

TRAINING PROVIDED TO SWORN  
STAFF DURING 2011 A/O TRAINING  
- PG 17 & 18 FOR RET. LEOS & A/W'S

**Assault Weapons Legal Update  
2011**

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**Federal Law vs. CA State Law...**

- ▶ The 1994 Violent Crime Control and Law Enforcement Act of 1994 (Section 921 (a) (30), Title 18 USC) has expired.... What does this mean for California?
  
- ▶ *NOTHING! The "Assault Weapon" ban is still very much in effect here!*

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**Assault Weapons are now divided into 3 categories in California...**

- ▶ **Category 1:** The "Roberti-Roos" Assault Weapons Control Act of 1989
- ▶ **Category 2:** The AK and AR-15 Series Weapons  
*Kasler v. Lockyear*
- ▶ **Category 3:** Generic Characteristics
- ▶ 12280 (c) PC Unlawfully possess .50 cal. BMG

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**Category 1 Weapons**

- ▶ The "Robert-Roos" Assault Weapons Control Act of 1989
- ▶ CA Penal Code Section 12276 (a), (b) & (c)
- ▶ Defines weapons by listing of make, model & type
- ▶ Commonly referred to as "**Pre Ban**" weapons...
- ▶ Final registration deadline was 31 March, 1992

CA DOJ a/w id guide page 3

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**Category 1 Weapons, cont...**

- ▶ No additions, changes, transfers, etc. to a Pre-Ban weapon registration after March of 1992, other than the filing of a "Notice of No Longer in Possession" form.
- ▶ Anyone who registered their category 1 weapon prior to the deadline in March of 1992 will have been issued an **"ASSAULT WEAPON REGISTRATION CONFIRMATION NOTICE"** letter from CA / DOJ BOF.

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**BILL LOCKER**  
Attorney General

**DEPARTMENT OF JUSTICE**

**PISTOL LICENSING AND PERMITS UNIT**  
FIREARMS DIVISION  
SACRAMENTO, CA 95834

April 11, 2001

FRANCISCO CORDOVA, CA 95670

YOUR RECORD NUMBER: [REDACTED]

**ASSAULT WEAPON REGISTRATION CONFIRMATION NOTICE**

Your application for assault weapon registration has been processed by the Department of Justice (DOJ). The following weapons have been approved and registered pursuant to subdivision (c) of Penal Code section 12276:

SERIAL #	MAKE	MODEL	TYPE	CALIBER
[REDACTED]	STURM, RUCKER & CO	MP31 H	RIFLE	23

Please note that subdivision (c) of Penal Code section 12265 specifically restricts the use of lawfully registered assault weapons.

Please note that the disposal/abandonment of registered assault weapons is specifically restricted by the Robert-Roos Assault Weapon Control Act, commencing with Penal Code section 12275.

Please notify DOJ in writing whenever you dispose/abandon your registered assault weapon(s). Please submit your written notification to: Department of Justice, Firearms Licensing and Permits Unit - AWP, P.O. Box 82020, Sacramento, CA 95820-0200.

If you have any questions regarding this notice, please contact the Firearms Division at (916) 227-3703.

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### Category 2 weapons

- ▶ Category 2 Weapons...the "AK & AR-15 Series"
- ▶ Resulted from the "*Kasler v. Lockyer*" case. As of August 16, 2000, firearms that are variations of AR-15's or AK types (i.e. Colt Sporter) are now assault weapons under the original Roberti-Roos Act and must have been registered by 23 January 2001. (Deadline was originally 31 Dec. 2000)

CA DOJ *alw* guide page 55

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### SB23 - Category 3 Weapons

- ▶ Per SB 23, establishes criteria for defining assault weapons by **specified generic characteristics**, instead of listing by manufacturer and model, as in the \*Roberti-Roos bill of 1989. (12276 P.C.)
- ▶ Required registration of all newly defined assault weapons by **1/23/2001**. (This was the extended deadline date.)

▶ CA DOJ *alw* guide page 69

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### Category 3 Weapons, cont. Defining Characteristics 12276.1 P.C.

- ▶ (1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and any one of the following:
  - (A) A pistol grip that protrudes conspicuously beneath the action of the weapon.
  - (B) A thumbhole stock.
  - (C) A folding or telescoping stock.
  - (D) A grenade launcher or flare launcher.
  - (E) A flash suppressor.
  - (F) A forward pistol grip.
- ▶ (2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds.
- ▶ (3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

CA DOJ *alw* guide page 71

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**Category 3 Weapons, cont.**  
**Defining Characteristics 12276.1 P.C.**

- ▶ (4) A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following:
  - (A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.
  - (B) A second handgrip.
  - (C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel.
  - (D) The capacity to accept a detachable magazine at some location outside of the pistol grip.
  - (5) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds.

*CA DOJ a/w guide page 72*

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**Category 3 Weapons, cont.**  
**Defining Characteristics 12276.1 P.C.**

- ▶ (6) A semiautomatic shotgun that has both of the following:
  - (A) A folding or telescoping stock.
  - (B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.
- ▶ (7) A semiautomatic shotgun that has the ability to accept a detachable magazine.
- ▶ (8) Any shotgun with a revolving cylinder.

*CA DOJ a/w guide page 72*

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**Category 3 Weapons, cont:**

- ▶ Unlike Category 1 & 2 weapons, Category 3 weapons can be "unregistered" with DOJ if the "offending" parts are removed...
- ▶ A "No Longer In Possession" must be filed with DOJ

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**Assault Weapons, cont:**

- ▶ Robert-Roos still stands. Anyone who has an un-registered "Pre-Ban" listed weapon is in violation.
- ▶ (12280 P.C. articulates punishments for violations of 12276 or 12276.5 P.C.)
- ▶ Any assault weapon that fell under the original 1989 Roberti-Roos bill *cannot be registered now*. There was an "amnesty" period which is long since over.

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**Assault Weapons, cont:**

- ▶ "Pre Ban" weapons tend to be in their original military configuration & include bayonet lugs, flash suppressors, etc. Markings on the weapon will usually be military type...
- ▶ "Post Ban" (after Robert-Roos) manufactured weapons will usually be missing military style accrements and be marked differently... i.e. Colt "Sporter"

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**Assault Weapons, cont:**

- ▶ *cannot* be "sold, loaned, transferred", etc.
- ▶ EXCEPT:
- ▶ *can* be sold to a dealer *licensed* to deal in assault weapons ( similar to Fed. Title III) Weapon may also be sold to out-of-state dealer or go to L.E. Agency only.
- ▶ *can* be lent to person over 18, not in prohibited category, in immediate presence, at specified locations only. (see 12280 P.C.)
- ▶ *can* be transported out-of-state by registered owner, and brought back in by same.

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**Assault Weapons, cont:**

- ▶ *may* be jointly registered between family members residing in same household... (no juvenile family members!)
- ▶ *must* be disposed of within 90 days if received by intestate succession or bequest by:
  - ▶ rendering it permanently inoperable...
  - ▶ transferring it out-of-state...
  - ▶ surrendering it to L.E. Agency... or
  - ▶ selling it to a licensed dealer.

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**Assault Weapons, cont:**

- ▶ *must* have been registered with DOJ by 1/1/2001 if falls under "newly defined" category. (SB23)
- ▶ *may* be possessed at that person's residence, place of business, other property owned by same, or property owned by another with that owner's *express permission*.
- ▶ or on publicly owned land if the possession and use of a firearm described in Section 12276 or 12276.1 is specifically permitted by the managing agency of that land.

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**SB23 cont: Large Capacity Magazines**

- ▶ Beginning on 1/1/2000, the manufacture, importation, sale or transfer of any large capacity magazine, except by & to specific parties & conditions is prohibited.
- ▶ Violation is a misdemeanor or felony.
- ▶ Large capacity magazine is defined as: *any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not include any .22 caliber tube ammunition feeding device.*

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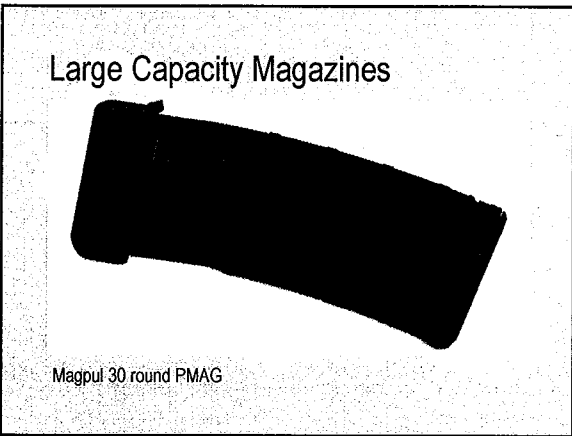
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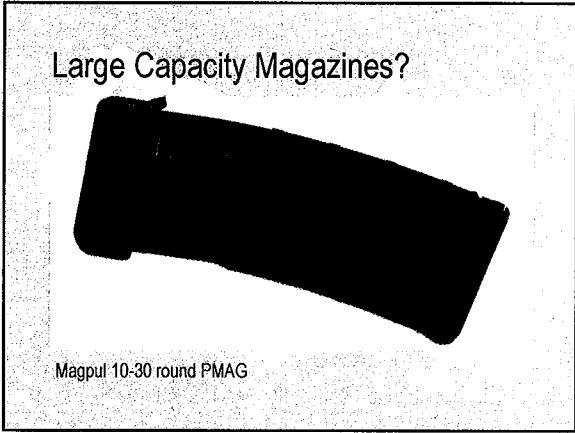
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**Large Capacity Magazines, cont:**

- ▶ California Firearms dealers must apply for and obtain a permit to sell large capacity magazines.
- ▶ Private person *may* keep all large capacity magazines in his possession, but cannot sell, transfer, loan, etc. (Violation of 12020(a)(2)P.C.)

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### Large Capacity Magazines, cont:

- ▶ L.E. Agencies exempted...
- ▶ Full time and Reserve California Peace Officers exempted... (magazines for duty use only!)
- ▶ L.E. Officers: dealer must photo-copy L.E. ID.
- ▶ L.E. Agencies: copy of official invoice.
- ▶ L.E. officer may take his lawfully purchased magazines with him when he retires... agency must retain theirs.

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### Machine Guns....

- It is unlawful for any person to sell, offer for sale, possess, or knowingly transport any machine gun. (12220 PC)
- The term machine gun means any weapon that shoots or is designed to shoot more than one shot automatically (without manual reloading) by a single function of the trigger. The term also includes any frame or receiver of a machine gun and any part or combination of parts designed and intended for use in converting an otherwise legal weapon into a machine gun. (12200 PC - definition) The term also includes any weapon deemed by the BATF as "readily convertible" ... chap. 53 sec. 5801 Title 26 USC

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### Machine gun parts & Illegal conversions...

- ▶ Use caution... *Better be able to prove intent!*
- ▶ After market auto sears... "TPF"
- ▶ "Lightning link"
- ▶ Obvious attempt to convert using original mfg.'s full-auto parts, drilling receiver, etc.

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**A quick quiz...**

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**Is it legal?**



**Receiver stamped "Colt AR15"**

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**Is it legal?**



**Receiver stamped "Colt AR15"**

**Without an A/W Registration letter, or an AFIS records check reveals no A/W registration record on file, *Not Legal in CA***

**Category 1 A/W (Roberti Roos listed AW)**

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**Is it legal?**



Receiver stamped "Stag Arms". No "Bullet Button" or similar device, 20 round magazine inserted. Function check reveals that weapon does not fire in semi-auto mode, fires in single shot mode only.

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**Is it legal?**



Yes.. Stag Arms is an "OLL", Off-List Lower. Gas tube has been removed, making weapon fire only in single shot mode, removing it from Category III criteria.

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**Is it legal?**



Receiver stamped "DPMS" and has muzzle brake (no flash hider), stock pinned in extended position (no folding stock) & no bayonet lug. Individual in possession has no A/W Letter

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**Is it legal?**



**No, not legal! Weapon is in a "Post Ban" configuration, however is a Category II A/W (Kasler v. Lockyear listed lower.) Individual in possession must have registered the weapon.**

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**Is it legal?**



**Weapon has all the evil components.. Except it's chambered for .22 long rifle cartridge with a ten round magazine.**

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**Is it legal?**



**Yes, it's legal...**

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**Is it legal?**



Has all the evil features. Receiver stamped "Spike's Tactical" and magazine release button will not depress when you push on it. Will only release with a tool inserted into center of mag release button.

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**Is it legal?**



Yes. Off List Lower (OLL) with a "Bullet Button" installed. Confirm magazine is a 10 - 30 and individual is not in a prohibited category.

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**Bullet Button**



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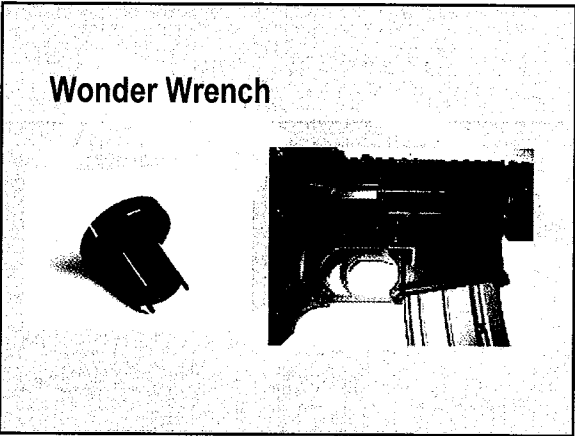
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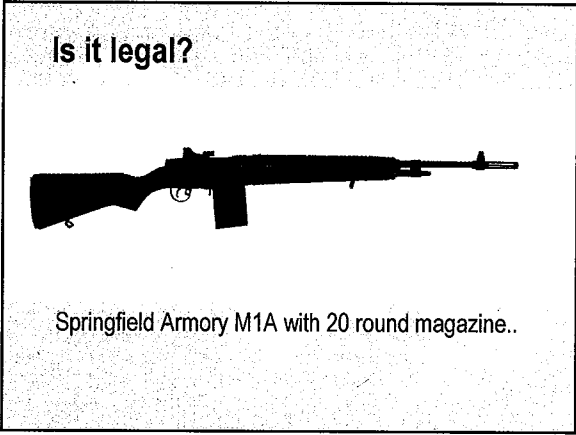
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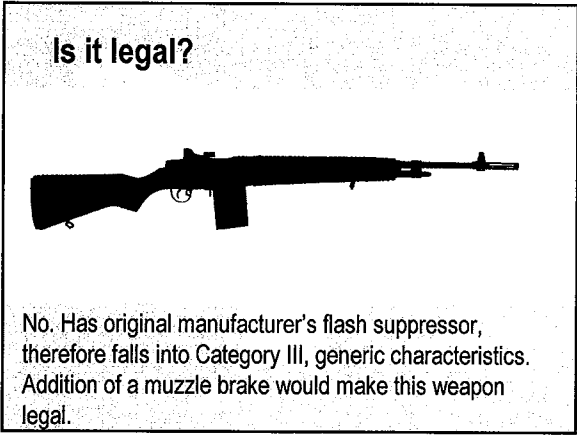
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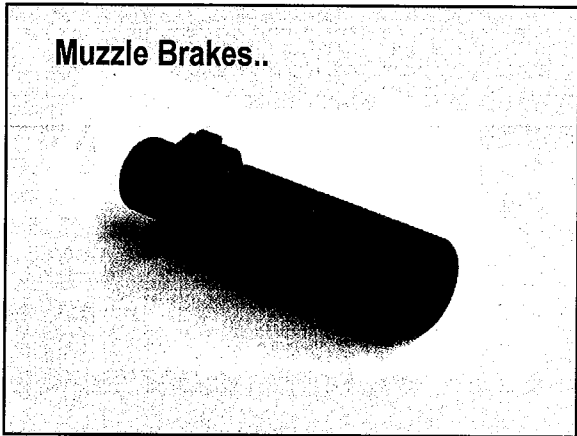
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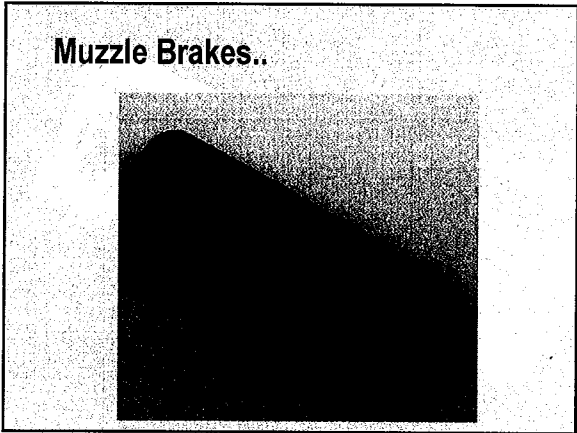
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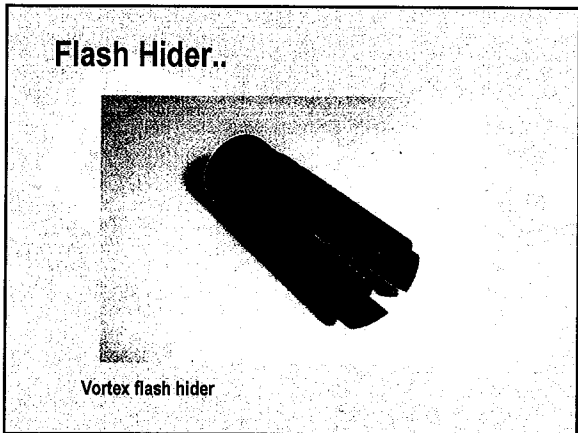
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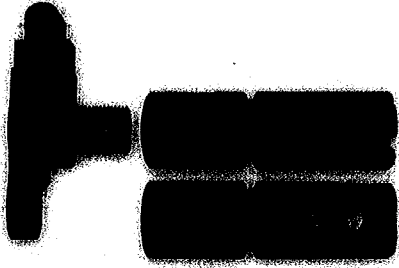
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## Flash Hider vs. Muzzle Brake



Vortex flash hider (top) and muzzle brake (bottom)

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## Questions?

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Discussion regarding retired peace officers retaining their legally purchased, registered A/W's into retirement.

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AG's Opinion, No. 09-901 dated 12-31-10

Is a peace officer who purchases and registers an assault weapon in order to use the weapon for law enforcement purposes permitted to continue to possess the assault weapon after retirement?

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AG's Opinion, No. 09-901 dated 12-31-10

CONCLUSION

*A peace officer who purchases and registers an assault weapon in order to use the weapon for law enforcement purposes is not permitted to continue to possess the assault weapon after retirement.*

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**Retired LEO's and A/W's**

- ▶ Those who purchased their weapons prior to the original Roberti Roos ban and registered them are like every other citizen that did the same.. Those weapons are "grandfathered" in and you may keep them.

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**Retired LEO's and AW's**

- ▶ Until/unless this opinion is challenged: Those who purchased their weapons on Department letterhead and registered them will be faced with having to dispose of their assault weapons upon retirement.

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**Retired LEO's and AW's**

- ▶ Your options are these:
  - Remove the weapon from the state...*
  - Sell the weapon to a licensed FFL with AW permit...*
  - Surrender the weapon to an LE agency.*

**OR:**

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**Retired LEO's and AW's**

- If you have a Cat I or Cat II AW:**
  - *Purchase an OLL (Off List Lower) and Radlock or similar device with a 10 round magazine.*
  - *Strip the registered AW lower and dispose of it per legally listed options.*
  - *File "No Longer in Possession" form w/ CA DOJ*
  - *Use OLL in place of registered AW lower to have CA legal "non-AW" rifle*

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**Retired LEO's and A/W's**

***The lower receiver is "the gun".***

*This is per BATF standard and CA DOJ. If you need further, contact me.*

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**Retired LEO's and A/W's**

*This is a temporary solution only, as the state legislature is going to have to deal with the whole Assault Weapons / OLL situation at some point.*

*Pending challenges to the current laws, at least this will keep individual officers legal and eliminate exposure to the Department*

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