stated that “no
20 LCM was *known to have been* used in 35 incidents.” My underlying assumption was that if an LCM had in
21 fact been used in a mass shooting, that at least one available news account would have reported this fact,
22 especially in light of the editorial policies of so many news outlets favoring bans on LCMs. It seems
23 unlikely that not a single such news outlet would take advantage of a mass shooting in which an LCM had
24 actually been used to report this fact to its audience. Further, I also made use of the compilations of LCM-
25 involved mass shootings by advocates of LCM bans like the Violence Policy Center, Mayors Against
26 Illegal Guns, and Mother Jones magazine, for reports of LCM use in mass shootings, on the assumption
27
28

1 that these organizations were well-motivated to search for any evidence of such LCM use. If LCM use had
2 been reported in any news story, even one that my assistants and I missed, it was likely that the staff of
3 these organizations would have located at least one of these news stories. Thus, I stand by the position that
4 most mass shootings did not involve LCMs, and that, to phrase it very precisely, *there is no affirmative*
5 *evidence* that LCMs were used in 35 of the 57 mass shootings that I studied. In any event, as I have
6 maintained, whether a LCM is used in a mass shooting is rarely relevant.

7
8 16. Sunnyvale cites *three* cases occurring within the past thirty years, in which bystanders tackled
9 shooters two of which I had already acknowledged in my initial declaration (the 1993 Long Island railroad
10 incident and 1998 Oregon incident). The Gabrielle Giffords shooting in Tucson, however, is questionable
11 in this regard because it is unclear from media accounts whether bystanders were able to subdue the shooter
12 because (1) he was reloading (Sunnyvale's position), or because (2) his magazine had failed due to a
13 broken spring and he was unable to fire. Since such magazine defects would disrupt a mass shooter's firing
14 regardless of whether the magazine's capacity was large or small, interpretation (2) would not support the
15 position that use of non-LCMs would have made a difference.

16
17 17. Sunnyvale then pads out the list of cases supposedly supporting the proposition that magazine
18 changes affected casualty count in mass shooting by citing the Sandy Hook shooting, even though
19 bystanders did not tackle the shooter or otherwise intervene. Sunnyvale switches in mid-paragraph to an
20 entirely different argument as to why LCM use might affect casualty counts – that potential victims could
21 escape “while the shooter was switching magazines.” This is an especially deceptive passage, because
22 Sunnyvale switches from discussing facts to discussing evidence-free speculations, without informing the
23 reader of this critical shift. Their full statement reads: “And law enforcement sources have stated that a
24 half-dozen children *may* have been able to escape from Sandy Hook Elementary School while the shooter
25 was switching magazines” (8/8-10, emphasis added). The text of the supporting *Hartford Courant* article
26 cited by Sunnyvale makes it clear that this was just a speculation by one or more unnamed law enforcement
27 persons. Some children did indeed escape, and there was indeed a pause in the shooting, but *investigators*
28

1 could not establish either (1) that the children escaped during the pause, or (2) that the shooter was
2 reloading during the pause (see States Attorney Report).

3 18. Investigators also found multiple magazines that had cartridges still left in them, indicating that
4 even when the shooter did change magazines, he did not do so because he *had to*, because he had exhausted
5 the magazines, but rather that he had *chosen* to change magazines even though he could have continued
6 firing with the same magazine. The significance of this is that at the time the children were escaping, the
7 shooter could have chosen to fire at them by simply continuing to fire the remaining rounds in the “old”
8 magazine, rather than changing magazines “prematurely,” as he repeatedly did. This means even *if* the
9 children escaped during the pause (which is not known), and even *if* the pause was due to a magazine
10 change (which is also not known), one could still not reliably conclude that the children escaped because
11 the shooter had to change a magazine. In sum, there was no factual foundation whatsoever for the
12 speculation that a need to reload saved any lives in the Sandy Hook incident.

14 19. John Donahue makes, or hints at, a plainly false claim in his paragraph 11. He vaguely alludes to
15 “a review of the resolution (sic) of mass shootings in the U.S.” on which he based his conclusions, but does
16 not say if this is a review he performed or if he was instead citing a review conducted by others. If it is the
17 former, he failed to describe or even briefly outline the methods by which he conducted the review, making
18 it impossible to judge whether it was competently done. If it is the latter, he failed to cite a source where a
19 reader could find a detailed description of the “review.” Expert scholars describe their methods and cite
20 sources. As things stand, there is no reliable basis for believing Donahue was doing anything in paragraph
21 11 other than stating his own unsupported personal opinions.

23 20. His specific claim is that “citizens have frequently taken advantage of a perpetrator stopping to
24 reload his weapon to tackle him or otherwise subdue him *in at least 20 separate shootings in the United*
25 *States since 1991*” (Donahue Declaration, p. 4). Donahue does not claim that these “shootings” were mass
26 shootings or that they involved semiautomatic weapons, multiple firearms, or multiple magazines, which
27 are normally used by mass shooters. There may well be shootings in which bystanders subdued shooters
28

1 while they reloaded, in shootings bearing little resemblance to mass shootings, such as shootings in which
2 the perpetrators used types of firearms that take far longer to reload than the semi-automatic firearms used
3 in most mass shootings. These sorts of cases, however, would tell us nothing about whether banning LCMs
4 would do any good, because they have no relevance to the willingness of bystanders to intervene when
5 shooters have semi-automatic guns capable of accepting detachable, possibly large-capacity, magazines. It
6 is the latter sorts of shootings that are relevant to the question of whether LCMs should be banned. In
7 short, if Donahue's undocumented 20 shooting incidents were radically different from the mass shootings
8 in which LCMs might contribute to the casualty count, they are irrelevant to the merits of an LCM ban. In
9 any case, Donahue does not cite 20 specific cases, or cite any external sources that document these 20
10 cases. Further, I am not aware of more than two or three such cases over the past thirty years.

12 21. Instead, Donahue cites only three cases that he claims fit his description, and then tosses in a
13 fourth case that, even based on his own inaccurate description, did not involve victims subduing a shooter,
14 while he was reloading or at any other time. The first case, occurring near the White House, was not a
15 mass shooting; indeed, the gunman did not shoot a single person. Further, there was no indication he was
16 going to shoot any of the people who tackled him, making it far safer to do so than would be the case in a
17 mass shooting. The incident was indeed a shooting in the sense that a person was criminally firing a gun,
18 but was not a shooting in the sense that the gunman was shooting people. It therefore has no clear
19 relevance to the merits of banning LCMs.

22 22. The 1993 Long Island shooting cited by Donahue does genuinely fit Donahue's description, but
23 the 2011 shooting involving Gabby Giffords is not so clear, as explained above in Paragraph 17, because it
24 cannot be determined from eyewitness accounts whether bystanders were able to subdue the shooter
25 because he was reloading (as Donahue claims) or because he was struggling with a malfunctioning
26 magazine (a spring broke in one of the magazines he was using, or trying to use). If the latter is correct, it
27 does not help support an LCM ban, since any magazine, of any size, might fail, thereby giving bystanders a
28 chance to intervene. Finally, Donahue makes the same speculative and unfounded claim about 11 children

1 at Sandy Hook Elementary School being able to escape because the shooter was reloading refuted above in
2 Paragraphs 18-19.

3 23. In sum, Donahue could cite only one genuinely supportive incident (the 1993 Long Island
4 shooting), and one possibly supportive case (the Gabby Giffords shooting), over a period of 30 years, to
5 support his claim that citizens have “frequently” subdued shooters while they stopped to reload. One or
6 two cases in 30 years probably would not fit most people’s notions of what “frequently” means. As to his
7 claim that there have been “at least 20 separate shootings” where this happened, Donahue provides no
8 documentation at all. Twenty cases in thirty years, in a nation with over 300 million people, is not very
9 frequent either, but Donahue did not supply supporting evidence of this many or even half this many.
10

11 24. Thus, Sunnyvale actually offered nothing to support the claim that victims in mass shootings have
12 escaped while the shooter was changing magazines.

13 25. Sunnyvale asserts that where LCMs are used there are more casualties. But, correlation is not
14 causation, i.e., this simple statistical association does not establish that LCM use *causes* a higher casualty
15 count. Instead, all evidence known to me, including all evidence presented by Sunnyvale, is completely
16 consistent with the proposition that LCM has no causal effect of its own on body count, but rather is merely
17 the result of some mass shooters’ more lethal intentions, which are what actually cause higher casualty
18 counts. Neither Dr. Koper nor Ms. Allen has offered *any* evidence, of any quality, that this association
19 reflects a causal effect of LCM use on the number of people killed or injured in mass shootings, as distinct
20 from it being a spurious association due to the fact that the lethality of mass shooters affects both the
21 casualty count and the choice of weapons and magazines.
22

23 26. Sunnyvale points out that LCMs are used more often in certain crimes, but mere use of an LCM in
24 a crime is irrelevant unless more than 10 rounds were actually fired, because, as I explained in my original
25 declaration in this matter, LCMs merely provide surplus rounds that are not fired. Since criminals rarely
26 fire large numbers of rounds in a given crime incident -- only 2.5-3.0% of all violent crime in which a
27 handgun was fired involved over 10 rounds fired (under 1% of all handgun crimes) – the fact that they use
28

1 LCMs more often further supports that magazine capacity usually does not matter in a crime.

2 27. Unless LCM use actually *causes*, to some degree, the number of victims harmed in crime
3 incidents, or specifically in mass shootings, there is no valid evidence supporting restrictions on LCMs, let
4 alone banning possession by law-abiding individuals. The City offers no evidence, and I am not aware of
5 any, that removing LCMs from the homes of the law-abiding will reduce crime or increase safety in any
6 way. A mere statistical association between LCM use and casualty count is not sufficient to establish that
7 one causes the other. Sunnyvale correctly notes that the number of rounds fired and victims shot in mass
8 shooting with LCMs is larger than the number in those without LCMs, but fails to note that this would be
9 true *even if LCM use had no causal effect whatsoever on the harm done in these shootings*. This is so
10 because the lethality of the shooter's intentions, i.e. the degree to which he intends to shoot many people,
11 almost certainly affects both (1) the number of people he in fact ends up shooting, and (2) the choice to
12 bring LCMs (along with more guns and more total rounds of ammunition) into the incident. Mass
13 shootings are typically planned, and thought about by the shooter for a long time, offering plenty of time
14 for offenders to make preparations such as acquiring guns, ammunition, and magazines.

15 28. If these premises are correct, the result would be a spurious (noncausal) association between
16 LCM use and number of casualties. Sunnyvale's experts do nothing to rule out or even mildly undercut
17 this interpretation of the associations they cite. The desire to increase the death toll would cause an
18 increased likelihood that an aggressor would acquire and bring LCMs to a shooting.

19 29. The claim that LCM use has an actual causal effect of its own on victim count in mass shootings
20 would be more plausible if close analysis of the details of actual incidents indicated the LCM use was
21 actually necessary to inflict as many injuries as were inflicted in LCM-involved mass shootings. This sort
22 of analysis, however, indicates precisely the opposite. There are no mass shootings in which the details
23 indicate that the shooter needed an LCM to inflict the amount of harm he inflicted. Instead, in all incidents
24 where the relevant information was available, mass shooters had either multiple guns or multiple
25 magazines, and thus could easily fire many rounds either without reloading or by quickly reloading a
26
27
28

1 detachable magazine. The details likewise show that even if shooters had lower capacity magazines and
2 had to reload slightly more often, this would not slow their rate of fire, since the killers in actual mass
3 shooting average so low a rate of fire that the 2-4 seconds it takes to reload would be no longer a time
4 period than the average interval between shots fired in mass shootings (Kleck Declaration).

5 30. Attached hereto as Exhibit F is a true and correct excerpt of my book, *Targeting Guns: Firearms*
6 *and Their Control* 125 (Aldine De Gruyter 1997).

7 **Rebuttal of San Francisco's Critiques**

8 31. Sunnyvale references a brief filed by the City of San Francisco in a separate lawsuit against that
9 city challenging its similar ordinance, as purportedly showing that the effectively identical declaration I
10 submitted on behalf of the plaintiffs in that case as to the one I submitted in this case contains claims that
11 are "flawed and misleading." The following paragraphs are my responses to each of the City of San
12 Francisco's attacks on my work. Citations to "SF" refer to the page and line(s) from San Francisco's brief,
13 according to internal pagination, where the relevant text occurs. E.g., the first line of SF's section titled
14 Statement of Facts would be cited as 1/18, denoting p. 1, line 18.

15 32. 5/25-27. It's probably a minor point, but SF subtly mischaracterizes my DGU estimates,
16 claiming that we estimated that there were 2.5 million DGUs "each year." This is misleading. The survey
17 that generated that estimate was conducted in early 1993, and the strongest estimates generated by the
18 survey pertained to the previous 12 months. Thus, the 2.5 million estimate pertained to a specific single
19 year, 1992, which was a peak crime year, and also likely to be a peak year for defensive uses of firearms by
20 crime victims. In more recent years, with lower crime rates, the annual number of DGUs would likely be
21 smaller.

22 33. 5/23 to 6/11. Every single one of the criticisms of the Kleck-Gertz estimates of DGU frequency
23 cited by SF, as well as all other published criticisms, have been thoroughly rebutted for years – a handy
24 source compiling all of the rebuttals into one place is Chapter 6 of the 2001 book Armed (Kleck and Kates
25 2001). *None of the experts or sources cited by SF have refuted a single one of these rebuttals.*

1 34. More specifically, every single claim made by David Hemenway and cited by SF was false. For
2 example, our survey did not “show 132,000 perpetrators killed or wounded by defenders each year,” and
3 thus there could not be any conflict between our survey results and hospital data on numbers killed or
4 injured. We had too few DGU sample incidents (n=213, unweighted) to reliably estimate the share that
5 resulted in wounded offenders, so our survey did not imply any particular number of “perpetrators killed or
6 wounded by defenders each year,” and it was therefore impossible to show any contradiction between our
7 estimates and hospital data.
8

9 35. Likewise, our survey did not show that “more guns are wielded to defend against rapes each year
10 than there are actual rapes or attempted rapes each year,” for the simple and indisputable reason that we do
11 not know the actual number of such crimes that occur each year (among many other problems with
12 Hemenway’s claim). It is universally understood among criminologists that neither the National Crime
13 Victims Survey (“NCVS”) nor any other source can tell us the total number of sexual assaults or any other
14 crime, because the true number of crimes is almost certainly larger than the NCVS indicates. Hemenway
15 also compared data on the wrong universe of sexual assaults, citing figures that pertained to a smaller,
16 noncomparable, subset of these crimes (Kleck and Kates 2001, Chapter 6).
17

18 36. In sum, there is no scholarly foundation for the claim that the Kleck-Gertz or other survey-based
19 estimates of DGU frequency are too high. Quite the contrary, the overwhelming weight of scholarly
20 evidence favors the proposition that surveys are more likely to *underestimate* the frequency of this sort of
21 crime-related experience than to overestimate it. To report a DGU in a survey requires that the respondent
22 who has had such an experience be willing to report (1) a victimization experience (otherwise there can be
23 no defensive reaction to a crime), (2) their possession of a gun (otherwise the defensive action could not be
24 classified as a defensive use of a gun), and (3) (usually) the crime of unlawful possession of a firearm in a
25 public place (since most DGUs occur in public places where, in 1993, it was unlawful for all but a tiny
26 percent of the population to possess a gun). The scientific literature on survey response errors *uniformly*
27 indicates that survey respondents in the general adult population on net underreport (1) crime
28

1 victimizations, (2) gun possession, and (3) unlawful behaviors by the respondent. Consequently, estimates
2 of DGU frequency are far more likely to be too low than too high (see Kleck and Kates 2001, Chapter 6 for
3 supporting citations).

4 37. Most outrageously of all, SF quotes a claim from David Hemenway that “all attempts at external
5 validation [have] reveal[ed] it to be a huge overestimate,” when in fact every attempt at external validation
6 has *confirmed* our estimates of DGU frequency. Our survey figures were not only completely consistent
7 with hospital data on numbers of persons medically treated for gunshot wounds, and estimates of the
8 frequency of sexual assaults and other crimes, but have also been consistently confirmed by the results of
9 other professionally conducted national surveys of representative samples of the U.S. adult population. By
10 2001 there were at least 20 such surveys that *all* indicated huge numbers of DGUs each year, exceeding the
11 number of crimes in which offenders used guns (Kleck and Kates 2001, Chapter 6).

12 38. 6/22-28. SF criticizes me for concluding that LCM use does not affect rates of fire in mass
13 shootings because some shooters were not shooting continuously. My conclusion did not rely in any way
14 on an assumption that any shooters fired continuously, or that a constant rate of fire was maintained. My
15 data pertained to *average* rates of fire throughout the period of firing, and I assume as a matter of course
16 that rates of fire during any given brief segment of time within those periods were sometimes higher than
17 average and at other times lower than average – including periods when there was no firing at all. This,
18 however, has no bearing on whether any mass shooters have ever needed to fire any more rapidly than
19 these average rates in order to harm as many victims as they did, which is the relevant question. The
20 policy-relevant fact is that all mass shooters for whom we had the relevant information regarding rates of
21 fire had ample time to fire as many rounds as they did, even if they had needed to take a few more seconds
22 to change magazines. Whether the shooters fired faster during some subperiods than they averaged over
23 the whole shooting period is irrelevant.

24 39. SF brings up a red herring in this connection – stating that the rates of fire that I reported do not
25 approximate how fast a mass shooter with an LCM “*can* fire” (7/4, emphasis added). The theoretical upper
26

1 limit rate of fire that such a shooter might hypothetically attain is completely irrelevant to the issue of how
2 fast real-world mass shooters *actually* had to shoot in order to inflict all the injuries and deaths they
3 inflicted, for the simple reason that no real mass shooter has ever come even remotely close to this
4 maximum possible rate of fire. Eyewitnesses have repeatedly described mass shooters as firing deliberately
5 and taking careful aim at specific individual victims, rather than firing as fast as they could. The high
6 percentage of wounded victims who die (reaching 100% in some incidents) also supports the view that
7 mass shooters shoot carefully, aiming for vital areas of the victim's body, rather than firing rapidly and
8 inaccurately. In short, the rates of fire that mass shooters *could* sustain is irrelevant to the rate they actually
9 *do* sustain, and it is only the latter that can affect the number of casualties actually inflicted.

10
11 40. SF mischaracterizes my positions on when LCMs are likely to affect the number of casualties,
12 claiming that I asserted that this is true "*only* where the shooter possesses only one gun and only one LCM"
13 (7/11-12). This is false, since I explicitly stated that LCM use also could affect the casualty count if there
14 were bystanders willing to tackle the shooter when he was reloading. Under that circumstance, use of an
15 LCM prior to the bystander intervention LCM could affect the number of rounds fired, and thus the number of
16 victims hurt before the magazine change (Kleck Declaration, 6/6-10). It is dubious that SF could have
17 honestly misunderstood this point, since I made it quite clearly: "One circumstance in which use of an
18 LCM could affect the number of casualties even if the shooter possessed multiple guns or multiple
19 magazines is if there were bystanders willing to tackle the shooter during his attempt to change magazines
20 or firearms, the use of an LCM prior to that time could affect the number of victims shot, since the killer
21 could have fired more rounds before needing to reload or switch guns."

22
23 41. Consequently, it is especially outrageous for SF to claim that "[Kleck's] narrow criteria for when
24 an LCM matters *exclude the single incident where he admits that a shooter was tackled while reloading—*
25 *that is, where actual events proved that magazine capacity mattered—because that shooter had three guns*
26 *and three LCMs,"* (SF 7/23-25), a reference to the 1998 Springfield, Oregon shooting by Kip Kinkel. My
27 criteria obviously did not exclude this incident, since I had carefully explained why LCM use might matter
28

1 in certain rare circumstances even if the shooter possessed multiple guns or multiple magazines. Thus, SF
2 misstated my position, creating a false impression of some contradiction or inconsistency in my work. I
3 also noted, however, just how extremely rare this circumstance is in mass shooting incidents. It is known
4 to have occurred just two or three times in the past 30 years.

5 42. SF also made a blatantly false claim about shootings I had supposedly missed, presumably for the
6 sake of suggesting that my work was sloppy. SF cites two cases of single-gun shootings that SF alleged
7 were mass shootings that I “missed” (7/16-20). These cases, occurring in 2013 in Hialeah, FL and
8 Herkimer, NY were *not* mass shootings according to the definition I was using, and therefore did not
9 belong in my dataset. The Mother Jones dataset on which SF relied, and the news stories the magazine
10 cited as sources, indicated that both incidents involved six victims shot. I had clearly stated that my dataset
11 encompassed shooting incidents in which *more* than six victims were shot, not including the shooter
12 himself (Kleck Declaration 4/17). Their claims that these single-gun incidents belonged in my dataset were
13 plainly wrong.

14 43. SF also suggests that I believed, or somehow relied on the belief, that “it is just as fast to switch
15 guns or magazines as it is to keep shooting with the same magazine” (SF 7/21-22). This too is false, as I
16 never stated, hinted at, or assumed any such thing. Instead, I made a more subtle and far more relevant
17 observation about mass shootings: that the 2-4 seconds it takes to change detachable magazines on semi-
18 automatic firearms does not slow the *actual* rates of fire maintained by actual mass shooters. It is true that
19 a hypothetical shooter attempting to fire as fast as possible would take 2-4 seconds longer to switch
20 magazines and resume firing than it would to keep shooting with the same magazine, but this is completely
21 irrelevant to actual mass shootings that have occurred in the past or are likely to occur in the future, since
22 actual mass shooters do *not* fire anywhere near as fast as they possibly can, and if they did, they would not
23 fire nearly as accurately as they unfortunately do.

24 44. SF claims to have identified an inconsistency between my Declaration in a New York case, and
25 my Declaration in the SF case (8/17). There is no inconsistency. I wrote the New York Declaration in
26

1 April of 2013 before I had conducted my study of mass shootings in the period 1994-July 2013. I stated at
2 that time that I *knew of* just one mass shooting in which bystanders had intervened while the shooter was
3 reloading – a Long Island incident that I had studied for a brief analysis of mass shootings published in my
4 1997 book, Targeting Guns, which covered only cases that occurred between 1984 and 1993. My
5 statement in the NY Declaration was exactly correct – it was indeed the only such case that I knew of as of
6 April 2013. I began my analysis of the 1994-2013 cases three months later, in July of 2013, at which point
7 I discovered one, and possibly two, more such cases – the 1998 Springfield Oregon case and possibly the
8 Tucson shooting in which Gabrielle Giffords was shot. Rather than this being an inconsistency, it is simply
9 a reflection of the growth of my knowledge – I knew of one relevant case in April 2013, and learned of one
10 or two more by July 2013. The addition of one or two more such cases, however, does not alter the
11 conclusion that incidents in which bystanders subdue a mass shooter while he is trying to reload are
12 extremely rare, as only two or three cases are known to have occurred in the past 30 years.

14 45. SF quibbles with my assertions about civilian marksmanship in DGU incidents, but seem unaware
15 of the implications of their own arguments (10/21-22). They note that the 37% hit rate I cited in my
16 Declaration was a per-incident rate, not a per bullet hit rate (just as I accurately noted in the Declaration).
17 The per bullet hit rate, however, will necessarily be even lower since at least some incidents involve
18 multiple bullets being fired, meaning that the denominator in the hit rate (number of bullets fired) would be
19 even larger, and the per bullet hit rate even lower, than the per-incident rate. This in turn implies that
20 lawful defenders would need even more rounds to achieve a given number of hits, i.e. be in even greater
21 need of larger capacity magazines. SF’s comment, then, supports the Plaintiffs’ case rather than
22 undercutting it.

24 46. SF states that “even if ... a civilian is likely to miss with 63% of his bullets, he is still likely to hit
25 a target with a legal 10-round magazine” (10/25-27). This is misleading because, as noted in the previous
26 paragraph, the per bullet hit rate is lower than 37%, so civilian defenders would miss with *more than* 63%
27 of their rounds, by SF’s own reasoning.

1 I declare under penalty of perjury that the foregoing is true and correct. Executed within the United
2 States on February 9, 2014.

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Garv Kleck

EXHIBIT “F”

wounded. There is usually much less information available from press accounts about incidents involving fewer victims, and it would be harder to argue for the significance of large magazine capacity in connection with cases with fewer victims, and thus presumably fewer shots fired.

Of the fifteen mass shootings, no more than four involved weapons banned under any existing federal or state AW bans: the Gian Luigi Ferri case, which involved two Intratec DC9 pistols; the Joseph Wesbecker case, involving a gun loosely described as an "AK-47," which might fall within the banned category; the Patrick Purdy case, which involved a Model 56S variant of an AKM-47; and the James Huberty incident, which involved a semiautomatic Uzi carbine. In all four of these cases the killer was also armed with other, non-AW guns, and it is therefore not clear how many of the wounds were inflicted with AWs. For example, it is not known if any of Huberty's victims were killed with the Uzi because he also used an ordinary Browning pistol, which used the same caliber ammunition (9 mm) as the Uzi and at least half of the dead victims were killed with a shotgun. In eleven of the seventeen mass shootings, the killer was armed with multiple guns, and in at least five cases it was known that the killers reloaded their guns at least once (Ferguson, Henard, Purdy, Sherril, and Huberty). Both of these facts support the assertion that in these cases the killer did not require a single gun with a large magazine to kill or wound so many people.

For those incidents where the number of rounds fired and the duration of the shooting were both reported, the rate of fire never was faster than about one round every two seconds, and was usually much slower than that. Witnesses commonly reported that the killers went about their deadly work in a "calm," "matter-of-fact," or "almost methodical" fashion, taking careful aim at victims and seemingly taking their time (e.g., *Los Angeles Times*, 19 July 1984, p. 1, 18 January 1989, p. 3; *Washington Post*, 15 September 1989, p. A1; *Houston Post*, 17 October 1991, p. A-1). For example, Joseph Wesbecker, who killed seven people and wounded seventeen over a period of thirty minutes, "showed extreme "shooting discipline," . . . firing directly at his human targets and taking few random shots" (*Louisville Courier Journal*, 15 September 1989). None of the mass killers maintained a sustained rate of fire that could not also have been maintained—even taking reloading time into account—with either multiple guns or with an ordinary six-shot revolver and the common loading devices known as "speedloaders." Further, there is no evidence that these killers could not have taken more time than they actually did.

Inflicting the number of casualties in even these extreme and rare cases did not require the large-capacity magazines and/or high rate of fire provided by either AWs or by semiautomatic guns in general. It therefore is highly unlikely that shootings with fewer rounds fired and fewer vic-

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7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT)
HOCHSTETLER, WILLIAM DOUGLAS,)
12 DAVID PEARSON, BRAD SEIFERS, and)
ROD SWANSON,)

13)
14 Plaintiffs)

15 vs.)

16 THE CITY OF SUNNYVALE, THE)
MAYOR OF SUNNYVALE, ANTHONY)
SPITALERI in his official capacity, THE)
17 CHIEF OF THE SUNNYVALE)
DEPARTMENT OF PUBLIC SAFETY,)
18 FRANK GRGURINA, in his official)
capacity, and DOES 1-10,)

19)
20 Defendants.)
21)
22)
23)
24)
25)
26)
27)
28)

CASE NO: CV13-05807 RMW

**SUPPLEMENTAL DECLARATION OF
CLINTON B. MONFORT IN SUPPORT
OF PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Date: February 21, 2014
Time: 9:00 A.M.
Location: San Jose Courthouse
Courtroom 6 - 4th Floor
280 South 1st Street
San Jose, CA 95113

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DECLARATION OF CLINTON B. MONFORT

I, Clinton B. Monfort, am an attorney licensed to practice law before the Northern District of California. I am an associate attorney at the law firm Michel & Associates, P.C., attorneys of record for Plaintiffs in this action. I make this declaration of my own personal knowledge and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein.

- 1. Attached hereto as Exhibit “G” is a true and correct copy of excerpts from the deposition of Dr. Christopher S. Koper from *Tardy v. O’Malley*, United States District Court, District of Maryland, Case No. CCB-13-2841.¹
- 2. Attached hereto as Exhibit “H” is a true and correct copy of Cal. Penal Code § 32310.
- 3. Attached hereto as Exhibit “I” is a true and correct copy of 2013 Conn. Acts P.A. 13-3 § 23.
- 4. Attached hereto as Exhibit “J” is a true and correct copy of Haw. Rev. Stat. § 134-8(c).
- 5. Attached hereto as Exhibit “K” is a true and correct copy of 2013 Md. Sess. Laws ch. 427, § 1.
- 6. Attached hereto as Exhibit “L” is a true and correct copy of Mass. Gen. Laws Ann. Ch. 140, §§ 121, 131M.
- 7. Attached hereto as Exhibit “M” is a true and correct copy of 2013 N.Y. Sess. Laws ch. 1, §§ 38, 41-b.
- 8. In or about January 2014 through February 2014, I researched and reviewed state capacity-based magazine statutes in the United States. I am aware and informed that six states restrict magazines with capacity over ten rounds. See Exhibits “H” through “M.”
- 9. Attached hereto as Exhibit “N” is a true and correct copy of 2013 Colo. Stats. H.B. 13-1224.

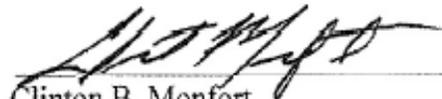
¹ If there are any objections whether these are true and correct copies of parts of the relevant deposition transcript, or upon request of the Court, Plaintiffs will immediately lodge a certified copy of the transcript to the Court and Defendants.

1 10. Attached hereto as Exhibit "O" is a true and correct copy of N.J. Stat. Ann. §§
2 2C:39-1(y), 2C:39-3(j).

3 11. In or about January 2014 through February 2014, I researched and reviewed state
4 capacity-based magazine statutes in the United States. I am aware and informed that two states
5 have capacity restrictions of 15 rounds. See Exhibits "N" through "O."

6 12. In or about January 2014 through February 2014, I researched and reviewed state
7 capacity-based magazine statutes in the United States. I am aware and informed that forty-two
8 states do not have capacity-based magazine restrictions.

9 I declare under penalty of perjury that the foregoing is true and correct. Executed within
10 the United States on February 10, 2014.

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13 _____
14 Clinton B. Monfort

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EXHIBIT “G”

EC000044

In The Matter Of:

*Shawn J. Tardy, et al. vs.
Martin J. O'Malley, et al.*

Christopher S. Koper, Ph.D.

Vol. 1

February 3, 2014

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)

SHAWN J. TARDY, et al.

Plaintiffs

Case No.

vs.

1:13-cv-02841-CCB

MARTIN J. O'MALLEY, et al.

Defendants

_____ /

The deposition of CHRISTOPHER S. KOPER,
PH.D. was held on Monday, February 3, 2014, commencing
at 1:48 p.m., at George Mason University, Research
Hall, 4400 University Drive, Fairfax, Virginia 22030,
before Amanda J. Curtiss, CSR, Notary Public.

REPORTED BY: Amanda J. Curtiss, CSR

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APPEARANCES:

ON BEHALF OF THE PLAINTIFFS:

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1 and considering mass shootings by the number of people
2 shot as opposed to the number of people killed --

3 A Uh-huh.

4 Q -- and if you assume four or more, can you
5 state to a reasonable degree of scientific probability
6 based upon the evidence available to you that banning
7 assault rifles will reduce the number of incidents of
8 mass shootings?

9 A I can't say that based -- I mean, I can't
10 make a firm projection of that based on any particular
11 available data. There might be data to suggest that
12 there could be some reduction in that, but it's hard to
13 really clearly project what that would be or how
14 difficult it might be to detect statistically.

15 Q We have to work with a legal standard for
16 expert opinion in the reasonable probability range.

17 A Uh-huh.

18 Q I'm not sure in the legal context what, you
19 know, firm means as you mean it, but I'm trying to
20 understand whether you can state your opinion to a
21 reasonable degree of scientific probability that

1 banning assault rifles would reduce the incidents of
2 public shootings, mass shootings.

3 A Again, I mean, all I can say is attacks
4 with those sorts of weapons tend to result in more
5 victims being hit, so it stands to some reason that if
6 you reduced the use of these types of weapons, it could
7 reduce the tallies of victims hit in these incidents.
8 And it's not actually just a matter of the mass
9 shooting incidents. It's also a matter of incidents
10 with high numbers of shots fired, regardless of how
11 many people get hit. So that has to be taken into
12 account as well.

13 And I've tended to focus more on that issue
14 in my research, you know, going back to the Jersey City
15 data, for example, that suggested that about five
16 percent of gunshot victimization stemmed from incidents
17 with more than ten shots fired. And so based on that,
18 one might project a small percentage reduction in
19 shootings overall from this type of legislation.

20 Q Do you have your publication of your
21 New Jersey data? Did you publish that?

1 A Yes. Uh-huh.

2 Q And when we looked at your CV, I know we
3 talked about it briefly, and is this the Reedy and
4 Koper 2003 article?

5 A Yes.

6 Q How many incidents did you study that
7 involved more than ten shots being fired?

8 A In the sample that we had, I believe there
9 were something like maybe six incidents that involved
10 more than ten shots fired.

11 Q And do you recall what the base was of
12 total incidents?

13 A It's in the -- it's in the study.

14 Q Why don't we mark this since we're going to
15 be talking about it? Exhibit 9.

16 (Koper Exhibit 9 was marked for
17 identification.)

18 MR. FADER: And John, maybe in the next
19 five minutes if we can take a little water break.

20 MR. SWEENEY: Now. Let's break right now.

21 (Off the record.)

1 BY MR. SWEENEY:

2 Q Back on the record.

3 While we were on the break, I tried to
4 focus myself on the portions of your 2003 study which
5 we have marked as Exhibit 9. First of all, it appears
6 that there were some -- well, if I look at the data
7 tables that you have on page 153 of Exhibit 9, figure
8 one involves assault incidents with a semi-automatic
9 pistol; correct?

10 A Yes.

11 Q And you had 239 of those; right?

12 A Yes.

13 Q How many of those involved more than ten
14 shots being fired? Where would I find that number?

15 A That would be on page 154 on table one. We
16 had -- one column has minimum shots fired estimates,
17 the other has maximum shots fired estimates if there
18 happened to be a range in the data.

19 Q Am I correct in interpreting this that it's
20 six out of approximately 165 pistol incidents in which
21 more than ten shots were fired?

1 A Yes.

2 Q So that's roughly 3.6 percent? Does that
3 sound about right to you?

4 A Yes.

5 Q Okay. Let me see if I can understand this
6 study a little bit more. Going back to page 153 figure
7 one, outcomes of assault incidents involving
8 semi-automatic pistols, you state handgun type was not
9 associated with attack outcomes; correct?

10 A In this categorical tree, that's correct.

11 Q All right. So regardless of whether
12 someone was using a semi-automatic pistol or a
13 revolver, there was no difference in the outcome be it
14 injury or death?

15 A Overall for the incident, yes.

16 Q All right. And immediately below figure
17 two you state, "Although pistol cases involved higher
18 numbers of shots, they were not significantly more
19 likely to result in injuries either fatal or nonfatal
20 than were revolver cases," is that correct?

21 A Yes. I think what we're talking about

1 there is when you're looking at the likelihood that a
2 gunfire incident resulted in any victimization, you
3 know, any injury, I think there was no significant
4 difference there. We did find a difference in the
5 number of people who are wounded.

6 Q On the right-hand column, second full
7 paragraph you state, "Finally, figures one and two show
8 that gunshot injury incidents involving pistols were
9 less likely to produce a death than were those
10 involving revolvers," correct?

11 A Yes.

12 Q Had you differentiated between pistols with
13 large capacity magazines and those without large
14 capacity magazines here?

15 A There was only limited data on that, so we
16 couldn't examine that in a great deal of depth.

17 Q So is it fair to say that based upon the
18 data in this study, pistols involving larger capacity
19 magazines were less likely to produce a death than were
20 those involving revolvers?

21 A I wouldn't necessarily say that. It would

1 depend. You'd have to look specifically at the cases
2 where a large capacity magazine was involved.

3 Q All right. But we don't really have that
4 breakdown reliably, do we, or at least completely?

5 A Not completely.

6 Q Can you interpret the data here to support
7 the statement that gunshot injury incidents involving
8 pistols with large capacity magazines were more likely
9 to produce death than were those involving revolvers?
10 Does your data support that statement?

11 A More likely to produce death?

12 Q Yes.

13 A No. I can't say that based on what we have
14 here.

15 Q All right. Now, under your discussion
16 below beginning with the second sentence, you state,
17 "Gun attackers using pistols tend to fire more shots
18 than attackers using revolvers," correct?

19 A Yes.

20 Q And then you go on to say, "This shot
21 differential does not appear to influence the

1 probability that an incident will result in injury or
2 death, nor the number of wounds sustained by gunshot
3 victims." Am I reading that correctly?

4 A Yes.

5 Q And that's the conclusion of this study;
6 correct?

7 MR. FADER: Objection.

8 THE WITNESS: Well, that's -- yeah, that's
9 only one conclusion. As we go on to say, offenders
10 using pistols tend to fire -- tend to wound more
11 persons. Also, it should be noted that while this is
12 not reported in this particular article, for the 2004
13 report on assault weapons we did some additional
14 analyses of cases involving more than ten shots and
15 those cases actually had a 100 percent injury rate.
16 You know, at least one person was injured in all of
17 those cases.

18 BY MR. SWEENEY:

19 Q Now, there were only a handful of such
20 cases in this study; correct?

21 A Correct.

1 A Uh-huh.

2 Q Is that because you cannot say to a
3 reasonable degree of scientific probability?

4 A In some of these cases, you have very small
5 numbers of incidents. It may be hard to do say
6 statistical significance tests. In some cases, there
7 are statistical significance tests showing that there
8 is a significant difference between the two sets of
9 cases. So beyond that, it's harder to say. I mean, we
10 don't -- we don't have randomized trials testing the
11 impact of weapon type on attack outcomes, so there
12 is -- there's always going to be some debate over the
13 patterns and the correlations in the data.

14 Q To press my point but without trying to,
15 and please forgive me, I don't want to sound like I'm
16 badgering you in any respect. But the limitations of
17 the scientific data are such that you simply can't say
18 to a reasonable degree of scientific probability that
19 you would be able to reduce public shootings even if
20 you were to eliminate large capacity magazines;
21 correct?

1 MR. FADER: Objection. You can answer.

2 THE WITNESS: Again, you can't say that
3 you'll eliminate all public shootings. What these data
4 suggest is that you would reduce the number of victims.
5 I can't necessarily -- it's hard to put specific
6 probabilities on it, but that's what these data
7 suggest. When you see some -- some of these
8 comparisons that were done in Luke's Dillon's thesis
9 even showed statistically significant differences
10 between the LCM cases and the non-LCM cases, that would
11 seem to provide some better degree of scientific
12 certainty.

13 BY MR. SWEENEY:

14 Q But because of the availability of multiple
15 firearms and multiple magazines that aren't large
16 capacity, can you truly say to a reasonable degree of
17 scientific probability that reducing the number of or
18 even eliminating the number of large capacity magazines
19 will reduce either the incidents of mass public
20 shootings or the number of people injured in such
21 public shootings?

1 A I guess the best way to answer that would
2 be that we'd have to -- we'd have to test that. We'd
3 have to see a circumstance where use of large capacity
4 magazines was significantly reduced and see what impact
5 that has on -- on these sorts of shootings.

6 Q And that's because we simply don't have
7 that evidence today; correct?

8 A We do have some evidence relevant to that.
9 It's just how -- how far you can push it, I guess.

10 Q Not far enough to state with a reasonable
11 degree of scientific probability; correct?

12 MR. FADER: Objection.

13 THE WITNESS: Yeah, I struggle a little bit
14 with that particular phrase because I can't put any
15 specific probability or tell you with -- with, you
16 know, five percent, one percent probability that there
17 will be this change. I can simply point to the numbers
18 that exist in these studies, and some of these
19 differences are statistically significant differences
20 and so it suggests in principle that if you could
21 reduce the use of these magazines, you could get a

1 reduction.

2 BY MR. SWEENEY:

3 Q And when we're talking about the
4 probability, in order to say more probable than not
5 it's more than 50 percent likelihood.

6 A Uh-huh.

7 Q And I take it the evidence just doesn't
8 support that right now?

9 MR. FADER: Objection.

10 THE WITNESS: I would be cautious in making
11 the inferences about, you know, how certain it is that
12 it would happen.

13 BY MR. SWEENEY:

14 Q And so you cannot say that it would be more
15 likely than not to achieve that?

16 A Not -- I would have to see more
17 observation. Have to see what happens.

18 Q All right. On page 13, footnote 26, you
19 touch on this in -- this issue of a perpetrator
20 substituting other guns for banned assault weapons, and
21 of course that would also include substituting multiple

1 magazines for banned large capacity magazines. Isn't
2 it likely in Maryland that a criminal who wants to
3 commit a crime with a firearm will still do so even
4 with the new law?

5 A Who wants to commit a?

6 Q A crime.

7 MR. FADER: Objection.

8 THE WITNESS: Would commit a crime with
9 another weapon you're saying?

10 BY MR. SWEENEY:

11 Q Yes.

12 A Yes.

13 Q And isn't it likely that in Maryland, the
14 law will have little or no impact on the frequency of
15 firearm crime in general?

16 A I would say that's a reasonable inference.

17 Q Have you -- are you familiar with the Safe
18 Streets Program?

19 A In Maryland?

20 Q Yes.

21 A Not specifically. There's a lot of

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6
7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 LEONARD FYOCK, SCOTT)
HOCHSTETLER, WILLIAM DOUGLAS,)
12 DAVID PEARSON, BRAD SEIFERS, and)
ROD SWANSON,)

13)
14 Plaintiffs)

15 vs.)

16 THE CITY OF SUNNYVALE, THE)
MAYOR OF SUNNYVALE, ANTHONY)
SPITALERI in his official capacity, THE)
17 CHIEF OF THE SUNNYVALE)
DEPARTMENT OF PUBLIC SAFETY,)
18 FRANK GRGURINA, in his official)
capacity, and DOES 1-10,)

19)
20 Defendants.)
21)
22)
23)
24)
25)
26)
27)
28)

CASE NO: CV13-05807 RMW

**SUPPLEMENTAL DECLARATION OF
MASSAD AYOOB IN SUPPORT OF
PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Date: February 21, 2014
Time: 9:00 A.M.
Location: San Jose Courthouse
Courtroom 6 - 4th Floor
280 South 1st Street
San Jose, CA 95113

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DECLARATION OF MASSAD AYOOB

1. I, Massad Ayoob, am not a party in the above-titled action. I am over the age of 18, have personal knowledge of the facts and events referred to in this Declaration, and am competent to testify to the matters stated below.

2. Attached hereto as **Exhibit E** is a true and correct excerpt of my book, *The Complete Book of Handguns* 87, 89-90 (2013).

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on February 10, 2014.



Massad Ayoob

EXHIBIT “E”

HARRIS OUTDOOR GROUP PRESENTS #129

THE COMPLETE BOOK OF

2013

HANDGUNS

BY
**MASSAD
AYOOB**
**HOME
DEFENSE**

Castle Doctrine
Law Clarified

**Defensive
Handgun
Drills**

**Split
Second
TACTICAL
RELOADS**



**CARACAL F
9X19MM**



**S&W
M340
M&P
.357MAG**

**AYOOB'S
FAVORITE
AUTOPISTOLS
& REVOLVERS**



**Glock 21
Gen4 .45 ACP**



**Ruger LCR
.22 LR**



**Colt NM Gold Cup
.45 ACP**

GUN TESTS

Ruger LCR .22 LR
Springfield XDS .45 ACP
Sig Sauer P229 .357 SIG
Colt NM Gold Cup .45 ACP
Kahr CM9 9x19mm MORE!



6 **GUNFIGHTING
MYTHS**
Life & Death
LESSONS

**Concealed
Carry
Tactics**

**J-FRAME
SNUBBY
GUIDE**

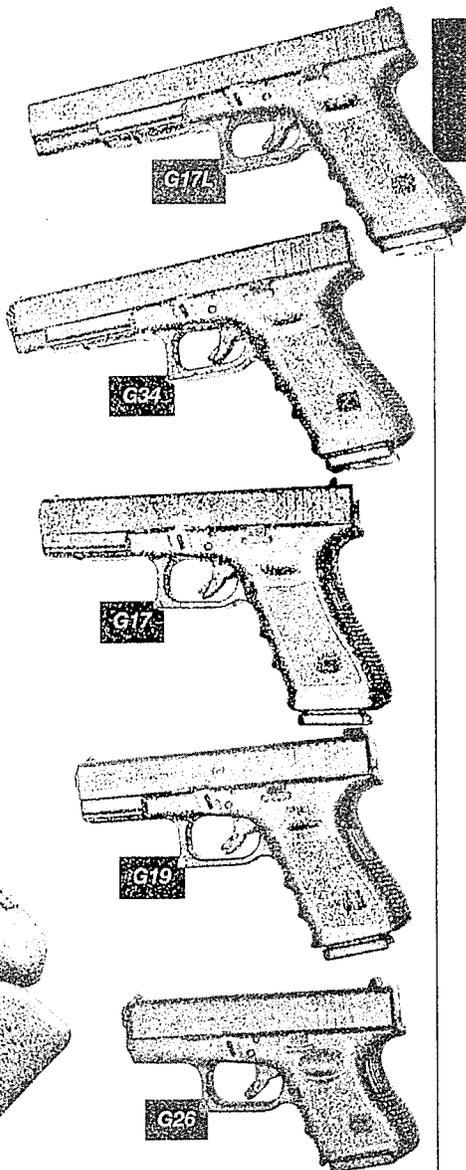
Versatility is one of the reasons Glock has become so ubiquitous in the American firearms market. Three .45 ACPs shown here, from the top, G30, G21 Gen4 and the single-stack G36.



Steve Woods photo.

FINDING THE RIGHT GLOCK

Finding the optimum autopistol that will satisfy your needs!



The five configurations of standard size Glocks, shown here in 9mm. From top: longslide G17L, Tactical/Practical G34, standard size G17, compact G19, subcompact "baby Glock" G26.

Available in the United States for more than a quarter of a century now, the Glock pistol dominates market here. There are many good reasons why, and one of them is its versatility. Let's look at the broad array of Glocks presently available. One or the other will probably serve your particular needs a bit better than the rest.

SIZE

The very first Glock, the G17, established itself as a "service pistol" par excellence. That length, in turn, became the "standard size" Glock: a 4.5-inch barrel with slide of commensurate length, and a full-length grip-frame housing a full-length magazine.

That Glock 17, now in its fourth generation of design advancement, is chambered for the 9x19 cartridge, also known as 9mm NATO, 9mm Luger, and 9mm Parabellum. Safe to carry fully loaded with a round in the chamber, it holds 17 more in its standard magazine.

In 1990, the same Glock format was introduced chambered for the then-new .40 S&W cartridge. Known as the Glock 22, this pistol is believed to be in use by more American police departments than any other. Its standard magazine capacity is 15 rounds.

Next, Glock chambered the same gun for the .357 SIG cartridge, and called it the Glock 31. That bottlenecked round shares overall length and case head dimensions with the .40, so by simply interchanging the barrels the shooter can change his Glock .357 to .40, or vice versa. G31 magazines will work with .40, and G22 magazines will work with .357 SIG cartridges.

With one caveat, the Glock 37 pistol in caliber .45 GAP is the same size as the pistols listed above. That one difference is slide thickness: on the G37, the slide is wider, sufficiently so that it comes standard with the oversize slide-stop lever that is merely optional on the other standard size service models. A G37 magazine is designed to hold ten rounds of .45 GAP.

STANDARD COMPACTS

"Standard compacts" sounds like a contradiction, but is used here intentionally to describe the frame size of the standard models made shorter at muzzle and butt. The first of these, going back to the late 1980s, was the Glock 19. Take the G17, shorten the barrel by half

the line. The differences are found in size and power level.

While I know many people who carry full size Glocks concealed year round, and my friend and ace instructor Tom Givens wears a 5.3-inch Glock 35 holstered inside his waistband daily, the compacts and subcompacts are the ones generally seen as the "concealment guns." Consider the Glock range of "compacts" described above.

The Glock 19 has won many a match for famed instructor "Super Dave" Harrington of Team Panteao, even though it's not perceived as a "match gun." On the NYPD, where officers have a choice of three different 16-shot 9mm pistols for uniform carry, an estimated 20,000 of the city's estimated 35,000 sworn personnel carry the Glock 19. The lightest of the city-approved duty guns, it is compact enough for plainclothes carry in an investigative assignment or off duty, yet substantial enough for uniform duty wear. Its .40 caliber twin, the Glock 23, is standard issue for FBI agents (who have the option of the service-size G22 if they prefer). The G23 is also standard issue for all divisions of the Boston Police Department, and its versatility in both uniformed and plainclothes roles is one reason why.

Glock's subcompact pistols are famous for being remarkably accurate for their size. It is not uncommon to see one outshoot its full-size counterpart in the same caliber. In addition to the mechanics, there is the matter of ergonomics and overall "shootability." Several times in recent years, at GSSF (Glock Sport Shooting Foundation) matches, the overall top shot has tallied that "Matchmeister" score with a subcompact 9mm Glock 26. Mike Ross and Bryan Dover come to mind.

"Well, heck," some might say. "Those guys are so good they could outshoot everybody else with anything." Um...it's not just that. I'm told that on those days, both men shot those winning scores in the Subcompact division. They were also shooting their bigger 9mm Glocks in the Master Stock division. They beat everyone, including themselves, who was using the bigger guns. That says something pretty impressive, not just about Dover and Ross, but about the little Glock 26 pistol.

That said, it was the longer barreled Glock 34 (his signature pistol) that Bob Vogel used to shoot his way to the World Championship of the International Defensive Pistol Association last year. As noted earlier, that's the single most popular handgun, not just the most

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Finding The Right Glock

an inch and the slide proportionally, and stub off the butt until you can only fit 15 9mm rounds in the magazine, and you have the original compact, the G19.

The same format in .40 is the Glock 23, and in .357, the Glock 32. Each of those will hold thirteen cartridges in their standard magazines. That size Glock in .45 GAP is the G38, which comes with an eight-round magazine.

STANDARD SUBCOMPACTS

In the mid-1990s, Glock hit the next level of miniaturization with the pistols that instantly became known as the “baby Glocks,” the G26 and G27, soon to be followed by the G33 and eventually, the G39. A generation of cops has proven that these guns are small enough to carry in ankle holsters as hideout backups; in fact, at this writing, troopers of one state with Glock 27s and troopers of another with Glock 39s are required to carry these issue baby Glocks in issue ankle rigs to back up their full-size service Glocks whenever working in uniform. With sufficiently capacious trousers, they have been successfully carried in pocket holsters by some users.

The G26, probably the most popular of its size range today, carries ten 9mm rounds in its short little standard magazine. The G27 carries nine rounds of .40, and the G33, nine .357 cartridges. The fat .45 GAP carries top a G39 magazine at six rounds.

LONG SLIDES

The standard (i.e., G17) size is actually the middle ground of “original frame” Glocks in size, with two models longer. The first of those, going back to the 1980s, was the 6-inch barrel with proportional length slide. Dubbed the G17L in 9mm, it would be known as the Glock 24 in .40. In either caliber, these guns take the same full-length magazines as the standard models. These are now only produced sporadically to meet demand when warranted, having been largely supplanted by Glock’s own Tactical/Practical series.

TACTICAL/PRACTICALS

By the turn of the 21st century, Glock had come out with guns in a length between standard and target length, their barrels 5.3 inches long and specifically engineered to fit the “footprint” of maximum sizes mandated for two of America’s most popular action shooting sports. Called the “Tactical/Practical” Glocks, the Glock 34 in 9mm took G17



Glock offers different grip options. Among these G30 .45s (starting from the top) we have a standard G30, a G30 SF, and an early G30 with a grip trim from Rick Devoid.

The most widely adopted police pistol in the US today: the Glock 22 in .40, shown here with hugely popular Speer Gold Dot ammunition.



magazines and was destined to become the most popular Stock Service Pistol in the International Defensive Pistol Association, while the G35 in .40 used the same magazine as the Glock 22 and proved immensely popular in Limited class shooting under the auspices of the International Practical Shooting Confederation. Some departments that appreciated the accuracy potential afforded by the long sight radius of the Tactical/Practical have bought them as standard issue for police patrol. The G34 and G35 are roughly the same size as Government Model 1911s.

LARGER FRAMES

In 1990, Glock introduced the G20 pistol, essentially a scaled-up G17 whose larger frame contained 15+1 rounds of full-power 10mm. While the 10mm cartridge itself did not take off in popularity as expected, the

G20 proved to be the most rugged 10mm auto out there when fired constantly with full power ammunition, and quickly became a “cult favorite” among fans of the caliber. Its compact version, the Glock 29 with 10-round magazine packs an amazing amount of ballistic potential for a gun its size.

Almost immediately after the G20 came out, Glock introduced the same format in .45 ACP, the Glock 21. This 13+1 round pistol became the most popular standard-issue .45 ACP in American police circles. By the late 1990s, it had been joined by a chopped and channeled version, the 10+1 round Glock 30. Both pistols were remarkably accurate and soon established themselves as highly reliable. .45 fans particularly liked how “soft shooting” they were for their caliber, something 10mm Glock fans discovered also.

SLIMLINE GLOCK

After many years of public demand for a thin Glock with a single-stack magazine, the company introduced the Glock 36. Its magazine isn’t all that thin, but with six rounds in the mag and a seventh safely in the firing chamber, its firepower is ample for many buyers’ perceived needs. The caliber is .45 ACP.

HAND FIT

No one will do their best driving in a vehicle whose seat and steering wheel aren’t properly adjusted to them, and no one will do their best shooting with a pistol that does not fit their hands. Glock has gone in multiple directions to allow for customer hand fit. Glock’s SF (short frame) models have less distance front to back, allowing “more hand around the gun and more finger on the trigger.” The current Gen4 Glocks achieve that as they come out of the box, and also come with backstrap spacers to tailor grip girth and trigger reach for larger hands and/or longer fingers. Folks with the smallest hands may be candidates for that slimline Glock 36, which has the thinnest grip configuration and the shortest reach to the trigger of any Glock.

TAILORING

The reason Glock makes so many pistols is that the market wants them, and it wants them because so many customers have such divergent needs. Glock doesn’t have a cheap line and a deluxe line—none of the old Sears, Roebuck “good, better, best” approach to product. Their high quality is uniform throughout

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Finding The Right Glock

popular Glock, at the IDPA Nationals every year. The long sight radius is very forgiving in terms of accuracy, and because the front part of their slides are cut away to make them lighter, the Tactical/Practical Glocks are not clunky or muzzle-heavy in feel. In fact, swinging a Glock 35 is a little like waving a wand compared to some of the old-style all-steel pistols it has superseded.

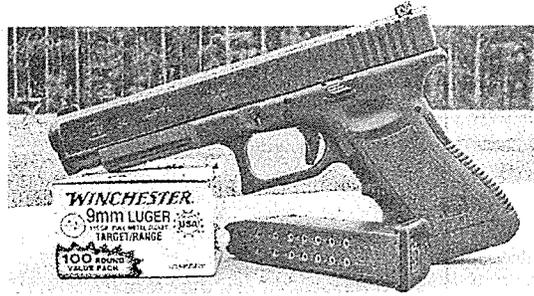
CALIBER QUESTION

Caliber will also be a huge part of the answer to the question, "Which Glock should I buy?" The new shooter in particular is well served with a 9mm, due to both its mild recoil and its relatively low cost compared to the other available calibers. With careful ammunition selection, the 9mm is a sound choice today for defensive purposes...and, of course it has room on board for a bit more ammunition, gun size for gun size. The lighter recoil also makes it the caliber of choice for some types of competition. The .45 caliber always inspires confidence in a police or defensive pistol, and its larger diameter tears bigger holes if the bullet's hollow nose plugs on heavy clothing in cold weather environments. Glocks chambered for the standard 45 Auto round give higher capacity than most of the competition in the big G21 or the compact G30, and for those with smaller hands the standard-frame Glocks in .45 GAP deliver essentially the same level of stopping power. .45 ACP won't exceed .45 GAP in power unless you go to a +P load.

If the debate between 9mm and .45 causes as much angst in the shooter as it has in many law enforcement agencies, the shooter can follow the police path and compromise on the .40, which Glock offers in all sizes.

An increasing number of police departments have gone with the powerful .357 SIG cartridge, such as the Tennessee Highway Patrol, which issues the Glock 31. With 125-grain hollow points, this high-velocity round has earned an excellent reputation for "stopping power," and for tactical barricade penetration. Its velocity also gives it a flat trajectory for long shots.

Glock has been known to produce other calibers for markets outside the United States. The Glock in caliber 9x21 is popular in Italy, where private citizens are forbidden to own military caliber guns. One South American nation reportedly permits its citizens to carry only .32 or smaller caliber handguns; a Glock in .30 Luger would be ideal there. Glock produces compact and subcompact



The Glock Tactical/Practical, here in a 9mm G34 configuration.

.380s as well, though they're not imported into the U.S.

There are .22 LR conversions units available, affording inexpensive practice with the Glock. The one from Advantage Arms gets uniformly good reviews. This writer would like to see Glock bring out their own rimfire for their next product, which in the logical line of company product numbering, would be the fortieth. If the Glock 22 is a .40, it seems only fair that the Glock 40 should be a .22.

TRIGGERS

Determined to be "double-action-only" by the Bureau of Alcohol, Tobacco, Firearms and Explosives, Glock's Safe Action trigger is available in multiple formats. The standard is the 5.5-pound with standard trigger return spring, designed to give an overall pull of that weight. The shooter will experience a two-stage pull, rather like an old Springfield or Mauser bolt-action rifle trigger. The first stage is a relatively long, light take-up, followed by a shorter completing movement with more resistance. Glock shooters find it easy to "ride the link," allowing the trigger to return forward from the last shot only until the sear engagement is felt, and then repeating the press.

Some police departments, such as Miami PD and the San Bernardino County Sheriff's Department, have over the years seen fit to install heavier connectors in their issue Glocks. This would be the 8-pound. Butch Barton, who won more Gunny Challenge Glock matches than anyone else, long favored this set-up in his Glocks because he felt it gave him a crisper release. The 8-pound connector has not become widely popular elsewhere, however.

On the other end of the scale is the 3.5/4.5-pound connector, which debuted with the G17L match pistol. Now known by the 4.5 pound designation, it registers that weight when the trigger is pulled from the center, where most of us place the index finger, and can go down to 3.5

pounds due to leverage when weighed at the bottom, or toe of the trigger. Very popular among competitive shooters, it is sternly warned against by Glock for "duty pistols" or self-defense guns, unless used in conjunction with a New York style trigger return spring unit.

Twenty-some years ago, at the behest of the New York Police Department, Glock created the New York Trigger, now known as NY-1. This device

replaces the standard trigger return spring and gives a firm resistance to the still-two-stage trigger from the very beginning of the pull. When mated with the 5.5-pound connector, the NY-1 brings pull weight up into the 7- to 8-pound range. A Mid-western state police agency pioneered the practice of mating the 3.5-pound connector with the NY-1, which gave a very smooth and uniform pull in the 6-pound weight range. This combination has been Glock approved for duty/defense guns across the board for several years now. For NYPD, Glock also developed a "New York Plus" module, now known as the NY-2, which with the standard 5.5-pound connector brings pull weight up into the 11- to 12-pound range. To my knowledge, it is used only by NYPD and the New York State Parole Board.

This writer recommends following Glock's guidelines and only going with the 3.5/4.5-pound total pull in a competition gun. Some wonder why that system is standard in the Tactical/Practical guns; they need to look at the Glock website (glock.com) and observe that those pistols are listed under the Sport Shooting and Enthusiast categories, and not under Police, Military, or Personal Defense. It is Glock's policy to ship G34s and G35s ordered by police departments with the standard 5.5-pound trigger system, and it is worth noting that when the Kentucky State Police adopted the Glock 35, they ordered them with NY-1 triggers.

FINAL NOTES

The most popular police handgun in America, the Glock is also hugely popular for action pistol competition and home and personal defense, and in 10mm or .357 SIG can be a very useful outdoorsman's sidearm, too. There's pretty much a Glock for everyone, but it's up to the shooter to identify his or her needs, and then determine which page to mark in the Glock catalog. To learn more, call 770-432-1202 or visit glock.com.

EXHIBIT D

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LEONARD FYOCK, SCOTT
HOCHSTETLER, WILLIAM DOUGLAS,
DAVID PEARSON, BRAD SEIFERS, and
ROD SWANSON,

Plaintiffs,

v.

THE CITY OF SUNNYVALE, THE MAYOR
OF SUNNYVALE, ANTHONY SPITALERI,
in his official capacity, and THE CHIEF OF
THE SUNNYVALE DEPARTMENT OF
PUBLIC SAFETY, FRANK GRGURINA, in
his official capacity,

Defendants.

Case No. C-13-5807-RMW

**ORDER DENYING MOTION FOR
PRELIMINARY INJUNCTION**

[Re: Docket No. 10]

The issue before the court is whether Sunnyvale’s ordinance outlawing the possession of firearm magazines having a capacity to accept more than ten rounds should be preliminarily enjoined for infringing individuals’ Second Amendment rights. The core of the Second Amendment right to bear arms is self-defense, especially within the home. *District of Columbia v. Heller*, 554 U.S. 570, 628 (2008); *Peruta v. Cnty. of San Diego*, 10-56971, 2014 WL 555862, at *18 (9th Cir. Feb. 13, 2014). With this right in mind, courts have found unconstitutional a law that forbids handguns, *Heller*, 554 U.S. at 635, and a registration scheme that effectively eliminates the average law-abiding citizen’s right to bear a gun, *Peruta*, 2014 WL 555862, at *22. The law challenged here

1 prohibits the possession of certain protected arms anywhere in Sunnyvale. However, the banned
2 arms—magazines having a capacity to accept more than ten rounds—are hardly central to self-
3 defense. The right to possess magazines having a capacity to accept more than ten rounds lies on the
4 periphery of the Second Amendment right, and proscribing such magazines is, at bare minimum,
5 substantially related to an important government interest. No court has yet entered a preliminary
6 injunction against a law criminalizing the possession of magazines having a capacity to accept more
7 than ten rounds, nor has any court yet found that such a law infringes the Second Amendment. Upon
8 the present record, this court declines to be the first. Plaintiffs’ Motion for Preliminary Injunction is
9 DENIED.

10 **I. BACKGROUND**

11 In early 2013, concerned about gun crime, then-current Mayor of Sunnyvale Anthony
12 Spitaleri proposed a gun control ballot initiative called Measure C. Dkt. No. 40, Spitaleri Decl. ¶¶ 4-
13 8, Ex. 1. Measure C was put to a vote and, on November 5, 2013, the citizens of Sunnyvale passed
14 Measure C with 66.55% of the vote. Dkt. No. 42-9, Thompson Decl., Ex. 9, at 3. Measure C was
15 subsequently codified as Sunnyvale Municipal Code § 9.44.030-60.

16 Plaintiffs Leonard Fyock, William Douglas, David Pearsons, Brad Seifers, and Rod
17 Swanson (collectively “Plaintiffs”), challenge only one provision of Measure C in this case,
18 § 9.44.050. Section 9.44.050 reads:

19 No person may possess a large-capacity magazine in the city of Sunnyvale
20 whether assembled or disassembled. For purposes of this section, “large-
21 capacity magazine” means any detachable ammunition feeding device
22 with the capacity to accept more than ten (10) rounds, but shall not be
23 construed to include any of the following:

- 24 (1) A feeding device that has been permanently altered so that it cannot
25 accommodate more than ten (10) rounds; or
- 26 (2) A .22 caliber tubular ammunition feeding device; or
- 27 (3) A tubular magazine that is contained in a lever-action firearm.

28 Sunnyvale, Cal., Mun. Code § 9.44.050(a). In short, the Sunnyvale ordinance prohibits the
possession of magazines having the capacity to accept more than ten rounds. The ordinance carves
out nine exceptions:

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(1) Any federal, state, county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties;

(2) Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to possess a large-capacity magazine and does so while acting within the course and scope of his or her duties;

(3) A forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her duties;

(4) Any entity that operates an armored vehicle business pursuant to the laws of the state, and an authorized employee of such entity, while in the course and scope of his or her employment for purposes that pertain to the entity’s armored vehicle business;

(5) Any person who has been issued a license or permit by the California Department of Justice pursuant to Penal Code Sections 18900, 26500-26915, 31000, 32315, 32650, 32700-32720, or 33300, when the possession of a large-capacity magazine is in accordance with that license or permit;

(6) A licensed gunsmith for purposes of maintenance, repair or modification of the large-capacity magazine;

(7) Any person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the large-capacity magazine no longer than is reasonably necessary to deliver or transport the same to a law enforcement agency;

(8) Any person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds fewer than 10 rounds of ammunition is compatible with the firearm and the person possesses the large-capacity magazine solely for use with that firearm.

(9) Any retired peace officer holding a valid, current Carry Concealed Weapons (CCW) permit issued pursuant to California Penal Code. (Ord. 3027-13 § 1).

Sunnyvale, Cal., Mun. Code § 9.44.050(c). The ordinance took effect on December 6, 2013, and it gives persons ninety days to dispossess themselves of their now-prohibited magazines. Thus, to avoid prosecution for their possession of magazines having the capacity to accept more than ten rounds, by March 6, 2014 persons must:

(1) Remove the large-capacity magazine from the city of Sunnyvale; or

(2) Surrender the large-capacity magazine to the Sunnyvale Department of Public Safety for destruction; or

(3) Lawfully sell or transfer the large-capacity magazine in accordance with Penal Code Section 12020.

1 Sunnyvale, Cal., Mun. Code § 9.44.050(b).

2 On December 16, 2013, Plaintiffs filed the instant suit against the City of Sunnyvale,
3 Anthony Spitaleri (in his official capacity as Mayor of Sunnyvale), and Frank Grgurina (in his
4 official capacity as Chief of the Sunnyvale Department of Public Safety) (collectively “Sunnyvale”)
5 alleging that Sunnyvale Municipal Code § 9.44.050 violates their right to keep and bear arms under
6 the Second Amendment to the United States Constitution. *See* Dkt. No. 1, Complaint. Plaintiffs now
7 bring the present motion to enjoin Sunnyvale “from enforcing Sunnyvale Police Code section
8 9.44.050 pending resolution of the merits of this case or further order of this Court.” Dkt. No. 21,
9 (Proposed) Order Granting Motion for Preliminary Injunction; *see also* Dkt. No. 10, Motion for
10 Preliminary Injunction (“Motion”). Sunnyvale filed an opposition, Dkt. No. 35 (“Opp.”), Plaintiffs
11 filed a reply, Dkt. No. 45 (“Reply”), and the motion was argued before the court on February 21,
12 2014.

13 **II. ANALYSIS**

14 Preliminary injunctions are intended to “preserve the relative positions of the parties until a
15 trial on the merits can be held.” *University of Texas v. Camenisch*, 451 U.S. 390, 395 (1981). It is an
16 “extraordinary and drastic remedy,” requiring the movant to clearly carry the burden of persuasion.
17 *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). A movant must show that (1) he is likely to
18 succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief,
19 (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest. *Winter v.*
20 *Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008).

21 The Ninth Circuit has also held that “serious questions going to the merits and a hardship
22 balance that tips sharply toward the plaintiff can support issuance of an injunction, assuming the
23 other two elements of the *Winter* test are also met.” *Alliance for the Wild Rockies v. Cottrell*, 632
24 F.3d 1127, 1132 (9th Cir. 2011). “Serious questions” refers to questions “which cannot be resolved
25 one way or the other at the hearing on the injunction and as to which the court perceives a need to
26 preserve the status quo lest one side prevent resolution of the questions or execution of any
27 judgment by altering the status quo.” *Gilder v. PGA Tour, Inc.*, 936 F.2d 417, 422 (9th Cir. 1991).

28

1 for defense of self, family, and property is most acute.” *Id.* Still, the right also applies outside the
2 home. *Peruta*, 2014 WL 555862, at *18.

3 Besides these broad findings, the Second Amendment’s history is less useful when
4 confronting the much narrower question of whether a prohibition on magazines having a capacity to
5 accept more than ten rounds falls within the scope of the Second Amendment. The parties
6 apparently agree, as neither has provided the court with any historical sources or argument. Surely
7 the reason is that magazines apparently did not even exist when the Second Amendment was
8 ratified.¹ Despite this, the results of the historical heavy lifting done by the *Heller* and *Peruta* courts
9 clearly illustrate that the Sunnyvale law burdens within the scope of the Second Amendment right.
10 The court therefore sees no use in revisiting that analysis here.

11 As previously stated, the Second Amendment extends to arms used for self-defense both
12 inside and outside the home. *Heller*, 554 U.S. at 628 (inside the home); *Peruta*, 2014 WL 555862, at
13 *18 (outside the home). Sunnyvale bans the possession of magazines having a capacity to accept
14 more than ten rounds everywhere, so as long as such magazines bear some relation to self-defense,
15 the ordinance burdens conduct protected by the Second Amendment.

16 Although the extent of the prohibited magazines’ relationship to self-defense is questionable,
17 Plaintiffs’ evidence indicates that such magazines are chosen for self-defense. *Helsley Decl.* ¶ 3;
18 *Monfort Decl. Ex. B* (listing numerous examples of guns having as standard magazines with
19 capacities exceeding ten rounds); *Monfort Decl. Ex. C* (advertisements and more gun listings).
20 Plaintiffs also submit evidence that firearms with magazines having a capacity to accept more than
21 ten rounds are “highly effective for in-home self-defense.” *Motion at 4*; *see, e.g., Ayoob Decl.*
22 ¶¶ 27-28.

23 Sunnyvale asserts that magazines having a capacity to accept more than ten rounds are
24 dangerous and unusual, and are thus not protected by the Second Amendment. Indeed, there is a
25 “historical tradition of prohibiting the carrying of ‘dangerous and unusual weapons.’” *Heller*, 554

26 ¹ The fact that magazines apparently did not exist when the Second Amendment was ratified is not a
27 reason to find that magazines having a capacity to accept more than ten rounds are not protected by
28 the Second Amendment. As the Supreme Court has held, the argument “that only those arms in
existence in the 18th century are protected by the Second Amendment” “border[s] on the frivolous.”
Heller, 554 U.S. at 582. “[T]he Second Amendment extends, prima facie, to all instruments that
constitute bearable arms, even those that were not in existence at the time of the founding.” *Id.*

1 U.S. at 627. To measure whether a weapon is dangerous and unusual, the court looks at whether it is
2 “in common use,” or whether such weapons are “typically possessed by law-abiding citizens for
3 lawful purposes.” *United States v. Miller*, 307 U.S. 174, 179 (1939); *Heller*, 554 U.S. at 627
4 (“*Miller* said, as we have explained, that the sorts of weapons protected were those ‘in common use
5 at the time.’” (quoting *Miller*, 307 U.S. at 179)); *Heller*, 554 U.S. at 625 (“We therefore read *Miller*
6 to say only that the Second Amendment does not protect those weapons not typically possessed by
7 law-abiding citizens for lawful purposes, such as short-barreled shotguns.”).

8 The court finds that magazines having a capacity to accept more than ten rounds are in
9 common use, and are therefore not dangerous and unusual. Plaintiffs cite statistics showing that
10 magazines having a capacity to accept more than ten rounds make up approximately 47 percent of
11 all magazines owned. Curcuruto Decl. ¶ 8. Another report indicates that individuals own “millions”
12 of the prohibited magazines, and that sales of pistols—which are more likely than revolvers to take
13 such magazines as standard—have grown substantially at revolvers’ expense. Helsey Decl. ¶ 10.
14 Furthermore, while product offerings may not precisely mirror ownership, approximately one-third
15 of the semiautomatic handgun models and two-thirds of the semiautomatic, centerfire rifles listed in
16 *Gun Digest* (a gun model reference work) are typically sold with magazines having a capacity to
17 accept more than ten rounds. Monfort Decl. Ex. B. Both parties admit that reliable data on the
18 number of the banned magazines owned by individuals does not exist. Nevertheless, “it is safe to
19 say that whatever the actual number of such magazines in United States consumers’ hands is, it is in
20 the tens-of-millions, even under the most conservative estimates.” Curcuruto Decl. ¶ 13.

21 Sunnyvale refutes Plaintiffs’ evidence by arguing that “[t]here is no evidence of ‘common
22 use’ in California,” or Sunnyvale, Opp. at 13, because a combination of federal and state law has
23 proscribed the sale, purchase, and transfer of magazines having a capacity to accept more than ten
24 rounds since 1994. Thompson Decl., Ex. 8, H.R. Rep. 103-439, at 32-33 (1994); Thompson Decl.,
25 Ex. 1, Cal. Stats. 1999, ch. 129, §§ 3, 3.5, codified as Cal. Penal Code § 32310. However,
26 Sunnyvale misunderstands the common use test. The Supreme Court did not define the common use
27 test as a local test, but rather evaluated common use as a national test in its historical discussion.
28 *Heller*, 554 U.S. at 621-28. Moreover, it cannot be that common use is measured on anything but a

1 national scale—otherwise, the scope of individuals’ Second Amendment rights as enshrined in the
2 federal Constitution would vary based on location. This result would be wrong: the Second
3 Amendment safeguards individual rights equally throughout the United States.

4 Sunnyvale also responds that magazines having a capacity to accept more than ten rounds
5 are not commonly used for self-defense. Opp. at 13-15. But here again Sunnyvale misinterprets
6 *Heller*, basing its argument on too literal a reading of the term “use.” Second Amendment rights do
7 not depend on how often the magazines are used. Indeed, the standard is whether the prohibited
8 magazines are “typically possessed by law-abiding citizens for lawful purposes,” not whether the
9 magazines are often used for self-defense. *Heller*, 554 U.S. at 625 (emphasis added). As Plaintiffs
10 explain, “[m]ost people will never need to discharge a firearm in self-defense at all.” Reply at 8. By
11 invoking the phrase “common use,” the Supreme Court simply meant that arms must be commonly
12 kept for lawful self-defense. The fact that few people “will require a particular firearm to effectively
13 defend themselves,” Reply at 8, should be celebrated, and not seen as a reason to except magazines
14 having a capacity to accept more than ten rounds from Second Amendment protection. Evidence
15 that such magazines are “typically possessed by law-abiding citizens for lawful purposes” is
16 enough. *Heller*, 554 U.S. at 625. Sunnyvale has thus failed to prove that the banned magazines are
17 not in common use. Therefore, unlike unregistered short-barreled shotguns, which the *Miller* court
18 found to be unprotected by the Second Amendment, magazines having a capacity to accept more
19 than ten rounds are not dangerous and unusual.

20 Sunnyvale also contends that the prohibited magazines are not “arms” within the meaning of
21 the Second Amendment. This argument is not persuasive. First, while every court that has
22 considered a ban on possession of magazines having a capacity to accept more than ten rounds has
23 upheld the law, no court has found that such magazines do not qualify as “arms” under the Second
24 Amendment. See *Heller v. District of Columbia (Heller II)*, 670 F.3d 1244, 1264 (D.C. Cir. 2011);
25 *San Francisco Veteran Police Officers Ass’n v. City & Cnty. of San Francisco*, C-13-05351 WHA,
26 2014 WL 644395, at *7 (N.D. Cal. Feb. 19, 2014); *New York State Rifle & Pistol Ass’n, Inc. v.*
27 *Cuomo*, C-13-291S, 2013 WL 6909955, at *18 (W.D.N.Y. Dec. 31, 2013); *Shew v. Malloy*, C-13-
28 739 AVC, 2014 WL 346859, at *9 (D. Conn. Jan. 30, 2014); *Tardy v. O’Malley*, C-13-2861, TRO

1 Hr’g Tr., at 66-71 (D. Md. Oct. 1, 2013). Second, if Sunnyvale is right that magazines and
2 ammunition are not “arms,” any jurisdiction could effectively ban all weapons simply by forbidding
3 magazines and ammunition. This argument’s logic would abrogate all Second Amendment
4 protections. Rather, the court finds that the prohibited magazines are “weapons of offence, or
5 armour of defence,” as they are integral components to vast categories of guns. *Heller*, 554 U.S. at
6 581 (quoting 1 Dictionary of the English Language 106 (4th ed.) (reprinted 1978)).

7 In sum, Sunnyvale’s ban on possession of magazines having a capacity to accept more than
8 ten rounds implicates the Second Amendment’s protections. The Sunnyvale ordinance forbids
9 possession of such magazines in all locations—in the home and in public—and for all purposes—
10 self-defense or otherwise. The law carves out a number of exceptions, but they are all narrow, and
11 do not apply to the average, law-abiding citizen. Thus the court finds that the Sunnyvale ordinance
12 prohibits average, law-abiding citizens from possessing protected arms that are not dangerous and
13 unusual. As such, Sunnyvale’s ban burdens conduct protected by the Second Amendment. In
14 reaching this conclusion, the court does not consider the amount of the burden—this factor is
15 examined below.²

16 2. Selecting the level of scrutiny

17 Some regulations are so burdensome on Second Amendment rights that they would fail any
18 scrutiny test, as was the case in *Heller* and *Peruta*. In *Heller*, the Court reasoned that the law at issue
19 would fail any scrutiny test because “[t]he handgun ban amounts to a prohibition of an entire class
20 of ‘arms’ that is overwhelmingly chosen by American society for th[e] lawful purpose [of self-
21 defense]. The prohibition extends, moreover, to the home, where the need for defense of self,
22 family, and property is most acute.” *Heller*, 554 U.S. at 628. In *Peruta*, the court confronted a
23 registration scheme that effectively banned the open and concealed carry of handguns to the
24 average, law-abiding citizen. The Ninth Circuit interpreted *Heller* as holding that “[a] law effecting
25 a ‘destruction of the right’ rather than merely *burdening* it is, after all, an infringement under any
26 light.” *Peruta*, 2014 WL 555862, at *20 (emphasis in original). Because the registration scheme
27
28

² See *infra* Part II.A.2.b.

1 effected a destruction of the Second Amendment right to keep and bear handguns, the laws were *per*
 2 *se* unconstitutional. *Id.* at *22.

3 “It is the rare law that ‘destroys’ the right, requiring *Heller*-style *per se* invalidation.” *Id.* at
 4 *21. Unlike the laws in *Heller* and *Peruta*, the Sunnyvale ordinance does not effect a “destruction of
 5 the right.” The Sunnyvale law does not ban all, or even most, magazines. Rather, Sunnyvale merely
 6 burdens the Second Amendment right by banning magazines having a capacity to accept more than
 7 ten rounds. The Second Amendment likely requires that municipalities permit *some form* of
 8 magazines, but Sunnyvale’s law is consistent with this requirement. *Id.* at *24 (“But the Second
 9 Amendment does require that the states permit *some form* of carry for self-defense outside the
 10 home.” (emphasis in original)). As such, the Sunnyvale ordinance is not *per se* unconstitutional, and
 11 the court must select the appropriate level of scrutiny under which it will analyze the law.

12 The Ninth Circuit in *Chovan* observed that “the level of scrutiny should depend on (1) ‘how
 13 close the law comes to the core of the Second Amendment right,’ and (2) ‘the severity of the law’s
 14 burden on the right.’” *United States v. Chovan*, 735 F.3d 1127, 1138 (9th Cir. 2013) (quoting *Ezell*
 15 *v. City of Chicago*, 651 F.3d 684, 703 (7th Cir. 2011)). The court examines each factor in turn.

16 **a. How close the law comes to the core of the Second Amendment right**

17 As outlined earlier, the Second Amendment “right is, *and has always been*, oriented to the
 18 end of self-defense.” *Peruta*, 2014 WL 555862, at *8 (emphasis in original). Upon review of the
 19 evidence, the court finds that the Sunnyvale ordinance comes relatively near the core of the Second
 20 Amendment right.

21 Plaintiffs present a wealth of evidence that magazines having a capacity to accept more than
 22 ten rounds are often used with relatively ordinary handguns that individuals use for self-defense
 23 both inside and outside the home. The court cited some of this evidence in the context of its
 24 determination that the banned magazines are in common use. Curcuruto Decl. ¶¶ 8, 13; Helsey Decl.
 25 ¶ 10; Monfort Decl. Ex. B. In addition, Plaintiffs’ evidence suggests that many handguns kept for
 26 self-defense come standard with magazines having the prohibited capacity. Helsey Decl. ¶ 3;
 27 Monfort Decl. Ex. B (listing numerous examples of guns having as standard magazines with
 28 capacities exceeding ten rounds); Monfort Decl. Ex. C (advertisements and more gun listings). This

1 fact also holds for pistols and rifles. Monfort Decl. Ex. B; Monfort Decl. Ex. C. Each of the
2 individual plaintiffs indicate that they keep the banned magazines for self-defense. Fyock Decl.
3 ¶¶ 5-7; Douglas Decl. ¶¶ 5-7; Pearson Decl. ¶¶ 5-7; Seifers Decl. ¶¶ 5-7; Swanson Decl. ¶¶ 5-7. The
4 evidence also shows that the American public in general prefers many of the firearms that take
5 magazines having a capacity to accept more than ten rounds as standard. Curcuruto Decl. ¶¶ 8, 13;
6 Helsey Decl. ¶ 10; Monfort Decl. Ex. B.

7 Sunnyvale counters that the connection between the forbidden magazines and their use for
8 self-defense is not strong. However, evidence of use is of limited relevance to determining the level
9 of scrutiny to apply. To understand whether the law approaches core Second Amendment conduct,
10 the court must only consider the preferences of average, law-abiding citizens. *Heller*, 554 U.S. at
11 625. At least in this instance, the court will not judge whether the public's firearm choices are often
12 used for self-defense, or even whether they are effective for self-defense—the firearms must merely
13 be preferred. Therefore, the court concludes that the Sunnyvale law burdens conduct near the core
14 of the Second Amendment right.

15 **b. Severity of the burden**

16 Although this conclusion points to strict scrutiny as the proper standard for this case, *Chovan*
17 directs courts to also consider the severity of the burden on the Second Amendment right. *Chovan*,
18 735 F.3d at 1138. Here, the Sunnyvale law's burden on the Second Amendment right is light.
19 Magazines having a capacity to accept more than ten rounds are hardly crucial for citizens to
20 exercise their right to bear arms. The Sunnyvale ordinance does not place any restrictions on smaller
21 magazines, which are the most popular magazines for self-defense. Curcuruto Decl. ¶ 8 (Plaintiffs'
22 expert stating that 47 percent of all magazines owned are capable of holding more than ten rounds,
23 meaning that 53 percent of all magazines are not capable of holding more than ten rounds); *see also*
24 Yurgealitis Decl. ¶ 6. Individuals have countless other handgun and magazine options to exercise
25 their Second Amendment rights. *See, e.g.*, Monfort Decl. Ex. B, C (listing numerous firearms that
26 take magazines that accept ten or fewer rounds as standard). The evidence thus establishes that the
27 banned magazines make up just one subset of magazines, which interoperate only with a subset of
28

1 all firearms. Accordingly, a prohibition on possession of magazines having a capacity to accept
2 more than ten rounds applies only the most minor burden on the Second Amendment.

3 c. Selecting intermediate scrutiny

4 Considering both how close the Sunnyvale law comes to the core of the Second Amendment
5 right and the law's burden on that right, the court finds that intermediate scrutiny is appropriate. The
6 law bans possession of magazines having a capacity to accept more than ten rounds in all places, at
7 all times, and for all purposes, thus approaching the core of the Second Amendment's protections.
8 However, the ordinance's burden on the Second Amendment right is light because it only bans a
9 less-preferred subset of magazines that cannot have been legally sold in California for twenty years.
10 The conclusion that intermediate scrutiny applies is in accord with every other court that has
11 considered a similar ban on magazines having a capacity to accept more than ten rounds. *See Heller*
12 *II*, 670 F.3d at 1261-62 (D.C. Cir. 2011); *San Francisco Veteran Police*, 2014 WL 644395, at *5
13 (N.D. Cal. Feb. 19, 2014); *New York State Rifle & Pistol Ass'n*, 2013 WL 6909955, at *12-13; *Shew*
14 *v. Malloy*, 2014 WL 346859, at *6-7. Further, in most Second Amendment cases, courts tend to
15 reject strict scrutiny and apply intermediate scrutiny. *See, e.g., Woollard v. Gallagher*, 712 F.3d
16 865, 876 (4th Cir. 2013); *U.S. v. Masciandaro*, 638 F.3d 458, 474 (4th Cir. 2011); *United States v.*
17 *Marzzarella*, 614 F.3d 85, 96 (3d Cir. 2010); *U.S. v. Williams*, 616 F.3d 685, 692 (7th Cir. 2010);
18 *U.S. v. Reese*, 627 F.3d 792, 802 (10th Cir. 2010); *Kachalsky v. Cnty. of Westchester*, 701 F.3d 81,
19 96 (2d Cir. 2012); *U.S. v. Walker*, 709 F. Supp. 2d 460, 466 (E.D. Va. 2010); *U.S. v. Lahey*, No. 10-
20 CR-765 KMK, 2013 WL 4792852, at *15 (S.D.N.Y. Aug. 8, 2013); *see also U.S. v. Marzzarella*,
21 595 F. Supp. 2d 596, 604 (W.D. Pa. 2009) ("the Court's willingness to presume the validity of
22 several types of gun regulations is arguably inconsistent with the adoption of a strict scrutiny
23 standard of review"); Thompson Decl., Ex. 28, Dennis A. Henigan, *The Heller Paradox*, 56 UCLA
24 L. Rev. 1171, 1197-98 (2009) ("the *Heller* majority thus implicitly rejected strict scrutiny").
25 Accordingly, the court applies intermediate scrutiny.

26 3. Applying Intermediate Scrutiny

27 Intermediate scrutiny "require[s] (1) the government's stated objective to be significant,
28 substantial, or important; and (2) a reasonable fit between the challenged regulation and the asserted

1 objective.” *Chovan*, 735 F.3d at 1139 (citing *United States v. Chester*, 628 F.3d 673, 683 (4th Cir.
 2 2010)). Stated differently, “a regulation that burdens a plaintiff’s Second Amendment rights ‘passes
 3 constitutional muster if it is substantially related to the achievement of an important government
 4 interest.’” *Kwong v. Bloomberg*, 723 F.3d 160, 168 (2d Cir. 2013) (quoting *Kachalsky*, 701 F.3d at
 5 96). Because the Sunnyvale law is substantially related to an important government objective and is
 6 reasonably tailored to the objective, the court finds that the challenged ordinance meets the
 7 intermediate scrutiny test.

8 Public safety and crime prevention are compelling government interests. *U.S. v. Salerno*,
 9 481 U.S. 739, 748-50 (1987) (finding not only that public safety and crime prevention are
 10 compelling government interests, but also even that “the government’s regulatory interest in
 11 community safety can, in appropriate circumstances, outweigh an individual’s liberty interest”);
 12 *Schall v. Martin*, 467 U.S. 253, 264 (1984) (“the ‘legitimate and compelling state interest’ in
 13 protecting the community from crime cannot be doubted”). The parties, however, hotly dispute what
 14 effect the Sunnyvale ordinance will have on public safety. At the outset, the court notes that its
 15 judicial role—especially in this Second Amendment context—is to apply the law and not to make
 16 policy decisions. *See, e.g., Heller*, 554 U.S. at 634 (“A constitutional guarantee subject to future
 17 judges’ assessments of its usefulness is no constitutional guarantee at all.”); *McDonald*, 130 S. Ct. at
 18 3050 (2010) (Second Amendment analysis does not “require judges to assess the costs and benefits
 19 of firearms restrictions and thus to make difficult empirical judgments in an area in which they lack
 20 expertise.”). As a result, irrespective of how Sunnyvale’s law impacts public safety, the means-end
 21 scrutiny test must concentrate more on the relationship between the challenged ordinance and public
 22 safety than on the exact effect the law may have. Otherwise, means-end scrutiny analyses are
 23 reduced to courts making policy judgments better left to legislatures and the people.

24 As stated in Measure C itself, prevention of gun violence lies at the heart of the Sunnyvale
 25 ordinance. *See Spitaleri Decl. Exh. A* at 1 (“the People of Sunnyvale find that the violence and harm
 26 caused by and resulting from both the intentional and accidental misuse of guns constitutes a clear
 27 and present danger to the populace, and find that sensible gun safety measures provide some relief
 28 from that danger and are of benefit to the entire community”). Sunnyvale submits substantial

1 evidence that a ban on the possession of magazines having a capacity to accept more than ten
2 rounds may reduce the threat of gun violence. For example, Professor Koper opines in his
3 declaration that the Sunnyvale law “has the potential to (1) reduce the number of crimes committed
4 with [large capacity magazines]; (2) reduce the number of shots fired in gun crimes; (3) reduce the
5 number of gunshot victims in such crimes; (4) reduce the number of wounds per gunshot victim; (5)
6 reduce the lethality of gunshot injuries when they do occur; and (6) reduce the substantial societal
7 costs that flow from shootings.” Koper Decl. ¶ 57. Professor Koper, relying on a study assessing the
8 1994 federal assault weapons ban, also states that magazines having a capacity to accept more than
9 ten rounds “are particularly dangerous because they facilitate the rapid firing of high numbers of
10 rounds. This increased firing capacity thereby potentially increases injuries and deaths from gun
11 violence.” *Id.* ¶ 7. Studies also show that the banned magazines are used in 31% to 41% of gun
12 murders of police. *Id.* ¶ 18.

13 Plaintiffs respond that Sunnyvale’s ordinance will have little effect because criminal users of
14 firearms will not comply with the law. Kleck Decl. ¶¶ 28-29. However, Sunnyvale provides data
15 showing that, among 69 mass shootings, 115 of 153—or 75%—of the guns used were obtained
16 legally. Allen Decl. ¶ 18. Professor Koper refutes this argument with evidence that prohibitions on
17 magazines having a capacity to accept more than ten rounds reduce the availability of such
18 magazines to criminals. *Id.* ¶ 47-52. In that sense, even if the Sunnyvale law has minimal
19 compliance among potential criminal firearm users and is difficult to enforce by police, it may still
20 reduce gun crime by restricting the banned magazines’ availability.

21 Plaintiffs also argue that Sunnyvale’s ban will have a negative impact on public safety
22 because it imposes magazine size limits on those acting in self-defense. This evidence is relatively
23 unpersuasive for three reasons. First, studies of the NRA Institute for Legislative Action database
24 demonstrates that individuals acting in self-defense fire 2.1-2.2 shots on average. Allen Decl. ¶¶ 6-9.
25 It is rare that anyone will need to fire more than ten rounds in self-defense. *Id.* Second, although
26 Plaintiffs provide several anecdotes of instances when having a magazine with the capacity to
27 accept more than ten rounds was necessary for self-defense, Plaintiffs do not supply any quantitative
28 data showing that banning such magazines would negatively impact public safety. *See* Ayoob Decl.

¶¶ 5-16. The fact that Plaintiffs only present anecdotal examples rather than quantitative studies suggests that in only very rare circumstances is it necessary to possess a larger magazine in self-defense.

Finally, Plaintiffs' evidence does little to show that the Sunnyvale ordinance is not substantially related to the achievement of an important government interest. Means-end scrutiny is meant, *inter alia*, to subject laws to additional examination when there is a fear that they may trample on individual rights. *See Heller*, 554 U.S. at 634-35. Here, Plaintiffs are concerned that the Sunnyvale law infringes their Second Amendment rights, and Sunnyvale argues that its citizens voted for the law out of concern for public safety. Whether or not the law is ultimately effective is yet to be seen. But for now, Sunnyvale has submitted pages of credible evidence, from study data to expert testimony to the opinions of Sunnyvale public officials, indicating that the Sunnyvale ordinance is substantially related to the compelling government interest in public safety. While Plaintiffs present evidence that the law will not be successful, the court cannot properly resolve that question. The court is persuaded that Sunnyvale residents enacted Measure C out of a genuine concern for public safety, and that the law, with its many exceptions and narrow focus on just those magazines having a capacity to accept more than ten rounds, is reasonably tailored to the asserted objective of protecting the public from gun violence.

4. Summary: Plaintiffs are not likely to succeed on the merits

The court concludes that Plaintiffs are not likely to succeed on the merits. Although Plaintiffs demonstrate that the Sunnyvale ordinance imposes some burden on Second Amendment rights, that burden is relatively light. The Sunnyvale law passes intermediate scrutiny, as the court—without making a determination as to the law's likely efficacy—credits Sunnyvale's voluminous evidence that the ordinance is substantially tailored to the compelling government interest of public safety. This determination is based on the record as it stands at this early preliminary injunction stage of the case.³ At this time, the court only holds that, upon this surely incomplete record, Plaintiffs have failed to prove that they are likely to succeed on the merits.⁴

³ In addition to their reply brief, Plaintiffs raise 24 evidentiary objections in a separate fifteen-page filing. Dkt. No. 45-1. Sunnyvale responds by filing separate objections of their own to Plaintiffs' reply evidence. Dkt. No. 48. Local Rule 7-3(c) requires that Plaintiffs file their evidentiary objections "within the reply brief or memorandum." Moreover, a motion for preliminary injunction

1 **B. Irreparable Harm**

2 Irreparable harm is presumed if plaintiffs are likely to succeed on the merits because a
3 deprivation of constitutional rights always constitutes irreparable harm. *Elrod v. Burns*, 427 U.S.
4 347, 373; *Ezell v. Chicago*, 651 F.3d 684, 699-700 (7th Cir. 2011). Here, however, the court does
5 not find that enforcement of the Sunnyvale ordinance would likely infringe Plaintiffs' Second
6 Amendment rights. As Plaintiffs base their entire irreparable harm argument on irreparable harm
7 being presumed if they are likely to succeed on the merits, Plaintiffs fail to demonstrate that
8 enforcement of the Sunnyvale law will cause them irreparable harm. The court notes that
9 individuals who turn their prohibited magazines in to the Sunnyvale Department of Public Safety
10 would likely suffer irreparable harm from the subsequent destruction of their property. This
11 argument is more properly analyzed under the balance of the hardships factor, and the court will
12 consider it there.

13 **C. Balance of the Hardships**

14 Plaintiffs must demonstrate that the balance of the equities tips in their favor. *Winter*, 555
15 U.S. at 20. Plaintiffs contend that their constitutional rights will be infringed should an injunction
16 fail to issue. Constitutional rights, by definition, are of paramount importance, so this concern must
17 be taken seriously. However, because Plaintiffs have failed to show a likelihood of success on the
18 merits, it is unlikely that enforcement of Sunnyvale's ordinance will infringe their constitutional
19 rights.

20 Plaintiffs also argue that they will suffer hardship because they will have to store their
21 banned magazines outside of Sunnyvale, modify them, or turn them over to the Sunnyvale

22 must be supported by evidence that goes beyond the unverified allegations of the pleadings, but "the
23 district court may rely on otherwise inadmissible evidence, including hearsay evidence." *Fid. Nat'l*
24 *Title Ins. Co. v. Castle*, 2011 WL 5882878, at *3 (N.D. Cal. Nov. 23, 2011); *Gonzalez v. Zika*, 2012
25 WL 4466584, at *1 (N.D. Cal. Sep. 26, 2012); *Murphy v. Bank of N.Y. Mellon*, 2013 WL 3574628,
26 at *3 (N.D. Cal. July 12, 2013). Thus, the parties' requests to strike various pieces of evidence are
27 DENIED.

28 ⁴ Note that this finding accords with every other case to examine a ban on possession of magazines
having a capacity to accept more than ten rounds. See *Heller v. District of Columbia (Heller II)*, 670
F.3d 1244, 1264 (D.C. Cir. 2011); *San Francisco Veteran Police Officers Ass'n v. City & Cnty. of*
San Francisco, C-13-05351 WHA, 2014 WL 644395, at *7 (N.D. Cal. Feb. 19, 2014); *New York*
State Rifle & Pistol Ass'n, Inc. v. Cuomo, C-13-291S, 2013 WL 6909955, at *18 (W.D.N.Y. Dec.
31, 2013); *Shew v. Malloy*, C-13-739 AVC, 2014 WL 346859, at *9 (D. Conn. Jan. 30, 2014); *Tardy*
v. O'Malley, C-13-2861, TRO Hr'g Tr., at 66-71 (D. Md. Oct. 1, 2013).

1 Department of Public Safety for destruction. The forced destruction of their property is surely a
2 hardship to Plaintiffs, but it is also one that must be weighed against Sunnyvale’s public safety
3 concerns, as reflected in the evidence submitted by Sunnyvale to this court and the nearly two-thirds
4 vote by Sunnyvale residents to pass the challenged ordinance.

5 As discussed above, Sunnyvale has a compelling interest in the protection of public safety.
6 *Salerno*, 481 U.S. at 748-50; *Schall*, 467 U.S. at 264. The court has already found that the
7 challenged law is, at minimum, substantially related to this interest. The purpose of the restriction
8 on the possession of magazines having a capacity to accept more than ten rounds is to reduce their
9 availability for criminal use. Although the likelihood that the ordinance will prevent gun violence
10 between March 6, 2014 and whenever this case is finally resolved is hotly debated, the risk that a
11 major gun-related tragedy would occur is enough to at least balance out the inconvenience to
12 Plaintiffs in disposing of their now-banned magazines. Therefore, the court concludes that the
13 balance of the hardships factor is neutral.

14 A corollary to this finding is that an injunction cannot issue based on the “serious questions”
15 doctrine. As noted earlier, Ninth Circuit law allows a court to grant a preliminary injunction if the
16 plaintiff raises “serious questions going to the merits” and the balance of the equities tip sharply in
17 the plaintiff’s favor. *Alliance for the Wild Rockies*, 632 F.3d at 1132. Here, because the court finds
18 that the balance of the hardships is neutral, the court need not address whether Plaintiffs have raised
19 “serious questions going to the merits.”

20 **D. Public Interest**

21 As the parties focused their briefing and argument on the likelihood of success on the merits,
22 they submitted little evidence and argument as to the public interest. Nonetheless, the court
23 considers this factor and finds it to favor Sunnyvale. To some extent, the public interest analysis
24 mirrors the balance of the hardships. Whereas on the balance of the hardships the court examined
25 only hardship to Plaintiffs, because constitutional rights are at issue, any infringement on the Second
26 Amendment naturally harms the public. Likewise, because gun violence threatens the public at
27 large, the court balances the public’s interest in preserving its constitutional rights against the
28 public’s interest in preventing gun violence. Again, due to Plaintiffs’ failure to prove a likelihood of

1 success on the merits, it is unlikely that the Sunnyvale ordinance infringes the public’s
2 constitutional rights, so the court gives this consideration less weight.

3 Moreover, two other aspects of the Sunnyvale law cause the public interest factor to weigh
4 against an injunction. First, the Sunnyvale ordinance was enacted by the will of the people in a vote
5 of 66 percent in favor of Measure C. In so doing, the people of Sunnyvale determined that the ban
6 on magazines having a capacity to accept more than ten rounds would promote public safety. There
7 exists a public interest in deferring to this determination, and in promoting Sunnyvale’s decision to
8 engage in direct democracy. Of course, the court recognizes that constitutional rights exist in large
9 part to protect the minority against tyranny by the majority, so this consideration does not weigh
10 heavily. Further, if the Court found that Plaintiffs were likely to succeed in proving that the
11 Sunnyvale ordinance infringes the Second Amendment, the Court would necessarily invoke the
12 Second Amendment to protect the minority against the ordinance’s infringement on their rights. In
13 that case, the consideration that a 66 percent majority passed the law would not weigh against an
14 injunction. In this circumstance, however, the fact that the great majority of Sunnyvale voters favor
15 the ordinance supports denial of the preliminary injunction.

16 Finally, the public has an interest in protecting the safety of its police officers. The court
17 credits Sunnyvale’s evidence that magazines having a capacity to accept more than ten rounds
18 present special danger to law enforcement officers. Grgurina Decl. ¶ 4; Koper Decl. ¶ 18. Sunnyvale
19 itself has experienced the danger presented to police and the public by a criminal suspect armed
20 with such magazines. In 2011, Shareef Allman killed three co-workers and wounded six others in a
21 shooting incident beginning in Cupertino, California, and ending in Sunnyvale. Grgurina Decl. ¶ 4.
22 Allman, who was in possession of several weapons, including those with magazines having a
23 capacity to accept more than ten rounds, was killed by police in Sunnyvale after a 22 hour manhunt.
24 *Id.* Considering a similar law, another court in this district determined that the “interest in protecting
25 the lives and safety of [] police officers is also central to the public interest.” *San Francisco*
26 *Veteran Police*, 2014 WL 644395, at *7. This court credits similar evidence here and finds that the
27 public interest factor counsels against issuance of a preliminary injunction.
28

E. Weighing the Equities

In conclusion, the court holds that Plaintiffs are not likely to succeed on the merits, that Plaintiffs failed to prove that they would suffer irreparable harm absent a preliminary injunction, that the balance of the hardships is neutral, and that the public interest favors Sunnyvale. The equities, therefore, weigh sharply against granting Plaintiffs’ motion for a preliminary injunction. As the balance of the hardships is neutral, even if the court were to find that Plaintiffs raised “serious questions going to the merits”—a questionable proposition, but one that the court does not reach here—the court could not grant a preliminary injunction on this alternative basis. Accordingly, the equities clearly favor denial of Plaintiffs’ motion for a preliminary injunction.

III. ORDER

For the foregoing reasons, Plaintiffs’ Motion for Preliminary Injunction is DENIED.⁵

Dated: March 5, 2014


RONALD M. WHYTE
United States District Judge

United States District Court
For the Northern District of California

⁵ Plaintiffs’ Administrative Motion for an Expedited Ruling on Plaintiffs’ Motion for Preliminary Injunction is DENIED as moot. *See* Dkt. No. 31.