

38 Colt Lightning and 38-40 Marlin See 38-40, Chapter 2

40-50 Sharps (Straight)



Historical Notes Introduced in 1879, this is the smallest of the Sharps cartridges. There is a similar, necked version. In addition to Sharps rifles, the Winchester single-shot was available in this chambering, as was the Remington rolling block. This is also known as the 40-1 7/8-inch Sharps.

General Comments Although listed as the 40-50, this cartridge was actually loaded with 40 or 45 grains of powder and was identical in performance to the 40-40 Maynard and other similar

rounds. Standard diameter of most 40-caliber rifle bullets is 0.403-inch and almost any bullet of that diameter can be used. These chambers were cut to use bore diameter paper-patch bullets; groove diameter is typically 0.408-inch to 0.411-inch. It should be possible to convert the 30-40 Krag case to work in these rifles. However, the rim is 0.010-inch too thin, so only very light loads should be used. Better to get the correct case from Buffalo Arms Co. (208-263-6953).

40-50 Sharps (Straight) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
260 Lead	IMR 4198	21.0	1450	1220	Lyman No. 403169
265 Lead	FL		1410	1168	Factory load

40-50 Sharps (Necked)



Historical Notes Also known as the 40-1 11/16-inch, this cartridge was introduced in 1869 for that model of Sharps Sporting rifle. It was available with several bullet weights, including 265, 285 and 300 grains. The Remington rolling block and other single-shot rifles also chambered this cartridge.

General Comments The 40-50 bottlenecked cartridge is shorter than the straight version, but there is little difference in ballistics.

The 40-50 Sharps (Straight) and 40-50 Sharps (Necked) are not interchangeable. Proper bullet diameter is 0.403-inch, and several Lyman bullet moulds are available in this size. These chambers were cut to use bore-diameter paper-patch bullets; groove diameter is typically 0.408-inch to 0.411-inch. This is largely a medium game, deer or intermediate-range target cartridge. It should be possible to convert 45-70 cases to work in these rifles.

40-50 Sharps (Necked) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
260 Lead	IMR 4198	21.0	1500	1308	Lyman No. 403169
265 Lead	FL		1460	1262	Factory load

40-60 Marlin



Historical Notes The 40-60 is one of the chamberings for Marlin 1881 and 1895 lever-action repeaters. The 1895 uses the same basic system as the 1893 and 1894 models, but is larger and longer. This appears to be the same case as the 40-65 Winchester, but with a slightly different loading. The pump-action Colt New Lightning rifles also used the Marlin loading of this cartridge.

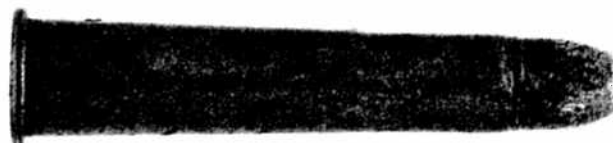
General Comments During the late 1800s, the same cartridge often went under various names, depending on who loaded it or whose rifle it was used in. It was also common practice to change the name if you furnished more than one load or bullet in the same

case; that is what happened here. The 40-60 Marlin and the 40-65 Winchester are interchangeable and either can be used in the same gun. However, the old Ideal catalog states the 40-60 Marlin "must not be confused with the 40-60 Winchester as they are not the same." This, of course, is true. If the reader is not thoroughly confused by now, he should be. Go ahead. Read it through a few more times and it will clear up. Converting 45-70 cases into 40-60 Marlin cases is easily done. Marlin 40-caliber rifles often have significantly oversize bores. Groove diameters as large as 0.414-inch are noted.

40-60 Marlin Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
260 Lead	IMR 4198	23.0	1500	1308	Lyman No. 403170
260 Lead	IMR 3031	35.0	1480	1263	NA
260 Lead	FL		1385	1115	Factory load

40-60 Colt

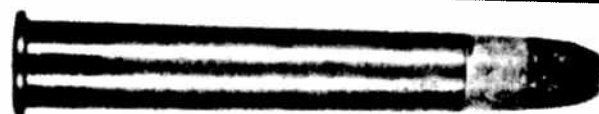


Historical Notes At a casual glance, this cartridge appears to be identical to both the 40-60 Marlin and the 40-65 Winchester (except bullet diameter). However, this cartridge includes a definite shoulder, while the other two are true tapered designs. The value or need for a cartridge so similar to the 40-60 Marlin seems moot. Almost certainly, the Marlin round would chamber and fire normally in the Colt rifle.

General Comments It seems that this version must have been created in response to a request from Colt for a cartridge that was

specifically intended for use in its rifle. Winchester displayed this number for at least one year on its product advertisement board but it was not found in any catalog listing between 1879 and 1910 or in the 1916 catalog. Therefore, it seems unlikely that it was ever actually offered for sale — at least not directly from Winchester. We present it here in an effort to try to demonstrate just how confusing such research can become. Unless this number was loaded with a different bullet weight, which seems unlikely, ballistics would have been identical to the 40-60 Marlin (see ballistics table).

40-63 and 40-70 Ballard



Historical Notes These two cartridges have identical length and outside dimensions, so are listed together. The 40-63 is actually just a heavier-case version of the 40-70 factory cartridge. Both are, in turn, an outgrowth of the original 40-65 Ballard Everlasting case, which had to be handloaded. The 40-63 and 40-70 were first listed for the Ballard Perfection No. 4 and Pacific No. 5 after the Marlin Fire Arms Co. took over manufacture of these rifles in 1881.

General Comments This was a popular cartridge among Ballard rifle fans and was as good as similar cartridges offered by Winchester and others. However, cartridges designed for repeating

rifles tended to survive longer than those intended for single-shots. These were used more as match cartridges than anything else, but these also made good deer, black bear or elk numbers. Their performance is identical to the 40-70 Sharps Straight or the 40-72 Winchester. The 444 Marlin case should work in these rifles; however, the rim is generally too small to properly engage the extractor. These chambers were cut to use bore-diameter (0.403-inch), paper-patch bullets; groove diameter is typically 0.408-inch to 0.411-inch.

40-63/40-70 Ballard Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
330 Lead	IMR 4198	22.0	1310	1260	Lyman No. 403149 —
330 Lead	FL		1335	1318	1/20 or 1/30 tin-lead Factory load

40-65 Ballard Everlasting



Historical Notes The 40-65 Ballard Everlasting was introduced in 1876 as one of the original chamberings for the Perfection No. 4 and Pacific No. 5 rifles, and in 1879 it was added to the Hunter No. 1-1/2. These were all the same basic, under-lever, single-shot action. This cartridge was used in the J.M. Marlin Ballards, and after the Marlin Fire Arms Co. took over, it was altered to the 40-70 and 40-63.

General Comments The 40-70 or 40-63 Ballard can be chambered in the older 40-65 rifles, but the 40-65 case will not fit the other

chamber. Note that firing the smaller diameter cases could result in a case wall rupture, so this is not a good idea. It is a much heavier case of slightly larger diameter, although all have the same length. Ballistics of all are the same for practical purposes, and the loading data shown for the 40-63 will give the same results in any of the cases. The 40-65 Everlasting is one of the rarer Ballard cartridges and is seldom encountered. It should be possible to convert 444 Marlin cases to work in these rifles.

40-70 Sharps (Straight) 40-65 Sharps (1876)



Historical Notes This is the 40-2 1/2-inch straight case introduced in 1876. It is sometimes referred to as the 40-65, because with heavy, reloadable cases, that is all the powder it would hold unless a lighter bullet was used. Remington and Winchester single-shots also chambered this round.

General Comments This is another cartridge with ballistics similar to a half-dozen others of different make or origin. There are actually more than a dozen 40-caliber cartridges with powder charges of around 40 to 70 grains and none offer any stupendous advantage

over the others. Like other 40 Sharps numbers, this one used a 0.403-inch bullet, weighing 330 or 370 grains. These chambers were cut to use bore-diameter bullets (often paper-patched). Groove diameter is typically 0.408-inch to 0.411-inch. A number of Lyman bullet moulds are available in this size. Although longer, this case has the same basic body as the 30-40 Krag. However, because headspacing is on the rim, it may not be possible to safely use that case to make the 40-70 except for very-low-pressure loads.

40-70 Sharps (Straight) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
330 Lead	IMR 4198	23.0	1250	1150	Lyman No. 403149
330 Lead	FL		1258	1160	Factory load

40-70 Sharps (Necked)



Historical Notes This is the 40-2 1/4-inch bottlenecked Sharps that was brought out in 1871 for the Model 1871 Sporting rifle. It was used in other single-shot rifles also.

General Comments The 40-70 necked cartridge had a reputation for fine accuracy and was popular as a match cartridge as much as for hunting. While many people regard the Sharps rifles as strictly buffalo guns, Sharps also made match rifles that gained worldwide respect on the range — whence the name, Sharps-shooter. The best

marksmen were given Sharps rifles in a special squad and its notoriety grew until the single word "sharpshooter" was synonymous with accurate rifle fire. It should be possible to convert the 45-70 case to work in these rifles but the neck would be very short. The 45 Basic will make perfect cases. These rifles have chambers that were cut to use a bore-diameter (0.403-inch), paper-patched bullet. Groove diameter is typically 0.408-inch to 0.411-inch.

40-70 Sharps (Necked) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
330 Lead	IMR 4759	26.0	1510	1671	NA
330 Lead	IMR 4198	27.0	1450	1542	Lyman No. 403139
330 Lead	FL		1420	1482	Factory load

40-85 Ballard

40-90 Ballard



Historical Notes The 40-85 and the 40-90 Ballard are the same case with different loadings. L.D. Satterlee lists the 40-90 Everlasting with the J.M. Marlin Ballard Pacific No. 5 and Sporting No. 4-1/2 (introduced in 1878). He shows the 40-85 chambering for the Pacific No. 5 after the Marlin Fire Arms Co. took over manufacture in 1881.

General Comments The 40-90 Everlasting case is heavier and about 1/8-inch longer than the regular 40-90 or 40-85 case. Many of the 40-90 Everlasting cases were nickel plated. This is a hunting

cartridge very similar to the 40-90 Sharps straight. The same loading data can be used for both, however these are not interchangeable. Although the case of the 40-85 Ballard is longer, it has the same basic body as the 444 Marlin case. It should be possible to make usable, albeit shorter, cases from those. These rifles had chambers designed to use a 0.403-inch (bore-diameter), paper-patched bullet. Groove diameter typically ran 0.408-inch to 0.411-inch.

40-85/40-90 Ballard Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
370 Lead	IMR 4198	28.0	1400	1615	Lyman No. 40395
370 Lead	FL		1427	1672	Factory load

40-90 Sharps

(Straight)



Historical Notes Sharps catalogs do not list this cartridge, although Sharps rifles (and others) chambered for it are known. It was introduced about 1885. The Remington-Hepburn No. 3 single-shot was advertised in this chambering and UMC and Winchester manufactured cases and ammunition.

General Comments The so-called "Everlasting," or reloadable case, was popular with hunters and target shooters during the 1880-90 period. These heavy cases could be reused repeatedly. In fact, they were made so heavy that powder capacity was often reduced by 5 or 10 grains. To get around this, the "Everlasting" case was often made longer than the standard. UMC cases of the 40/3-1/4 inch are usually of very heavy, reloadable construction.

The reason for mentioning this is that it might have a bearing on the origin of this cartridge. Physical measurements of the so-called 40-90 Sharps Straight are practically identical to the 40-90 Ballard, except for the length. It is possible that the design of the 40-90 Sharps straight is based on lengthening the Ballard cartridge to create an "Everlasting" version with the same capacity and ballistics. Anyway, the idea is worth mentioning and would probably occur to anyone who compared the two. Although longer, this case has the same basic body as the 444 Marlin. It should be possible to make usable, albeit much shorter, cases from those. These rifles had a chamber cut to use a bore-diameter (0.403-inch), paper-patched bullet; groove diameter was 0.408-inch to 0.411-inch.

40-90 Sharps (Straight) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
370 Lead	IMR 4198	30.0	1400	1612	Lyman No. 403171
370 Lead	FL		1387	1582	Factory load

40-90 Sharps

(Necked)



Historical Notes The 40-90 Sharps was introduced in 1873 for the Sharps side-hammer model rifles. There was also another loading, referred to as the 40-100 Sharps, which used a 190-grain hollowpoint bullet. However, it used the same 2 5/8-inch long case.

General Comments This became one of the more popular Sharps cartridges. The hollowpoint Express bullets made by Sharps were

designed to accept a 22 rimfire blank, which was supposed to provide explosive expansion and better knockdown. The author has experimented with bullets of this type, and they do not work as they are intended to. An ordinary hollowpoint or a properly constructed softpoint will do as much damage. Perfect cases can be made from the 45 Basic case.

40-90 Sharps (Necked) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
370 Lead	IMR 4198	28.0	1450	1735	Lyman No. 403171
370 Lead	FL		1475	1800	Factory load

40-110 Winchester Express (40 Express)



Historical Notes Designed for the Winchester single-shot rifle and introduced in 1886, the 40-110 was intended to compete with the big Sharps cartridges.

General Comments In its original form, the 40-110 used a copper-tubed bullet. The Ideal catalog lists bullet No. 403169 (260 grains) as proper for reloading. The 50 Basic will make perfect cases.

40-110 Winchester Express Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
260 Lead	FG	110.0	1617	1509	NA
260 Lead	IMR 4198	32.0	1650	1580	Lyman No. 403169
260 SP	FL		1617	1509	Winchester factory load

40-60 Winchester



Historical Notes The 40-60 Winchester is a sharply tapered, slightly necked cartridge for the Model 1876 Winchester rifle, which is a heavier version of the lever-action Model 1873 designed to handle more powerful cartridges. Rifle and cartridge were marketed from 1876 until 1897. This was a popular cartridge and Winchester continued to load it up to 1934.

General Comments The big powerful cartridges available for the Sharps and other single-shot rifles forced Winchester to bring out a more potent line for its repeaters. The cartridges for the Centennial Model marked the beginning of such a trend. This is not the same as the 40-60 Marlin. It is a better hunting choice than the old 44-40 WCF. The 45-70 case can be easily converted to make 40-60 Winchester cases.

40-60 Winchester Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
210 Lead	IMR 4198	21.0	1520	1083	Lyman No. 403168
210 Lead	FL		1562	1138	Winchester factory load

40-70 Winchester



Historical Notes This cartridge was developed for the Model 1886 Winchester repeater and was used in the Winchester single-shot. It was introduced in 1894, but never became popular or widely used. The Marlin Model 1895 repeating rifle was also available in this chambering.

General Comments This is a bottlenecked case generally similar to the 48-70 Winchester. It provides a larger, heavier bullet in a

cartridge suitable to the same action as the 38 caliber. This case is not the same as that of the 40-72 Winchester. However, the ballistics are nearly identical. It should be possible to convert 45-70 cases to work in these rifles, but the neck would be short. The 45 Basic will make perfect cases. Although groove diameter was typically 0.408-inch, original bullets were 0.406-inch diameter.

40-70 Winchester Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
330 Lead	IMR 4759	26.0	1540	1738	
330 Lead	IMR 4198	25.0	1380	1050	Lyman No. 406150
330 Lead	FL		1383	1333	Factory load

40-70 Remington



Historical Notes Although listed as the 40-70 Remington, this cartridge is really Remington's version of the 40-70 Sharps necked. The Remington rolling block No. 1 Sporting Model chambered it and so did the Hepburn No. 3. It was added to the Remington line in 1880.

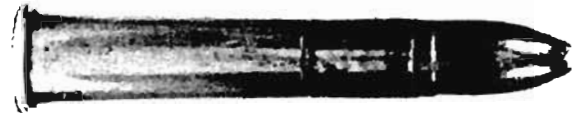
General Comments Two versions of this cartridge were available: one with a regular brass case, the other with a special reloading case

with a brass body and steel head. The steel head fastened to the brass body with an inside screw, which served as a primer anvil and had a flash hole drilled through it. Steel head cases in 1880! There really is nothing new under the sun. The 40-70 was used more for match shooting than for hunting. It should be possible to convert 45-70 cases to work in these rifles, but the neck would be very short. The 45 Basic will make perfect cases.

40-70 Remington Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
330 Lead	IMR 4198	27.0	1450	1542	Lyman No. 403139
330 Lead	FL		1420	1482	Remington factory load

40-65 Winchester



Historical Notes The 40-65 Winchester & Marlin was introduced in 1887 for the Model 1886 Winchester rifle. The Winchester single-shot also chambered it and so did the Marlin Model 1895. The 40-65 Winchester was loaded in both blackpowder and smokeless powder versions, and Winchester catalogs listed it to 1935.

General Comments The 40-65 was a further effort to put more steam in the repeating rifles' cartridges so they would be competitive with similar single-shot cartridges. This one, reasonably popular, continued for almost 50 years. Rifles in this chambering are common and ammunition can be made by reforming 45-70 cases. Although groove diameter was typically 0.408-inch, original load bullets were 0.406-inch diameter.

40-65 Winchester Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
260 Lead	IMR 4198	23.0	1500	1308	Lyman No. 403169
260 Lead	IMR 3031	44.0	1720	1708	NA
260 Lead	AA 5744	26.0	1651	1573	Accurate Arms
300 Lead	AA 5744	24.0	1515	1528	Accurate Arms
260 Lead	FL		1420	1165	Factory load

40-72 Winchester



Historical Notes Introduced for and with the Winchester Model 1895 lever-action, box-magazine repeater, the 40-72 was not very popular, but was loaded until 1936.

General Comments This cartridge uses a smaller diameter, 30-grain heavier bullet, compared to the much more powerful 405 Winchester. The latter was preferred by most purchasers of the Model 1895. Blackpowder cartridges of the 1890s suffered from

competition with the newly introduced smokeless powder cartridges of that era. Most blackpowder cartridges introduced at that time had no chance to establish any degree of popularity. Although longer, this case has the same basic body as the 30-40 Krag. Because headspacing is on the rim, it may not be possible to safely use that case to make the 40-72, except for very low-pressure loads.

40-72 Winchester Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
330 Lead	IMR 3031	40.0	1435	1510	Lyman No. 406150
300 Lead	FL		1425	1350	Winchester factory load
330 Lead	FL		1407	1451	Winchester factory load

40-82 Winchester



Historical Notes Introduced in 1885 for the Winchester single-shot and also available for the Model 1886 lever-action repeater, this cartridge was popular enough to make the transition into the smokeless powder era. It was loaded up to 1935.

General Comments The 40-82 WCF gained a favorable reputation on elk and heavy game. It developed a higher muzzle velocity than many other blackpowder cartridges, which made it easier to hit with over unknown distances. Despite the relative popularity, rifles in

this chambering are seldom encountered. Most of the original single-shots and Model 1886s have been rebarreled to some more modern chambering. It should be possible to convert the 45-70 case to work in these rifles, but the neck would be very short. The 45 Basic will make perfect cases. Although groove diameter was typically 0.408-inch, bullets used in original loads were only 0.406-inch diameter.

40-82 Winchester Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
260 Lead	IMR 4198	28.0	1425	1180	Lyman No. 403169
260 Lead	FL		1490	1285	Winchester factory load

401 Winchester Self-Loading (401 WSL)



Historical Notes The 401 was introduced by Winchester in 1910 for its new Model 10 Autoloading rifle, which was a minor modification of the Model 1907. Both the cartridge and the rifle were discontinued in 1936, but the ammunition was loaded by most ammunition companies until after World War II. It is another obsolete "Self-Loading" cartridge.

General Comments The 401 is the most powerful of the Winchester Autoloading line, and the only one suitable for deer. The 401 found favor with many hunters as a quick, short-range number

for hunting deer and black bear. Velocity is too low and the trajectory too high for this to be a useful cartridge beyond about 150 yards. It can be reloaded, but like all cartridges used in semi-auto guns, it is necessary to stick to the factory ballistics or the rifle action may not function properly. Proper bullet diameter is 0.406-inch, but 0.410-inch revolver bullets can sometimes be used safely — verify chamber clearance. With a bit of lathe work, 35 Remington cases can be converted to work perfectly in 401 WSL chambered rifles.

401 Winchester Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
200 SP	2400	24.7	1915	1625	Lyman
212 Lead	IMR 4227	29.0	2074	2025	Lyman
240 Lead	IMR 4227	27.5	1968	2150	Lyman
200 SP	FL		2135	2020	Winchester factory load
250 SP	FL		1870	1940	Winchester factory load

40-70 Peabody "What Cheer"



Historical Notes Made for the Peabody-Martini rifles (made by the Providence Tool Co.), this is one of a series of cartridges named for the "What Cheer" rifle range outside Providence, R.I., which opened in 1875. The first of the Peabody sporting and target rifles was said to have been exhibited at the opening celebration. The 40-70 cartridge actually was not introduced until 1877 or 1878. The Union Metallic Cartridge Co. loaded the round and so did Winchester.

General Comments This is an odd-shaped cartridge with a long, tapered shoulder and short body. Most samples have Berdan priming. Bullet diameter is 0.408-inch, but most nominal 0.406-inch bullets will cast sufficiently oversize to meet this diameter. This is not a common cartridge in collections, and rifles in this chambering are rare. For these low-pressure loads, 348 Winchester cases could be converted to work in this chamber.

40-70 Peabody "What Cheer" Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
330 Lead	IMR 4198	22.0	1350	1340	Lyman No. 406150
380 Lead	FL		1420	1710	Factory load

40-90 Peabody "What Cheer"



Historical Notes This unusually shaped cartridge was for the Peabody-Martini Rifle No. 3, introduced in 1877-78. This rifle was a fancy model similar to the No. 2 "Creedmoor," but was designated the "What Cheer". This was in line with the Peabody policy of naming its rifles after famous target ranges of the day.

General Comments The 40-90 Peabody is a bottlenecked case similar to the other "What Cheer" cartridges. This was a popular match cartridge until the early 1900s. Proper bullet diameter is 0.408-inch. Cast bullets intended for the 405 Winchester can be sized down and used in this round. No one lists a mould for a 500-grain bullet for this cartridge. For these low-pressure loads, 348 Winchester cases could be converted to work in this chamber.

40-90 Peabody "What Cheer" Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
330 Lead	IMR 4198	27.0	1450	1550	Lyman No. 406150
500 Lead	FL		1250	1735	Factory load

405 Winchester



Historical Notes The 405 is another of the rimmed cartridges developed for the Winchester Model 1895 lever-action rifle. Introduced in 1904, the rifle became obsolete in 1936 but has been reproduced recently in limited runs; most were chambered for cartridges that are somewhat more modern but one run was promised in 405. The Winchester single-shot also chambered the 405, and a number of double rifles were turned out in this chambering in England and Europe. The Remington-Lee bolt-action rifle was available in 405 caliber between 1904 and 1906. The old Eley-Kynoch catalog lists the 405 Winchester with a 300-grain softpoint bullet at standard factory-load velocity.

General Comments The 405 Winchester is the most powerful rimmed cartridge ever developed for the lever-action rifle. It is adequate for any North American big game at short- to medium-range and has been used successfully in Africa on all species. In the old Model 1895 Winchester, with its curved buttplate and poorly-designed stock, it had a reputation for punishing recoil. Theodore

Roosevelt used the 405 in Africa and thought very highly of it as a lion cartridge. However, John Taylor in his excellent book, *African Rifles and Cartridges*, rates it as a poor choice compared to other available chamberings for African use. The short, fat, 300-grain round-nosed bullet loses velocity rapidly and lacks the sectional density necessary for deep penetration of heavy game. Nevertheless, it is quite adequate for any North American animals at ranges of 100 to 150 yards. Although longer, this case has the same basic body as the 30-40 Krag. However, because headspacing is on the rim, it is not possible to safely use that case to make 405s, except for very-low-pressure loads (which this editor has done). With modern jacketed pistol bullets, one can thus make perfectly adequate short-range deer loads. A-Square has recently reintroduced 405 ammunition. Buffalo Arms (208-263-6953) offers modified 30-40 cases that are the correct length and have a modified rim to give the correct headspace.

405 Winchester Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
290 Cast	IMR 3031	40.0	1500	1449	Lyman No. 412263
300 SP	IMR 4895	56.0	2230	3321	NA
300 SP	IMR 3031	57.0	2250	3380	NA
300 SP	FL		2200	3220	Winchester factory load

40-75 Bullard



Historical Notes Introduced in 1887 for the Bullard lever-action repeating rifle and available for the single-shot, the 40-75 was the same case with a different bullet weight and powder charge as the 40-60 Bullard.

General Comments This is a big game cartridge similar in performance to the 40-60 Marlin or the 40-65 Winchester. Winchester's cartridge achieved the greatest popularity of these

three. Proper diameter for a cast bullet is 0.413-inch, which is significantly larger than many of the other 40-caliber cartridges, which used a bullet of 0.403-inch diameter. The old Bullard catalog states that the 40-60 Marlin can be fired in guns of the above chambering. If so, then the 40-65 WCF could also be used, as it is the same case as the Marlin round. It should be possible to convert 45-70 cases to work in these rifles.

40-75 Bullard Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
260 Lead	blackpowder (Fg)	75.0	1513	1315	Lyman No. 412174
280 Lead	IMR 4198	20.0	1500	1302	Lyman No. 412174
258 Lead	FL		1513	1315	Factory load

40-90 Bullard



Historical Notes This rather odd bottlenecked cartridge was developed for the Bullard single-shot and repeating rifles, introduced in 1886-87. Both Winchester and Remington manufactured this round for a number of years.

General Comments This is a rather large, fat cartridge with ballistics similar to other 40-caliber cartridges of the period such as the 40-82 Winchester. There was not a lot to choose from regarding performance between any of these. Cartridges designed by the big

manufacturers for its rifles were more widely advertised and distributed, and consequently won the popularity race. Cartridges like the Bullard line gradually faded into the background. The 40-90 Bullard was undoubtedly an effective big game cartridge, particularly if the now-rare 400-grain loading was used. Considering the low-pressure loads used, it should be possible to convert 50-90 Sharps cases for safe use in rifles so chambered.

40-90 Bullard Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
300 Lead	blackpowder (Fg)	90.0	1569	1648	Lyman No. 415175
300 Lead	IMR 4198	29.0	1450	1405	Lyman No. 415175
300 Lead	FL		1569	1648	Factory load

40-40 Maynard (1882)



Historical Notes A cartridge for the Maynard 1882 rifle, Improved Hunting or Target No. 9 and the Mid Range Target or Hunting No. 10, it was advertised as a combination hunting and target cartridge.

General Comments In performance, the 40-40 is similar to the 44-40 WCF. Maynard made only two bullet weights in 40-caliber; the 130-grain was intended for the longer 40-60, but was sometimes

used in the 40-40. Bullet diameter of these cartridges is not the same as the 0.403-inch of most Sharps and Winchester cartridges. The Maynard Co. sold moulds or factory-made bullets for its rifles. The 40-caliber Maynard bore is usually 0.415- to 0.417-inch diameter. It should be possible to convert 303 British cases to work in these rifles.

40-40 Maynard 1882 Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
260 Lead	IMR 4198	24.0	1400	1140	Lyman No. 413174
270 Lead	FL		1425	1222	Factory load
330 Lead	FL		1260	1168	Factory load

40-60 Maynard (1882)

Historical Notes This is an intermediate-range match cartridge for the 1882 Maynard Models 10, 12 and 13 Hunting and the Models 15-16 Target rifles. It does not use the same case as the longer 40-70 Maynard.

General Comments The 40-60 Maynard is an elongated version of the 40-40 and differs mainly in the longer case length. Unfortunately, it duplicated the performance of similar Marlin Sharps and Winchester cartridges, and for that reason, it did not become popular or widely used. It should be possible to convert 30.3 British cases to work in these rifles.

40-60 Maynard 1882 Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
300 Lead	IMR 4198	26.0	1370	1248	Lyman No. 413175
330 Lead	FL		1370	1380	Factory load

40-70 Maynard (1882)

Historical Notes This has the longest case of the three 40-caliber cartridges chambered in the 1882-type Maynard single-shot rifle, which was available in both target and hunting models.

General Comments Some publications show the 40-70 Maynard to be the same as the 40-60, but with a different load. Others indicate that it is identical except for length. Actually, it has a little longer case (0.21-inch) with a slightly larger rim and base diameter. The

40-60 can be fired in a 40-70 chamber, but the reverse is not true. In overall length, this is the shorter of the two cartridges because of the lighter bullet seated farther down in the case. This is more of a hunting cartridge, although it was also available in the target rifle models. It should be possible to convert 30.3 British cases to work in these rifles.

40-70 Maynard (1882) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
260 Lead	IMR 4198	27.0	1450	1211	Lyman No. 413174
270 Lead	FL		1645	1620	Factory load

44 Evans Short

Historical Notes This is the cartridge for the various Old Model Evans rifles introduced in 1875. Winchester loaded the ammunition until the early 1920s.

General Comments The Evans rifle was designed for military use, but when it was turned down by the U.S. Ordnance Department, it was manufactured as a sporting number. The Evans had a magazine capacity of 34 cartridges held in the four-column tubular magazine located in the butt. This was an odd-looking lever-action rifle. Evans rifles were once somewhat common items and box lots of

ammunition could be purchased until 1940-41. This is not a particularly strong action, so only use blackpowder loads. A load of 28 grains of Fg or FFg was used in the original round. Cases can be made by cutting off 303 Savage cases and perhaps thinning the rim, as required. (As in similar rim-thinning situations, pistol primers may have to be used, but those work well in most blackpowder or blackpowder pressure loads anyway.) Also, either the case mouth must be thinned or an undersized bullet must be used to provide adequate case-neck to chamber-wall clearance.

44 Evans Short Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
215 Lead	FL		850	350	Winchester factory load

44 Evans Long



Historical Notes The 44 Evans Long was developed for the 1877 New Model Evans sporting rifle. It is sometimes referred to as the 44-40 Straight or the 44-40-300 because of its different loadings.

General Comments The New Model Evans rifle was similar to the Old Model except for the change to a longer, more powerful cartridge. The magazine capacity was only (!) 26 rounds compared to 34 for the Old Model. Again, this is not a strong action, so it is advisable to use only blackpowder loads. The cartridge was loaded

with 275- to 300-grain bullets and 40 to 43 grains of blackpowder. Although this case is somewhat larger in diameter, usable cases might be made by cutting off 303 Savage cases as with the Henry Center Fire Flat. As with all similar numbers, it is best to load only with blackpowder or Pyrodex. Also, either the case mouth must be thinned or an undersized bullet must be used to provide adequate case-neck to chamber-wall clearance.

44 Evans Long Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
280 Lead	FL		200	903	Factory load

44 Henry Center Fire Flat



Historical Notes This is a centerfire version of the rimfire 44 Henry Flat. In 1891, 1020 M1866 Winchester rifles were chambered for this cartridge and shipped to Brazil.

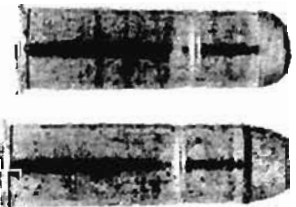
General Comments Rifles for this cartridge are extremely rare. The 1866 Henry rifle was not very strong. Those who want to shoot one of these should stick to blackpowder. The proper charge is 26 or

28 grains of FFg or FFFg. Cast bullets for the 44-40 WCF can be used. Cases can be made by cutting off 303 Savage cases and, perhaps thinning the rim, as required. (As in similar rim thinning situations, pistol primers may have to be used, but these are preferable in almost every blackpowder or blackpowder pressure load anyway.)

44 Henry Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
200 Lead	FL		1150	594	Factory load
227 Lead	FL		1200	725	Factory load

44 Game Getter 44-40 Marlin 44 Colt Lightning



Historical Notes In 1908, Marble Arms Corp. introduced its Game Getter, a double-barrel, over/under pistol with a removable skeleton buttstock. The upper barrel was rifled and chambered for the 22 rimfire cartridge; the lower barrel was smoothbore and chambered for the 44 Shot cartridge. The introduction of this pistol bolstered the popularity of the several varieties of 44 Shot cartridges.

The Stevens Model 101 "Featherweight" rifle (1914-16) was chambered for this cartridge as well as the 44 XL and 44 WCF shot cartridges. The 44 WCF Shot cartridge was a crimped case with cardboard wadding; others were loaded with a wood or paper bullet that enclosed the shot. The Marble catalog of 1914 stated,

"Shot cartridges with paper or wooden ends are especially adapted to rifled barrels. However, they can be used in the Game Getter, but give uncertain results." UMC loaded a 44 Round Ball cartridge before the introduction of the Game Getter, using 34 grains of

blackpowder and a 115-grain round lead ball. This combination of gun and cartridge became very popular and Winchester and U.S. Ammunition Co. began to offer it, calling it the 44 Game Getter.

General Comments The 44-40 is, of course, still loaded today, but during its life span as a blackpowder cartridge (and the early smokeless powder days) it was available in a variety of loads that are now obsolete.

The standard load of 40 grains of blackpowder and a 200-grain bullet of the 44 WCF was altered slightly (a 217-grain bullet was used) and the resulting cartridge was called the 44-40 Marlin or the 44 Colt Lightning Magazine Rifle. All are nothing more than load variations on the standard 44-40 Winchester — some rifles may require shorter overall cartridge lengths.

Also obsolete today are the high-velocity smokeless powder loads that were offered for rifles with stronger actions.

44-40 Extra Long



General Comments The 44-40 Extra Long is listed in various publications and sample rounds are common. It has a longer body and neck than the standard 44-40 WCF. The author was unable to find any record indicating the gun for which this cartridge was designed. It is listed so the reader will not confuse it with the straight Ballard or Wesson Extra Long 44 cartridges. These are not

the same. Some believe this is the 44-40 shot case with a conical bullet. According to William R. Small of Ojo Caliente, N.M., the Stevens Model 101 "Featherweight" rifle (1914 to 1916) chambered this round as well as the 44 XL and 44 WCF shot cartridges. Cases can be made by shortening and necking 444 Marlin cases.

44 Long Center Fire (Ballard)



Historical Notes The 44 Long CF was introduced in 1875-76 as one of the chamberings for the J.M. Marlin Ballard Sporting Rifle No. 2. It was also used in a number of other single-shot rifles, including those of Frank Wesson. It was replaced by the 44 Extra Long CF, before both were phased out by the more popular 44-40 WCF. It is the centerfire equivalent of the 44 Long rimfire.

General Comments This is a more-or-less transitional cartridge from the rimfire to the better centerfires. Most early breech-loading rifles were developed for rimfire cartridges and it was a simple

matter to bring out a similar centerfire for the same basic rifle. This allowed the shooter to reload; however, most of these cartridges were no more effective than the rimfire they replaced and so these did not last long. The original load used 35 grains of blackpowder and a 227-grain bullet. Muzzle velocity was low -- only about 1,100 to 1,200 fps. As with the 44 Evans Long, Short or Henry Flat Center Fire, cases can be made by cutting off 303 Savage cases, but stick to blackpowder and cast bullets.

44 Extra Long Center Fire (Ballard)



Historical Notes This cartridge is sometimes listed simply as the 44 Extra Long. It is a straight case and is the centerfire version of the 44 Rimfire Extra Long. As near as can be determined, it was introduced in 1876 for the J.M. Marlin Ballard Sporting Rifle No. 2. It was only available for a few years, before being replaced in the Ballard rifles by the 44-40 WCF. Rifles in this chambering are rare today.

General Comments The 44 Extra Long was not a popular Ballard number because there were too many better 44-caliber cartridges

available. The 44-40 WCF was already popular by the time the Ballard round hit the market and the 44 Extra Long was available only in the single-shot. It did, however, provide a reloadable case for those used to the 44 EL rimfire, and quite a few of the old rimfire rifles were probably converted to use the centerfire type. Remington loaded this with 50 grains of blackpowder and a 265-grain bullet. Cases can be made by cutting off 303 Savage cases as mentioned in the discussion about the 44 Henry Flat Center Fire.

44 Extra Long (Ballard) Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
265 Lead	FL		1320	1030	Remington factory load

44 Wesson Extra Long



Historical Notes Made for the Frank Wesson tip-up rifles, this cartridge appears to be identical to the 44 Extra Long Ballard except for the shape of the bullet. The Wesson bullet shows two grease grooves when loaded in the case, while the Ballard shows only one.

General Comments Many of the Wesson tip-up rifles were furnished with a patented adjustable hammer, permitting the use of

both rim- and centerfire cartridges. Lyman No. 419182 (240-grain) or 424100 (170-grain) bullets can be adapted to this cartridge. Original load used 48 to 50 grains of blackpowder. Wesson rifles in this chambering are very rare. As discussed with the 44 Henry Flat Center Fire, cases can be made by cutting off 303 Savage cases.

44 Wesson Extra Long Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
250-257 Lead	FL		1340	1010	Factory load

44-90 Remington Special (Necked)



Historical Notes The 44-90 Remington Special looks like the 44-90 Sharps, but on closer inspection it has a shorter case with slightly larger body diameter so these are not interchangeable. The 44-90 was introduced as a match cartridge for the Remington rolling block Creedmoor series in 1873. Remington catalogs listed empty cases and bullets for this cartridge as late as 1910.

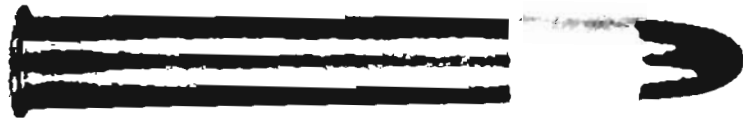
General Comments The 44-77 Sharps had a 2 1/4-inch case, the 44-90 Sharps a 2 5/8-inch case. The 44-90 Remington Special case was 2 7/16-inch or 2.44-inch long. The Remington cartridge was regularly loaded with a 550-grain patched or lubricated lead bullet,

which is heavier than the normal bullet used in Sharps cartridges. Remington probably designed its 44-90 so a heavy bullet and 90 grains of powder could be used without increasing the overall length of the cartridge. The loaded length is actually less than the similar Sharps cartridges. This is primarily a match cartridge, but would also be effective on almost any big game. Lighter bullets and more powder could be used to increase blackpowder ballistics for hunting. The only safe source of cases (those that have been extensively modified from 348 Winchester size) is Buffalo Arms (208-263-6953).

44-90 Remington Special Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
470 Lead	IMR 4198	30.0	1270	1688	Lyman No. 446187
470 Lead PP	blackpowder (Fg)	90.0			Factory load, early paper patch
550 Lead	blackpowder (Fg)	90.0	1250	1812	Remington factory load

44-100 Remington "Creedmoor" /44-90 Remington Straight



Historical Notes The 44-100 cartridge was for the Remington-Heppner or No. 3 Long-Range Creedmoor rifle. It was introduced in 1880. This special 2 6/10-inch shell had various loadings and bullets plus the usual variety of designations for the same round. As if to add more confusion, a 2 4/10-inch version was also made. This may have been designed to furnish a straight case as an alternative to some of the necked Sharps 44 cartridges.

General Comments Also known as the 44-2 6/10-inch and 44-90 Remington Straight, this was designed as a match cartridge for long-range shooting out to 1,000 and even 1,400 yards. It was moderately popular, but rifles in this chambering are scarce. The

cartridge is a collector's item. Remington manufactured a number of match rifles designated "Creedmoor," and this is the correct spelling of the Creedmoor, Long Island rifle range. However, the company also made various cartridges under the "Creedmore" label (note the different spelling). Ammunition so designated had a target-type bullet and very often was intended for rifles that the manufacturer had never called "Creedmoor." This has caused much confusion, although Remington changed the spelling to try to prevent it. Both Remington and Winchester furnished empty cases and bullets for handloading. Cases can be converted from the 45 Basic.

44-100 Remington "Creedmoor" Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
470 Lead	IMR 4198	27.0	1410	2080	Lyman No. 446187
520 Lead	FL		1435	2380	Remington factory load
550 Lead	FL		1380	2338	Remington factory load

44-95 Peabody "What Cheer"



Historical Notes The 44-95 Peabody also had a 100-grain loading and was occasionally referred to as the 44-100 Peabody. It is the largest of the Peabody "What Cheer" cartridges. It was the original chambering for the Peabody-Martini Long-Range Creedmoor Rifle. The straight stock version was the No. 3 "What Cheer" and eventually the cartridge was given this name. Some authorities say it was introduced in 1877, but it may have made its debut as early as 1875. It was popular primarily as a target round.

General Comments Peabody and Peabody-Martini rifles were manufactured by the Providence Tool Co. of Providence, R.I. The action was patented by H.L. Peabody of Boston, Mass., in 1862. Peabody-Martini military rifles were manufactured for the Turkish government during 1873 and something like 600,000 were delivered. The original Peabody pivoting block action had a side-hammer, but the Swiss Martini modification did away with this, employing an internal lock. The British Martini-Henry rifle is based on this modified American design. This is one of the strongest of the old single-shot actions.

44-95 Peabody "What Cheer" Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
470 Lead	blackpowder (Fg)	100.0	1380	1990	Lyman No. 446187
470 Lead	IMR 4759	21.0	1380	1990	Lyman No. 446187
550 Lead	FL		1310	2100	Factory load

44-70 Maynard (1882)



Historical Notes Introduced for the 1882-type Maynard single-shot rifle, the 44-70 was also available for the Hunters Model No. 11 and the Creedmoor No. 14 match rifle.

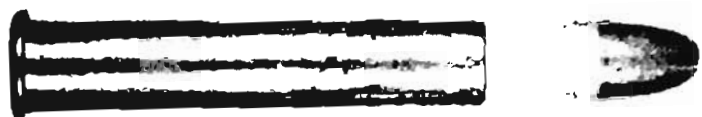
General Comments The 44-70 Maynard is a 44-caliber version of the popular 45-70 Government military round. Many riflemen of

the late 1880s preferred the 44-caliber over the larger 45 bore, although there is little difference in bore dimensions. The Maynard company furnished a 430-grain bullet for hunting and general shooting and a 520-grain for target work. Although somewhat too short, 45-70 cases will work in these rifles.

44-70 Maynard (1882) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
470 Lead	IMR 4198	26.0	1300	1768	Lyman No. 446187
430 Lead	FL		1310	1640	Factory load

44-75 Ballard Everlasting



Historical Notes The 44-75 is one of the rarer Ballard cases. Seldom found in collections and not mentioned in most cartridge books, L.D. Satterlee * lists it as available for the J.M. Marlin Ballard Perfection No. 4, Pacific No. 5 and Schuetzen No. 6, all introduced in 1876. He gives case length as 2 1/4-inch.† This chambering is not listed in the Marlin Fire Arms Co. after Marlin began making Ballard rifles in 1881. James J. Grant ** says this was one of the special Marlin Everlasting cases using the shallow Berdan-type No. 2 primer similar to the 40-65. He also has specimens using Large Rifle primers.

General Comments The 44-75-2 1/2-inch can be made by trimming and sizing Sharps 45-2 6/10-inch cases. This must have been intended as both a target and hunting cartridge since it was

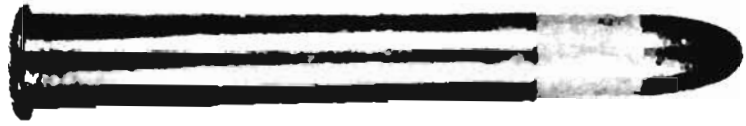
available in rifles of both types. Marlin and Ballard catalogs listed a patched 405-grain, 44-caliber bullet, which was probably one of the weights used in the 44-75. Bullets for 44-caliber Sharps cartridges of 0.446-inch diameter can be adapted to the 44-75 Ballard. No factory ballistics are available, so it is probable that only empty cases and bullets were furnished.

**op. cit.*

***More Single Shot Rifles* (New York, 1959).

†John T. Amber owned a fine No. 7 Ballard in 44-75 chambering, complete in case with hunting and target sights, etc., and including a score or more of cases. All were 2 1/2 inches long, not 2 1/4 inches, and were Berdan-primed Everlasting type.

44-100 Ballard



Historical Notes The 44-100 Ballard Everlasting was one of the chamberings introduced with the various J.M. Marlin Ballard rifles. It is first listed for the 1876 Model Pacific No. 5 and Long Range No. 7A. It was discontinued about 1880 and does not appear as a standard chambering in later Marlin Fire Arms Co. catalogs. However, the 1888 Marlin & Ballard catalog again lists brass shells under obsolete sizes at 12 cents each. The 45-100 Ballard, which came out later, is based on this same case with the neck reamed out to accept the larger-diameter bullet.

General Comments This is another rare Ballard cartridge. It was an accurate target number and had considerable knockdown power for big game. Ballard rifles were manufactured by several companies. The best known of these were made by the Marlin Fire Arms Co. after it was incorporated in 1881. Most of its models and

cartridges are not particularly scarce. John M. Marlin organized the Marlin Fire Arms Co., but prior to that, he turned out Ballard rifles under the name of J.M. Marlin (1875 to 1881). The first Ballard arms were for rimfire cartridges, and these were introduced by Ball & Williams in 1861, and continued until 1866 under its brand. From 1866 to 1869, these were made by Merrimack Arms & Manufacturing Co., and from 1869 to 1873 by Brown Manufacturing Co. Some of these early models and cartridges are rare and valuable. Although the 44-100 Ballard is larger and somewhat longer in diameter, it might be possible to form 45-70 cases to work in these rifles. Basic 45s could be cut to the proper length. In either case, one might have to turn down the rim to fit the chamber.

44-100 Ballard Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
365 Lead	blackpowder (Fg)	110.0	1500	1830	Lyman No. 446109
365 Lead	IMR 4198	26.0	1350	1480	Lyman No. 446109
535 Lead	FL		1400	2328	Factory load

44-100 Wesson



Historical Notes As with the 44-85 Wesson, this one was found on a U.S. Cartridge Co. advertising sheet printed in 1881-82. This is also a straight case with the length listed as 3-3/8 inches. The bullet is seated deeply so the total length of the loaded cartridge is 3-9/10 inches. The load is given as 100 or 120 grains of blackpowder with a 350-grain, paper-patched bullet.

General Comments What date and what rifle? There is no information given on this. As previously stated, all 44-caliber Sharps cartridges are necked, and perhaps this is intended as the

straight case counter to the necked 44-100 or 105 (2 5/8-inch) Sharps. This is speculation, but many shooters of this period did prefer the straight case. The 44-100 Wesson is not listed in any previous cartridge book, and now that its existence has been brought to the attention of collectors, additional information may be forthcoming. Muzzle velocity of this combination would be approximately 1350 to 1400 fps, depending on charge, barrel length, etc.

44-77 Sharps & Remington



Historical Notes This is the 2 1/4-inch Sharps bottlenecked case introduced in 1869 for the Model 1869 Sharps breech-loading repeating rifle. It was also one of the chamberings available for the Remington-Hepburn or No. 3. It was a popular target round, used more for this purpose than hunting. The design of the 44-77 is said to have been based on a combination of the 42 Russian and the 43 Spanish military cartridges.

General Comments A variety of factory loadings were turned out for the 44-77, with bullet weights from 300 grains to 470 grains. It is sometimes listed as the 44-70 or 44-75, depending on the powder charge used. Remington made an unusual two-piece reloadable case with a steel head and brass body.

44-77 Sharps & Remington Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
365 Lead	IMR 4198	28.0	1480	1782	Lyman No. 446109
470 Lead PP	blackpowder (Fg)	77.0			Factory load, early paper patch
365 Lead	FL		1460	1730	Factory load

44-85 Wesson



Historical Notes The 44-85 Wesson is another of the mysterious and little-known Wesson cartridges. The little information available was gathered from a United States Cartridge Co. (U.S.C.C.) advertising sheet printed in 1881-82. The 44-85 is a straight case with a length of 2 7/8 inches. All 44-caliber Sharps cartridges were necked, so it is not similar to any of those. There is nothing to indicate which Wesson rifle it was for, but with that length, it was probably meant for the Creedmoor models.

General Comments It is well to point out that during the late 1800s, many riflemen did not like bottlenecked cases. It may be that Frank Wesson introduced this cartridge because all the Sharps 44 cases were necked and some individuals wanted the same performance in a straight case. The U.S.C.C. load had a 390-grain patched bullet backed by 85 grains of Fg blackpowder. This would have developed a muzzle velocity of approximately 1,450 fps in the average rifle.

44-85 Wesson Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
390 Lead	blackpowder (Fg)	85.0	1450	1821	Factory load

44-90 Sharps Necked (44-100 Sharps 2-5/8" / 44-105 Sharp Necked)



Historical Notes This is the 44-90 Sharps 2 5/8-inch case of larger capacity than the 44-77 Sharps. It was the chambering for the Sharps 1873 Creedmoor rifle made by the old Sharps Rifle Manufacturing Co., before its reorganization in 1875-76, and was chambered in later side-hammer models. Advertisements list it as early as June of 1873. Sharps rifles of 44 caliber were discontinued during 1878 in favor of the more popular 45 caliber.

General Comments These are just different loadings and bullet weights. Ammunition was available with bullets weighing 277, 450, 470, 500 and 520 grains. It was not as popular for hunting as some of the other Sharps chamberings, but was used for 1,000-yard match shooting. A version with a 0.19-inch shorter case also existed. Both are listed in the 1910 Winchester catalog. The only safe source of cases is Buffalo Arms — They extensively modify 348 Winchester cases to properly fit these chambers (208-263-6953).

44-90 Sharps (Necked) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
470 Lead	IMR 4198	28.0	1300	1630	Lyman No. 446187
520 Lead	FL		1270	1860	Factory load

44-60 Sharps & Remington (Necked)



Historical Notes This 1 7/8-inch 44 case was loaded by Remington and Winchester. It was introduced in 1869 for the 1869 Sporting Rifle and used in Sharps, Winchester and Remington single-shot rifles.

General Comments This was a general purpose cartridge for hunting or target shooting. It was listed by Remington and labeled as one of its "Creedmore" types (note the difference in spelling), which has caused some confusion identifying the round. Sharps match rifles for long-range shooting were named after the famous range at Creedmoor, Long Island. Other rifle makers also used this

name. Remington applied the name to cartridges not originally chambered in the Sharps Creedmoor line. It is interesting to compare this cartridge with the 42 Russian Berdan Carbine round. Except for bullet diameter, the two are practically identical. This suggests the possibility that the 44-60 was developed by expanding the neck of the Russian Carbine cartridge, much as some modern wildcats are made. The 44-60 necked Peabody, Winchester, Remington, etc. appear to be the same as the 44-60 (1 7/8-inch) Sharps cartridge.

44-60 Sharps (Necked) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
315 Lead	IMR 4198	24.0	1300	1188	Lyman No. 446110
396 Lead	FL		1250	1375	Factory load

45-50 Peabody (Sporting)



Historical Notes A sporting cartridge for the Peabody-Martini single-shot rifle, the 45-50 was introduced in 1873-74, shortly after the Martini modification of the Peabody action was adopted.

General Comments The 45-50 bears a close resemblance to the Peabody 45-55 Turkish carbine cartridge. It is probable that it is a modification of the Turkish military round, adapted to sporting use. Physical measurements of the two are not identical, but very close. This is a rare cartridge and rifles in this chambering are seldom encountered. Almost any 45-caliber rifle bullet can be sized down to

0.454-inch diameter and used; the Lyman No. 456191 (300-grain) will work fine. Powder charge can be varied from 50 to 55 grains of Fg blackpowder, depending on bullet weight and seating depth. For smokeless powder loads, use 22 to 23 grains of Du Pont (IMR) 4198. This will more-or-less duplicate original blackpowder ballistics. It could be possible to cut and form 45-70 cases to work in these rifles. This is one of the few Peabody designs that is close enough to common current chamberings to offer hope of conveniently shooting the rifle chambered for it.

45-50 Peabody (Sporting) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
255 Lead	IMR 4198	25.0	1350	1080	Lyman No. 454190
300 Lead	blackpowder (Fg)	50.0	1285	1080	Lyman No. 456191
290 Lead	FL		1295	1085	Factory load

44-60 Winchester 44-60 Peabody "Creedmoor"



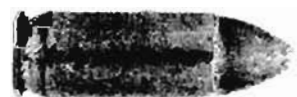
Historical Notes This cartridge is for the Peabody-Martini "Creedmoor" rifle introduced in 1877-78. It is not a well-known cartridge and apparently was of limited popularity. Winchester loaded this round under its own name, which it introduced in 1874-75. This is the same as the Sharps 44-60-1 7/8-inch necked cartridge.

General Comments Examination of these cartridges in comparison with the 42 Russian Carbine indicates they are identical except for neck and bullet diameter. The 44-60 was likely developed by expanding the neck of the Russian cartridge, very much as some of our modern wildcats are made. The Russian Carbine cartridge is a shortened version of the 42 Berdan.

44-60 Peabody "Creedmoor" Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
365 Lead	blackpowder (Fg)	65.0	1280	1410	Lyman No. 446109
395 Lead	FL		1250	1375	Winchester factory load

45 Remington Thompson



Historical Notes This cartridge was developed for use in the Thompson M-1923 "Military Model" submachinegun. While this cartridge has been described as a stretched 45 Automatic, this is not precisely correct. Both case and bullet diameter are smaller than in the 45 Automatic (0.472- versus 0.476-inch and 0.447- versus 0.451-inch, respectively). The sample cartridge is headstamped "REM-UMC" over "45 ACP." Development was in 1923 as a joint venture of Remington Arms and Auto Ordnance Corp. Intended application was a long-barreled version of the Thompson that could

provide significantly improved ballistics over the standard 45 Automatic-chambered versions.

General Comments When one considers that this number generated ballistics exceeding any standard 44 Magnum factory loading fired from a pistol, this was, indeed, a significant ballistic improvement, compared to the 45 Automatic. However, it seems likely that the Thompson, despite its significant weight and good design, must have been something of a handful when firing such loads fully automatic.

45 Remington Thompson

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
250	FL		1450	1165	Factory load

45-60 Winchester

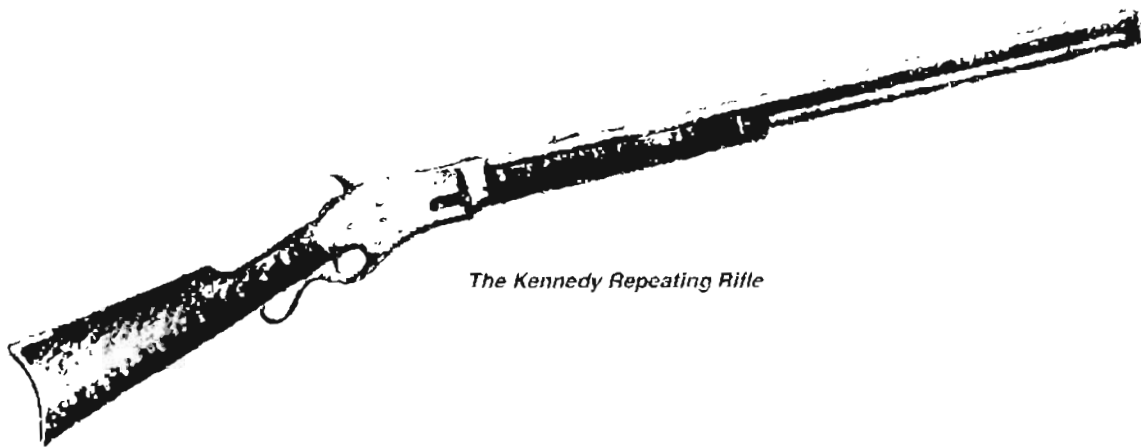
Historical Notes The 45-60 is one of several cartridges designed for the Winchester 1876 Centennial Model rifle. The 45-60 cartridge was introduced in 1879. Winchester continued production of this cartridge until 1935, although the rifle was discontinued in 1897. The Kennedy lever-action repeating rifle used this cartridge, as did the Colt Lightning pump-action repeater.

General Comments The 45-60 was brought out, with others of the Model 1876 cartridge line, to provide greater power than the 44-40

and other short cartridges used in the Model 1873 Winchester. The 45-60 design was probably influenced by the 45-70 Government round. The Model 1876 rifle had a medium-length action that would not handle the long cartridges used in the single-shots of the period. The 45-60 would be a better deer cartridge than the 44 WCF, but would not be suitable for larger game. Rifles for this cartridge are not strong, so one should not attempt to exceed original ballistics. It should be easy to form 45-70 cases to work in these rifles.

45-60 Winchester Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
300 Lead	IMR 4198	25.0	1450	1410	Lyman No. 45G191
300 Lead	FL		1315	1152	Winchester factory load



The Kennedy Repeating Rifle

45-75 Winchester (Centennial)

Historical Notes The 45-75 Winchester was the original chambering for the Model 1876 Centennial rifle. Other chamberings were added later. The Kennedy repeating rifle also used this round. Winchester continued to produce this cartridge until 1935. The Canadian Northwest Mounted Police adopted the '76 Winchester in 45-75 chambering and used it for 27 years.

General Comments To compete with the big Sharps and other single-shot cartridges, Winchester needed a longer repeating action. The Model '76 was designed to fill that need. However, as

produced it was not long enough to handle cartridges with an overall length exceeding 2 1/4 inches. The 45-75 gives performance equal to, or slightly better than, the 45-70 Government by use of a shorter, fatter, bottlenecked case. The Model '76 action is not noted for great strength and heavy smokeless powder charges should be avoided. The 45-75 would be a good short-range deer or black bear cartridge by modern standards. It was favored by Theodore Roosevelt for grizzly bear. Usable cases can be made from 348 Winchester cases.

45-75 Winchester Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
350 Lead	IMR 4198	24.0	1380	1480	Lyman No. 45G192
350 Lead	FL		1383	1485	Factory load

45-100 Ballard



Historical Notes Satterlee * indicates that this cartridge was introduced in 1878 with the Ballard Sporting No. 4-1/2 rifle. However, Grant first shows it with the 1882 (Marlin Fire Arms Co.) Pacific No. 5. Manufacture of Ballard single-shot rifles was discontinued between 1888 and 1890. The 45-100 cartridge was still listed as a standard chambering in the 1888 Marlin & Ballard catalog. This was the last catalog that advertised the Ballard, according to some authorities.

General Comments The 45-100 is not a common cartridge, although it was available up to the time Ballard rifles were discontinued. It is the same case as the 44-100 Ballard, but the inside of the neck was reamed, to accommodate the larger 45-caliber bullet. Almost any 45-caliber lead rifle bullet can be sized to

fit this case. The company offered 45-caliber bullets in 285, 405, 420, and 550 grains for loading this and other cartridges. Lighter bullets left room for up to 120 grains of blackpowder. This was used as both a target and hunting round and was equal in power to some of the big Sharps and Winchester cartridges of similar capacity. The old Ballard action is not particularly strong and caution is advised when using smokeless powder. Although the base is a bit smaller than the 45-70, one suspects usable cases could be made from 45-70 cases. If so, Basic 45 cases could be cut to the proper length to duplicate this cartridge, which is very similar to the 45-90 Winchester, only longer.

**op. cit.*

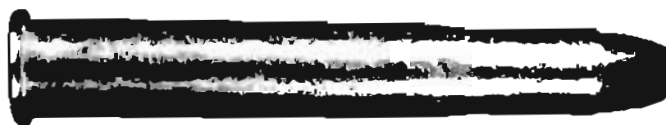
45-100 Ballard Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
500 Lead	blackpowder (Fg)	100.0	1400	2180	Lyman No. 457125
500 Lead	IMR 4198	22.0	1250	1740	Lyman No. 457125
550 Lead	FL		1370	2300	Factory load



Ballard No. 5 Pacific Rifle

45-125 Winchester (45 Express)



Historical Notes Introduced in 1886 as a special-order chambering for the Winchester single-shot rifle, the 45-125 was not widely used and was discontinued after a few years. Winchester continued to load this ammunition until 1916.

General Comments The 45-125 has a long bottlenecked case and was furnished with the 300-grain copper-tubed, "Express" bullet. Lyman No. 456191 is the proper bullet for reloading. In

appearance, this cartridge resembles the British 500/465 Nitro, but they are not the same and can be distinguished by head markings, bullet diameter, etc. This is a powerful blackpowder number and would do for most big game in North America. One reason it became obsolete is that the 45-90 WCF will do the same thing with a smaller case and less powder.

45-125 Winchester Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
300 Lead	IMR 4198	35.0	1475	1456	Lyman No. 456191
300 SP	FL		1690	1903	Winchester factory load

45-70 Van Choate



Historical Notes This cartridge was originally designed for the experimental Van Choate military bolt-action rifle made by the Brown Manufacturing Co. in 1872. It is similar to the 45-70 Government, but has a case length of 2-1/4 inches instead of 2-1/10 inches. It was used in other rifles as well because it was listed in Remington and Winchester catalogs as late as 1910-12. The paper patched bullet weighed 420 grains.

General Comments There are a number of variations of the basic 45-70 Government cartridge. Most of these vary by bullet weight, but a few use a different case length. One of these was the 45-78-475 Wolcott with a 2.31-inch case. There was also a 45-80 Sharpshooter cartridge that was used in special target rifles. This

had a 2 4/10-inch case that was very similar, if not identical, to the Sharps 2 4/10-inch case. Although these cartridges are identical in all dimensions except length, a rifle would have to be chambered to accept the extra-long case, so these would not be interchangeable. Just what the originators hoped to gain from these variations is hard to imagine. It was probably done to allow a full or increased powder charge with a heavier or longer-than-standard bullet. Most of these variations have an odd-shaped bullet. For any of these, one can use the same bullets and loading data given with the 45-70. Standard 45-70 cases chamber in these rifles. To duplicate the original case, trim Basic 45s to the proper length.

45-75 Sharps (Straight) 45-70 Sharps 2 1/10"



Historical Notes This cartridge is identical to the 45-70 Government. It represents another instance of a manufacturer adding his name to a cartridge when chambered for his rifles. Also known as the 45-70 Sharps, it was added to the company product line early to mid-1875. It was one of the loadings of what was designated as the Sharps 45-2 1/10-inch case.

General Comments Use the same loading data as that given for the 45-70 Government. Most original Sharps rifles have blackpowder steel barrels so it is advisable to stick to lead bullets to reduce wear on the bore. Any load safe for the 1873 "Trapdoor" Springfield will be OK in Sharps rifles of any vintage.

45-75 Sharps (Straight) Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
400 Lead	FL		1330	1580	Factory load

45-100 Remington (Necked)



Historical Notes The 45-100 Remington necked cartridge is listed in the 1880-81 United States Cartridge Co. advertising sheet. It must have been a special-order chambering for Remington single-shot rifles because there are no references to it concerning a specific rifle. It was also available as a special order item for some of the late Sharps rifles, for it is listed in the 1875 Sharps catalog as the 45-2 1/4-inch case.

General Comments The 45-100 Remington uses a 2 5/8-inch necked case, which appears to be identical to the 44-90 Remington

except for the larger diameter and longer neck. As we have mentioned before, some shooters liked the straight case, while others preferred the necked case. All Sharps 45-caliber cases are straight. Perhaps Remington offered a choice to the man who wanted a necked 45-caliber cartridge. Since the U.S. Cartridge Co. shows this as loaded ammunition, at least a moderate demand must have existed. Although shorter, 348 Winchester cases can be modified for use in these rifles.



Sharps Model 1877 Rifle

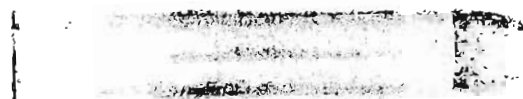
45-82 Winchester

45-85 Winchester

45-90 Winchester

45-90 Winchester

High Velocity



Historical Notes These designations are often listed separately indicating different case dimensions. However, these are nothing more than different loads and bullet weights in the same basic 45-90 case. The 45-82 and 45-85 loads were for the Winchester Model 1886 repeater or the 1885 lever-action rifle. The 45-90 was introduced in 1886. The other loads followed. The Marlin Model 1895 was also chambered for the 45-90. The smokeless powder 45-90 came out in 1895 and was discontinued about 1936.

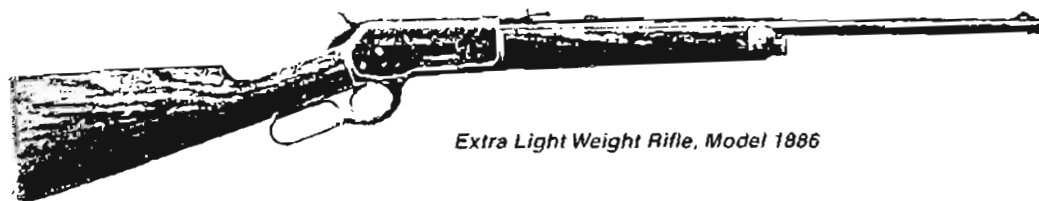
General Comments For many decades after its introduction, the 45-90 was a popular sporting cartridge. Once offered in a high-velocity loading with its standard 300-grain bullet at nearly 2,000

fps and generating over 2,000 foot pounds of energy, it was no doubt a good killer. With a 200 fps advantage over the high-velocity 45-70-300 load, it would shoot a bit flatter and give, perhaps, 50 yards more usable range.

The 45-90 case is practically identical to the 45-70, only longer. It is common practice to fire the 45-70 in these rifles when the proper ammunition is not available. The 45-90 is adequate for any North American big game at moderate ranges. Use standard 0.458-inch diameter bullets for loading. For handloading, use only lead bullets to avoid excessive barrel wear.

45-82, 45-85, 45-90 Winchester Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
300 Lead	IMR 4198	38.0	1530	1565	NA
405 Lead	IMR 4198	32.0	1410	1790	Lyman No. 457483 gas checked
405 Cast	IMR 3031	40.0	1500	2023	Lyman No. 457124
300 Lead	FL		1554	1609	Factory load
350 Lead	FL		1510	1775	Factory load
405 Lead	FL		1468	1938	Factory load



Extra Light Weight Rifle, Model 1886

45-90 Sharps (Straight)

45-100 Sharps (Straight)

45-110 Sharps (Straight)

45 Sharps Special

Historical Notes When the Sharps company adopted the 45-caliber, it developed a variety of loads and case lengths. The first of these was introduced in mid-1876 (2-7/8 inches), and different case lengths were added late in 1876 (2-6/10 inches) and mid-1877 (2-4/10 inches). The principal difference in these cartridges was in bullet weight, powder charge and case length. Other dimensions are the same. Some are heavy reloadable cases that had to be lengthened slightly to hold the same charge as the originals.

General Comments The 45-100 (2-4/10 inches), 45-100 (2-6/10 inches), 45-90 (2-3/4 inches), 45-100 (2-7/8 inches) and the 45-110

(2-7/8 inches) all appear to be identical except for loading and/or case length. The 45-2 3/4-inch case, listed in the 1876 catalog, is otherwise unknown. There is no point listing all of these separately because of slight differences. However, the reader should know that each exists, as these are encountered in literature referring to Sharps rifles or loading data for those. The 45-90 Winchester case can be fired in any of the above chambered rifles by seating the bullet well out of the case. With cast bullets, 45-70 cartridges can be fired in these rifles. These cases can be made from Basic 45 cases and many custom bullet moulds are currently available.

45-90 Sharps (Straight), 45-100 Sharps (Straight), 45-110 Sharps (Straight) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
485 Lead	IMR 4198	24.0	1300	1822	Lyman No. 451112
550 Lead	FL		1360	2240	Factory load

45-120 (3 1/4") Sharps (Straight) 45-125 (3 1/4") Sharps (Straight)

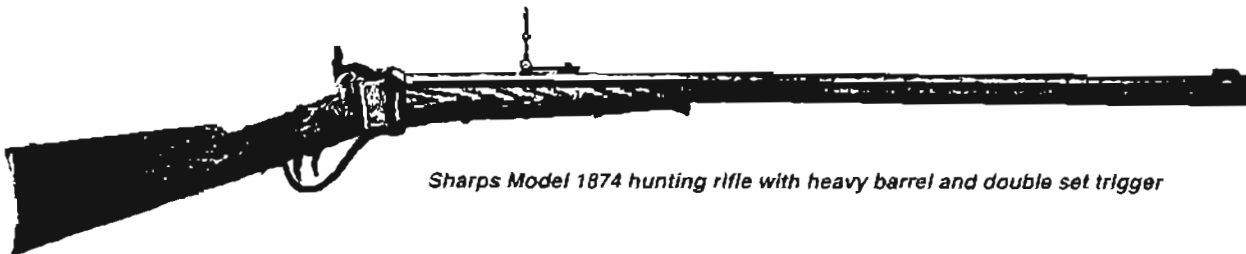


Historical Notes The 45-caliber 3 1/4-inch case is the largest Sharps cartridge of this caliber. Because of differences in case thickness, it usually came in two versions: the 45-120 and the 45-125. It was introduced in 1878-79 for the Sharps-Borchardt rifles, although there is no documentary evidence that the Sharps factory produced rifles in this chambering or any of the 3 1/4-inch cases, either 40, 45 or 50. Original rifles in this chambering and original ammunition are collector's items. The Sharps Rifle Co. failed in 1881, so the big 3 1/4-inch case did not have a particularly long life, although other single-shot rifles could be (and were) chambered for it. In 1991-92, Eldorado Cartridge made a run of cases and loaded this ammunition.

General Comments The 45-120 Sharps is a very powerful blackpowder cartridge adequate for any North American big game. It is usually considered one of the big buffalo cartridges, but it could not have participated in the slaughter of these animals to any great extent because it arrived on the scene very late. Western buffalo hunting reached its peak in 1875-76 and by 1880 was on the wane. The last of the great herds was destroyed in 1884 and the need for the big, powerful buffalo rifles and cartridges passed with the last of these animals. The repeating rifle and the small-bore, high-velocity cartridge would, within a decade, give them the final shove into obsolescence. Most of the Sharps-Borchardt single-shot rifles in this and other chamberings have been rebarreled and made into modern small-bore varmint rifles.

45-120 (3 1/4") Sharps (Straight), 45-125 (3 1/4") Sharps (Straight) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
485 Lead	IMR 4198	26.0	1360	2000	Lyman No. 451112
500 Cast	Blackpowder (FFg)	85.0	1299	1873	Lyman No. 457125
500 Lead	FL		1520	2561	Factory load



Sharps Model 1874 hunting rifle with heavy barrel and double set trigger

EXHIBIT “53”

accuracy to overdo it regarding power, following the idea that bigger is better. While a few experts can achieve long-range hits, most handgun hunting is for small game or varmints at ranges of 50 yards or less. It takes a great deal of practice before one can hit a target with any consistency at 100 yards and beyond. Power will not compensate for poor marksmanship, so it is best to start with something you can handle and move up to a larger chambering after proficiency has improved. Remember that the average person must spend hundreds of rounds to develop proficiency with a 22 rimfire pistol, and it takes even more practice with larger chamberings.

The 22 Long Rifle rimfire is probably the most popular handgun cartridge, followed by the 38 Special and 9mm Luger among the

centerfires. The 22 rimfire is adequate for small game at close ranges and can serve as a house gun for home protection. The 38 Special has the advantage of reloadability, and by choosing loads it is possible to regulate the power to cover shooting situations from very light target loads to full-power self-defense or field loads. For serious self-defense, the 38 Special and the 380 Automatic are considered minimum. The 38 Special and the 357 Magnum are probably the most widely used revolver cartridges, while the 9mm, 40 S&W and 45 Automatic are the most popular pistol cartridges. For match competition, the 22 rimfire, 38 Special and 45 Automatic may still lead the pack, although other centerfire numbers have recently made gains. — F.C.B.

Current Handgun Cartridges of the World

5.45x18mm Soviet



Historical Notes This modern pistol cartridge was developed in the Soviet Union in the 1970s for the PSM compact semi-automatic pistol. Its design follows Soviet tradition in that the case is bottlenecked and bullet caliber is the same as the service rifle (the 5.45mm AK-74). Case length and overall loaded length are similar to the 9mm Makarov cartridge, although the base and rim diameter of the 5.45x18mm Soviet is smaller. Thus far, Russia is the only country to have adopted this cartridge and the PSM pistol for it.

General Comments The concept behind this cartridge is unknown. By Western standards, this cartridge is a very poor choice for self-

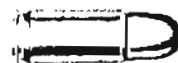
defense. Muzzle energy is about the same as the 22 Long Rifle. However, a key to its purpose may be bullet construction, which consists of a gilding metal jacket around a two-piece core consisting of steel front and lead rear halves. If penetration is the purpose, then this bullet should prove effective against body armor. Beyond this, it seems to have little value.

It is one of the few new cartridges to enter production in Russia for many years. Manufactured only in the Commonwealth of Independent States, cases are normally lacquered steel with a Berdan primer. Bullet diameter is about 0.210-inch.

5.45x18mm Soviet Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
40 FMJ	FL		1034	95	Factory load

25 (6.35mm) Automatic (25 ACP)



Historical Notes This cartridge was introduced in the United States in 1908 with the Browning-designed, Colt-manufactured 25 Vest Pocket Automatic pistol. It was introduced in Europe a few years earlier in the F.N. Baby Browning, which is practically identical to the Colt. The design of these two pistols has been copied by manufacturers all over the world. Dozens of different pistols have used this cartridge. The original Browning is still made (for European consumption), but Colt did not resume manufacture of its Vest Pocket model after World War II. American Arms, Beretta, Iver Johnson, Jennings, Lorcin, Phoenix Arms, Sundance, Taurus, Ortgies, Astra, Star and Walther have all made pistols in this chambering.

General Comments The 25 Automatic offers surprising velocity for such a small cartridge. However, delivered energy is quite modest. This, combined with the full-metal jacketed bullet of the conventional load, adds up to very poor stopping or killing power on anything. Lighter, expanding bullets lack adequate penetration

or delivered energy to suggest any significant improvement. The 25 Auto is not powerful enough for hunting anything but pests, nor is it adequate for serious self-defense. However, 25 Automatic pistols are popular because of their small size and low cost. Their principal usefulness might be as a threat, because no sane person wants to be shot if that can be avoided, not even with the little 25. Winchester and Hornady recently have offered hollowpoint loads in an effort to improve terminal ballistics.

Editor's Note: Three important facts are often overlooked when discussing the value of this cartridge. First, compared to any rimfire chambering, the 25 Automatic provides superior functioning in typical concealable pistols. Despite being very underpowered, well-placed shots from a 25 Auto do beat throwing rocks and will certainly disable or kill. Second, owing to a properly designed case and bullet, this cartridge is dramatically more dependable in a pocket pistol than any rimfire round. Finally, any functional gun that a person can and will carry and use correctly has significant defensive value.

25 (6.35mm) Automatic (25 Automatic) Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
50 FMJ	Bullseye	1.2	810	73	Hornady, Sierra
45 JHP	FL		815	66	Factory load, Winchester new
50 FMJ			760	64	NA

25 North American Arms (NAA)



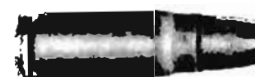
Historical Notes First developed in 1999 by Kentucky firearms writer J.B. Wood, the 25 NAA cartridge is a 32 ACP case necked to 25-caliber. Mr. Wood's goal was to increase reliable expansion of 25-caliber bullets when fired from a short-barreled handgun. The concept of bottleneck cases to drive smaller diameter bullets to greater speeds is more than a century old.

General Comments Fired in a re-barreled Savage model 1908 self-loading pistol with Hornady test ammo, bullet expansion ranged from .360- to .412-inch. With perceived recoil in the 22 Long Rifle range, the improved feeding of a bottleneck cartridge and consistent hollow-point bullet expansion, the North American Arms corporation decided to offer this chambering in its Guardian multi-pistol product line in 2002 or 2003. Cor-Bon will produce the ammo, which will probably bear a Corbon 25 NAA headstamp.

25 North American Arms Loading Data

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
35 Hornady XTP	Herco	2.6	1050		Test Load by Hornady
Cor-Bon ballistics not available at press time					

7.62x25mm Russian Tokarev



Historical Notes The 7.62x25mm Tokarev was the official Soviet pistol cartridge adopted in 1930 for the Tokarev Model TT-30 and modified Model TT-33 automatic pistols. The pistols are a basic Browning-type design similar to the Colt .45 Auto pistol. However, these incorporate many original features, to simplify manufacturing processes, and must be considered an advance over Browning's original patented design. These pistols often have a crude finish, but are well made and of excellent design. These have a 4 1/2-inch barrel and a magazine capacity of eight rounds. Large quantities have been sold as military surplus. Some were made in Communist China and Hungary, as well as in Russia. The Hungarian-made Tokarev, in a modified form called the Tokagyp, is chambered for the 9mm Parabellum cartridge. The Chinese began exporting both pistols and ammunition to the United States in 1987 at very reasonable prices.

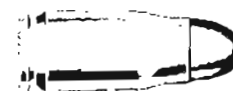
General Comments The cartridge is very similar in dimension to the 7.63mm (30) Mauser and most brands of Mauser ammunition can be fired in the Tokarev pistol. The 7.62mm Tokarev is a fair field cartridge for small game with good velocity and flat trajectory, but needs softpoint bullets for maximum effectiveness. The handloader can use loading data for the 7.63 Mauser. The Speer 30-caliber plinker bullet of 100 grains makes a good hunting bullet, but because it is slightly heavier than the standard weight, it must be loaded to lower velocity.

Chinese and Russian ammunition are steel-cased and Berdan-primed with corrosive primers. Such ammunition is not reloadable. Recently, Hansen Cartridge has imported quantities of 7.62x25mm ammunition with reloadable cases and non-corrosive Boxer primers.

7.62x25 Russian Tokarev Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
86	Bullseye	5.0	1390	365	Duplicate factory ball
87 FMJ	FL		1390	365	Factory load

30 (7.65x21mm) Luger



Historical Notes Introduced in 1900 by Deutsche Waffen u. Munitions Fabriken in Germany, the 7.65mm was designed by Georg Luger for the Luger automatic pistol. The cartridge is still used chiefly in the Luger pistol, although some SIG, Beretta M951, Browning Hi-Power, Ruger P89 and Walther P-38 pistols are chambered for this round. It was adopted as standard issue by the Swiss, Brazilian, Bulgarian and Portuguese armies, but none of them currently issue it for front-line service.

General Comments This is another bottlenecked rimless cartridge, similar to the 30 Mauser, but shorter and not quite as powerful. It is not noted for great stopping power because of the small-diameter, lightweight, full-jacketed bullet. It is used occasionally for small game hunting and will do a fair job on rabbits and the like, provided the bullets are properly placed. The only manufacturer still offering this cartridge is Winchester. Bullet diameter is 0.308-inch.

30 (7.65x21mm, 7.65mm) Luger Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
93	Unique	5.0	1115	257	Lyman duplication of factory ball loading
100	Unique	4.8	1210	325	Speer plinker
93 FMJ	FL		1220	305	Factory load

30 (7.63x25mm) Mauser



Historical Notes The 30 Mauser cartridge was developed by American gun designer Hugo Borchardt for the first successful commercial, automatic pistol of the same name. The Borchardt pistol was made by Ludwig Loewe & Co. (later DWM) of Berlin, Germany. Both pistol and cartridge were introduced in 1893. The Borchardt automatic pistol was later redesigned and emerged as the well-known Luger pistol. This cartridge was adopted by Paul Mauser for his famous Model 1896 pistol with increased power for his more rugged design. It has been used mainly in the Mauser M1896 military automatic pistol and various imitations or copies manufactured in Spain and China.

General Comments Until the 357 Magnum cartridge came along, the 30 Mauser was the high-velocity champion of the pistol world. It has a flat trajectory that makes long-range hits possible, but lacks stopping power because of the light, full-jacketed bullet. However, it has been used successfully for hunting small game and varmints at moderate ranges. Handloading with softpoint or hollowpoint hunting bullets improves performance considerably. At one time, both Remington and Winchester loaded this cartridge, but it has been dropped. Fresh supplies of this cartridge were recently imported from Portugal by Century International Arms.

30 (7.63x25mm) Mauser Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
86 FMJ	Bullseye	4.5	1160	257	Lyman
86 FMJ	Unique	6.0	1230	289	Lyman
86 FMJ	FL		1410	375	Factory load

32 (7.65mm) Automatic/32 ACP



Historical Notes Designed by John Browning for his first successful automatic pistol, this cartridge was first manufactured by FN in Belgium, and introduced in 1899. It was marketed in the United States when Colt turned out a pocket automatic on another Browning patent in 1903. The 32 Automatic is one of the more popular pistol cartridges ever developed. In the United States, Colt, Remington, Harrington & Richardson, Smith & Wesson and Savage chambered pistols for this cartridge. In Europe, every company that made automatic pistols chambered the 32 ACP (Automatic Colt Pistol). It was also used in the German Pickert revolver. In Europe, it is known as the 7.65mm Browning, while in the United States it is designated 32 Automatic or 32 ACP.

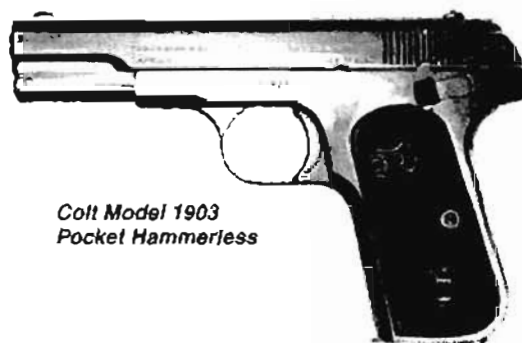
General Comments This cartridge uses a semi-rimmed cartridge case and a 0.308-inch diameter bullet. The 32 Automatic is the ammunition cartridge that can be seriously considered for self-

defense. In the United States, it is used exclusively for small pocket-type guns and is not considered adequate for police or military use. However, in Europe it is often used in police pistols and as an alternative but unofficial chambering for military sidearms. As a hunting cartridge, it is not powerful enough for anything larger than small game.

Loading tables generally give bullet diameter of the 32 Automatic as 0.312-inch or 0.314-inch. It is actually closer to 0.308-inch, and this is important if you handload. Effective small game loads can be made by using 100-grain 30-caliber rifle bullets intended for light loads and plinking, such as the Speer 30-caliber Plinker. All major ammunition makers offer this cartridge. Winchester recently introduced a load with a jacketed hollowpoint bullet. Other makers have followed suit.

32 (7.65mm) Automatic/32 ACP Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
71 FMJ	Bullseye	2.2	800	100	Sierra, Hornady
71 FMJ	700X	2.0	850	114	Sierra, Hornady
60 JHP	FL		970	125	Winchester factory load
71 FMJ	FL		905	129	Factory load
74 FMJ/JSP	FL				Factory load, early



Colt Model 1903
Pocket Hammerless

32 H&R Magnum

Historical Notes The 32 H&R Magnum was the result of a joint project between Harrington & Richardson and Federal Cartridge Co. It was introduced in 1984 for the five-shot H&R Model 504, 532 and 586 revolvers. This was followed later in the same year by Charter Arms with its six-shot 32 H&R Magnum Police Undercover revolver and in 1985 by the Ruger New Model 32 Magnum Single-Six and SP101 revolvers. The 32 H&R Magnum is simply the older 32 Smith & Wesson Long case lengthened by 0.155 inch. Therefore, any 32 Magnum revolver will also accept and fire both the 32 S&W and the 32 S&W Long. This makes for a convenient situation because the shooter has a choice of three different cartridges that will work in one handgun. Two loadings of the cartridge were offered -- a lead semi-wadcutter bullet of 95 grains or an 85-grain jacketed hollowpoint.

General Comments According to factory ballistics, the 32 Magnum delivers double the energy of the 32 S&W Long and 13

percent more energy than the standard 38 Special load. If chronograph tests demonstrated that actual velocity at the ranges 60 to 100 fps below factory-advertised figures. Nevertheless, the cartridge performance level is well above that of any other caliber handgun cartridge currently available. The 32-20 can handloaded to equal the 32 Magnum in a revolver, but new 32 revolvers have not been available since before World War II.

What kept H&R from chambering its revolvers for the 32-20? To do so would have required extensive design changes in revolvers because the 32-20 is too long. In fact, 32-20 case length is nearly the same as 32 Magnum overall cartridge length.

By the late 1980s, both H&R and Charter Arms had gone out of business (both are again producing firearms, although H&R is only producing handguns as of 2000), leaving Ruger and Dan Wesson as the sole suppliers of revolvers in this chambering. Federal was the only ammunition maker to undertake production.

32 H&R Magnum Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
85 JHP	Unique	4.0	900	153	Hornady
90 Lead	Unique	3.4	815	145	Hornady
98 Lead	Unique	3.0	815	145	Speer
85 JHP	FL		1100	230	Factory load
95 SWC Lead	FL		1030	225	Factory load

32-20 (32 Winchester)

General Comments Although designed as a rifle cartridge, the 32-20 became very popular as a revolver cartridge. Historical notes

and comments will be found in Chapter 2: Current American Rifle Cartridges.

7.5mm Swiss Army Revolver

Historical Notes This cartridge was adopted by the Swiss Army in 1882 and officially used until 1903. The Swiss Army revolver is based on a modified Nagant system. In the early 1960s, quantities of these revolvers were sold in the American market by surplus dealers. These are quite well made and finished. Both blackpowder and smokeless powder ammunition is encountered.

General Comments The 7.5mm Swiss revolver cartridge is identical to and fully interchangeable with the 7.5mm Swedish and

Norwegian rounds. Modern smokeless powder ammunition was loaded by Norma for the Swedish Nagant, and this can be used in the Swiss revolver. The two cartridges differ only in bullet type. Most Swedish cartridges use an outside-lubricated bullet, whereas the Swiss also used an inside-lubricated type. Ballistics are about the same as the 32 S&W Long. For additional information, see the 7.5mm Swedish Nagant Revolver. Fiocchi now produces this ammunition.

7.5mm Swiss Army Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
102-110 Lead	ML		700	115	Military load

8mm Rast-Gasser



Historical Notes The 8mm Rast-Gasser military cartridge was introduced in 1898 for the solid-frame Rast-Gasser military revolver patented in 1873. A number of different revolvers manufactured in Belgium and Germany chambered the round. Although popular in Europe, the 8mm Rast-Gasser was never manufactured in the United States. The round is obsolete and ammunition difficult to obtain.

General Comments The Gasser solid-frame revolver design is noted for simplicity of disassembly. It also has a rebounding hammer and a spring-mounted, separate firing pin. These are

usually well made and rather sturdy. Quantities have been sold at various times in surplus stores.

The cartridge resembles the 8mm French Lebel Revolver round quite closely. Bullet diameter is 0.320-inch. Rim and body diameter are nearly identical to the 32 S&W Long. The 32 S&W case is shorter, but both cartridges are of approximately the same power. Lyman cast bullet No. 313445 (95 grains) can be adapted for handloading. Loading data for the 32 S&W can be used as a guide in working up loads. This ammunition is now offered by Fiocchi.

8mm Rast-Gasser Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
115-126 Lead	FL		750 - 785	140 - 170	Factory load
125	FL		787	170	1914-1918 factory load
126 Lead	FL		770	166	Fiocchi factory load

8mm Lebel Revolver



Historical Notes This cartridge is for the French 1892 Ordnance Revolver, commonly called the Lebel. This is a six-shot, solid-frame, double-action gun. Bayard and Pieper also made revolvers in this chambering. Small lots have shown up in surplus stores, but these are of interest mostly to military collectors.

General Comments The 8mm Lebel revolver cartridge closely resembles the 32-20 WCF and ammunition can be made by sizing 32-20 cases. This is not a common item, but surplus stores have

occasionally offered this ammunition. The 32 Smith & Wesson Long can be fired in these revolvers, but the cases bulge badly and accuracy is poor. When cooking up your own loads, stick to moderate charges and velocity, as the Lebel revolver is not designed for high pressures. For field use, this is another 32 S&W Long-class cartridge suitable only for small game. Bullet diameter is 0.330-inch and one can use the Lyman No. 32359 cast bullet. Fiocchi currently offers this ammunition.

8mm Lebel Revolver Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
115 Lead	Bullseye	2.8	700	126	Lyman No. 32359
102 Lead	ML		625	104	Military load

8mm Roth-Steyr



Historical Notes The 8mm Roth-Steyr cartridge and auto pistol were adopted by the Austro-Hungarian cavalry in 1907. No other country or gun employed this cartridge. It was a popular post-World War II surplus item, all but unknown on the American market prior to the war. It is a recoil-operated pistol of rather odd appearance, resembling some modern air pistols.

General Comments The 8mm Roth-Steyr cartridge is similar to the .32 Automatic, but longer and more powerful. It would make a

fair field cartridge for small game if loaded with hunting-type bullets. The Roth-Steyr pistol has a non-detachable magazine in the grip that holds 10 shots. As with most Austrian-designed auto pistols of the period, it is loaded by retracting the slide (bolt) and inserting a special charger from the top. It can be loaded without the charger, but this is rather slow and hard on the fingers. Fiocchi still manufactures this cartridge.

8mm Roth-Steyr Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
116 Lead	Unique	3.3	1050	283	Lyman No. 313226
113 FMJ	FL		1070	287	Fiocchi factory load
116 FMJ	ML		1090	309	Military load

41 Remington Magnum



Historical Notes The 41 Remington Magnum revolver cartridge was introduced in June 1964 along with the S&W Model 57 revolver. This is a heavy-frame gun, essentially the same as the older 44 Magnum, but of smaller caliber. The 41 Magnum is very similar to an old, but little-known wildcat cartridge called the 400 Eimer. Bore diameter of the 41 Magnum is a true 0.410-inch rather than the 0.401-inch of the 41 Long Colt. Both a police load and a more powerful softpoint hunting round were originally introduced.

Like most new cartridges, a number of individuals claim to have originated or influenced the design of the 41 Magnum. It might be well in passing to mention that the 400 Eimer appeared around 1924. Possibly, a number of persons working over a span of time convinced Remington that it would be a good idea to bring out such a round. Probably Elmer Keith deserves the major credit.

General Comments There has been much argument as to the need for a police cartridge with greater stopping power than the 357 Magnum. Few understand why a blunt 200-grain bullet for the 357 would not have served this purpose. In addition, a lighter 210-grain police load could have been worked up for the 44 Magnum. However, someone wanted a new cartridge and the 41 Magnum was the result.

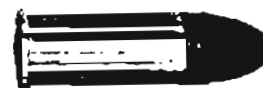
Actually, the new round is a more practical all-round hunting cartridge for the average individual than the 44 Magnum. The 357 is not entirely adequate for big game, except in the hands of a good shot and experienced handgun hunter. The 44 Magnum is overpowered for anything but big game and most people do not shoot very well with it. The 41 Magnum covers the small, medium game and varmint-through-deer class quite adequately. Its effectiveness on anything heavier than deer would depend upon who was using it and under what conditions.

Recoil and muzzle blast of the 41 Magnum are slightly less than the 44 Magnum, but still heavy. For the average shooter, mastering either will require about the same amount of training and practice. The 210-grain lead police load with its 1,150 fps is relatively pleasant to shoot and quite adequate for small game or varmints at average handgun ranges. Factory-claimed velocities are for an 8 3/8-inch barrel. Velocity developed from the 6-inch barrel is about 1000 fps for the police load and 1360 to 1400 fps for the softpoint hunting load. In summing up, the 41 Magnum is not quite as powerful as the 44 Magnum, but it is all the gun the average handgun hunter needs. A number of police departments have adopted the 41 Magnum, but most have since dropped it in favor of 9mm Luger or 40 S&W semi-automatic pistols. All major domestic commercial ammunition-makers have offered this cartridge.

41 Remington Magnum Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
170 JHP	2400	21.0	1400	740	Sierra
210 JHP	W296	20.0	1200	672	Speer, Nosler, Sierra, Hornady
210 JHP	H110	20.0	1200	672	Speer, Nosler, Sierra, Hornady
170 JHP	FL		1420	761	Factory load
175 JHP	FL		1250	607	Factory load
210 Lead	FL		965	434	Factory load
210 JHP	FL		1300	788	Factory load

10.4mm Italian Revolver



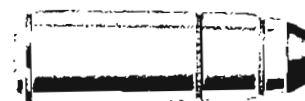
Historical Notes This cartridge was developed for the Italian Model 1874 service revolver, but also used in the Glisenti Model 1889 revolver. It is sometimes listed as the 10.35 Italian Revolver or 10.35 Glisenti. Blackpowder and smokeless powder ammunition is encountered. Both of the above revolvers have been sold from time to time in surplus stores.

General Comments The 10.4 Italian cartridge is similar to the 44 S&W Russian. It would be an effective short-range self-defense or small game hunting number. This ammunition is still commercially available from Fiocchi.

10.4mm Italian Revolver Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
177 Lead	Blackpowder		735	212	Military load
177 Lead	Smokeless powder		800	240	Factory load

44-40 (44 Winchester)



Historical Notes Designed as a rifle cartridge, the 44-40 became very popular as a handgun chambering, and many early shooters

carried both a rifle and revolver chambered for it. Historical notes and comments will be found in Chapter 2.

44-40 Revolver Loading Data

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
200 SP	Unique	11.1	1125	560	Lyman
205 Lead	Unique	10.9	1095	545	Lyman No. 42798

455 Revolver Mkl 455 Colt/455 Enfield

Historical Notes The 455 Revolver Mkl was adopted by the British Army in 1892 to replace the 476 MkII and the 455 Enfield Mkl ammunition. Despite the different designation, these two cartridges actually have the same case dimensions. These differ only in bullet diameter, type and construction. The 476 was a blackpowder cartridge and so was the 455 Mkl at its inception. However, in 1894, the propellant was changed to the new Cordite, and after a few years, it was found that the smokeless powder burned more efficiently in a shorter case. Consequently, a shorter case was adopted in 1897, and this altered round was designated the 455 Revolver MkII. This is the 455 Webley, familiar to American shooters. It has a case 0.11-inch to 0.14-inch shorter than the original round.

The 455 Colt is nothing more than Colt's commercial designation of the 455 Revolver Mkl, in a somewhat improved loading. It is listed in various publications and was loaded by American

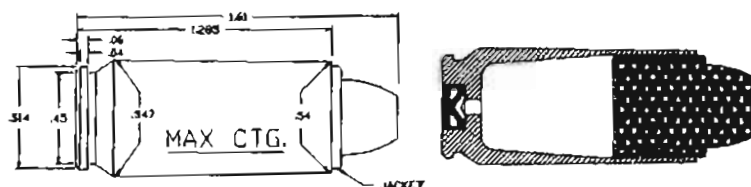
companies under this name, but was discontinued in the late 1900s. This is not a Colt-designed cartridge, but it does have different ballistics than the British Mkl. Later, new cartridge dimensions were adopted and this round was called the 455 Colt MkII.

General Comments The 455 Mkl, 455 MkII, 455 Colt and the original 476 Revolver rounds are all interchangeable and can be found in early British service arms. The 450 Revolver cartridge can also be fired in 455 revolvers. However, the 455 Webley is the only one commercially loaded. Use the same bullet and 455 Webley loading data for any of the 455 cartridges listed here. Power and performance are the same. Fiocchi has recently offered this ammunition.

Editor's note: Those not at least slightly confused by the profusion of large-caliber British cartridge designations are a rare breed.

455 Revolver Mkl, 455 Colt Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
265 Lead	Blackpowder		700	289	Kynoch factory load
265 Lead	Cordite powder		600	212	Kynoch factory load
265 Lead	Smokeless powder		757	337	Factory load, U.S.
262 Lead	FL		850	420	Fiocchi factory load



460 Smith & Wesson

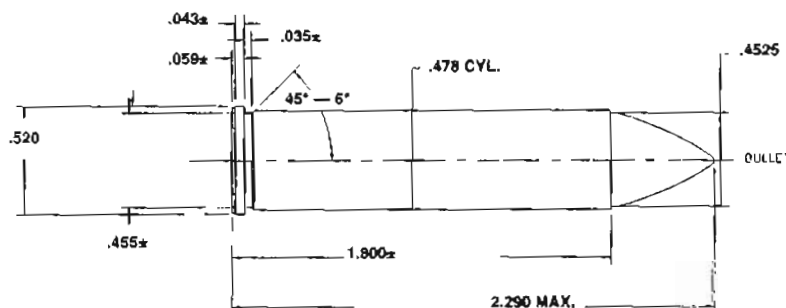


Historical Notes Announced in 2005 as a joint Hornady-Smith & Wesson development, the 460 Smith and Wesson (S&W) is the fastest revolver cartridge ever produced, reaching velocities of about 2200 fps with 200-grain bullets. It is chambered in the S&W M460 Extreme Velocity Revolver for long-range handgun hunting. Used by a skilled pistol shooter, the 460 S&W cartridge can achieve MOA accuracy at 100 yards. The CARTRIDGES OF THE WORLD editor took a Wyoming pronghorn at 190 yards with the 460 S&W in late 2005.

General Comments The 460 S&W uses the 454 Casull case lengthened to 1.8 inches as its parent case. It is the first commercial revolver cartridge to use tipped bullets. Hornady and Cor-Bon offer loaded ammunition for the 460 S&W. Hornady and Starline supply reloading components and data for this cartridge. It is well suited for whitetail deer hunting at 150 yard-plus ranges.

460 Smith & Wesson

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
220 Hornady SST	FL		2200	2149	Hornady
225 Barnes X	M110	42.0	2243		Hodgdon
240 Hdy XTP	H4227	45.0	2198		Hodgdon
250 Barnes X	Li'l Gun	42.0	2044		Hodgdon



480 Ruger



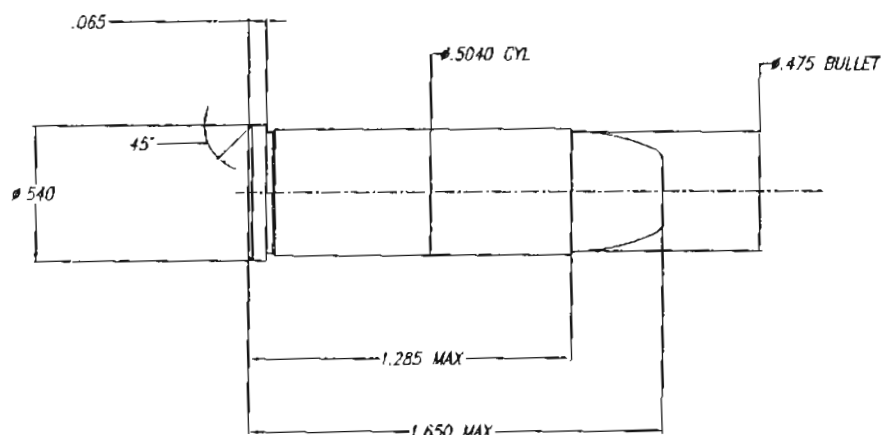
Historical Notes After a half-century of production, millions of shooters use Bill Ruger's firearms—but only one very special pistol cartridge bears Bill Ruger's name. The 480 Ruger was never intended to be the biggest and heaviest-recoiling handgun cartridge on the block. It splits the difference between the 44 Remington Magnum and 454 Casull cartridges.

General Comments Using a Hornady 325-grain XTP Magnum bullet (diameter .475-inch) and Hornady brass, the 480 Ruger offers a significant velocity and energy increase over the 44

Remington Magnum cartridge, but without the recoil disadvantage of other super-powered handgun cartridges. The key to delivering the two-thirds of a ton of muzzle energy is a well-reasoned balance between bullet weight, velocity and operating pressure, in a cartridge derived from the venerable 45-70 case. The cartridge is chambered in Ruger's rugged double-action six-shooter, the Super Redhawk with an integral scope mounting system on the top strap. It should serve big-game handgun hunters and metallic silhouette target shooters with distinction.

480 Ruger Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
325 Hornady XTP	FL		1350	1315	Hornady



50 Action Express



Historical Notes The 50 Action Express (50 AE) was developed in 1988 for the IMI Desert Eagle semi-auto pistol, imported by Magnum Research Inc. It is another development by Evan Whildin, then of Action Arms. It was part of a program to upgrade performance of the semi-auto pistol through new cartridge design. The 50 AE has the same rim diameter, case length and overall length as the 44 Magnum. However, base diameter is 0.547-inch, so, like the 41 AE, the 50 AE has a rebated rim. This allows simple adaptation to the Desert Eagle pistol, which was designed for use with the 44 Magnum. Since the rim is the same, it is possible to change chamberings by the simple process of installing a new barrel, a very practical approach.

General Comments The 50 AE uses a 0.500-inch bullet * weighing 325 grains at a muzzle velocity of 1400 fps. This load develops 1414 fpe, which makes the 50 AE one of the world's most powerful pistol cartridges. This is an excellent field cartridge for deer-size animals or as a backup when hunting dangerous game. Speer now offers factory ammunition.

* The original design featured a standard 50-caliber, 0.510-inch bullet but when a polygonally-rifled bore was adopted, the gauge plug defining the limit of "Sporting Devices" fell through the barrel. This rendered the 50 AE a "Destructive Device," so bore size was reduced and the case was tapered to accommodate the smaller bullet.

50 Action Express Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
300 JHP	AA No. 7	27.5	1579	1568	Accurate Arms
325 Speer Uni-Core	AA 1680	37.8	1305	1227	Accurate
325 JHP	FL		1400	1414	Factory load

500 Smith & Wesson



Historical Notes Introduced by Smith and Wesson in 2003 for big game hunting in the first commercial 50-caliber revolver, the 500 S&W became the most powerful factory production cartridge in history. The M500 revolver and 500 S&W cartridge constitute an effective combination for big game hunting at reasonable ranges.

General Comments The 500 S&W uses a rimmed case 1.625 inches long, with a rim diameter of .560-inch. To fit in the M500 revolver's cylinder, the overall length for a loaded cartridge cannot exceed 2.25 inches. The 500 S&W cartridge is best suited to heavy-duty hunting revolvers or modern single-shot pistols and rifles. Factory ammunition is available from Hornady, Cor-Bon and Winchester. Hornady and Starline offer reloading components.

500 Smith & Wesson Loading Data and Factory Ballistics

Bullet (grains/type)	Powder	Grains	Velocity	Energy	Source/Comments
350 Hornady XTP	FL		1900	2805	Hornady
500 Hornady SP	FL		1425	2254	Hornady
275 Barnes XPB	Li'l Gun	44.0	2137		Hodgdon
350 Hdy XTP	H110	43.0	1877		Hodgdon
400 Sierra JSP	Li'l Gun	37.0	1725		Hodgdon
500 Hdy SP	H110	32.2	1436		Hodgdon

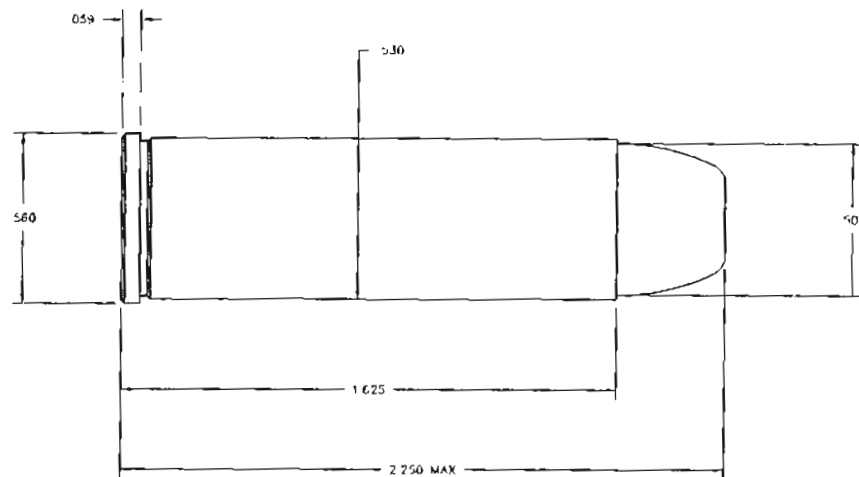


EXHIBIT “54”

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9 *State of California, Edmund G. Brown Jr., and the*
California Department of Justice

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF FRESNO
12
13

14 **SHERIFF CLAY PARKER, TEHAMA**
15 **COUNTY SHERIFF; HERB BAUER**
16 **SPORTING GOODS; CALIFORNIA**
17 **RIFLE AND PISTOL ASSOCIATION;**
ABLE'S SPORTING, INC.; RTG
SPORTING COLLECTIBLES, LLC; AND
STEVEN STONECIPHER,

18 Plaintiffs and Petitioners,

19 v.

20 **THE STATE OF CALIFORNIA; JERRY**
21 **BROWN, IN HIS OFFICIAL CAPACITY**
22 **AS ATTORNEY GENERAL FOR THE**
23 **STATE OF CALIFORNIA; THE**
CALIFORNIA DEPARTMENT OF
JUSTICE, AND DOES 1-25,

24 Defendants and
25 Respondents.

Case No. 10CECG02116

**RESPONSES TO SPECIALLY
PREPARED INTERROGATORIES, SET
ONE**

Action Filed: June 17, 2010

1 **PROPOUNDING PARTIES:** **SHERIFF CLAY PARKER, HERB BAUER**
2 **SPORTING GOODS, CALIFORNIA RIFLE AND**
3 **PISTOL ASSOCIATION, ABLE'S SPORTING, INC.,**
4 **RTG SPORTING COLLECTIBLES, LLC, AND**
5 **STEVEN STONECIPHER**

6 **RESPONDING PARTIES:** **THE STATE OF CALIFORNIA, JERRY BROWN,**
7 **IN HIS OFFICIAL CAPACITY AS ATTORNEY**
8 **GENERAL FOR THE STATE OF CALIFORNIA,**
9 **AND THE CALIFORNIA DEPARTMENT OF**
10 **JUSTICE**

11 **SET NO.:** **ONE**

12 **GENERAL OBJECTIONS**

13 The following General Objections are incorporated into each of defendant and respondent
14 State of California, Edmund G. Brown, Jr., and California Department of Justice's (collectively,
15 the "State") responses to plaintiffs and petitioners' Sheriff Clay Parker, Herb Bauer Sporting
16 Goods, California Rifle and Pistol Association, Able's Sporting, Inc., RTG Sporting Collectibles,
17 LLC, and Steven Stonecipher's (collectively, "Plaintiffs") Special Interrogatories:

18 A. The State objects to the form of Plaintiffs' special interrogatories in that they are
19 propounded by all plaintiffs to all defendants in a single document. The State defendants will
20 respond in good faith with a single response without waiving any objections or defenses that each
21 individual responding party would otherwise be entitled to assert in this litigation.

22 B. The State objects to the "Instructions and Definitions" that appear on pages 2 through
23 4 of Plaintiffs' Special Interrogatories, Set One to the extent they constitute an improper preface
24 and instruction and purport to impose obligations on the State that are not contained in the Code
25 of Civil Procedure. (Code Civ. Proc., § 2030.060(d) ["No preface or instruction shall be included
26 with a set of interrogatories"].)

27 C. The State has not completed its investigation of the facts or discovery relating to this
28 case. The following responses are based upon information known at this time and are given
without prejudice to the State's right to supplement these responses, and introduce into evidence
or otherwise use any subsequently discovered evidence and facts. Each response is given subject
to all appropriate objections (including but not limited to objections concerning competency,

1 relevancy, propriety, authenticity, and admissibility) that would require exclusion at trial. All
2 such objections and grounds therefore are reserved and may be made at trial.

3 D. The State objects to each special interrogatory in Plaintiffs' Special Interrogatories,
4 Set One to the extent it calls for information protected from disclosure by the attorney-client
5 privilege, attorney work product doctrine, or any other statutory or common law privilege. The
6 State will produce only non-privileged information in response to these interrogatories, and
7 nothing contained herein shall be construed as a waiver of any such privilege. In the event any
8 privileged information is disclosed in this response, such disclosure is inadvertent and does not
9 constitute a waiver of any privilege.

10 **SPECIAL INTERROGATORY NO. 1**

11 Do YOU contend that there is a generally accepted definition of "handgun ammunition?"

12 **RESPONSE TO SPECIAL INTERROGATORY NO. 1:**

13 The State further objects to this Interrogatory on the following grounds:

14 1. The definition of the term "YOU" is overbroad and vague insofar as it includes third
15 parties who are not defendants and have no connection to this case, including "any and all . . .
16 agents, representatives, employees, servants, consultants, contractors, subcontractors,
17 investigators, attorneys, and any other PERSONS or entities acting or purporting to act on behalf
18 of DEFENDANTS." The State cannot respond on behalf of all these individuals and entities; and

19 2. The phrase "generally accepted" is vague and ambiguous and fails to specify by
20 whom the definition is meant to be generally accepted.

21 Without waiving the foregoing general or specific objections, the State responds as follows:
22 Yes.

23 **SPECIAL INTERROGATORY NO. 2**

24 If YOU contend that there is a generally accepted definition of "handgun ammunition,"
25 please state that definition.

26 **RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

27 The State further objects to this Interrogatory on the ground that the definition of the term
28 "YOU" is overbroad and vague insofar as it includes third parties who are not defendants and

1 have no connection to this case, including "any and all . . . agents, representatives, employees,
2 servants, consultants, contractors, subcontractors, investigators, attorneys, and any other
3 PERSONS or entities acting or purporting to act on behalf of DEFENDANTS." The State cannot
4 respond on behalf of all these individuals and entities.

5 Without waiving any of the foregoing general or specific objections, the State responds as
6 follows: "Ammunition principally for use in pistols, revolvers, and other firearms capable of
7 being concealed upon the person, as defined in subdivision (a) of Section 12001, notwithstanding
8 that the ammunition may also be used in some rifles." (Cal. Penal Code § 12323(a).)

9 **SPECIAL INTERROGATORY NO. 3**

10 IDENTIFY any and all PERSONS who have knowledge of the facts upon which YOU base
11 YOUR response to Special Interrogatory No. 2.

12 **RESPONSE TO SPECIAL INTERROGATORY NO. 3:**

13 The State further objects to this Interrogatory on the ground that the definition of the term
14 "YOU" is overbroad and vague insofar as it includes third parties who are not defendants and
15 have no connection to this case, including "any and all . . . agents, representatives, employees,
16 servants, consultants, contractors, subcontractors, investigators, attorneys, and any other
17 PERSONS or entities acting or purporting to act on behalf of DEFENDANTS." The State cannot
18 respond on behalf of all these individuals and entities.

19 Without waiving any of the foregoing general or specific objections, the State responds as
20 follows: The definition is one known by anyone who has read or otherwise become familiar with
21 the language of section 12323, subdivision (a) of the California Penal Code.

22 **SPECIAL INTERROGATORY NO. 4**

23 IDENTIFY any and all DOCUMENTS upon which YOU rely to support YOUR response
24 to Special Interrogatory No. 2.

25 **RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

26 The State further objects to this Interrogatory on the ground that the definition of the term
27 "YOU" is overbroad and vague insofar as it includes third parties who are not defendants and
28 have no connection to this case, including "any and all . . . agents, representatives, employees,

1 servants, consultants, contractors, subcontractors, investigators, attorneys, and any other
2 PERSONS or entities acting or purporting to act on behalf of DEFENDANTS." The State cannot
3 respond on behalf of all these individuals and entities.

4 Without waiving any of the foregoing general or specific objections, the State responds as
5 follows: The text of California Penal Code section 12323.

6 **SPECIAL INTERROGATORY NO. 5**

7 List all types of ammunition DEFENDANTS consider "handgun ammunition" for purposes
8 of California Penal Code sections 12060, 12061, and 12318.

9 **RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

10 The State further objects to this Interrogatory on the grounds that:

11 1. The definition of the term "DEFENDANTS" is overbroad and vague insofar as it
12 includes third parties who are not defendants and have no connection to this case, including "any
13 and all . . . agents, representatives, employees, servants, consultants, contractors, subcontractors,
14 investigators, attorneys, and any other PERSONS or entities acting or purporting to act on behalf
15 of DEFENDANTS." The State cannot respond on behalf of all these individuals and entities;

16 2. It is compound and conjunctive insofar as it calls for a response based upon three
17 separate statutes. (Code Civ. Proc., § 2030.060(f)); and

18 3. The term "types" is vague and ambiguous. The State is uncertain whether
19 Plaintiffs are referring to calibers, rimfire, centerfire or other "types" of ammunition. The State
20 will construe the word "types" to refer to "calibers" throughout these responses.

21 Without waiving any of the foregoing general or specific objections, the State responds as
22 follows: .45, 9mm, 10mm, .40, .357, .38, .44, .380, .454, .25, .32.

23 **SPECIAL INTERROGATORY NO. 6**

24 For each type of ammunition YOU list as "handgun ammunition" in response to Special
25 Interrogatory No. 5, please IDENTIFY any and all PERSONS who have knowledge of the facts
26 upon which YOU base YOUR response to Special Interrogatory No. 5.

27 **RESPONSE TO SPECIAL INTERROGATORY NO. 6:**

28 The State further objects to this Interrogatory on the following grounds:

1 1. The definition of the term "YOU" is overbroad and vague insofar as it includes
2 third parties who are not defendants and have no connection to this case, including "any and all . .
3 . agents, representatives, employees, servants, consultants, contractors, subcontractors,
4 investigators, attorneys, and any other PERSONS or entities acting or purporting to act on behalf
5 of DEFENDANTS." The State cannot respond on behalf of all these individuals and entities;

6 2. The definition of the term "PERSONS," is overbroad insofar as it includes
7 individuals and entities other than the named defendants, including "any natural person, together
8 with all federal, state, county, municipal and other government units, agencies or public bodies, as
9 well as firms, companies, corporations, partnerships, proprietorships, joint ventures,
10 organizations, groups of natural persons or other associations or entities separately identifiable
11 whether or not such associations or entities have a separate legal existence in their own right."
12 The State defendants cannot speculate about what knowledge these entities might possess.

13 3. It is not full and complete in and of itself. (Code Civ. Proc., § 2030.060(d)); and

14 4. It is compound and conjunctive. (Code Civ. Proc., § 2030.060(f)).

15 Without waiving any of the foregoing general or specific objections, the State responds as
16 follows: There is a common understanding among those individuals and businesses who might
17 be subject to sections 12060, 12061, and 12318 of the Penal Code, as well as among those who
18 might enforce them, that the calibers identified in the State's response to Interrogatory No. 5 are
19 used principally in pistols and revolvers. Persons with knowledge of the facts underlying the
20 State's response include Special Agent Supervisor Blake Graham, who may be contacted through
21 counsel for the State.

22 **SPECIAL INTERROGATORY NO. 7**

23 For each type of ammunition YOU list as "handgun ammunition" in response to Special
24 Interrogatory No. 5, please IDENTIFY any and all DOCUMENTS upon which YOU rely to
25 support YOUR response to Special Interrogatory No. 5.

26 **RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

27 The State further objects to this Interrogatory on the following grounds:

28 1. The definition of the term "YOU" is overbroad and vague insofar as it includes

1 third parties who are not defendants and have no connection to this case, including "any and all . .
2 . agents, representatives, employees, servants, consultants, contractors, subcontractors,
3 investigators, attorneys, and any other PERSONS or entities acting or purporting to act on behalf
4 of DEFENDANTS." The State cannot respond on behalf of all these individuals and entities;

5 2. It is not full and complete in and of itself. (Code Civ. Proc., § 2030.060(d)); and

6 3. It is compound and conjunctive. (Code Civ. Proc., § 2030.060(f)).

7 Without waiving any of the foregoing general or specific objections, the State responds as
8 follows: There is a common understanding among those individuals and businesses who might
9 be subject to sections 12060, 12061, and 12318 of the Penal Code, as well as among those who
10 might enforce them, that the calibers identified in the State's response to Interrogatory No. 5 are
11 used principally in pistols and revolvers. Accordingly, the State does not believe that
12 documentary support (or expert testimony) is necessary to a finding that the listed calibers are
13 "handgun ammunition." Nevertheless, the State's list is supported by the following documents.
14 The Department of Justice is required by statute to maintain a record of handgun sales in the state.
15 The listed calibers are consistently among the highest in terms of handgun sales volume based
16 upon the number of handguns sold over each of the past five years. The sales data is contained on
17 a Dealer Record of Sales spreadsheet that the State will produce in response to Plaintiffs' requests
18 for production. The listed calibers are also identified in "Cartridges of the World," which
19 Plaintiffs' expert relies upon, on ammunition vendor websites, and online encyclopedias as
20 handgun ammunition calibers. Discovery is continuing. The State reserves the right to
21 supplement this response.

22 **SPECIAL INTERROGATORY NO. 8**

23 For each type of ammunition listed as "handgun ammunition" in response to Special
24 Interrogatory No. 5, please state all facts that support your contention that each particular type of
25 ammunition you list is "handgun ammunition" for purposes of California Penal Code sections
26 12060, 12061, and 12318.

27 **RESPONSE TO SPECIAL INTERROGATORY NO. 8:**

28 The State further objects to this Interrogatory on the following grounds:

1 1. Specially defined terms carried over from question to question are not capitalized.
2 (Code Civ. Proc., § 2030.060(e));

3 2. It is not full and complete in and of itself. (Code Civ. Proc., § 2030.060(d)); and

4 3. It is compound and conjunctive. (Code Civ. Proc., § 2030.060(f)).

5 Without waiving any of the foregoing general or specific objections, the State responds as
6 follows: There is a common understanding among those individuals and businesses who might
7 be subject to sections 12060, 12061, and 12318 of the Penal Code, as well as among those who
8 might enforce them, that the calibers identified in the State's response to Interrogatory No. 5 are
9 used principally in pistols and revolvers. Numerous documents support this understanding. The
10 Department of Justice is required by statute to maintain a record of handgun sales in the state.
11 The listed calibers are consistently among the highest in terms of handgun sales volume based
12 upon the number of handguns sold over each of the past five years. The sales data is contained on
13 a Dealer Record of Sales spreadsheet that the State will produce in response to Plaintiffs' requests
14 for production. The listed calibers are also identified in "Cartridges of the World," which
15 Plaintiffs' expert relies upon, on ammunition vendor websites, and online encyclopedias as
16 handgun ammunition calibers. Discovery is continuing. The State reserves the right to
17 supplement this response.

18 **SPECIAL INTERROGATORY NO. 9**

19 Do YOU contend that "ammunition principally for use in a HANDGUN" means
20 ammunition that is used more often in a HANDGUN than in a LONG GUN?

21 **RESPONSE TO SPECIAL INTERROGATORY NO. 9:**

22 The State further objects to this Interrogatory on the grounds that:

23 1. The definition of the term "YOU" is overbroad and vague insofar as it includes
24 third parties who are not defendants and have no connection to this case, including "any and all . .
25 . agents, representatives, employees, servants, consultants, contractors, subcontractors,
26 investigators, attorneys, and any other PERSONS or entities acting or purporting to act on behalf
27 of DEFENDANTS." The State cannot respond on behalf of all these individuals and entities; and

28 2. The plain language of sections 12323 and 12060(b) of the Penal Code speak for

1 themselves. Statutory interpretation, including the meaning of statutory terms and phrases, lies in
2 the sole province of the Court. (*County of Yolo v. Los Rios Community Coll. Dist.* (1992) 5
3 Cal.App.4th 1242, 1257.) .

4 Without waiving any of the foregoing general or specific objections, the State responds as
5 follows: Yes, one interpretation of the statutory language, "ammunition principally for use in
6 pistols, revolvers, and other firearms capable of being concealed upon the person," is ammunition
7 that is used more often in a pistol or revolver than in a rifle.

8 **SPECIAL INTERROGATORY NO. 10**

9 If YOU do not contend that "ammunition principally for use in a handgun" means
10 ammunition that is used more often in a HANDGUN than in a LONG GUN, please state YOUR
11 understanding of the meaning of "ammunition principally for use in a HANDGUN."

12 **RESPONSE TO SPECIAL INTERROGATORY NO. 10:**

13 Inapplicable.

14 **SPECIAL INTERROGATORY NO. 11**

15 IDENTIFY any and all DOCUMENTS upon which YOU rely to support YOUR response
16 to Special Interrogatory No. 10.

17 **RESPONSE TO SPECIAL INTERROGATORY NO. 11:**

18 Inapplicable.

19 **SPECIAL INTERROGATORY NO. 12**

20 Please state all facts that assist YOU in determining whether a given type of ammunition is
21 used more often in a HANDGUN than in a LONG GUN.

22 **RESPONSE TO SPECIAL INTERROGATORY NO. 12:**

23 The State further objects to this Interrogatory on the grounds that:

24 1. The definition of the term "YOU" is overbroad and vague insofar as it includes
25 third parties who are not defendants and have no connection to this case, including "any and all . .
26 . agents, representatives, employees, servants, consultants, contractors, subcontractors,
27 investigators, attorneys, and any other PERSONS or entities acting or purporting to act on behalf
28 of DEFENDANTS." The State cannot respond on behalf of all these individuals and entities; and

1 2. This interrogatory appears to require the State to accept Plaintiffs' definition of the
2 phrase "principally for use in a handgun." Statutory interpretation, including the meaning of
3 statutory terms and phrases, is the Court's responsibility, and the Court has not yet construed the
4 challenged provisions. (*County of Yolo v. Los Rios Community Coll. Dist.* (1992) 5 Cal.App.4th
5 1242, 1257.)

6 Without waiving any of the foregoing general or specific objections, the State responds as
7 follows: There is a common understanding among those individuals and businesses who might
8 be subject to sections 12060, 12061, and 12318 of the Penal Code, as well as among those who
9 might enforce them, that the calibers identified in the State's response to Interrogatory No. 5 are
10 used principally in pistols and revolvers. Numerous documents support this understanding. The
11 Department of Justice is required by statute to maintain a record of handgun sales in the state.
12 The listed calibers are consistently among the highest in terms of handgun sales volume based
13 upon the number of handguns sold over each of the past five years. The sales data is contained on
14 a Dealer Record of Sales spreadsheet that the State will produce in response to Plaintiffs' requests
15 for production. The listed calibers are also identified in "Cartridges of the World," which
16 Plaintiffs' expert relies upon, on ammunition vendor websites, and online encyclopedias as
17 handgun ammunition calibers. Discovery is continuing. The State reserves the right to
18 supplement this response.

19 **SPECIAL INTERROGATORY NO. 13**

20 IDENTIFY any and all DOCUMENTS upon which YOU rely to support YOUR response
21 to Special Interrogatory No. 12.

22 **RESPONSE TO SPECIAL INTERROGATORY NO. 13:**

23 The State further objects to this Interrogatory on the grounds that the definition of the term
24 "YOU" is overbroad and vague insofar as it includes third parties who are not defendants and
25 have no connection to this case, including "any and all . . . agents, representatives, employees,
26 servants, consultants, contractors, subcontractors, investigators, attorneys, and any other
27 PERSONS or entities acting or purporting to act on behalf of DEFENDANTS." The State cannot
28 respond on behalf of all these individuals and entities.

1 Without waiving any of the foregoing general or specific objections, the State responds as
2 follows: There is a common understanding among those individuals and businesses who might
3 be subject to sections 12060, 12061, and 12318 of the Penal Code, as well as among those who
4 might enforce them, that the calibers identified in the State's response to Interrogatory No. 5 are
5 used principally in pistols and revolvers. Numerous documents support this understanding. The
6 Department of Justice is required by statute to maintain a record of handgun sales in the state.
7 The listed calibers are consistently among the highest in terms of handgun sales volume based
8 upon the number of handguns sold over each of the past five years. The sales data is contained on
9 a Dealer Record of Sales spreadsheet that the State will produce in response to Plaintiffs' requests
10 for production. The listed calibers are also identified in "Cartridges of the World," which
11 Plaintiffs' expert relies upon, on ammunition vendor websites, and online encyclopedias as
12 handgun ammunition calibers. Discovery is continuing. The State reserves the right to
13 supplement this response.

14 **SPECIAL INTERROGATORY NO. 14**

15 Please state all facts that assist you in determining whether the types of ammunition YOU
16 list in your response to Interrogatory No. 5 are used more often in a HANDGUN than in a LONG
17 GUN.

18 **RESPONSE TO SPECIAL INTERROGATORY NO. 14:**

19 The State further objects to this Interrogatory on the following grounds:

- 20 1. The definition of the term "YOU" is overbroad and vague insofar as it includes
21 third parties who are not defendants and have no connection to this case, including "any and all . .
22 . agents, representatives, employees, servants, consultants, contractors, subcontractors,
23 investigators, attorneys, and any other PERSONS or entities acting or purporting to act on behalf
24 of DEFENDANTS." The State cannot respond on behalf of all these individuals and entities;
- 25 2. It is not full and complete in and of itself. (Code Civ. Proc., § 2030.060(d));
- 26 3. It is compound and conjunctive. (Code Civ. Proc., § 2030.060(f)); and
- 27 4. The State objects to the extent that giving a response to this Interrogatory would
28 require the State to accept as final Plaintiffs' definition of the phrase "principally for use in a

1 handgun.” Statutory interpretation, including the meaning of statutory terms, is the Court’s
2 responsibility, and the Court has not yet construed the challenged provisions. (*County of Yolo v.*
3 *Los Rios Community Coll. Dist.* (1992) 5 Cal.App.4th 1242, 1257.)

4 Without waiving any of the foregoing general or specific objections, the State responds as
5 follows: There is a common understanding among those individuals and businesses who might
6 be subject to sections 12060, 12061, and 12318 of the Penal Code, as well as among those who
7 might enforce them, that the calibers identified in the State’s response to Interrogatory No. 5 are
8 used principally in pistols and revolvers. Numerous facts and documents support this
9 understanding. The Department of Justice is required by statute to maintain a record of handgun
10 sales in the state. The listed calibers are consistently among the highest in terms of handgun sales
11 volume based upon the number of handguns sold over each of the past five years. The sales data
12 is contained on a Dealer Record of Sales spreadsheet that the State will produce in response to
13 Plaintiffs’ requests for production. The listed calibers are also identified in “Cartridges of the
14 World,” which Plaintiffs’ expert relies upon, on ammunition vendor websites, and online
15 encyclopedias as handgun ammunition calibers. Discovery is continuing. The State reserves the
16 right to supplement this response.

17 **SPECIAL INTERROGATORY NO. 15**

18 IDENTIFY any and all DOCUMENTS upon which YOU rely to support YOUR response
19 to Special Interrogatory No. 14.

20 **RESPONSE TO SPECIAL INTERROGATORY NO. 15:**

21 The State further objects to this Interrogatory on the grounds that the definition of the term
22 “YOU” is overbroad and vague insofar as it includes third parties who are not defendants and
23 have no connection to this case, including “any and all . . . agents, representatives, employees,
24 servants, consultants, contractors, subcontractors, investigators, attorneys, and any other
25 PERSONS or entities acting or purporting to act on behalf of DEFENDANTS.” The State cannot
26 respond on behalf of all these individuals and entities.

27 Without waiving any of the foregoing general or specific objections, the State responds as
28 follows: There is a common understanding among those individuals and businesses who might

1 be subject to sections 12060, 12061, and 12318 of the Penal Code, as well as among those who
2 might enforce them, that the calibers identified in the State's response to Interrogatory No. 5 are
3 used principally in pistols and revolvers. Numerous documents support this understanding. The
4 Department of Justice is required by statute to maintain a record of handgun sales in the state.
5 The listed calibers are consistently among the highest in terms of handgun sales volume based
6 upon the number of handguns sold over each of the past five years. The sales data is contained on
7 a Dealer Record of Sales spreadsheet that the State will produce in response to Plaintiffs' requests
8 for production. The listed calibers are also identified in "Cartridges of the World," which
9 Plaintiffs' expert relies upon, on ammunition vendor websites, and online encyclopedias as
10 handgun ammunition calibers. Discovery is continuing. The State reserves the right to
11 supplement this response.

12 **SPECIAL INTERROGATORY NO. 16**

13 Do YOU contend that DEFENDANTS are not currently enforcing California Penal Code
14 section 12061(a)(1)-(2)?

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 16:**

16 The State further objects to this Interrogatory on the grounds that:

17 1. The definition of the terms "YOU" and "DEFENDANT" are overbroad and vague
18 insofar as they includes third parties who are not defendants and have no connection to this case,
19 including "any and all . . . agents, representatives, employees, servants, consultants, contractors,
20 subcontractors, investigators, attorneys, and any other PERSONS or entities acting or purporting
21 to act on behalf of DEFENDANTS." This vagueness is compounded by the fact that it
22 incorporates the term "PERSONS," which is also vague and overbroad, thus amplifying the
23 overbreadth in the context of this interrogatory. The State cannot respond on behalf of all these
24 individuals and entities;

25 2. The term "enforcing" is vague and ambiguous insofar as it fails to distinguish
26 between citation, arrest, prosecution, or some lesser enforcement activity such as informal
27 discussions or requests.

28 Without waiving the foregoing general or specific objections, the State responds as

1 follows: The Department of Justice has not enforced subparagraphs (1) or (2) of section
2 12061(a) of the Penal Code, the only provisions currently in force, against any individual or
3 business.

4 **SPECIAL INTERROGATORY NO. 17**

5 If YOU contend that DEFENDANTS are not currently enforcing California Penal Code
6 section 12061(a)(1)-(2), IDENTIFY any and all DOCUMENTS supporting this claim.

7 **RESPONSE TO SPECIAL INTERROGATORY NO. 17:**

8 The State further objects to this Interrogatory on the grounds that:

9 1. The definition of the terms "YOU" and "DEFENDANT" are overbroad and vague
10 insofar as they includes third parties who are not defendants and have no connection to this case,
11 including "any and all . . . agents, representatives, employees, servants, consultants, contractors,
12 subcontractors, investigators, attorneys, and any other PERSONS or entities acting or purporting
13 to act on behalf of DEFENDANTS." This vagueness is compounded by the fact that it
14 incorporates the term "PERSONS," which is also vague and overbroad, thus amplifying the
15 overbreadth in the context of this interrogatory. The State cannot respond on behalf of all these
16 individuals and entities;

17 2. The term "enforcing" is vague and ambiguous insofar as it fails to distinguish
18 between citation, arrest, prosecution, or some lesser enforcement activity such as informal
19 discussions or requests.

20 Without waiving the foregoing general or specific objections, the State responds as
21 follows: The Department of Justice does not contend that it is "not currently enforcing
22 California Penal Code section 12061(a)(1)-(2)," only that it has not done so against any individual
23 or business. To the extent that Plaintiffs are asking the State to identify documents to establish a
24 negative, the State has no such documents in its possession, custody, or control.

25 **SPECIAL INTERROGATORY NO. 18**

26 Do YOU contend that DEFENDANTS have instructed law enforcement officers not to
27 enforce California Penal Code section 12061(a)(1)-(2)?
28

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 18:**

2 The State further objects to this Interrogatory on the grounds that:

3 1. The definition of the terms “YOU” and “DEFENDANT” are overbroad and vague
4 insofar as they includes third parties who are not defendants and have no connection to this case,
5 including “any and all . . . agents, representatives, employees, servants, consultants, contractors,
6 subcontractors, investigators, attorneys, and any other PERSONS or entities acting or purporting
7 to act on behalf of DEFENDANTS.” This vagueness is compounded by the fact that it
8 incorporates the term “PERSONS,” which is also vague and overbroad, thus amplifying the
9 overbreadth in the context of this interrogatory. The State cannot respond on behalf of all these
10 individuals and entities;

11 2. The phrase “law enforcement officers” is vague, ambiguous, and overbroad insofar
12 as it fails to differentiate between federal, state, or local law enforcement officers. The State will
13 construe this request to mean officers employed by the California Department of Justice.

14 3. The term “enforce” is vague and ambiguous insofar as it fails to distinguish
15 between citation, arrest, prosecution, or some lesser enforcement activity such as informal
16 discussions or requests.

17 Without waiving the foregoing general or specific objections, the State responds as
18 follows: The Department of Justice makes no such contention.

19 **SPECIAL INTERROGATORY NO. 19**

20 If YOU contend that DEFENDANTS have instructed law enforcement officers not to
21 enforce California Penal Code section 12061(a)(1)-(2), IDENTIFY any and all DOCUMENTS
22 supporting this claim.

23 **RESPONSE TO SPECIAL INTERROGATORY NO. 19:**

24 Inapplicable.

25 **SPECIAL INTERROGATOR Y NO. 20**

26 Do YOU contend that DEFENDANTS have informed firearm retailers that DEFENDANTS
27 are not enforcing California Penal Code section 12061(a)(1)-(2)?

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 20:**

2 The State further objects to this Interrogatory on the grounds that:

3 1. The definition of the terms "YOU" and "DEFENDANT" are overbroad and vague
4 insofar as they includes third parties who are not defendants and have no connection to this case,
5 including "any and all . . . agents, representatives, employees, servants, consultants, contractors,
6 subcontractors, investigators, attorneys, and any other PERSONS or entities acting or purporting
7 to act on behalf of DEFENDANTS." This vagueness is compounded by the fact that it
8 incorporates the term "PERSONS," which is also vague and overbroad, thus amplifying the
9 overbreadth in the context of this interrogatory. The State cannot respond on behalf of all these
10 individuals and entities;

11 2. The term "enforcing" is vague and ambiguous insofar as it fails to distinguish
12 between citation, arrest, prosecution, or some lesser enforcement activity such as informal
13 discussions or requests.

14 3. The phrase "firearms retailers" as used in this Interrogatory is vague, ambiguous,
15 and overbroad.

16 Without waiving the foregoing general or specific objections, the State responds as follows:
17 The Department of Justice does not contend that it has informed firearm retailers that it is not
18 enforcing California Penal Code section 12061 (a)(1)-(a)(2).

19 **SPECIAL INTERROGATORY NO. 21**

20 If YOU contend that DEFENDANTS have informed firearm retailers that DEFENDANTS
21 are not enforcing California Penal Code section 12061(a)(1)-(2), IDENTIFY any and all
22 DOCUMENTS supporting this claim.

23 **RESPONSE TO SPECIAL INTERROGATORY NO. 21:**

24 Inapplicable.

25 **SPECIAL INTERROGATORY NO. 22**

26 Do YOU contend that DEFENDANTS will never enforce California Penal Code section
27 12061(a)(1)-(2)?

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 22:**

2 The State further objects to this Interrogatory on the grounds that:

3 1. The definition of the terms "YOU" and "DEFENDANT" are overbroad and vague
4 insofar as they includes third parties who are not defendants and have no connection to this case,
5 including "any and all . . . agents, representatives, employees, servants, consultants, contractors,
6 subcontractors, investigators, attorneys, and any other PERSONS or entities acting or purporting
7 to act on behalf of DEFENDANTS." This vagueness is compounded by the fact that it
8 incorporates the term "PERSONS," which is also vague and overbroad, thus amplifying the
9 overbreadth in the context of this interrogatory. The State cannot respond on behalf of all these
10 individuals and entities;

11 2. The term "enforce" is vague and ambiguous insofar as it fails to distinguish
12 between citation, arrest, prosecution, or some lesser enforcement activity such as informal
13 discussions or requests.

14 Without waiving the foregoing general or specific objections, the State responds as
15 follows: The Department of Justice does not contend that it will never enforce California Penal
16 Code section 12061 (a)(1)-(a)(2).

17 **SPECIAL INTERROGATORY NO. 23**

18 If YOU contend that DEFENDANTS will never enforce California Penal Code section
19 12061(a)(1)-(2), IDENTIFY any and all DOCUMENTS supporting this claim.

20 **RESPONSE TO SPECIAL INTERROGATORY NO. 23:**

21 Inapplicable.

22 **SPECIAL INTERROGATORY NO. 24**

23 Do YOU contend that DEFENDANTS will never enforce California Penal Code section
24 12061(a)(3)-(7), once that section takes effect on February 1, 2011?

25 **RESPONSE TO SPECIAL INTERROGATORY NO. 24:**

26 The State further objects to this Interrogatory on the grounds that:

27 1. The definition of the terms "YOU" and "DEFENDANT" are overbroad and vague
28 insofar as they includes third parties who are not defendants and have no connection to this case,

1 including "any and all . . . agents, representatives, employees, servants, consultants, contractors,
2 subcontractors, investigators, attorneys, and any other PERSONS or entities acting or purporting
3 to act on behalf of DEFENDANTS." This vagueness is compounded by the fact that it
4 incorporates the term "PERSONS," which is also vague and overbroad, thus amplifying the
5 overbreadth in the context of this interrogatory. The State cannot respond on behalf of all these
6 individuals and entities;

7 2. The term "enforce" is vague and ambiguous insofar as it fails to distinguish
8 between citation, arrest, prosecution, or some lesser enforcement activity such as informal
9 discussions or requests.

10 Without waiving the foregoing general or specific objections, the State responds as
11 follows: The Department of Justice does not contend that it will never enforce California Penal
12 Code section 12061(a)(3)-(7) once that section takes effect on February 1, 2011.

13 **SPECIAL INTERROGATORY NO. 25**

14 If YOU contend that DEFENDANTS will not enforce California Penal Code section
15 2061(a)(3)-(7), once that section takes effect on February 1, 2011, IDENTIFY any and all
16 DOCUMENTS supporting this claim.

17 **RESPONSE TO SPECIAL INTERROGATORY NO. 25:**

18 Inapplicable.

19 **SPECIAL INTERROGATORY NO. 26**

20 Do YOU contend that DEFENDANTS have instructed law enforcement officers not to
21 enforce California Penal Code section 12061(a)(3)-(7) once that section takes effect on February
22 1, 2011?

23 **RESPONSE TO SPECIAL INTERROGATORY NO. 26:**

24 The State further objects to this Interrogatory on the grounds that:

25 1. The definition of the terms "YOU" and "DEFENDANT" are overbroad and vague
26 insofar as they includes third parties who are not defendants and have no connection to this case,
27 including "any and all . . . agents, representatives, employees, servants, consultants, contractors,
28 subcontractors, investigators, attorneys, and any other PERSONS or entities acting or purporting

1 to act on behalf of DEFENDANTS.” This vagueness is compounded by the fact that it
2 incorporates the term “PERSONS,” which is also vague and overbroad, thus amplifying the
3 overbreadth in the context of this interrogatory. The State cannot respond on behalf of all these
4 individuals and entities;

5 2. The term “enforce” is vague and ambiguous insofar as it fails to distinguish
6 between citation, arrest, prosecution, or some lesser enforcement activity such as informal
7 discussions or requests.

8 Without waiving the foregoing general or specific objections, the State responds as
9 follows: The Department of Justice does not contend that it has instructed law enforcement
10 officers not to enforce California Penal Code section 12061(a)(3)-(7) once that section takes
11 effect on February 1, 2011.

12
13 **SPECIAL INTERROGATORY NO. 27**

14 If YOU contend that DEFENDANTS have instructed law enforcement officers not to
15 enforce California Penal Code section 12061(a)(3)-(7), once that section takes effect on February
16 1, 2011, IDENTIFY any and all DOCUMENTS supporting this claim.

17 **RESPONSE TO SPECIAL INTERROGATORY NO. 27:**

18 Inapplicable.

19 **SPECIAL INTERROGATORY NO. 28**

20 Do YOU contend that DEFENDANTS have informed firearm retailers that DEFENDANTS
21 will not enforce California Penal Code section 12061(a)(3)-(7) once that section takes effect on
22 February 1, 2011?

23 **RESPONSE TO SPECIAL INTERROGATORY NO. 28:**

24 The State further objects to this Interrogatory on the grounds that:

25 1. The definition of the terms “YOU” and “DEFENDANT” are overbroad and vague
26 insofar as they includes third parties who are not defendants and have no connection to this case,
27 including “any and all . . . agents, representatives, employees, servants, consultants, contractors,
28 subcontractors, investigators, attorneys, and any other PERSONS or entities acting or purporting

1 to act on behalf of DEFENDANTS.” This vagueness is compounded by the fact that it
2 incorporates the term “PERSONS,” which is also vague and overbroad, thus amplifying the
3 overbreadth in the context of this interrogatory. The State cannot respond on behalf of all these
4 individuals and entities;

5 2. The term “enforcing” is vague and ambiguous insofar as it fails to distinguish
6 between citation, arrest, prosecution, or some lesser enforcement activity such as informal
7 discussions or requests; and

8 3. The phrase “firearms retailers” as used in this Interrogatory is vague, ambiguous,
9 and overbroad. The State will construe this request to mean federal firearms licensees and those
10 engaged in the retail sale of ammunition.

11 Without waiving the foregoing general or specific objections, the State responds as
12 follows: The Department of Justice does not contend that it has informed firearm retailers that it
13 will not enforce California Penal Code section 12061(a)(3)-(7) once that section takes effect on
14 February 1, 2011.

15 **SPECIAL INTERROGATORY NO. 29**

16 If YOU contend that DEFENDANTS have informed firearm retailers that DEFENDANTS
17 will not enforce California Penal Code section 12061(a)(3)-(7), once that section takes effect on
18 February 1, 2011, IDENTIFY any and all DOCUMENTS supporting this claim.

19 **RESPONSE TO SPECIAL INTERROGATORY NO. 29:**

20 Inapplicable.

21 **SPECIAL INTERROGATORY NO. 30**

22 Do YOU contend that DEFENDANTS will never enforce California Penal Code section
23 12318, once that section takes effect on February 1, 2011?

24 **RESPONSE TO SPECIAL INTERROGATORY NO. 30:**

25 The State further objects to this Interrogatory on the grounds that:

26 1. The definition of the terms “YOU” and “DEFENDANT” are overbroad and vague
27 insofar as they includes third parties who are not defendants and have no connection to this case,
28 including “any and all . . . agents, representatives, employees, servants, consultants, contractors,

1 subcontractors, investigators, attorneys, and any other PERSONS or entities acting or purporting
2 to act on behalf of DEFENDANTS.” This vagueness is compounded by the fact that it
3 incorporates the term “PERSONS,” which is also vague and overbroad, thus amplifying the
4 overbreadth in the context of this interrogatory. The State cannot respond on behalf of all these
5 individuals and entities; and

6 2. The term “enforce” is vague and ambiguous insofar as it fails to distinguish
7 between citation, arrest, prosecution, or some lesser enforcement activity such as informal
8 discussions or requests.

9 Without waiving the foregoing general or specific objections, the State responds as
10 follows: The Department of Justice does not contend that it will never enforce California Penal
11 Code section 12318 once that section takes effect on February 1, 2011.

12 **SPECIAL INTERROGATORY NO. 31**

13 If YOU contend that DEFENDANTS will not enforce California Penal Code section 12318,
14 once that section takes effect on February 1, 2011, IDENTIFY any and all DOCUMENTS
15 supporting this claim.

16 **RESPONSE TO SPECIAL INTERROGATORY NO. 31:**

17 Inapplicable.

18 **SPECIAL INTERROGATORY NO. 32**

19 Do YOU contend that DEFENDANTS have instructed law enforcement officers not to
20 enforce California Penal Code section 12318 once that section takes effect on February 1, 2011?

21 **RESPONSE TO SPECIAL INTERROGATORY NO. 32:**

22 The State further objects to this Interrogatory on the grounds that:

23 1. The definition of the terms “YOU” and “DEFENDANT” are overbroad and vague
24 insofar as they includes third parties who are not defendants and have no connection to this case,
25 including “any and all . . . agents, representatives, employees, servants, consultants, contractors,
26 subcontractors, investigators, attorneys, and any other PERSONS or entities acting or purporting
27 to act on behalf of DEFENDANTS.” This vagueness is compounded by the fact that it
28 incorporates the term “PERSONS,” which is also vague and overbroad, thus amplifying the

1 overbreadth in the context of this interrogatory. The State cannot respond on behalf of all these
2 individuals and entities;

3 2. The phrase "law enforcement officers" is vague, ambiguous, and overbroad insofar
4 as it fails to differentiate between federal, state, or local law enforcement officers. The State will
5 construe this request to mean officers employed by the California Department of Justice.

6 3. The term "enforce" is vague and ambiguous insofar as it fails to distinguish
7 between citation, arrest, prosecution, or some lesser enforcement activity such as informal
8 discussions or requests.

9 Without waiving the foregoing general or specific objections, the State responds as
10 follows: The Department of Justice does not contend that it has instructed law enforcement
11 officers not to enforce California Penal Code section 12318 once that section takes effect on
12 February 1, 2011.

13 **SPECIAL INTERROGATORY NO. 33**

14 If YOU contend that DEFENDANTS have instructed law enforcement officers not to
15 enforce California Penal .Code section 12318, once that section takes effect on February 1, 2011,
16 IDENTIFY any and all DOCUMENTS supporting this claim.

17 **RESPONSE TO SPECIAL INTERROGATORY NO. 33:**

18 Inapplicable.

19 **SPECIAL INTERROGATORY NO. 34**

20 Do YOU contend that DEFENDANTS have informed the general public that
21 DEFENDANTS will not enforce California Penal Code section 12318 once that section takes
22 effect on February 1, 2011?

23 **RESPONSE TO SPECIAL INTERROGATORY NO. 34:**

24 The State further objects to this Interrogatory on the grounds that:

25 1. The definition of the terms "YOU" and "DEFENDANT" are overbroad and vague
26 insofar as they includes third parties who are not defendants and have no connection to this case,
27 including "any and all . . . agents, representatives, employees, servants, consultants, contractors,
28 subcontractors, investigators, attorneys, and any other PERSONS or entities acting or purporting

1 to act on behalf of DEFENDANTS.” This vagueness is compounded by the fact that it
2 incorporates the term “PERSONS,” which is also vague and overbroad, thus amplifying the
3 overbreadth in the context of this interrogatory. The State cannot respond on behalf of all these
4 individuals and entities; and

5 2. The term “enforce” is vague and ambiguous insofar as it fails to distinguish
6 between citation, arrest, prosecution, or some lesser enforcement activity such as informal
7 discussions or requests.

8 Without waiving the foregoing general or specific objections, the State responds as
9 follows: The Department of Justice does not contend that it has informed the general public that
10 it will not enforce California Penal Code section 12318 once that section takes effect on February
11 1, 2011.

12 **SPECIAL INTERROGATORY NO. 35**

13 If YOU contend that DEFENDANTS have informed the general public that
14 DEFENDANTS will not enforce California Penal Code section 12318, once that section takes
15 effect on February 1, 2011, IDENTIFY any and all DOCUMENTS supporting this claim.

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1 **RESPONSE TO SPECIAL INTERROGATORY NO. 35:**

2 Inapplicable.

3
4 Dated: November 23, 2010

Respectfully Submitted,

5 EDMUND G. BROWN JR.
6 Attorney General of California
7 ZACKERY P. MORAZZINI
8 Supervising Deputy Attorney General

9 

10 PETER A. KRAUSE
11 Deputy Attorney General
12 *Attorneys for Defendants and Respondents*
13 *State of California, Edmund G. Brown Jr.,*
14 *and the California Department of Justice*

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I am a Special Agent Supervisor at the Department of Justice, Bureau of Firearms, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing document and know its contents, which are true of my own knowledge, except as to those matters stated on my information and belief, and as to those matters, I believe them to be true.

Blake Graham

BLAKE GRAHAM

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Sheriff Clay Parker, et al. v. The State of California**

No.: **10CECG02116**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On November 23, 2010, I served the attached

RESPONSES TO PLAINTIFFS' FORM INTERROGATORIES, SET ONE;

RESPONSES TO SPECIALLY PREPARED INTERROGATORIES, SET ONE;

**RESPONSES TO PLAINTIFFS' DEMAND FOR PRODUCTION AND INSPECTION
OF DOCUMENTS, SET ONE; and**

RESPONSES TO PLAINTIFFS' REQUEST FOR ADMISSIONS, SET ONE

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

C.D. Michel
Michel & Associates, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 23, 2010, at Sacramento, California.

Brenda Apodaca

Declarant

Brenda Apodaca

Signature

EXHIBIT “55”

COPY

EDMUND G. BROWN JR.
Attorney General of California
ZACKERY P. MORAZZINI
Supervising Deputy Attorney General
PETER A. KRAUSE
Deputy Attorney General
State Bar No. 185098
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5328
Fax: (916) 324-8835
E-mail: Peter.Krause@doj.ca.gov

*Attorneys for Defendants and Respondents
State of California, Edmund G. Brown Jr., and the
California Department of Justice*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO

**SHERIFF CLAY PARKER, TEHAMA
COUNTY SHERIFF; HERB BAUER
SPORTING GOODS; CALIFORNIA
RIFLE AND PISTOL ASSOCIATION;
ABLE'S SPORTING, INC.; RTG
SPORTING COLLECTIBLES, LLC; AND
STEVEN STONECIPHER,**

Plaintiffs and Petitioners,

v.

**THE STATE OF CALIFORNIA; JERRY
BROWN, IN HIS OFFICIAL CAPACITY
AS ATTORNEY GENERAL FOR THE
STATE OF CALIFORNIA; THE
CALIFORNIA DEPARTMENT OF
JUSTICE, AND DOES 1-25,**

Defendants and
Respondents.

Case No. 10CECG02116

**AMENDED RESPONSE TO SPECIALLY
PREPARED INTERROGATORY NO. 5**

Action Filed: June 17, 2010

1 **PROPOUNDING PARTIES:** SHERIFF CLAY PARKER, HERB BAUER
2 SPORTING GOODS, CALIFORNIA RIFLE AND
3 PISTOL ASSOCIATION, ABLE'S SPORTING, INC.,
RTG SPORTING COLLECTIBLES, LLC, AND
STEVEN STONECIPHER

4 **RESPONDING PARTIES:** THE STATE OF CALIFORNIA, JERRY BROWN,
5 IN HIS OFFICIAL CAPACITY AS ATTORNEY
6 GENERAL FOR THE STATE OF CALIFORNIA,
AND THE CALIFORNIA DEPARTMENT OF
JUSTICE

7 **SET NO.:** ONE

8 **SPECIAL INTERROGATORY NO. 5**

9 List all types of ammunition DEFENDANTS consider "handgun ammunition" for purposes
10 of California Penal Code sections 12060, 12061, and 12318.

11 **AMENDED RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

12 The State further objects to this Interrogatory on the grounds that:

13 1. The definition of the term "DEFENDANTS" is overbroad and vague insofar as it
14 includes third parties who are not defendants and have no connection to this case, including "any
15 and all . . . agents, representatives, employees, servants, consultants, contractors, subcontractors,
16 investigators, attorneys, and any other PERSONS or entities acting or purporting to act on behalf
17 of DEFENDANTS." The State cannot respond on behalf of all these individuals and entities;

18 2. It is compound and conjunctive insofar as it calls for a response based upon three
19 separate statutes. (Code Civ. Proc., § 2030.060(f)); and

20 3. The term "types" is vague and ambiguous. The State is uncertain whether
21 Plaintiffs are referring to calibers, rimfire, centerfire or other "types" of ammunition. The State
22 will construe the word "types" to refer to "calibers" throughout these responses.

23 Without waiving any of the foregoing general or specific objections, the State responds as
24 follows: The State considers the following calibers to be "handgun ammunition" within the
25 meaning of California Penal Code sections 12060, 12061, and 12318: .45, 9mm, 10mm, .40,
26 .357, .38, .44, .380, .454, .25, .32. The California Department of Justice may identify additional
27

1 calibers of ammunition that fall within the statutory definition of "handgun ammunition" in
2 regulations to be promulgated at a later date.

3
4 Dated: November 29, 2010

Respectfully Submitted,

5 EDMUND G. BROWN JR.
6 Attorney General of California
7 ZACKERY P. MORAZZINI
8 Supervising Deputy Attorney General

9 

10 PETER A. KRAUSE
11 Deputy Attorney General
12 *Attorneys for Defendants and Respondents*
13 *State of California, Edmund G. Brown Jr.,*
14 *and the California Department of Justice*

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BLAKE GRAHAM

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Sheriff Clay Parker, et al. v. The State of California**

No.: **10CECG02116**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On November 29, 2010, I served the attached

AMENDED RESPONSE TO SPECIALLY PREPARED INTERROGATORY NO. 5

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

C.D. Michel
Michel & Associates, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 29, 2010, at Sacramento, California.

Brenda Apodaca

Declarant

Brenda Apodaca

Signature

EXHIBIT “56”

EDMUND G. BROWN JR.
Attorney General of California
ZACKERY P. MORAZZINI
Supervising Deputy Attorney General
PETER A. KRAUSE
Deputy Attorney General
State Bar No. 185098
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5328
Fax: (916) 324-8835
E-mail: Peter.Krause@doj.ca.gov

*Attorneys for Defendants and Respondents
State of California, Edmund G. Brown Jr., and the
California Department of Justice*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO

**SHERIFF CLAY PARKER, TEHAMA
COUNTY SHERIFF; HERB BAUER
SPORTING GOODS; CALIFORNIA
RIFLE AND PISTOL ASSOCIATION;
ABLE'S SPORTING, INC.; RTG
SPORTING COLLECTIBLES, LLC; AND
STEVEN STONECIPHER,**

Plaintiffs and Petitioners,

v.

**THE STATE OF CALIFORNIA; JERRY
BROWN, IN HIS OFFICIAL CAPACITY
AS ATTORNEY GENERAL FOR THE
STATE OF CALIFORNIA; THE
CALIFORNIA DEPARTMENT OF
JUSTICE, AND DOES 1-25,**

Defendants and
Respondents.

Case No. 10CECG02116

**RESPONSES TO PLAINTIFFS'
REQUEST FOR ADMISSIONS, SET ONE**

Action Filed: June 17, 2010

1 **PROPOUNDING PARTIES:** **SHERIFF CLAY PARKER, HERB BAUER**
2 **SPORTING GOODS, CALIFORNIA RIFLE AND**
3 **PISTOL ASSOCIATION, ABLE'S SPORTING, INC.**
4 **RTG SPORTING COLLECTIBLES, LLC, AND**
 STEVEN STONECIPHER

5 **RESPONDING PARTIES:** **THE STATE OF CALIFORNIA, JERRY BROWN,**
6 **IN HIS OFFICIAL CAPACITY AS ATTORNEY**
7 **GENERAL FOR THE STATE OF CALIFORNIA,**
 AND THE CALIFORNIA DEPARTMENT OF
 JUSTICE

8 **SET NO.:** **ONE**

9 **RESPONSES TO REQUESTS FOR ADMISSIONS**

10 Pursuant to Code of Civil Procedure section 2033.220, defendants and respondents State of
11 California, Edmund G. Brown, Jr., and California Department of Justice's (collectively, the
12 "State") respond to plaintiffs and petitioners' Sheriff Clay Parker, Herb Bauer Sporting Goods,
13 California Rifle and Pistol Association, Able's Sporting, Inc., RTG Sporting Collectibles, LLC,
14 and Steven Stonecipher's (collectively, "Plaintiffs") First Set of Requests for Admissions.

15 The State generally objects to the form of Plaintiffs' Requests for Admissions in that they
16 are propounded by all plaintiffs to all defendants in a single document. The State defendants will
17 respond in good faith with a single response without waiving any objections or defenses that each
18 individual responding party would otherwise be entitled to assert in this litigation.

19 **REQUEST FOR ADMISSION NO. 1**

20 Admit that YOU do not know what types of ammunition are handgun ammunition for
21 purposes of the CHALLENGED PROVISIONS.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

23 The State objects to this Request on the grounds that:

24 1. It is compound and conjunctive because the definition of "Challenged Provisions"
25 includes three separate statutes. (Code Civ. Proc., § 2033.060(f));

26 2. The term "types" is vague and ambiguous. The State is uncertain whether Plaintiffs
27 are referring to calibers, rimfire, centerfire or other "types" of ammunition. The State will
28 construe the word "types" to refer to "calibers;" and

1 3. The term "YOU," defined by Plaintiffs as "the State of California, Jerry Brown, in his
2 official capacity as Attorney General of the State of California, the Department of Justice, and
3 any and all of DEFENDANTS' agents, representatives, employees, servants, consultants,
4 contractors, subcontractors, investigators, attorneys, and any other persons or entities acting or
5 purporting to act on behalf of DEFENDANTS" is overbroad as to scope. The State lacks
6 knowledge sufficient to respond on behalf of all these individuals.

7 Subject to these objections, the State responds as follows: Deny.

8 **REQUEST FOR ADMISSION NO.2**

9 Admit that there are thousands of types of ammunition suitable for use in both
10 HANDGUNS and LONG GUNS.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

12 The State objects to this Request on the grounds that:

- 13 1. It is vague and ambiguous; and
- 14 2. The term "types" is vague and ambiguous. The State is uncertain whether Plaintiffs
15 are referring to calibers, rimfire, centerfire or other "types" of ammunition. The State will
16 construe the word "types" to refer to "calibers;" and
- 17 3. It seeks an admission on a matter that is neither relevant to the subject matter of the
18 action, nor reasonably calculated to lead to the discovery of admissible evidence.

19 Subject to these objections, the State responds as follows: Despite a reasonable inquiry into
20 the matter, the State lacks facts sufficient to enable it to admit or deny "that there are thousands of
21 types of ammunition suitable for use in both HANDGUNS and LONG GUNS."

22 **REQUEST FOR ADMISSION NO.3**

23 Admit that YOU do not know what types of ammunition are "principally for use in a
24 HANDGUN."

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

26 The State objects to this Request on the grounds that:
27
28

1 1. The term "types" is vague and ambiguous. The State is uncertain whether Plaintiffs
2 are referring to calibers, rimfire, centerfire or other "types" of ammunition. The State will
3 construe the word "types" to refer to "calibers;" and

4 2. The term "YOU," defined by Plaintiffs as "the State of California, Jerry Brown, in his
5 official capacity as Attorney General of the State of California, the Department of Justice, and
6 any and all of DEFENDANTS' agents, representatives, employees, servants, consultants,
7 contractors, subcontractors, investigators, attorneys, and any other persons or entities acting or
8 purporting to act on behalf of DEFENDANTS" is overbroad as to scope. The State lacks
9 knowledge sufficient to respond on behalf of all these individuals.

10 Subject to these objections, the State responds as follows: Deny.

11 **REQUEST FOR ADMISSION NO.4**

12 Admit that YOU do not know what types of ammunition are used more often in
13 HANDGUNS than in LONG GUNS.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

15 The State objects to this Request on the grounds that:

16 1. The term "types" is vague and ambiguous. The State is uncertain whether Plaintiffs
17 are referring to calibers, rimfire, centerfire or other "types" of ammunition. The State will
18 construe the word "types" to refer to "calibers."

19 2. The term "YOU," defined by Plaintiffs as "the State of California, Jerry Brown, in his
20 official capacity as Attorney General of the State of California, the Department of Justice, and
21 any and all of DEFENDANTS' agents, representatives, employees, servants, consultants,
22 contractors, subcontractors, investigators, attorneys, and any other persons or entities acting or
23 purporting to act on behalf of DEFENDANTS" is overbroad as to scope. The State lacks
24 knowledge sufficient to respond on behalf of all these individuals; and

25 3. The State objects to the extent that this Request requires the State to accept Plaintiffs'
26 definition of the phrase "principally for use in a handgun." Statutory interpretation, including the
27 meaning of statutory terms, is the Court's responsibility, and the Court has not yet construed the
28

1 challenged provisions. (*County of Yolo v. Los Rios Community Coll. Dist.* (1992) 5 Cal.App.4th
2 1242, 1257.)

3 Without waiving the foregoing general or specific objections, the State responds as follows:
4 Deny.

5 **REQUEST FOR ADMISSION NO.5**

6 Admit that YOU are unable to determine whether each type ammunition [sic] suitable for
7 use in both HANDGUNS and LONG GUNS are actually used more often in HANDGUNS.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

9 The State objects to this Request on the grounds that:

10 1. The term "types" is vague and ambiguous. The State is uncertain whether Plaintiffs
11 are referring to calibers, rimfire, centerfire or other "types" of ammunition. The State will
12 construe the word "types" to refer to "calibers;"

13 2. It is compound and conjunctive (Code Civ. Proc., § 2033.060(f));

14 3. The term "YOU," defined by Plaintiffs as "the State of California, Jerry Brown, in his
15 official capacity as Attorney General of the State of California, the Department of Justice, and
16 any and all of DEFENDANTS' agents, representatives, employees, servants, consultants,
17 contractors, subcontractors, investigators, attorneys, and any other persons or entities acting or
18 purporting to act on behalf of DEFENDANTS" is overbroad as to scope. The State lacks
19 knowledge sufficient to respond on behalf of all these individuals; and

20 4. The State objects to the extent that this Request requires the State to accept Plaintiffs'
21 definition of the phrase "principally for use in a handgun." Statutory interpretation, including the
22 meaning of statutory terms, is the Court's responsibility, and the Court has not yet construed the
23 challenged provisions. (*County of Yolo v. Los Rios Community Coll. Dist.* (1992) 5 Cal.App.4th
24 1242, 1257.)

25 Without waiving the foregoing general or specific objections, the State responds as follows:
26 Deny.

1 **REQUEST FOR ADMISSION NO.6**

2 Admit that there is no way for anyone to determine whether each type of ammunition
3 suitable for use in both HANDGUNS and LONG GUNS is used more often in HANDGUNS.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

5 The State objects to this Request on the grounds that:

6 1. The term “types” is vague and ambiguous. The State is uncertain whether Plaintiffs
7 are referring to calibers, rimfire, centerfire or other “types” of ammunition. The State will
8 construe the word “types” to refer to “calibers.”

9 2. It is compound and conjunctive (Code Civ. Proc., § 2033.060(f));

10 3. It calls for speculation; and

11 4. The State objects to the extent that this Request requires the State to accept Plaintiffs’
12 definition of the phrase “principally for use in a handgun.” Statutory interpretation, including the
13 meaning of statutory terms, is the Court’s responsibility, and the Court has not yet construed the
14 challenged provisions. (*County of Yolo v. Los Rios Community Coll. Dist.* (1992) 5 Cal.App.4th
15 1242, 1257.)

16 **REQUEST FOR ADMISSION NO.7**

17 Admit that the CHALLENGED PROVISIONS fail to provide reasonable notice as to what
18 types of ammunition are "handgun ammunition" for purposes of the CHALLENGED
19 PROVISIONS.

20 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

21 The State objects to this Request on the grounds that:

22 1. It is compound and conjunctive because the definition of “Challenged Provisions”
23 includes three separate statutes. (Code Civ. Proc., § 2033.060(f));

24 2. The term “types” is vague and ambiguous. The State is uncertain whether Plaintiffs
25 are referring to calibers, rimfire, centerfire or other “types” of ammunition. The State will
26 construe the word “types” to refer to “calibers.”

27 3. The phrase “reasonable notice” is vague and ambiguous.

28 Subject to these objections, the State responds as follows: Deny.

1 **REQUEST FOR ADMISSION NO.8**

2 Admit that Defendant Department of Justice worked with Assemblyman Kevin De Leon's
3 office in an attempt to address the vagueness issues presented by the CHALLENGED
4 PROVISIONS by amending Assembly Bill 2358 to include a "list of ammunition calibers" that
5 would be considered "handgun ammunition" for purposes of the CHALLENGED PROVISIONS.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

7 The State objects to this Request on the grounds that:

- 8 1. It is compound and conjunctive. (Code Civ. Proc., § 2033.060(f));
- 9 2. It calls for a legal conclusion about unspecified "vagueness issues;"
- 10 3. It is vague and ambiguous; and
- 11 4. It seeks an admission on a matter that is neither relevant to the subject matter of the
12 action, nor reasonably calculated to lead to the discovery of admissible evidence.

13 **REQUEST FOR ADMISSION NO.9**

14 Admit that Defendant Department of Justice has not issued any guidelines that identify
15 what types of ammunition are "handgun ammunition" under the CHALLENGED PROVISIONS.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

17 The State objects to this Request on the grounds that:

- 18 1. It is compound and conjunctive. (Code Civ. Proc., § 2033.060(f)); and
- 19 2. The term "types" is vague and ambiguous. The State is uncertain whether Plaintiffs
20 are referring to calibers, rimfire, centerfire or other "types" of ammunition. The State will
21 construe the word "types" to refer to "calibers."

22 Subject to these objections, the Department of Justice admits that it has not issued
23 guidelines listing calibers of ammunition that are commonly understood to be handgun
24 ammunition within the meaning of sections 12060, 12061, or 12318 of the Penal Code.

25 **REQUEST FOR ADMISSION NO.10**

26 Admit that YOU are not aware of any guidelines that identify what types of ammunition are
27 "handgun ammunition" under the CHALLENGED PROVISIONS.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

2 The State objects to this Request on the grounds that:

3 1. It is compound and conjunctive. (Code Civ. Proc., § 2033.060(f));

4 2. The term “YOU,” defined by Plaintiffs as “the State of California, Jerry Brown, in his
5 official capacity as Attorney General of the State of California, the Department of Justice, and
6 any and all of DEFENDANTS' agents, representatives, employees, servants, consultants,
7 contractors, subcontractors, investigators, attorneys, and any other persons or entities acting or
8 purporting to act on behalf of DEFENDANTS” is overbroad as to scope. The State lacks
9 knowledge sufficient to respond on behalf of all these individuals;

10 3. The term “types” is vague and ambiguous. The State is uncertain whether Plaintiffs
11 are referring to calibers, rimfire, centerfire or other “types” of ammunition. The State will
12 construe the word “types” to refer to “calibers,” and

13 4. The term “guidelines” is vague and ambiguous.

14 Subject to these objections, the Department of Justice admits that it is unaware of any
15 formal guidelines that identify the calibers of ammunition that are commonly understood to be
16 handgun ammunition for purposes of sections 12060, 12061, or 12318 of the Penal Code.

17 **REQUEST FOR ADMISSION NO. 11**

18 Admit that YOU are not currently enforcing any of the CHALLENGED PROVISIONS.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

20 The State objects to this Request on the grounds that:

21 1. It is compound and conjunctive. (Code Civ. Proc., § 2033.060(f)); and

22 2. The term “YOU,” defined by Plaintiffs as “the State of California, Jerry Brown, in his
23 official capacity as Attorney General of the State of California, the Department of Justice, and
24 any and all of DEFENDANTS' agents, representatives, employees, servants, consultants,
25 contractors, subcontractors, investigators, attorneys, and any other persons or entities acting or
26 purporting to act on behalf of DEFENDANTS” is overbroad as to scope. The State lacks
27 knowledge sufficient to respond on behalf of all these individuals.

1 Subject to these objections, the Department of Justice admits that it has not enforced Penal
2 Code sections 12061(a)(1) or (a)(2), the only subdivisions of the Challenged Provisions currently
3 in force, against any individual or business.

4 **REQUEST FOR ADMISSION NO. 12**

5 Admit that YOU will never enforce any of the CHALLENGED PROVISIONS.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

7 The State objects to this Request on the grounds that:

8 2. It is compound and conjunctive. (Code Civ. Proc., § 2033.060(f));

9 2. The term "YOU," defined by Plaintiffs as "the State of California, Jerry Brown, in his
10 official capacity as Attorney General of the State of California, the Department of Justice, and
11 any and all of DEFENDANTS' agents, representatives, employees, servants, consultants,
12 contractors, subcontractors, investigators, attorneys, and any other persons or entities acting or
13 purporting to act on behalf of DEFENDANTS" is overbroad as to scope. The State lacks
14 knowledge sufficient to respond on behalf of all these individuals; and

15 3. It calls for speculation about future events and is therefore an improper hypothetical.

16 **REQUEST FOR ADMISSION NO. 13**

17 Admit that YOU have not instructed local and state law enforcement officers not to enforce
18 the CHALLENGED PROVISIONS.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

20 The State objects to this Request on the grounds that:

21 1. It is compound and conjunctive. (Code Civ. Proc., § 2033.060(f)); and

22 2. The term "YOU," defined by Plaintiffs as "the State of California, Jerry Brown, in his
23 official capacity as Attorney General of the State of California, the Department of Justice, and
24 any and all of DEFENDANTS' agents, representatives, employees, servants, consultants,
25 contractors, subcontractors, investigators, attorneys, and any other persons or entities acting or
26 purporting to act on behalf of DEFENDANTS" is overbroad as to scope. The State lacks
27 knowledge sufficient to respond on behalf of all these individuals
28

1 Subject to these objections, the Department of Justice admits that it has not instructed local
2 and state law enforcement officers not to enforce sections 12060, 12061, or 12318 of the Penal
3 Code.

4 **REQUEST FOR ADMISSION NO. 14**

5 Admit that you have not informed firearm retailers that you will not enforce the
6 CHALLENGED PROVISIONS.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

8 The State further objects to this Request on the grounds that:

- 9 1. Specially defined terms carried over from question to question are not capitalized.
10 (Code Civ. Proc., § 2033.060(e));
11 2. The phrase "firearm retailers" as used in this Request is vague and ambiguous; and
12 3. It is compound and conjunctive.

13 Subject to these objections, the Department of Justice admits that it has not instructed
14 firearm retailers that it will not enforce sections 12060, 12061, or 12318 of the Penal Code.

15 **REQUEST FOR ADMISSION NO. 15**

16 Admit that you have not informed firearm retailers that you will never enforce the
17 CHALLENGED PROVISIONS.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

19 The State further objects to this Request on the grounds that:

- 20 1. Specially defined terms carried over from question to question are not capitalized.
21 (Code Civ. Proc., § 2033.060(e));
22 2. The phrase "firearm retailers" as used in this Request is vague and ambiguous; and
23 3. It is compound and conjunctive.

24 Subject to these objections, the Department of Justice admits that it has not instructed
25 firearm retailers that it will never enforce sections 12060, 12061, or 12318 of the Penal Code.

26 **REQUEST FOR ADMISSION NO. 16**

27 Admit that you have not publicly announced that you will not enforce the CHALLENGED
28 PROVISIONS.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

2 The State further objects to this Request on the grounds that:

3 1. Specially defined terms carried over from question to question are not capitalized.
4 (Code Civ. Proc., § 2033.060(e));

5 2. The phrase "publicly announced" is vague and ambiguous; and

6 3. It is compound and conjunctive.

7 Subject to these objections, the Department of Justice admits that it has not publicly
8 announced that it will not enforce sections 12060, 12061, or 12318 of the Penal Code.

9 **REQUEST FOR ADMISSION NO. 17**

10 Admit that you have not publicly announced that you will never enforce the
11 CHALLENGED PROVISIONS.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

13 The State further objects to this Request on the grounds that:

14 1. Specially defined terms carried over from question to question are not capitalized.
15 (Code Civ. Proc., § 2033.060(e)); and


16 2. It is compound and conjunctive.

17 Subject to these objections, the Department of Justice admits that it has not publicly
18 announced that it will never enforce sections 12060, 12061, or 12318 of the Penal Code.

19 Dated: November 23, 2010

20 Respectfully Submitted,

21 EDMUND G. BROWN JR.
22 Attorney General of California
23 ZACKERY P. MORAZZINI
24 Supervising Deputy Attorney General

25 
26 PETER A. KRAUSE
27 Deputy Attorney General
28 *Attorneys for Defendants and Respondents
State of California, Edmund G. Brown Jr.,
and the California Department of Justice*

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Sheriff Clay Parker, et al. v. The State of California**

No.: **10CECG02116**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On November 23, 2010, I served the attached

RESPONSES TO PLAINTIFFS' FORM INTERROGATORIES, SET ONE;

RESPONSES TO SPECIALLY PREPARED INTERROGATORIES, SET ONE;

**RESPONSES TO PLAINTIFFS' DEMAND FOR PRODUCTION AND INSPECTION
OF DOCUMENTS, SET ONE; and**

RESPONSES TO PLAINTIFFS' REQUEST FOR ADMISSIONS, SET ONE

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

C.D. Michel
Michel & Associates, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 23, 2010, at Sacramento, California.

Brenda Apodaca

Declarant

Brenda Apodaca

Signature

EXHIBIT “57”

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF FRESNO

---oOo---

SHERIFF CLAY PARKER, TEHAMA COUNTY)
SHERIFF; HERB BAUER SPORTING GOODS;)
CALIFORNIA RIFLE and PISTOL)
ASSOCIATION FOUNDATION; ABLE'S)
SPORTING, INC.; RTG SPORTING)
COLLECTIBLES, LLC; and)
STEVEN STONECIPHER,)

Plaintiffs and Petitioners,)

v.)

No. 10CECG02116

THE STATE OF CALIFORNIA; JERRY BROWN,)
in his official capacity as Attorney)
General for the State of California;)
THE CALIFORNIA DEPARTMENT OF JUSTICE;)
and DOES 1-25,)

Defendants and Respondents.)

VOLUME I
DEPOSITION OF
BLAKE GRAHAM

WEDNESDAY, DECEMBER 1, 2010

REPORTER: LINDSEY R. PERRY, CSR #12806, RPR, CRR

1 APPEARANCES

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3 (Appeared telephonically)

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18 Also present:

19 Ed Worley, National Rifle Association of America
20 Stephen Helsley (Appeared telephonically)

1 disassembling the weapons, per se, but I do note what
2 caliber the weapons are to make sure it matches the
3 paperwork that's been submitted by the manufacturer to
4 make sure we don't have a typo error that would cause the
5 gun dealers problems down the road or something like that.

6 Q Okay. So in your training -- I mean, in these
7 experiences, is it fair to say that you deal with what
8 types of ammunition or what caliber ammunition might be
9 used in those firearms and that's about it?

10 A I don't think I understand that question, sir.

11 Q Okay. Does your training deal with whether or
12 not any ammunition, you know, suitable for use in the
13 firearms you're dealing with are principally for use in a
14 handgun?

15 MR. KRAUSE: I'm going to object there. Vague
16 and ambiguous as to "your training." Which training are
17 you referring to?

18 MR. MONFORT: I'm sorry. I say "training"
19 because this is listed under his training section in his
20 CV. It seems like he's learned on the job in conducting
21 reviews, so that's what I'm referring to, everything that
22 he did under his entry in his CV he just described. And
23 the entry on the CV I'm referring to is the April 2008
24 entry. And I'll go ahead and repeat the question.

25 Q Did the activities you conducted in your job

1 allow you to determine whether or not ammunition suitable
2 for use in the firearms you dealt with were principally
3 used in a handgun?

4 MR. KRAUSE: I'll object again that it's vague
5 and ambiguous, but if you understand, go ahead and answer.

6 THE WITNESS: I think I understand where you're
7 going, Mr. Monfort.

8 MR. KRAUSE: Don't guess, though.

9 THE WITNESS: No, I'll attempt to answer the
10 question as I understand it.

11 The weapons that I review as part of this
12 function of my job, I have to identify specific calibers
13 that match the paperwork submitted by the manufacturers,
14 and as such, I gain an understanding of calibers common to
15 handguns in California and I gain an understanding of the
16 calibers that are being -- calibers and weapons that are
17 being submitted for the DOJ roster.

18 Q BY MR. MONFORT: Okay. When you say you "gain an
19 understanding" as to types of ammunition that are common
20 to handguns, I understand that you're learning that
21 certain calibers are frequently used in handguns, but do
22 you acquire a knowledge as to whether a particular caliber
23 was used more often in a handgun than in a rifle?

24 A As part of my, you know, training and experience
25 over the last 16 or so years, when added to this

1 experience with the handgun -- rostered guns and other
2 factors, I can say that I -- I have a feeling that there
3 are certain calibers that are more often than not handgun
4 calibers.

5 Does that answer your question?

6 Q Yes, it does. Thank you.

7 Okay. In regard to your expert testimony on your
8 CV, I believe I asked you if you'd testified as an expert
9 in a deposition.

10 Have you ever testified as an expert in any
11 setting, whether that be at a hearing, at trial or
12 declaration?

13 A I've testified as an expert in preliminary
14 hearing and jury trial settings, I believe, sir, if that
15 answers your question.

16 Q Yes, it does.

17 Your expert testimony that your CV identifies you
18 provided on February 15th, 2007? And this is, again, on
19 page three of Exhibit A?

20 A Correct.

21 Q It states, "Qualified as an expert witness on
22 assault weapons identification, assault weapons
23 registration and the DOJ automated firearms system"; is
24 that correct?

25 A Yes, sir.

1 Q Did any of your testimony in that case deal with
2 ammunition generally?

3 A You were cut off again, sir. I want to make sure
4 I have the full question.

5 Q Sure. Did any of your testimony in that case,
6 the testimony that you identify as being on February 15th,
7 2007, have to do with ammunition?

8 A I think there -- because some of the weapons in
9 this case were -- you know, they were assault weapons and,
10 specifically all the weapons under Penal Code Section
11 12276.1, one of the issues there is it has -- you know,
12 center fire versus rim fire is the determining factor. In
13 that sense, ammunition would have been an issue because I
14 would have mentioned center fire and that's, again, an
15 ammunition type term.

16 Q Okay. So your testimony in that case, is it
17 accurate to say, didn't deal with whether or not any
18 particular caliber of ammunition was handgun ammunition?

19 A I don't know that that question was asked of me
20 by the prosecution or the defense, and I don't know that I
21 offered that opinion, sir.

22 Q Thank you.

23 In regard to the testimony you identified being
24 on April 12th, 2007, in your CV, your CV states that you
25 qualified as an expert witness on an assault weapons

1 be asking about is have you ever been a witness -- apart
2 from maybe -- maybe not qualifying as an expert witness,
3 but have you ever acted as a witness as a special agent in
4 any other court hearings or trials or preliminary
5 hearings?

6 THE WITNESS: Yeah, I've had several, obviously,
7 nonexpert testimony types of cases where I was the case
8 agent or the arresting officer where I had to talk about a
9 particular weapon and those types of things, but I
10 don't -- if I had been deemed an expert by a court, then I
11 would have mentioned it here in my expert testimony
12 section.

13 Q BY MR. MONFORT: Okay. Thank you. I think
14 that's sufficient on that matter.

15 Okay. Just to summarize, we've discussed all the
16 training that you've -- the training that you've had,
17 basically.

18 Did any of your training cover what types of
19 ammunition the public uses more often in a handgun?

20 MR. KRAUSE: Objection. Vague and ambiguous.

21 MR. MONFORT: I'm curious whether or not any of
22 his training instructed him as to whether a particular
23 caliber of ammunition is used more often in a handgun.

24 THE WITNESS: Mr. Monfort, I'll try to answer
25 your question here.

1 I do know, based on my cumulative training and
2 experience, that certain calibers, for example, are pistol
3 cartridge calibers as opposed to a rifle type of
4 cartridge.

5 One of the ways that you would break that down a
6 little bit is if something, for example, is a machine gun,
7 if it's in a pistol cartridge caliber, then you're going
8 to call it a submachine gun as opposed to a -- if it's a
9 rifle caliber, like a Bushmaster M4 rifle that I talked
10 about earlier. If that weapon is capable of full
11 automatic fire, it's going to be deemed a machine gun
12 versus an H&K MP5 in 9mm. So that would be one way to --
13 I'm trying to answer your question.

14 Q BY MR. MONFORT: Okay. Thank you.

15 Other than the training we've discussed as
16 identified in your CV, have you had any other training
17 that you would -- that would allow you to determine or
18 that would assist you in determining whether or not a
19 specific type of ammunition is handgun ammunition?

20 MR. KRAUSE: Objection as to training. Formal?
21 Informal?

22 MR. MONFORT: Well, let's go with formal first.

23 THE WITNESS: Formal training --

24 Q BY MR. MONFORT: As identified in your CV.

25 A I'm sorry. Say again.

1 Q I'm sorry. I didn't mean to cut you off.
2 Formal training other than what you've identified
3 in your CV?
4 A I think my CV's fairly accurate with regards to
5 my formal training I've received. I don't know the --
6 anything I've left off there.
7 Q Okay. Have you received any informal training
8 that is not identified in your CV that instructed you as
9 to whether or not a particular type of ammunition is
10 principally used in a handgun?
11 A And what do you mean by "informal training"?
12 Q Have you ever been -- have you ever been taught
13 whether or not a particular caliber of handgun -- a
14 particular caliber of ammunition is principally used in a
15 handgun outside of formal training?
16 A Okay. Well, I think you've answered my question
17 with another question.
18 Can you define what informal training is? Is
19 that just non-classroom? Is that something self-directed
20 I can learn on my own or what do you mean specifically
21 there so I can answer your question?
22 Q All of the above, other than the formal classroom
23 training you've identified in your CV.
24 A Okay. As far as informal training, things that I
25 would consider, it might be books that I read, you know,

1 reference manuals, articles on the Internet from, you
2 know, reputable sources.

3 Q Okay. Can I -- I'm sorry. Can I stop you real
4 quick?

5 Can you identify for me whether or not these
6 books and materials that you've relied on -- or that you
7 said that you learn from inform you as to whether a
8 particular caliber of ammunition is principally used in a
9 handgun?

10 MR. KRAUSE: Objection. Vague and ambiguous.

11 MR. MONFORT: Okay. I'll withdraw the question.

12 Q Can you identify for me the materials that you
13 referred to in your previous answer?

14 A Sure. Cartridges of the World. It's a reference
15 guide. I think you've been provided excerpts of that
16 document. Another manual is called Rifles of the World;
17 Gun Traders Guide; there are various Web sites that I, you
18 know, peruse because they're firearms related off and on
19 through the course of my, you know, years here just to
20 gain knowledge in the field. Some of the Web sites are
21 firearms manufacturers, you know, Winchester, Ruger,
22 Glock, those types of Web sites; the Small Arms Ammunition
23 Manufacturers Institute Web site; Cheaper Than Dirt. It's
24 a -- you know, they sell lots of firearms accessories and
25 ammunition; Cabela's Web site; Midway USA is another Web

1 site. I think there -- you know, there's a few others as
2 well, but those types of Web sites, manuals, references,
3 the firearms training that I got through -- well, I'm
4 trying to stick to the informal here for you, but by
5 reading the manufacturer -- or the manufacturers' Web
6 sites of both the ammunition makers, the gun makers and
7 these other companies that -- I'll call them wholesalers
8 that sell ammo, for example, they kind of self-police
9 themselves, if you will, as to what they consider -- what
10 ammunition types they consider handgun versus, you know,
11 rifle ammunition. Whether that be for customer use or
12 some other fashion, I don't know. Maybe it's a -- there's
13 some other reason, but most of the Web sites that I went
14 to and still go to to this day, they break it down by
15 handgun versus rifle -- I'm sorry. Yeah, handgun versus
16 rifle cartridges, shotgun, and then sometimes rim fire is
17 also broken down to further separate it for the person on
18 the Web site.

19 Q Okay. Thank you.

20 I think we've covered your experience, education
21 and training pretty well. Just to confirm, you are
22 testifying as an expert in this case; correct?

23 A Yes, sir.

24 Q Okay. Is there anything that we haven't covered
25 or that you haven't at least mentioned that you feel

1 qualifies you to testify as an expert in this case?

2 A I don't think we've -- I think you've covered
3 everything that is relevant.

4 Q I'm sorry?

5 A I said I think you've covered everything that's
6 relevant.

7 Q Okay. Thank you.

8 Are you being paid for your testimony in this
9 case?

10 A My normal, you know, salary, just like any other
11 day, if I was here or if I was, you know, at the range or
12 some other normal function of my day.

13 Q Okay. Thank you.

14 Can you describe for me, please, the nature of
15 your testimony as an expert in this case? And by that I
16 mean what do you think you're testifying as an expert in
17 regard to?

18 MR. KRAUSE: Objection. Vague and ambiguous.

19 If you understand, you can answer.

20 THE WITNESS: Yeah, I guess I -- I need you to
21 either rephrase or re-ask the question again.

22 Q BY MR. MONFORT: Okay. You're testifying as an
23 expert in this case.

24 What are you an expert in?

25 A Well, as my CV states, I have testified

1 previously as an assault weapons identification expert,
2 assault weapons registration expert, the assault -- or
3 automated firearms system within, you know, the DOJ
4 database, and those are the things I've previously
5 qualified as.

6 Q Okay. I understand the things you've previously
7 qualified as.

8 I mean, are you testifying as an expert about
9 ammunition in this case, in your opinion?

10 A Yeah. That's basically the subject of this
11 lawsuit.

12 Q Okay. Does that pretty well -- I mean, is there
13 anything that I've left off that you believe you're
14 testifying as an expert to in this case --

15 A You're going to have to repeat that. You were
16 fading in and out there.

17 Q I'm sorry. I had to stand up to stretch my legs.
18 I apologize.

19 A Okay.

20 Q I just want to be clear that we've covered
21 everything that you're testifying as an expert to in this
22 case in our discussion right now.

23 You're not testifying as an expert with regard to
24 anything else other than firearms and ammunition; is that
25 right?

1 sections challenged in this lawsuit?

2 MR. KRAUSE: Objection, again, that it lacks
3 foundation. There's no evidence that he's been asked to
4 necessarily opine on AB 962 or -- or the challenged
5 provisions that you defined at the beginning.

6 MR. MONFORT: Okay. Okay.

7 Q Are you aware whether the Bureau of Firearms ever
8 produced an analysis of AB 962? And when I say "AB 962,"
9 I mean Assembly Bill 962 which was passed in 2009 and
10 which is the subject of this litigation.

11 A If the Bureau of Firearms did, I don't recall
12 having a major or minor part in it. If I was asked about
13 it, I don't have any recollection at this time about it.

14 Q If analysis was conducted or produced, if
15 analysis of AB 962 was produced, do you know who in the
16 Bureau of Firearms produced it?

17 MR. KRAUSE: Objection. Calls for speculation.

18 THE WITNESS: The only person I can think of
19 might be Jeff Amador. And then if -- maybe if he was out,
20 there might be some alternate person. If he was sick or,
21 you know, vacation or something, there might be someone
22 else designated to perform that job function, but I don't
23 know who that would be. I'm not part of that chain of
24 command, if you will.

25 Q BY MR. MONFORT: Is it correct that you did not

1 review that bill analysis, if it was produced at all?

2 A I think that's a fair statement. I don't recall,
3 you know, anything like that.

4 Q Okay. Are you familiar with Assembly Bill 2358
5 from the 2010 legislative session that was -- that would
6 have -- it passed amended Assembly Bill 962?

7 A I've heard of this -- this -- the section that
8 you mentioned.

9 Q You're familiar with that assembly bill?

10 A Yes.

11 Q Have you read it?

12 A I don't believe I've read it in its entirety
13 if -- you know, more than -- you know -- you know,
14 probably partially.

15 Q Okay. Is it fair to say that you were not
16 involved at all in the legislative process for Assembly
17 Bill 2358, 2010 legislative session?

18 MR. KRAUSE: Objection. Vague and ambiguous.

19 MR. MONFORT: Okay. Let me be more specific and
20 try to give you some foundation here.

21 Q Are you familiar with the list of ammunition
22 calibers that was included in Assembly Bill 2358?

23 A Yes, I think I've heard of a -- or I've seen the
24 list, yes.

25 Q Were you involved at all in determining which

1 ammunition calibers would have been included in that list
2 in Assembly Bill 2358?

3 MR. KRAUSE: Objection. Relevance.

4 You can answer.

5 MR. MONFORT: That's -- are you going to allow
6 him to answer?

7 MR. KRAUSE: Yeah.

8 THE WITNESS: I was waiting for the court
9 reporter and the delay on the phone and everything else.

10 Yes, I was asked to, you know, look into the
11 calibers for that.

12 Q BY MR. MONFORT: Okay. When you say you were
13 asked to look into the calibers for that, were you asked
14 to identify what calibers of ammunition were handgun
15 ammunition?

16 A Yeah. I mean, that's -- that's the -- I think
17 that was the whole point of that, I guess, amendment.

18 Q Okay. Can you identify for me the calibers of
19 ammunition that you identified as handgun ammunition, as
20 you were asked to do so with regard to Assembly Bill 2358?

21 A I -- I might be able to give you some, but I
22 probably can't give you all of the calibers that I
23 provided at that time.

24 Q Okay. Can you give me the ones that you
25 remember?

1 A I'll try. I believe .45 caliber, 9mm, 10mm,
2 .380, .25, .40 caliber, .38, .357, possibly .454 and
3 possibly 7.62 and maybe .223.

4 Q Okay. Can you recall any other ammunition
5 calibers other than those that you identified as handgun
6 ammunition for purposes of Assembly Bill 2358?

7 A Not off the top of my head. And again, those --
8 the calibers I just gave you are my best recollection.
9 There may be additions or deletions to the ones that I
10 gave you.

11 Q Okay. Can you recall if anyone else was involved
12 in determining ammunition calibers to include in Assembly
13 Bill 2358?

14 MR. KRAUSE: Objection to the extent it requires
15 the disclosure of communications you may have had with
16 attorneys. Attorney-client privilege. Apart from
17 discussions with lawyers. You can identify nonlawyers
18 that you --

19 THE WITNESS: Yeah, I would probably say the
20 acting chief, Stephen Lindley. And beyond that, I can't
21 think of anybody -- I work for him, so that's -- that's
22 who I would report to.

23 Q BY MR. MONFORT: Did Stephen Lindley identify
24 other calibers of handgun ammunition other than the ones
25 that you've already identified for me?

1 A Did he -- I don't know -- I can't say that he
2 identified other calibers. I mean, I may have myself, but
3 I -- I don't know if he specifically did.

4 MR. KRAUSE: And we don't want you to guess.

5 Q BY MR. MONFORT: I'm sorry. Are you still
6 thinking? I just -- I don't want to be sitting here.

7 A No. I'm done with my answer there. Sorry.

8 Q Okay. Thank you.

9 Okay. Just to be clear, can you think of anyone,
10 other than the lawyer, who you communicated with in
11 determining what calibers to list in Assembly Bill 2358?

12 A Besides Stephen Lindley, I don't recall any other
13 nonlawyers off the top of my head right now.

14 Q Did you consult with Assemblyman De Leon --
15 Assemblyman Kevin De Leon or his staff at any point in
16 that process?

17 A I personally haven't had any contact with anybody
18 at the legislature regarding the matter that you're
19 discussing, at least to my knowledge. If somebody was --
20 you know, got ahold of something I wrote or said or
21 something, I -- I have no control over that.

22 Q Okay. Thank you.

23 Are you aware of anyone at the Department of
24 Justice, other than yourself, who had contact with
25 Assemblyman De Leon or his staff about the ammunition

1 Q So can you flip to special interrogatory number
2 five?

3 A Okay. So page five. What line on the side of
4 the pleading paper, sir?

5 Q Line seven. The interrogatory inquires -- asks
6 you to list all types of ammunition Defendants consider
7 handgun ammunition for purposes of California Penal Code
8 Sections 12060, 12061 and 12318.

9 A Okay. Got you. I understand where you're coming
10 from right now.

11 Q And then the state provides -- objects to the
12 interrogatory. And then at the bottom of the objections
13 beginning at line 21, the response states, "Without
14 waiving any of the foregoing general or specific
15 objections, the state responds as follows: .45, 9mm, 10mm,
16 .40, .357, .38, .44, .380, .454, .25 and .32."

17 A Okay. I see.

18 Q Is it your position today that the ammunition you
19 consider handgun ammunition for purposes of the challenged
20 provisions are those same calibers?

21 A Yes.

22 Q Okay. Now, turning to special interrogatory
23 number six.

24 MR. KRAUSE: If you could provide a page and line
25 citation, please.

1 MR. MONFORT: I will. I'm sorry. Give me one
2 moment. Okay. I am now on page six, line 16.

3 Q In your response to Plaintiffs' special
4 interrogatory number six, you stated that, "There is a
5 common understanding among those individuals and
6 businesses who might be subject to Sections 12060, 12061
7 and 12318 of the Penal Code, as well as among those who
8 might enforce them, that the calibers identified in the
9 state's response to interrogatory number five are used
10 principally in pistols and revolvers"; is that correct?

11 A Yes.

12 Q Is that your position today?

13 A Yes.

14 Q Okay. Moving forward, I'm going to now make
15 reference to the list of ammunition calibers provided in
16 response to interrogatory number five and described in
17 special interrogatory number six. For simplicity sake,
18 I'm going to refer to the list of ammunition calibers
19 provided in your responses to special interrogatory number
20 five as the "DOJ's common understanding list," if that is
21 okay with you.

22 MR. KRAUSE: Can't we just call it "the list"?

23 MR. MONFORT: Well --

24 MR. KRAUSE: "Caliber list"? How about just
25 "caliber list"?

1 MR. MONFORT: Okay, yes, that will work. I just
2 want to make sure there was no confusion with regard to
3 previous lists with regard to AB 2358. Okay. Caliber
4 list? Okay. I have that -- if I use the wrong
5 terminology, I apologize. Feel free to jump in and
6 correct me as I prepared my notes using the "common
7 understanding" language.

8 THE WITNESS: Okay.

9 Q BY MR. MONFORT: Okay. Mr. Graham, did you
10 provide --

11 THE REPORTER: I'm sorry. What was the question?

12 Q BY MR. MONFORT: Did you provide input in
13 developing the DOJ's common understanding list?

14 MR. KRAUSE: Caliber list. The response --

15 MR. MONFORT: I'm sorry. I just did it.

16 Q Did you provide input in developing the DOJ's
17 caliber list?

18 A Yes.

19 Q Can you describe the input you provided to me?

20 A Yes. Again, as I said earlier, through the
21 dealer record of sale system, which is, again, linked to
22 the automated firearms system, the -- basically the most
23 popular handgun calibers were, I guess, documented through
24 a search showing how many of each -- how much of each --
25 how many handguns of each particular caliber were sold

1 five minutes?

2 MR. KRAUSE: If we have to, yeah. It's --

3 MR. MONFORT: I apologize. I have to use the
4 restroom.

5 THE WITNESS: Okay. We'll be here.

6 MR. KRAUSE: 3:05.

7 MR. MONFORT: Okay. Thank you.

8 (Recess taken.)

9 MR. MONFORT: Okay. I'm here with Mr. Dale.
10 Mr. Brady has not joined me, but I'll go ahead and proceed
11 without him.

12 THE WITNESS: Okay.

13 Q BY MR. MONFORT: Okay. Mr. Graham, referring
14 again to the caliber list --

15 A Right.

16 Q -- one of the calibers you identified is .32; is
17 that correct?

18 A Did you say .32?

19 Q Yes.

20 A Yes, .32 is on the list.

21 Q Okay. Is it accurate to say your inclusion of
22 .32 on this list describes ammunition which can be of
23 varying dimensions?

24 MR. KRAUSE: Objection. Vague and ambiguous.

25 THE WITNESS: It could -- it could be used to,

1 yeah, define variants of the .32 that have a different
2 case length, rim thickness, et cetera.

3 Q BY MR. MONFORT: Okay. So when you say ".32
4 caliber," are you describing multiple cartridges of
5 ammunition?

6 A Yes.

7 Q So it's your understanding that the DOJ's listing
8 of .32 caliber includes multiple types of cartridges for
9 that caliber; correct?

10 A Correct.

11 Q Okay. And I'd like to make clear, when you
12 testified that a particular cartridge is included within
13 your definition of .32 caliber, your understanding is the
14 same as the DOJ's understanding; is that correct?

15 A Yes.

16 Q Can you identify for me whether the following
17 cartridges are .32 caliber ammunition included in your
18 caliber list:

19 The first one, .32-40 Remington?

20 A No.

21 Q Is that .32 caliber ammunition?

22 A Yes.

23 Q .32-44?

24 A I'm -- I don't believe that's a handgun round.

25 Q When you say ".32" in your list, did you mean,

1 then, to exclude .32-44?

2 A I don't know that I gave it much thought because
3 it's a rifle round.

4 Q Okay. And is that .32-44 .32 caliber?

5 A Yeah, it's a variant for the rifle.

6 Q Is .32 Smith & Wesson included in your caliber
7 list?

8 A Yes.

9 Q Is that also .32 caliber?

10 A Yes.

11 Q How about .32 Ideal? Is that included in your
12 list?

13 A I couldn't hear the last part.

14 Q The .32 Ideal, is that included in your caliber
15 list?

16 A I'm not familiar with that caliber, sir.

17 Q Okay. How about the .32 long rim fire?

18 A I'm not familiar with that one either.

19 Q Okay. How about the .32 short rim fire?

20 A Are these .32 short Colts that you're speaking of
21 right now?

22 Q The ammunition I'm referring to is commonly
23 referred to as .32 short rim fire.

24 A Well, a .32 short Colt I would include in that,
25 but I don't know that you're -- I -- I want to make sure

1 that our language is the same in case we're talking about
2 the same thing.

3 Q Okay. I actually have .32 Short Colt on my list,
4 so that is included in your caliber list?

5 A Yeah. Correct.

6 Q Okay. And I asked you about the .32-40
7 Remington.

8 What about the .32-40?

9 A That's -- again, that's not going to be a handgun
10 round.

11 Q Is that .32 caliber ammunition?

12 A Yes.

13 Q What about -- does the caliber list encompass
14 the .32-40 Bullard?

15 A I'm not familiar with that round, sir.

16 Q Okay. Does the caliber list encompass the .32
17 Winchester Special?

18 A It's not going to be a handgun round that I'm
19 aware of.

20 Q Is that .32 caliber ammunition?

21 A Based on your description alone, I -- it probably
22 is.

23 Q So you're not -- you're not aware of that
24 particular cartridge -- you don't have knowledge as to
25 that one as to whether or not it's .32 caliber?

1 that our language is the same in case we're talking about
2 the same thing.

3 Q Okay. I actually have .32 Short Colt on my list,
4 so that is included in your caliber list?

5 A Yeah. Correct.

6 Q Okay. And I asked you about the .32-40
7 Remington.

8 What about the .32-40?

9 A That's -- again, that's not going to be a handgun
10 round.

11 Q Is that .32 caliber ammunition?

12 A Yes.

13 Q What about -- does the caliber list encompass
14 the .32-40 Bullard?

15 A I'm not familiar with that round, sir.

16 Q Okay. Does the caliber list encompass the .32
17 Winchester Special?

18 A It's not going to be a handgun round that I'm
19 aware of.

20 Q Is that .32 caliber ammunition?

21 A Based on your description alone, I -- it probably
22 is.

23 Q So you're not -- you're not aware of that
24 particular cartridge -- you don't have knowledge as to
25 that one as to whether or not it's .32 caliber?

1 A Yeah, I -- could you spell the last part? .32
2 what?

3 Q It's the .32 Winchester Special.

4 A Oh, Winchester Special. Okay.

5 Yeah, that -- again, that's not one I'm familiar
6 with and it's not something I was able to find information
7 on in my research.

8 Q Okay. What about .32-20 WCF? Is that
9 encompassed by your inclusion of .32 caliber on the
10 caliber list?

11 A Not to my knowledge, sir.

12 Q Okay. Is that, then, not .32 caliber ammunition?

13 A Could you rephrase the question, sir?

14 Q You testified that the .32-20 WCF is not
15 encompassed on your identification of .32 caliber list you
16 provided.

17 So my question, then, is your testimony that
18 .32-20 WCF is not .32 caliber ammunition?

19 A I didn't say that. It's -- it's not an
20 identified handgun round that I'm aware of, is a better
21 characterization of what I've said.

22 Q Is it .32 caliber ammunition?

23 A Again, I have no particular information on that
24 round. There's approximately 1,500 rounds or cartridges
25 out there, and I can't know all of them.

1 cartridge?

2 A That's a fair representation. I'm not familiar
3 with the caliber, so I can't make an opinion on it.

4 Q Okay. What about the .400 Colt Magnum? Is that
5 a handgun round?

6 A I've never heard of it before today, sir.

7 Q Okay. What about the .400 Carbon? That's .400
8 space C-a-r-b-o-n.

9 A I'm not familiar with that one, sir.

10 Q So you don't know whether that's handgun
11 ammunition or rifle ammunition; is that correct?

12 A That's right, sir.

13 Q Okay. What about the .401 Special?

14 A Never heard of it.

15 Q Okay. Okay. What about the .40-50 Sharps?

16 A As far as I know, that's a -- no. I was actually
17 going to say that's a rifle round, but it -- I think I'm
18 mistaken, so I'll -- I don't really have an opinion on
19 that and I don't want to guess.

20 Q Do you have an opinion whether that's .40 caliber
21 ammunition?

22 A Could you repeat the cartridge as you stated it
23 previously?

24 Q It's -- reads .40-50 Sharps.

25 A You know, it -- it probably is a .40, but again,

1 I don't want to guess, so I don't -- I don't have a formal
2 opinion on that round.

3 Q Okay. Okay. What about the .40-65 WCF?

4 A It's not one that I'm familiar with and I
5 wouldn't consider it a handgun round that I'm -- you know,
6 for purposes of this lawsuit.

7 MR. KRAUSE: Hey, Clint, this is Peter. Are you
8 referring to a book or something that we need to mark as
9 an exhibit or is this just --

10 MR. MONFORT: No, I'm not.

11 MR. KRAUSE: Okay.

12 THE WITNESS: This is your own personal knowledge
13 of these cartridges, then, Clint?

14 MR. MONFORT: These are notes that I -- I also
15 have learned about ammunition in the process of this
16 lawsuit and I have notes for my deposition and I have
17 certain ones identified to ask you about. I cannot recall
18 where I got those from.

19 THE WITNESS: Okay. It sounds like I need to buy
20 some more books.

21 MR. KRAUSE: Clint, is there a way to shortcut
22 this? I mean, I think he's testified as to what he
23 considers the list to be and from where it's derived and
24 that it's -- you know, commonly understood handgun rounds
25 and not all of these -- these obscure variants. I mean --

1 MR. MONFORT: You know, I'm sorry. All of our --
2 all of our -- all of my clients -- all of the plaintiffs
3 in this lawsuit sell multiple cartridges of each of the
4 calibers I both identified as the commonly understood
5 caliber list and they're not identified in the commonly
6 understood caliber list, so I apologize for the
7 tediousness of this and the time it takes, but it's
8 absolutely crucial that we ask your expert about these.
9 So I apologize for the delay.

10 Mr. Graham, you're -- honestly, you've been a
11 great witness so far, and I hope to wrap this up as
12 quickly as possible, but, you know, I'm not making it any
13 more, you know, lengthy than I absolutely feel is
14 necessary to protect the interests of my client.

15 THE WITNESS: Okay. If we can continue, then.

16 Q BY MR. MONFORT: Okay. How about .40-72?

17 A Not familiar with.

18 Q Okay. Then would you consider that to be .40
19 caliber ammunition or you don't know?

20 A I don't know and I -- I wouldn't have included
21 that as -- you know, in terms of this list.

22 Q Okay. What about .40-90 Sharps?

23 A Again, same answer.

24 Q So you don't know whether that is handgun
25 ammunition or rifle ammunition; is that correct?

1 Q Yes, that would be great.

2 A Okay. For reference, I'll be going from the
3 Cartridges of the World, page 330.

4 Q No, no, I'm sorry. I would like to just ask you
5 in your opinion. So I'm not interested in how the book
6 classifies it. I'm asking, in your opinion, what you
7 consider to be .44 ammunition as handgun ammunition from
8 your personal knowledge.

9 A Okay. .44 Magnum, .44 Special, .44 Auto Mag.
10 Those would be the ones off the top of my head. And then
11 likely there are others that are handgun -- principally
12 for use in handguns as well.

13 Q Okay. Can you try to remember what those might
14 be?

15 A Without referring to the Cartridges of the World,
16 I'm afraid I can't.

17 Q So is it your testimony you would need to refer
18 to the book in order to determine whether or not
19 particular cartridges of ammunition are handgun
20 ammunition?

21 MR. KRAUSE: Objection. Mischaracterizes his
22 testimony.

23 MR. MONFORT: I'm not -- I don't think my
24 question is assuming testimony. I'll try and rephrase it
25 for you.

1 Q Are you able to identify other calibers of
2 ammunition -- other cartridges of ammunition that are
3 handgun ammunition other than the three that you
4 identified without referring to Cartridges of the World?

5 A Not at this time.

6 Q Okay. And so my question, then, was in order to
7 determine whether a cartridge of ammunition is handgun
8 ammunition, other than the ones that you named are handgun
9 ammunition, do you have to refer to Cartridges of the
10 World?

11 A No, there are other resources that I would check
12 if I had to make some kind of an opinion, given more time
13 than put on the spot with a random caliber question.

14 Q Okay. Other than Cartridges of the World, what
15 resource would you turn to to identify other cartridges of
16 .44 caliber ammunition as handgun ammunition, since you
17 wouldn't be able to make that determination?

18 A Right. I might look at the Rifles of the World
19 book to see if there are rifles listed in particular
20 caliber, you know, in this instance, .44, to see how many
21 of those were -- rifles were chambered in that particular
22 caliber or cartridge. I might check the SAAMI Web site.
23 I might check some of the ammunition wholesaler Web sites
24 that I previously mentioned: Midway USA, Cabela's, those
25 types of things. And potentially even the firearm

1 manufacturer Web sites out there to see if they make guns
2 in a particular caliber more commonly than -- than -- in a
3 rifle manner or if it was in a handgun more often than
4 not.

5 Q Okay. Are you aware if there are any cartridges
6 of ammunition that are listed in both the handgun caliber
7 section of Cartridges of the World and the rifle caliber
8 section of Cartridges of the World?

9 A I looked for that, and I didn't see any exact
10 matches that were, I guess, a dual listing, if you will.

11 Q Okay. And then what if it wasn't listed in one
12 of those sections as a rifle cartridge or handgun
13 cartridge? How would you make that determination?

14 A Again, I would refer to the same resources that I
15 just mentioned. You know, maybe the -- the Gun Trader
16 Guide. Again, you've been provided with a copy of that.
17 There might be other, you know, resources out there as
18 well.

19 Q Okay. Thank you.

20 Now, for .44, I'm going to do the same thing.
21 I'm going to go through various cartridges of ammunition.
22 I know that you were trying to name them off the top of
23 your head, so I'm going to identify some for you and I
24 would like you to tell me whether or not, in your opinion,
25 these cartridges of ammunition are -- were included in

1 your listing of .44 caliber in the DOJ's caliber list,
2 okay?

3 A Okay.

4 Q .44 Magnum?

5 A Yes.

6 Q Is that .44 caliber ammunition?

7 A Yes.

8 Q .44 Remington?

9 A .44 Remington Magnum or --

10 Q Just .44 Remington.

11 A That one I -- it would take more research than
12 just what I have time for right now, obviously.

13 Q Okay. In your opinion, is that .44 caliber
14 ammunition?

15 A It sounds as if it was.

16 Q Okay. What about .44-90?

17 A .44-90 is not something I researched for purposes
18 of this lawsuit, so I'm not aware of that caliber, sir.

19 Q You're not aware of the caliber or you're aware
20 of it and you just don't know whether it's handgun
21 ammunition or rifle ammunition? I just want to be clear.

22 A I'm not aware of that specific caliber. As I
23 said, there's --

24 Q Never heard of it?

25 A Yeah. There are many, many calibers out there

1 so...

2 Q Okay. Okay. Would you consider that one to
3 be .44 caliber ammunition, though?

4 A It sounds --

5 MR. KRAUSE: Calls for speculation.

6 MR. MONFORT: Okay. No problem.

7 Q What about the .444 Marlin?

8 A .444 Marlin, again, it's not a handgun caliber
9 I'm familiar with. It's likely a rifle round, but I'm --
10 again, I've got no opinion as to if it applies to this
11 lawsuit.

12 Q Okay. Okay. But your -- and to the best of your
13 knowledge, it's likely a rifle round?

14 MR. KRAUSE: Objection. Calls for speculation.

15 THE WITNESS: Yeah, I'm not familiar with it as
16 far as a handgun round goes, sir, so...

17 Q BY MR. MONFORT: Okay. In your opinion, would
18 that be a .44 caliber round?

19 MR. KRAUSE: Objection. Calls for speculation.

20 Don't guess.

21 THE WITNESS: Yeah, it's -- it's beyond the scope
22 of my knowledge, sir.

23 Q BY MR. MONFORT: You don't know whether the .44
24 Marlin is a .44 caliber; is that correct?

25 A You said the .444 Marlin; correct?

1 Q Sorry. .44. I apologize. I misspoke.

2 A Okay. Yeah, I'm not -- I'm not familiar with the

3 round, so I don't want to guess.

4 Q Okay. Thank you.

5 Let's see. In your responses to Plaintiffs'

6 special interrogatories, you identify .45 caliber

7 ammunition as handgun ammunition; is that correct?

8 A Yes, sir.

9 Q Okay. You state ammunition which can be of

10 varying dimensions --

11 MR. KRAUSE: You broke up there. Could you

12 repeat that, please?

13 Q BY MR. MONFORT: Is it accurate to say that .45

14 caliber ammunition in your caliber list describes

15 ammunition which can be of varying dimensions?

16 MR. KRAUSE: Objection. Vague and ambiguous.

17 THE WITNESS: Yes, I would probably limit the .45

18 to the .45 ACP, .45 Long Colt and the .45 GAP.

19 Q BY MR. MONFORT: I'm sorry. Just for the -- can

20 you repeat those one more time for me, please? My pen ran

21 out of ink.

22 A Yeah, .45 ACP, .45 Long Colt --

23 Q Uh-huh.

24 A -- and .45 GAP, gap.

25 Q Okay. Do you have any idea how many cartridges

1 there are in .45 caliber?

2 A It's kind of an open-ended question.

3 What do you mean, exactly?

4 Q If you had to provide a best estimate of how many
5 types of .45 caliber cartridges there are, how many would
6 you estimate there are?

7 MR. KRAUSE: Objection. Vague and ambiguous.

8 THE WITNESS: Are you speaking in terms of rifles
9 and handguns?

10 Q BY MR. MONFORT: All cartridges of .45 caliber
11 ammunition.

12 MR. KRAUSE: Calls for speculation.

13 THE WITNESS: Yeah, I couldn't give you a number,
14 sir. It's -- there's probably quite a few.

15 Q BY MR. MONFORT: Quite a few?

16 A Yep.

17 Q I mean, more than 20?

18 A I don't know. I don't know. There's probably
19 more than -- more than ten, but I -- I couldn't give you a
20 specific number.

21 Q Okay. Thank you.

22 So .45 ACP is identified as handgun ammunition in
23 your caliber list; is that correct?

24 A Yes.

25 Q Does your caliber list include .45-70 Government?

1 A No, that's typically a rifle round.

2 Q Is that .45 caliber ammunition?

3 A It's .45 caliber rifle ammunition.

4 Q Is it sometimes used as handgun ammunition?

5 A Yeah. Sometimes, though, is not principally for
6 use, so --

7 Q I'm just curious whether or not it's sometimes
8 used in a handgun.

9 A Yeah, it probably is. I've never seen one of
10 those in a handgun, but there's probably some out there.

11 Q Okay. And .45 --

12 A You went under water there, Mr. Monfort.

13 Q .45 -- is that within your caliber list that --

14 A Yeah, you'll have to -- we're not able to --
15 yeah, we're not able to copy that.

16 Q Okay. Let me move. I don't know what's going
17 on.

18 Let's see. Okay. Can you hear me better now?
19 Is that better?

20 A Yeah, that's pretty good.

21 Q Okay. In your listing of .45 caliber ammunitions
22 in the caliber list you provided, does that include
23 .45-75?

24 A No, that's -- that's not going to be a handgun
25 round.

1 Q Is that .45 caliber ammunition?

2 A Yes.

3 Q Is .450 Marlin included in your caliber list?

4 A No. I already told you which ones were. It was
5 the .45 GAP, the .45 ACP and the .45 Long Colt. Those
6 were the three that I meant to include.

7 Q Okay. I understand that you identified those. I
8 am going to state the names and ask you just in case it
9 jogs your recollection or triggers your memory as to a
10 specific cartridge that you might consider to be handgun
11 ammunition that you didn't identify.

12 A I understand, sir. And again, just so we're on
13 the same page, I assume you're saying handgun ammunition,
14 you're assuming that -- we're on the same page meaning
15 that principally for use in a particular handgun as
16 opposed to can be used in a handgun, right?

17 Q I'm referring to your caliber list that you
18 provided in response to Plaintiffs' special
19 interrogatories where we asked you to identify all
20 ammunition that was handgun ammunition --

21 MR. KRAUSE: For purposes of the challenged
22 provisions.

23 THE WITNESS: Right, right.

24 Q BY MR. MONFORT: And you identified .45 caliber
25 ammunition, so I'm asking you, in your definition of .45

1 caliber ammunition on that list, does that include .450
2 Marlin?

3 A No.

4 Q Is that .45 caliber ammunition?

5 A I can't honestly tell you if it is or isn't, sir.
6 I'm not familiar with the cartridge.

7 Q Okay. So -- okay. What about the .450 Alaskan?

8 A The .450 Alaskan, I've heard of that, but I
9 believe it's used in -- I want to say the -- a Ruger
10 revolver. Hold on. Okay. And -- anyway, the .450
11 Alaskan, I believe, is used in a Ruger revolver. There
12 may also be rifle chamberings as well. I wasn't able to
13 come to an opinion that the .450 Alaskan was predominantly
14 or principally used in handguns only for -- at least on a
15 majority level.

16 Q I'm sorry. Can you just clarify for me why you
17 weren't able to come to a determination as to whether or
18 not that one was included in the .45 caliber ammunition as
19 handgun ammunition?

20 A Basically, while researching the various
21 calibers, I tried to determine if -- you know, how many --
22 how many weapons may have been chambered in a particular
23 caliber and that one, there wasn't a lot of information
24 out there. It's a very -- pretty much a rare caliber, and
25 this being, as I understood it, a -- 962 was kind of an

1 of the Webley cartridge that you're asking me about in a
2 minute or are we talking about the same cartridge right
3 now?

4 Q The one I'm aware of -- okay. My understanding
5 is that there's two cartridges and the one I'm referring
6 to is the .45 Webley. The .455 Webley is a different
7 cartridge.

8 A Okay. I'm sure it's -- you know, it's a pistol
9 cartridge. There may also be rifle rounds chambered in
10 that, but that particular round I can't say is principally
11 for use in handguns only.

12 Q Okay. But would you consider that to be .45
13 caliber ammunition?

14 MR. KRAUSE: Calls for speculation.

15 THE WITNESS: Based on the markings of .45,
16 it's -- it's .45 caliber.

17 Q BY MR. MONFORT: Okay. I believe it was in
18 response to the .450 Marlin that you said you had to
19 conduct research in order to determine whether or not it
20 was ammunition that's principally for use in a handgun.

21 Can you describe that research for me, please?

22 A Well, I would -- again, I would try to refer to
23 books available to me, ammunition vendor Web sites.

24 Q I would like to know what specific research you
25 did with regard to this specific caliber.

1 I understood your testimony to be that you
2 conducted research on this one and you couldn't come to a
3 conclusion. I would like you to describe to me the
4 particular research that you conducted in regard to this
5 round.

6 A Which round?

7 Q The .450 Marlin.

8 A The .450 Marlin. I don't recall doing specific
9 research on that -- that round. There's -- the Alaskan,
10 as I just talked about a second ago, I remember reading
11 about that --

12 Q I apologize. I meant to refer to the .450
13 Alaskan. I'm sorry. I'm getting a little confused here
14 as well.

15 A Okay.

16 Q The .450 Alaskan, can you describe for me the
17 research you conducted in order to determine whether or
18 not the .450 Alaskan is handgun ammunition?

19 A Yeah, I was checking Web sites; just, you know,
20 researching it as much as I could just to see if it's
21 going to be something to include or not include, and I
22 just didn't feel that there was enough information out
23 there to, you know, include it there.

24 Hello?

25 Q Okay. So is it your testimony that you didn't

1 know off the top of your head whether this .45 caliber
2 round was handgun ammunition?

3 MR. KRAUSE: Objection. Mischaracterizes his
4 testimony.

5 Q BY MR. MONFORT: Is that your testimony?

6 A Are you jumping calibers again? Because we were
7 just on the .450 Alaskan and now you're saying the .45. I
8 want to make sure we're talking about the same thing.

9 Q Well -- okay. Is the .450 Alaskan .45 caliber
10 ammunition?

11 MR. KRAUSE: Objection. Calls for speculation.

12 THE WITNESS: Again, sir, it could be a variant,
13 but I don't have an opinion on whether it's a true .45 or
14 some derivative of that.

15 Q BY MR. MONFORT: When you say "true .45," what do
16 you mean?

17 A Something, you know, based on the actual --
18 like .45 ACP cartridge that's been around for about a
19 hundred years.

20 Q Okay. Is that what you meant in your response
21 when you identified .45 caliber ammunition? Did you mean
22 it to include ammunition cartridges that are based on
23 the .45 ACP?

24 MR. KRAUSE: Objection. Mischaracterizes the
25 witness's testimony.

1 A To the best of my knowledge -- I'm sorry. Did
2 you say "handgun" or did you say it's ".32 caliber"?
3 Q I just asked if it was .32 caliber.
4 A .32-40, I believe, makes reference to .32 caliber
5 and then 40 grains of propellant in the cartridge.
6 Q Okay. Okay. All right. .45-85?
7 A I'm not familiar with that cartridge, sir.
8 Q Would you classify that as .45 caliber ammunition
9 based on its definition of .45-85, so the caliber would be
10 .45, and I believe the grains you alluded to was 85?
11 MR. KRAUSE: Objection. Calls for speculation.
12 MR. MONFORT: I probably worded that wrong,
13 but --
14 THE WITNESS: Yeah, I'm -- again, based on what
15 you've said, the same logic would follow, but I'm not
16 familiar with that cartridge, so I don't want to guess.
17 Q BY MR. MONFORT: Okay. So is it your testimony
18 that you don't know whether .45-85 is .45 caliber
19 ammunition?
20 A Well, .45 -- .45-85, again, if it's the same --
21 it would be 85 grains of propellant in the .45 cartridge.
22 Q Okay. And then is it your testimony that you
23 don't know whether the .45-85 is handgun ammunition?
24 A I don't know that I've ever seen one, but it's
25 very possible that it is.

1 Q Okay. How about the .45 Colt?

2 A What's the question?

3 Q Is the .45 Colt encompassed within your listing

4 of .45 caliber ammunitions in your response -- in your

5 caliber list?

6 A I believe I said the .45 Long Colt was.

7 Are you saying -- are you breaking that down

8 further?

9 Q Okay. I'll leave that cartridge aside for now.

10 How about the four -- I believe -- I'm sorry.

11 Did you already say that you weren't sure about the .458

12 Winchester Magnum?

13 A You're breaking up there. Four what?

14 Q The .458 Winchester Magnum, is that included

15 within your listing of .45 caliber ammunition?

16 A No, sir.

17 Q Can you tell me why not?

18 A It's not one that I was able to identify as being

19 linked to principally for use in handgun ammunition --

20 yeah, principally for use in handguns.

21 Q Okay. What did you do to try to link it to try

22 to determine whether or not it was linked to handguns --

23 or being principally for use in handguns?

24 A Well, the -- again, the dealer record of sale

25 queries brings up certain calibers. That gave us the

1 initial listing, and then researching from that point
2 online with the Cartridges of the World, the Rifles of the
3 World, Gun Trader's Guide, the online Web pages with the
4 dealers breaking down what they considered handgun
5 ammunition versus rifle ammunition. That's the general
6 procedure when I came across certain calibers.

7 Q Okay. So you needed to do that in order to
8 conclude that .458 Winchester Magnum is not handgun
9 ammunition; is that correct?

10 MR. KRAUSE: Objection. Mischaracterizes the
11 witness's testimony.

12 Q BY MR. MONFORT: Did you need to conduct the
13 research I described in order to determine whether a .458
14 Winchester Magnum (inaudible) handgun ammunition?

15 A Basically, the calibers that I list- -- you know,
16 that are -- the 11 calibers listed, those were the ones
17 that were deemed to be principally for use. The other
18 ones that are not specifically listed there, you know,
19 there wasn't enough information out there to --

20 Q I'm sorry. When you say "calibers," you're
21 saying that those calibers are principally used in a
22 handgun? You're not referring to whether the cartridges
23 in those calibers were principally used in a handgun? I'm
24 a little confused. Can you explain what you mean?

25 A Yes. In response to your special interrogatory

1 number five, you said list all types of ammunition. The
2 assumption here was that you referred to calibers. The
3 simplest way to respond to your question here was by
4 listing calibers.

5 Q Okay. So that -- that -- does that list
6 encompass the calibers of ammunition that are handgun
7 ammunition? Is that correct? Or are there other calibers
8 that are handgun ammunition?

9 A There are other calibers that are not relevant to
10 this specific interrogatory that are handgun ammunition.

11 MR. KRAUSE: I think part of the problem stems
12 from, you know, the word "types." I mean, maybe if
13 Plaintiffs could explain what they meant by "types"
14 instead of having us struggle with what you meant by
15 "types." We tried to provide a good faith answer based on
16 a common understanding among people who --

17 MR. MONFORT: I actually don't know what -- our
18 problem is that we don't know what is meant by "ammunition
19 principally used for handguns," so all I was asking the
20 defendants to do is to identify the ammunition that is
21 principally for use in a handgun. And I don't know.

22 MR. KRAUSE: Well, we -- and just as we don't
23 know what you meant by "types" and we didn't want to
24 simply object and we provided a good faith answer.

25 If you want to further clarify what you mean by

1 whether 9mm Winchester Magnum is 9mm caliber?

2 A It's my testimony I'm not familiar with it.

3 Q Okay. Again, whether or not I'm making it up or
4 it's an actual caliber or not, you don't know whether or
5 not that cartridge of ammunition is 9mm caliber; is that
6 correct?

7 MR. KRAUSE: Objection. Asked and answered.

8 THE WITNESS: Yes, that's -- same answer, sir.

9 Q BY MR. MONFORT: Yes or no? I understand the
10 objection has been put in place.

11 A Okay. And I think your question was -- I don't
12 know --

13 Q Whether or not -- is it your testimony that you
14 don't know whether or not that cartridge is 9mm caliber?

15 A Correct.

16 Q Thank you.

17 Sorry. Bear with me one moment here, please.
18 I'm trying to get to the point where we can begin wrap-up.

19 MR. KRAUSE: So you think you're going to finish
20 today?

21 MR. MONFORT: I'm imagining it will be about
22 within another hour, so, yes, as long as -- I understand
23 you might have to leave. Or are you now staying?

24 MR. KRAUSE: Yeah, I'm hoping to get out of here
25 by 5:30, so an hour would be great.

1 MR. MONFORT: Okay. I'm going to do my best to
2 make that happen.

3 Q Okay. Mr. Graham, I've asked you about the
4 discovery responses. I'd now like to ask you some
5 questions about the documents you identified in your
6 responses to Plaintiffs' specially-prepared
7 interrogatories.

8 A Okay.

9 Q In your response to special interrogatory number
10 seven, you identify some documents that support the
11 statement of the common understanding list and by that
12 list is the caliber list you identified; is that correct?

13 A Correct.

14 Q Okay. Among these documents you identify records
15 of handgun sales in the state that are required to be
16 maintained by the Department of Justice; is that correct?

17 A Yes.

18 Q Are you aware the Department of Justice had
19 provided Plaintiffs with a spreadsheet that --

20 A You were kind of in and out on that question,
21 sir.

22 Q I was asking whether or not you're aware that the
23 Department of Justice has provided Plaintiffs with a
24 spreadsheet containing the sales data contained in the
25 records you refer to.

1 A I'm being shown a document by Mr. Krause right
2 now.

3 Q Okay.

4 A Is this something we should mark, Mr. Monfort?

5 MR. MONFORT: Yes. We can mark that as Exhibit
6 D.

7 MR. KRAUSE: I think it's referred to as the
8 Dealer Record of Sales List.

9 (Whereupon Plaintiffs' Exhibit D was
10 marked for identification.)

11 Q BY MR. MONFORT: Yes, I can refer to it from here
12 on out as "DROS records," if you'd like.

13 A Okay.

14 (Off-the-record discussion.)

15 Q BY MR. MONFORT: So just to be clear, the records
16 that you identified in response to your interrogatory that
17 supported the caliber list are the records we've
18 identified as the DROS records; correct?

19 A Yes. This is one -- the -- kind of the starting
20 point for, I guess, the consideration on what calibers to
21 list out.

22 Q Okay. I'm sorry. You said it was the starting
23 point; is that right?

24 A Yes.

25 Q Okay. Am I correct that the DROS system has been