

Case No. 19-56004

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In the United States Court of Appeals  
for the Ninth Circuit

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STEVEN RUPP, et al.,  
*Plaintiffs-Appellants,*

v.

XAVIER BECERRA,  
in his official capacity as Attorney General of the State of California,  
*Defendant-Appellee.*

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On Appeal from the United States District Court  
for the Central District of California  
Case No. 8:17-cv-00746-JLS-JDE

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**APPELLANTS' EXCERPTS OF RECORD  
VOLUME XIX OF XXII**

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January 27, 2020

Under Federal Rules of Appellate Procedure for the Ninth Circuit, rule 30-1, Plaintiffs-Appellants Steven Rupp, Steven Dember, Cheryl Johnson, Michael Jones, Christopher Seifert, Alfonso Valencia, Troy Willis, Dennis Martin, and California Rifle & Pistol Association, Incorporated, by and through their attorney of record, confirm to the contents and form of Appellants' Excerpts of Record.

Date: January 27, 2020

**MICHEL & ASSOCIATES, P.C.**

s/ Sean A. Brady

Sean A. Brady

*Attorneys for Plaintiffs/ Appellants*

*Steven Rupp, et al.*

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### **CERTIFICATE OF SERVICE**

I hereby certify that on January 27, 2020, an electronic PDF of APPELLANTS' EXCERPTS OF RECORD, VOLUME XIX OF XXII was uploaded to the Court's CM/ECF system, which will automatically generate and send by electronic mail a Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

Date: January 27, 2020

**MICHEL & ASSOCIATES, P.C.**

s/ Sean A. Brady

Sean A. Brady

*Attorneys for Plaintiffs-Appellants*

*Steven Rupp, et al.*

## Exhibit 16

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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

STEVEN RUPP, et al,

Plaintiffs,

V.

Case No.

8:17-CV-00746-JLS-JDE

XAVIER BECERRA, in his official  
capacity as Attorney General of  
the State of California, et al,

Defendants.

CERTIFIED COPY

DEPOSITION OF STEVE HELSLEY

TUESDAY, DECEMBER 18, 2018

ATKINSON-BAKER, INC.  
(800) 288-3376  
www.depo.com

REPORTED BY: DONNA WILLIAMS, CSR NO. 11133

FILE NO.: AC0C3CC

Steve Helsley  
December 18, 2018

3785 1

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I N D E X

PAGE

EXAMINATION OF STEPHEN HELSLEY

BY MR. ECHEVERRIA

4

E X H I B I T S

EXHIBIT NO.

DESCRIPTION

PAGE

No. 85

"Notice of Deposition of  
Stephen Helsley"

4

No. 86

"Assault Weapons and Accessories  
in America, Conclusion"

12

No. 87

"Plaintiffs' Initial Disclosure  
of Expert Witnesses"

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No. 88

"Declaration of Stephen Helsley  
in Support of Plaintiffs' Motion  
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No. 89

"Resume"

85

No. 90

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"Memorandum"

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No. 92

"Helsley's Memoir"

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No. 93

"Assault Weapons Identification  
Guide"

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No. 94

"California code of Regulations"

233



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1 1300 I STREET, SACRAMENTO, CALIFORNIA

2 TUESDAY, DECEMBER 18, 2018; 10:03 AM

3 ---oOo---

4 (Whereupon, Exhibit 85 was marked for  
5 identification.)

6 ---oOo---

7 STEVE HELSLEY,

8 having been first duly sworn, was examined and testified  
9 as hereinafter set forth.

10 ---oOo---

11 EXAMINATION

12 BY MR. ECHEVERRIA:

13 Q. Good morning, Mr. Helsley.

14 A. Good morning.

15 Q. My name is John Echeverria. I'm a deputy  
16 attorney general representing the defendant in this  
17 matter Xavier Becerra.

18 This lawsuit is a constitutional challenge to  
19 certain provisions of the California Penal Code that  
20 regulate assault weapons. That would be Penal Code  
21 Section 30150, 30515, and California Code of Regulations  
22 Section 5499.

23 I'm going to be asking you some questions today  
24 about this case and about an expert report that you have  
25 submitted.

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1 Q. Okay.

2 A. And I don't see it.

3 Q. Did you rely on this document that's included in  
4 Exhibit 86 in formulating your opinions?

5 A. No.

6 Q. Okay. You did not?

7 A. No.

8 Q. Okay. Would it be possible, Sean, to get a copy  
9 of the other Violence Policy Center document that Mr.  
10 Helsley has been discussing?

11 MR. BRADY: Will do.

12 MR. ECHEVERRIA: Okay. Thank you.

13 MR. BRADY: I will note that that quote, the  
14 language from that quote is in this document. It's just  
15 not quoted or attributed to Mr. Sugarman. I believe  
16 that's where the confusion arose from.

17 MR. ECHEVERRIA: Okay.

18 MR. BRADY: It's in the first bullet point.

19 MR. ECHEVERRIA: Okay. Thank you.

20 Q. So the documents in Exhibit 86 were produced in  
21 response to the individual document requests on Page 2 of  
22 Exhibit 85. Is that correct?

23 A. Yes.

24 Q. So these would be documents that you received,  
25 reviewed, or relied upon in forming your opinions in this

1 litigation. Is that right?

2 A. Yes. They refreshed what I knew to -- I wanted  
3 to confirm that I wrote. And these were documents I went  
4 back and reread to make sure I had dates and  
5 characterized it correctly.

6 Q. Okay. Did you bring any documents with you this  
7 morning?

8 A. Well, I went through based on the response that  
9 you sent to Sean and what I thought you asked me or asked  
10 him was about pistol grips, or features I should say.

11 Q. Right.

12 A. And so what I did is I went through -- because  
13 my library is large.

14 Q. Yes.

15 A. And I went through a lot of the books that  
16 relate to AR's or AK's to see if I could find discussion  
17 of the relative merits of the -- what I would call the  
18 historical pistol grip versus the conspicuously  
19 protruding pistol grip, was there more merit to it or why  
20 was it designed into these arms. And I could not find  
21 that kind of analysis. It was just this is what's  
22 attached to it.

23 And I brought two books along, two of the books  
24 that I consulted to, but I couldn't find what you  
25 expressed an interest in, whether it was a flash

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1 depressors or bayonet lugs or whatever. The books were  
2 just matter of fact. This is how they were built, and  
3 this model varied from this model was redesigned, so  
4 forth. So I have two of those types of books along.

5 Q. So you brought two books to this deposition?

6 A. Yes.

7 Q. Okay.

8 A. To give you a, you know, an example of the type  
9 of books I have and what I tried to find.

10 Q. Okay. I'll take a look at those books during  
11 the break, if that's okay with you.

12 A. Okay.

13 Q. Are there any categories of documents that are  
14 listed in attachment A to Exhibit 85 that you did not  
15 look for?

16 A. No, and as I think I mentioned in the deposition  
17 before, my business my life is full-time firearms related  
18 things. So I'm always going through firearms materials.  
19 There's nothing that I had to consult to form my opinions  
20 for the purposes of this deposition. These are things  
21 that I've dealt with for 50 years, and I just I know  
22 them. But I have to go back, and my books are full of  
23 marker tabs for whatever job it was I had going back to  
24 confirm that it was '63 versus '64, Those kinds of  
25 things.

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1 But there was nothing that I used to form an  
2 opinion. I simply go back through my books to make sure  
3 that the characterizations I make having the right dates  
4 and details.

5 Q. Okay. Thanks for that explanation.

6 What did you do to prepare for this deposition?

7 A. I read the books that you -- based on your  
8 question, because I never considered that something like  
9 that would be in print, and I thought, well, gee, did I  
10 not see it the first time through. And so last night  
11 what I spent doing was going through AR and AK books  
12 trying to find comparative features analysis.

13 Q. And you did find some books that had a  
14 comparative feature analysis?

15 A. No, no. If you'd like I could pull out a book.  
16 I mean, it's simply, you know, here's the gun. Here's  
17 how we designed it. It has A, B, C, and D on it. But  
18 whether they considered using a conventional pistol grip  
19 stock versus what California calls a conspicuously  
20 protruded grip stock, no, and that's probably because the  
21 design of the firearm dictated the pistol grip on the AR.

22 For instance, as I'm sure you're aware, there's  
23 a recoil spring tube that comes out of the back of the  
24 upper receiver into the stock and runs almost the full  
25 length of the stock. Well, you cannot have a

1 conventional stock where your thumb goes over what's  
2 called the wrist of the stock because there are parts  
3 there. And so if you don't have the conspicuously  
4 protruding pistol grip, then your hand would be over the  
5 top of the gun and block your sights.

6 So once you design firearms a certain way, you  
7 just about have to have a different kind of grip.

8 Q. And what kind of firearm are you referring to  
9 that required the pistol grip because of the design of  
10 the firearm?

11 A. AR

12 Q. The AR?

13 A. Well, there are a lot of guns that have -- that  
14 are designed to have a straight recoil impulse. The  
15 importance of that is when -- if your stock is here  
16 against your shoulder and the barrel is, say, higher than  
17 your shoulder is, barrels want to flip when the bullet  
18 comes out of them because of the gas, and that flipping  
19 is accentuated the more distance there is between here  
20 and here, so after --

21 MR. BRADY: When you say here and here, can you  
22 --

23 THE WITNESS: Yeah.

24 MR. BRADY: Can you clarify what you mean by  
25 here and here?

1 THE WITNESS: Here and here being your shoulder  
2 and a point significantly above your shoulder.

3 After World War II rifle design brought the  
4 barrel in virtually a straight line with your shoulder so  
5 that the impulse was straight back.

6 MR. ECHEVERRIA: Okay.

7 THE WITNESS: That's an aid in recoil. Once you  
8 get to a certain type of design, particularly a low  
9 barrel, then if you have a -- well, for instance, the  
10 AR-15 stock with the spring tube that comes directly back  
11 from the barrel, there's no place to put your hand. It  
12 would be over the top of the stock, and it would be  
13 blocking your field of view for the sights.

14 BY MR. ECHEVERRIA:

15 Q. So, in your opinion, it's not possible to design  
16 an AR platform rifle that does not use a pistol grip?

17 A. You could take the pistol grip off and shoot it  
18 without the grip at all. You know, it wouldn't be --  
19 wouldn't be much fun to shoot. And you can -- and, I  
20 mean, there have been variants made now on the California  
21 conspicuously protruding grip to meet DOJ design  
22 requirements.

23 But I lost your question in my rambling.

24 Q. No, that's fine.

25 So there are AR platform rifles that can be

1 purchased or owned in the State of California that do not  
2 have a conspicuously protruding pistol grip under the  
3 action. Is that right?

4 A. There are AR-15 platforms that are designed to  
5 meet a variety of DOJ design requirements.

6 Q. Okay. Thank you.

7 So going back to the documents that you were  
8 collecting in response to the document request which was  
9 included under Exhibit 85, you reviewed your book  
10 collection, or I'm assuming you didn't review all of your  
11 books in the collection?

12 A. No.

13 Q. How many books do you own about firearms?

14 A. Thousands.

15 Q. How many thousands?

16 A. 2000, 3000.

17 Q. So multiple thousands?

18 A. Yes.

19 Q. Okay. Do you also review the articles that you  
20 quote that are listed on Page 2 of Exhibit 87 which is  
21 your expert report?

22 A. I doubt that. I don't think that those are -- I  
23 don't think there are articles in that list that are  
24 relevant to today.

25 To the degree that I wrote things that are



1 this case?

2 A. I remember doing the report that we -- that we  
3 have here.

4 Q. That would be Exhibit 87?

5 A. I guess that's it, yeah.

6 Q. I'll be referring to Exhibit 87 a lot today.  
7 That will be a number that will come up a lot.

8 A. Yeah, yes, I certainly recall all this, yeah.

9 Q. I'm going to mark as Exhibit 88 a Declaration of  
10 Stephen Helsley in Support of Plaintiffs' Motion for  
11 Preliminary Injunction in Rupp versus Becerra.

12 (Whereupon, Exhibit 88 was marked for  
13 identification.)

14 BY MR. ECHEVERRIA:

15 Q. Have you seen Exhibit 88 before, Mr. Helsley?

16 A. Yes.

17 Q. This is a declaration that you submitted in  
18 support of the plaintiffs' motion for a preliminary  
19 injunction in this case. Is that correct?

20 A. Yes.

21 Q. Did you draft Exhibit 88?

22 A. Yes.

23 Q. Did anyone assist you in drafting Exhibit 88?

24 A. Assisted in the sense that I would talk --  
25 counsel would ask me to clarify things that weren't --

1 didn't make sense to him. I don't know whether that's  
2 assistance.

3 But no one -- there was nobody, nobody that I  
4 consulted with to write it. Once written, then there was  
5 a dialogue with counsel to clarify what I wrote.

6 Q. So you only worked with plaintiffs' counsel?

7 A. Yes.

8 Q. In preparing this report?

9 A. Yeah.

10 Q. Okay. And would you agree that much of the  
11 declaration in Exhibit 88 was incorporated into your  
12 expert report that is marked as Exhibit 87?

13 A. Yes.

14 Q. Okay. Are you aware of what the result was of  
15 plaintiffs' motion for preliminary injunction in this  
16 case?

17 A. I don't know that I was. I'm sure that I was  
18 aware of it. I have to admit that my daily focus in the  
19 firearm world is in the 19th century, and so they are  
20 very good at telling me the status of things, and I'm not  
21 very good at retaining it because my interests are in a  
22 different direction. So I'm sure I was aware, but I  
23 don't know.

24 Q. So your focus is on firearms from the 19th  
25 century. Was that what you stated?

1 A. Correct, yes. I am a historian doing a variety  
2 of things, and none of that work relates to what we're  
3 talking about here today.

4 Q. Sure. So would it refresh your recollection  
5 that plaintiffs' motion for a preliminary injunction was  
6 denied by the Court? Do you recall that?

7 A. I don't recall, no.

8 Q. Okay. When did you first become involved in  
9 this case?

10 A. The best recollection I have is my wife and I  
11 went to New York in September, and prior to that counsel  
12 and I had spoken about potentially preparing a report and  
13 --

14 Q. This would be September of what year?

15 A. Of this year.

16 Q. Would it be last year, right, 2017?

17 A. No, no, I'm backing into the response. I'm  
18 trying to recreate.

19 Q. Okay. Got it. You're working backwards. I  
20 see.

21 A. The reason it's difficult for me is because  
22 there's the magazine case, and there's the assault weapon  
23 case, and I get the two of them sort of blended.

24 Q. Usually those challenges are combined into a  
25 single lawsuit which makes it easier, but --

1 passed which was the Roberti-Roos Assault Weapons Ban?

2 A. It was the Roberti-Roos Assault Weapon Control  
3 Act.

4 Q. Right. Thank you.

5 A. And probably technically not a ban.

6 Q. Right.

7 Now, so if a firearm appears in this list, it  
8 would be a prohibited assault weapon under California  
9 law. Is that your understanding?

10 A. Well, it would cause the owner to pay a fee to  
11 retain it. Failure to pay the fee would be the crime,  
12 and then there were restrictions on use and transfer.

13 Q. Have the penalties changed over time, to your  
14 knowledge?

15 A. I wouldn't even begin to try to characterize  
16 what's occurred over the last 30 years. There have been  
17 a series of, quote/unquote, bans and amendments and  
18 regulations, and it's baffling.

19 Q. Okay. I'm also going to show you a document  
20 that has been pre-marked or previously marked as Exhibit  
21 21. This is a copy of California Penal Code Section 3515  
22 titled "Assault Weapon Further Defined."

23 Have you seen this document or a version of this  
24 document before?

25 A. Yes, I believe this resulted -- was the result

1 of Senate Bill 23 from Don Perata, the features.

2 Q. To your knowledge, what did Senate Bill 23 do?

3 A. Well, it was another attempt to clarify what the  
4 legislature meant because they'd failed rather mightly on  
5 the Roberti-Roos Assault Weapon Control Act. So this  
6 was, quote/unquote, a cleanup.

7 Q. How was it a cleanup, quote/unquote?

8 A. Well, the Roberti-Roos Act essentially tried to  
9 control firearms based on name, country of origin,  
10 appearance. There was a great deal of confusion within  
11 the Department because when the first wave of  
12 registrations were complete in early '91, about 39,000  
13 registrations had been completed, and the registrations  
14 included all manner of firearms that had nothing to do  
15 with the Roberti-Roos Control Act.

16 There was also a debate about if say an AK was  
17 not one of the ones named, was it controlled by the Act.  
18 And a deputy attorney general was assigned, Paul Bishop,  
19 to come straighten it out over at DLE, Division of Law  
20 Enforcement. Bishop met with me and he told me that he'd  
21 have it worked out in a couple weeks.

22 And, you know, we're 27 years down the road from  
23 when he arrived. The sales of similar firearms  
24 continued.

25 Q. After the enactment of Roberti-Roos --

1           A. Roberti-Roos Act, there was a Supreme Court  
2 flap.

3           Q. California Supreme Court?

4           A. California Supreme Court Act involving a  
5 defendant named James Dingman, and the SKS rifle that  
6 required a cleanup piece of legislation from Assemblyman  
7 Rod Wright, and that was as a result of Attorney General  
8 Lungren having a temper fit and meltdown, at which time  
9 Bishop was thrown off the assault weapon account because  
10 Lungren had been embarrassed by two reporters from the  
11 Los Angeles Times concerning the Dingman case.

12           DOJ had taken Dingman's side at the Supreme  
13 Court. And when Lungren found out about that, he  
14 withdrew the support and canned Paul.

15           The point of those stories is there was rampant  
16 confusion as to which guns were and were not on the list,  
17 because in the Dingman case, Department of Justice had  
18 given authorization to retail dealers to sell a  
19 particular type of firearm, and the DA in Santa Clara  
20 said I don't agree. And the attorney general's opinion  
21 does not control. He is simply one lawyer among the 59  
22 of us, the 58 DA's and him, and we're going to go ahead  
23 and arrest and prosecute. And that was the situation we  
24 had in many jurisdictions around the state.

25           It was totally unclear which guns were and were

1 Q. It exempted individuals who owned large-capacity  
2 magazines?

3 A. Yes.

4 Q. As of the date of the enactment?

5 A. Yes. And then there were certain folks who  
6 could continue to buy them.

7 Q. For example?

8 A. Law enforcement.

9 Q. Yes. Retired law enforcement?

10 A. Yes.

11 Q. And just so we're on the same page, California  
12 law defines a large-capacity magazine as a magazine  
13 capable of holding more than ten rounds of ammunition.  
14 Is that your understanding?

15 A. Correct.

16 Q. So looking at Section 30515, which has been  
17 marked as Exhibit 21, under subdivision A-1 --

18 Are you with me?

19 So under subdivision A-1, Section 30515 provides  
20 that, quote, an assault weapon will also mean, quote, a  
21 semi-automatic center fire rifle that does not have a  
22 fixed magazine but has any one of the following.

23 And then following that provision there's a list  
24 of several features. Is that your understanding?

25 A. Yes.

1 Q. So let's walk through this statute. What is a  
2 semi-automatic rifle?

3 A. A semi-automatic is one that when the cartridge  
4 in the chamber is fired, the bullet moves back. The  
5 ejector kicks the cartridge off the bolt face. The  
6 spring behind the bolt then pushes the bolt forward. It  
7 strips a new cartridge out of the magazine and pushes it  
8 into the chamber of the gun.

9 In a bolt action rifle, for instance, that's a  
10 manual operation where after the cartridge is fired, the  
11 hand grabs ahold of a bolt knob, lifts it up, pulls it  
12 back, pushes it forward again, and pushes it back down.

13 So a semi fires one shot each time the trigger  
14 is pulled until the firearm either malfunctions or the  
15 magazine is empty.

16 Q. And what is an automatic rifle?

17 A. Automatic is one that fires as long as the  
18 trigger is depressed until it malfunctions or the  
19 magazine is exhausted.

20 Q. And what is select fire?

21 A. Select fire is one that affords the operator the  
22 choice. They can fire one round out at a time. Some sub  
23 machine guns have a capacity a setting for a three-shot  
24 burst or fire as long as the trigger is depressed.

25 Q. Is it your understanding that California law



1 generally prohibits civilian possession of select fire  
2 and automatic rifles?

3 A. Yes. That's a decision that Attorney General  
4 Van de Kamp took in 1985, I believe.

5 Prior to that we provided permits for private  
6 parties who wanted to possess machine guns to destructive  
7 devices.

8 So it's a department policy. It's not a  
9 prohibition in the penal code, as I understand it.

10 Q. Under California law?

11 A. Yes.

12 Q. Did you agree with Van de Kamp's policy?

13 A. No.

14 Q. So you think that individuals should have a  
15 right to possess fully-automatic or select-fire rifles?

16 A. In most states they do. In most states the  
17 government trusts the residents of their states  
18 sufficiently to allow them to buy such arms, and I think,  
19 I don't know the exact count, but I think it's about 40  
20 states. We are surrounded by states that allow the  
21 private possession of machine guns. Nevada, Arizona, and  
22 Oregon all allow such possession.

23 Q. To your knowledge, are machine guns or automatic  
24 or select-fire rifles regulated?

25 A. Yes.

1 Q. What is your understanding of how they are  
2 regulated under federal law?

3 A. Well, it's -- initially it was through the IRS  
4 because it was a tax you needed to buy, and you still do  
5 need to buy a tax stamp for the transfer.

6 Generally what I think the federal regulations  
7 are is federal background check, pay a \$200 transfer fee,  
8 and I think they -- I think the BATF now asks for the  
9 input of the local police chief or sheriff from where the  
10 person resides, but it's primarily the paying of a  
11 transfer tax.

12 Q. So aside from transfers, are individuals able to  
13 manufacture or purchase new automatic or select-fire  
14 rifles?

15 A. Yes.

16 Q. Even under federal law, that's your  
17 understanding?

18 MR. BRADY: Objection; vague, compound, calls  
19 for a legal conclusion.

20 THE WITNESS: There are a number of laws and  
21 requirements that a manufacturer, for instance, would  
22 have to meet. I believe there are machine guns being  
23 made in this state, but that would be both with federal  
24 authority and California permitting it. But, yes,  
25 there's -- I'm going to give you what I think is the

1 number I've seen.

2 Federal law capped the number of machine guns in  
3 private hands in 1986 through the Volkmer McClure Act,  
4 and I believe there's something around 200,000 machine  
5 guns under private hands in the United States.

6 Q. So going back to Exhibit 21, which is California  
7 Penal Code Section 30515, Subdivision A-1, the statute  
8 also refers to Centerfire. Do you see that?

9 A. Yes.

10 Q. What is Centerfire.

11 A. There are two basic cartridge designs. First of  
12 all, a cartridge includes a casing, a powder charge, a  
13 bullet, or in the case of a shotgun, multiple  
14 projectiles. And then there is a priming charge that  
15 detonates the powder.

16 And in a Rimfire the detonating material is in  
17 the rim. And it's put into the rim by spinning the case  
18 while the priming material is wet. Rimfires tend to be  
19 lower powered, lower pressure casings.

20 Centerfires have a bullet, powder charge, a  
21 case. It may be brass, steel, aluminum, plastic, and  
22 then the priming charge is located in the center of the  
23 cartridge case.

24 In the United States those are of the boxer  
25 design and can be readily replaced if you want to reload

1 your cartridges.

2 In Europe they've traditionally been of the  
3 powder design, which is not as friendly to reloading.

4 Is that sufficient?

5 Q. I have some more questions about this.

6 So you mention that Rimfire generally is lower  
7 power. Did you say that?

8 A. Yes.

9 Q. What do you mean by that?

10 A. Well, the design of the Rimfire case which  
11 allows the priming compound to be spun into the rim, they  
12 are generally thinner and they're not -- they're not  
13 designed to withstand high pressure. They're far less  
14 expensive to produce. Generally we'll ballpark it here,  
15 the --

16 A Rimfire may produce a chamber pressure, say,  
17 of 20,000 PSI for the sake of comparison. Whereas a  
18 Centerfire might have three times that, four times that,  
19 and that necessitates different design of the case.

20 You need a kneeling in the neck, and you need a  
21 hard base. Those processes don't have to be involved in  
22 producing a Rimfire case. So Rimfire case is less  
23 pressure, less power, less expense than Centerfire.

24 Q. So, in general, Rimfire rifles have less firing  
25 power than Centerfire rifles?

1 MR. BRADY: Objection; vague.

2 THE WITNESS: As a general proposition, yes.

3 Rimfire was used extensively in the Civil War,  
4 because the Centerfire, the primer, the design of that,  
5 had yet to be worked out and the process for drawing the  
6 brass to form the -- what became the Centerfire brass  
7 case was in its infancy at that point.

8 So Rimfires were used for hunting rounds and for  
9 military rounds, all fairly low powered, comparatively  
10 speaking. But after the Civil War, for the most part  
11 Rimfire backed up to mostly 22s for, you know, planking  
12 and for kids, and it remains that today.

13 BY MR. ECHEVERRIA:

14 Q. When you say backed up, what did you mean by  
15 that phrase?

16 A. The Rimfire world shrunk. At one time there  
17 were many Rimfire rounds. And once the -- once the  
18 Centerfire design was worked out, Rimfire sort of became  
19 the 8-track stereo tape. And it still worked, but they  
20 were far less desirable than a Centerfire.

21 Q. Do Centerfire and Rimfire rifles generally fire  
22 the same caliber?

23 A. There are very few Rimfire calibers at this  
24 point. The most common are 17 and 22. This gets into  
25 the minutia in the weeds here.

1           So the hammer would come down, strike the pin,  
2           drive the pin into the pre-cushion cap, bang.

3           And Lefauchaux's design was improved upon by  
4           Houiller, H-o-u-i-l-l-e-r, in 1847, and Houiller put a  
5           base wad into the case so that the pin went through say a  
6           felt base wad, and that reduced the amount of gas leakage  
7           through the pin hole and was the modern, if you will,  
8           Pinfire round.

9           And pin fires had a relatively short life  
10          because at the same time there were some French folks who  
11          were -- Pottett, P-o-t-t-e-t-t, who was developing what  
12          became the Centerfire primer.

13          Pinfire cartridges were in the catalogs put out  
14          by ICI, that's Imperial Chemical Industries, up through  
15          World War II, and to some degree they're still used, I  
16          believe, in South America.

17          Q. So Pinfire is still used in some places?

18          A. Yeah. Difficulty is getting the cartridges for  
19          them because they're about a century and a half out of  
20          date.

21          But I load them, shoot them, and I am told that  
22          there's still a world for them in South America. I don't  
23          know that as a fact, but.

24          Q. But in the United States generally rifles are  
25          divided between Centerfire and Rimfire. Would you agree

1 with that?

2 A. Oh, yes.

3 Q. Okay. So looking back at Section 30515, Exhibit  
4 21, the statute defines an assault weapon to mean a  
5 semi-automatic Centerfire rifle. Right?

6 A. Yes.

7 Q. So the phrase assault weapon does not include  
8 any Rimfire rifles. Is that your understanding?

9 A. Correct.

10 Q. So Rimfire rifles are not prohibited under  
11 California law?

12 A. Correct.

13 Q. Okay. And --

14 A. Well, they would be if they had a magazine of  
15 too great a capacity, assuming that that law stands.

16 Q. Okay. So regarding that point, if you look  
17 further on in Section 30515 to Subdivision A-2, you can  
18 see that the statute prohibits a semi-automatic center  
19 rifle that has a fixed magazine with the capacity to  
20 accept more than 10 rounds.

21 Is it your understanding that if a rifle has  
22 Rimfire and has a fixed magazine with the capacity --  
23 that has a fixed magazine to accept more than ten rounds,  
24 that would also be prohibited?

25 A. No, I'm saying that if a person had 25 round

1 magazine in a 22 that was detachable, the magazine would  
2 be the problem.

3 Q. Right. So the magazine would be prohibited?

4 A. Yes.

5 Q. Under California law but not the rifle itself?

6 A. Correct.

7 Q. Okay. So moving on to the particular features  
8 that are listed in Subdivision A-1 of Penal Code Section  
9 30515, Subdivision A, refers to pistol group that  
10 protrudes conspicuously beneath the action of the weapon.

11 We were discussing different types of pistol  
12 grips earlier. Just to provide a summary, what are the  
13 different types of pistol grips that you're aware of?

14 A. Okay. There's what's called the straight hand,  
15 which would be no pistol grip at all. There's one called  
16 the Prince of Wales. There's semi. There's half.  
17 There's full, and scroll, s-c-r-o-l-l.

18 Q. What is a half pistol grip? Can you provide a  
19 more complete description, of that?

20 A. It's basically just a continuum of protrusion.  
21 All of those, starting with the straight hand, the pistol  
22 grip, becomes more and more pronounced.

23 Q. There are incremental changes?

24 A. Yes.

25 Q. Okay.



1 A. Correct.

2 MR. BRADY: Objection; vague.

3 BY MR. ECHEVERRIA:

4 Q. What is a straight pistol grip? Does that mean  
5 anything to you?

6 A. It should be straight hand. A straight grip  
7 would be the way the Americans would describe what the  
8 British describe as a straight hand.

9 Q. So that would be no grip?

10 A. Correct.

11 Q. So the full grip is the most extreme protrusion  
12 of a pistol grip based on your understanding?

13 A. It's -- it is -- there's less protrusion than  
14 with an AR grip. It is the most protrusion of the non-AR  
15 platform type of grips.

16 Q. So there's an additional type of pistol grip  
17 that you're referring to now which is the AR grip. Is  
18 that right?

19 A. Yeah. That is the grip that's described in this  
20 statute.

21 Q. Right.

22 A. The conspicuously protruding.

23 Q. And that is distinguished from a full grip?

24 A. Well, I don't think it should be, but DOJ has  
25 decided that it is.

1 Q. Okay. And with the AR type grip, as you're  
2 describing it, the thumb of the shooter does not wrap  
3 around the stock. Is that right?

4 A. Correct.

5 Q. It wraps around the grip itself?

6 A. Yes.

7 Q. Okay. While we're talking about pistol grips,  
8 we'll probably get back to it later, but I just wanted to  
9 quickly ask you about a statement that you make in your  
10 report which has been marked as Exhibit 87. I'd like you  
11 to turn to Page 9 of Exhibit 87.

12 A. Uh-huh.

13 Q. So in the first page of Page 9 of Exhibit 87  
14 towards the end of the paragraph you note that in some  
15 cases a protruding pistol grip is an accommodation for a  
16 shooter with a disability?

17 A. Uh-huh.

18 Q. Do you see that?

19 A. Yes.

20 Q. What kind of disabilities would be accommodated  
21 by a protruding pistol grip?

22 A. Well, in the case of Kaiser Wilhelm, which I  
23 cite here from the Datig's (phonetic) book, Wihelm had a  
24 shriveled arm, and he did not have the capability of  
25 fully supporting the front end of the rifle. So the --

1 by placing the weight backwards and having a large pistol  
2 grip, it allowed the one working arm and hand to do a  
3 better job of controlling the firearm.

4 Q. So the Luger pistol that was designed for Kaiser  
5 Wilhelm that had a pistol grip as defined under the --

6 A. I don't know that it was designed for him. It  
7 was adapted for him.

8 But, yes, it was basically a pistol that was  
9 made into a rifle carbine that allowed him to shoot  
10 essentially with one hand but from the shoulder.

11 Q. So the accommodation was the addition of the  
12 stock to the Luger. Is that right?

13 A. No. The Luger had -- it was made under a  
14 carbine form, and it was made in a pistol form. The  
15 Kaiser Wilhelm gun had a stock on a pistol with a longer  
16 barrel and a wood fore end that a pistol would not have,  
17 and so with his, I guess it was his right hand he could  
18 control it, keep it against his shoulder, and aim because  
19 the weak hand could not support the front of the gun.  
20 And so the pistol grip design allowed him to better use a  
21 firearm.

22 Q. Was the pistol grip design in Kaiser Wilhelm  
23 Luger similar to the AR pistol grip that is prohibited  
24 under California law?

25 A. Similar to. Similar only in the sense that the

1 thumb went around the back of the grip as in a pistol  
2 where you would hold a pistol and the thumb would be  
3 essentially parallel with your trigger finger, if you  
4 will.

5 Q. Right. But wouldn't that have been the case  
6 with the standard Luger that wasn't specially designed?  
7 The thumb would wrap around the grip, the pistol grip.  
8 Is that right?

9 A. Yes, yes.

10 Q. So I'm still a little confused. What was  
11 specially configured for Kaiser Wilhelm's disability?

12 A. It was simply adapted to him. It was, again, I  
13 don't know which arm didn't work, but it was designed  
14 specifically so that he could get the most control with  
15 the one hand. A shoulder stock was fitted to the pistol  
16 so that it would be put up against his shoulder, and  
17 then, I don't know, because I don't know how the weak arm  
18 worked, but it had a fore end, a wooden fore end on it,  
19 and I don't know whether the left hand could get up there  
20 to give some control to it or not. I don't know. I've  
21 never -- I've never seen Kaiser Wilhelm's gun. I don't  
22 know if it still exists.

23 Q. Okay.

24 A. I only know of Datig's characterization of the  
25 thing.

1 Q. Okay. So you've never seen pictures of Kaiser  
2 Wilhelm's Luger. Is that right?

3 A. No. I've held one of his rifles, but not that  
4 one.

5 Q. Okay. And what was the disability that Kaiser  
6 Wilhelm suffered from?

7 A. Just described as a withered arm, and I don't  
8 know what that meant.

9 Q. Okay. So is it your opinion that a protruding  
10 pistol grip is an accommodation for shooters who have  
11 disabilities such as a withered arm?

12 A. Yes.

13 Q. How would a pistol grip be an accommodation for  
14 somebody with a withered arm? How would it help them  
15 operate a firearm as opposed to other grips?

16 A. Well, part of it, with a stock design you have  
17 weight down on the top of your hand, where in a M1  
18 carbine, for instance, none of the weight of the rifle is  
19 bearing on your -- the web of your hand or down your fore  
20 end to help support it.

21 And so the pistol grip allows you to get the  
22 grip and at the same time providing some support along  
23 the bone in your forearm.

24 Q. Okay. In addition to that disability that we've  
25 been discussing about Kaiser Wilhelm, are there any other

1 disabilities that a protruding pistol grip would be an  
2 accommodation for?

3 A. Yes. They would just all relate to problems  
4 with one arm, because a person who can't use both arms to  
5 hold or to shoot, the benefit would be to a one armed  
6 person or an arm that suffers paralysis or loss of a hand  
7 or something relating to the non-firing hand.

8 Q. Okay. In addition to citing Datig's book about  
9 Kaiser Wilhelm's pistol, have you done any additional  
10 research to substantiate your opinion that a protruding  
11 pistol grip is an accommodation for a shooter with a  
12 disability?

13 A. I just know that I have tried shooting rifles  
14 with one hand. And so what I've just described to you in  
15 terms of the additional support provided by the web of  
16 the hand and of the fore end enhances, it enhanced my  
17 ability to shoot it. I didn't shoot it well, but it was  
18 better than without, and so just personal experience.

19 Q. Personal experience, okay.

20 So going back to Section 30515, which has been  
21 marked as Exhibit 21, in Subdivision A(1)(b) the statute  
22 identifies a thumb hole stock.

23 Can you briefly describe what a thumb hole stock  
24 is?

25 A. A thumb hole stock is a stock where the wood

1 continues. Imagine that you have the back of the  
2 receiver of the gun, the receiver being the part that  
3 either the bolt is in or it's the thing that houses the  
4 mechanism of the firearm. So from the wood would come up  
5 and butt against the receiver. Generally then if we go  
6 back to the carbine, the wood slopes down. That's called  
7 the hand. The pistol grip is formed. The thumb goes  
8 around the stock or over the top of the stock, but  
9 there's nothing above the thumb. The thumb hole stock,  
10 the wood continues back to what's called the comb of the  
11 stock. The comb is where you lay your face on it. And  
12 the comb has a heel and a toe it's called. The toe is  
13 the front end of the comb. The heel is the rear end of  
14 the comb.

15 So in a thumb hole stock the wood connects from  
16 directly behind the receiver to the toe, and there's a  
17 void where the thumb goes through the void.

18 Q. Okay. Thank you for that. And then moving on  
19 to Subdivision A(1)(c) of Section 30515, which is marked  
20 as Exhibit 21, the statute identifies a folding or  
21 telescoping stock.

22 Let's break that up a bit. What is a folding  
23 stock?

24 A. Well, a folding stock generally, and, again,  
25 there have been all manner of folding guns, some of which

1 didn't fold at the stock. They folded at the receiver as  
2 opposed to the stock.

3 But in folding stocks generally directly behind  
4 the receiver there's an additional piece of metal that  
5 allows the -- the stock is generally not wood anymore.  
6 Folding stocks are usually metal or metal framing, but it  
7 allows the stock to fold.

8 Q. So the stock --

9 A. It's hinged.

10 Q. Okay.

11 A. And generally some of the machine guns like the  
12 MP3840 had an under-folding stock. The stock would hinge  
13 down and fold up parallel with the barrel. Most folding  
14 stocks fold to the side.

15 Q. Do any folding stocks have an over folding  
16 mechanism where it folds over the receiver?

17 A. I never say never on something like that because  
18 I'm sure that someone has designed one. I've never seen  
19 one of them.

20 Could be particularly if you had a telescopic  
21 sight on the gun, that would be a problem design wise.

22 Q. Right.

23 A. But I just don't recall seeing one.

24 Q. Okay. And you mentioned earlier in your answer  
25 you referred to a sub machine gun?



1 A. Uh-huh.

2 Q. Can you provide a definition, for the record, as  
3 to what a sub machine gun is?

4 A. A sub machine gun, well, let me talk about all  
5 machine guns. And, again, it's unfortunate. It's like  
6 the assault weapon, assault rifle thing, or magazine  
7 clips language is not as precise as it should be when  
8 describing these things.

9 But a machine pistol is generally a handgun that  
10 will allow you to fire full automatic by pulling the  
11 trigger. But it's a pistol, has no stock on it.

12 A sub machine gun is generally a fully automatic  
13 firearm, generally select-fire, that uses lower powered  
14 cartridges. That's why it's called the Thompson sub  
15 machine gun because it used the same cartridge used in  
16 the military pistol.

17 Q. Okay.

18 A. Assault rifles generally are medium-powered  
19 cartridges of which the 5.56 by 45 and the 762 by 39 are  
20 medium-powered cartridges. Those are the rounds used in  
21 the M16 and the AK respectively.

22 So an assault rifle is a general purpose  
23 medium-power select-fire. And then machine gun is  
24 generally a full power, frequently on a bipod, a tripod,  
25 frequently belt fed, but it uses the full power

1 cartridges.

2 So those are the four kinds that are generally  
3 referred to as machine guns. Not very precisely, but.

4 Q. Okay. Now, I know that you're using the phrase  
5 assault rifle in a different way than I'm using it. So I  
6 just want to be clear that when I'm referring to assault  
7 rifle, I'm not referring to select-fire or fully  
8 automatic fire rifles. I'm referring to semi-automatics,  
9 Centerfire rifles that are capable of accepting a  
10 detachable magazine and that would be prohibited under  
11 Section 30515 or that would be listed in 30510. Is that  
12 okay?

13 A. Yes, but you are though referring to what the  
14 Penal Code refers to as assault weapons.

15 Q. Yes, yes. And when I say assault rifle, I'm  
16 referring to a rifle that would qualify as an assault  
17 weapon under California law.

18 A. Okay. Then it would be okay for me to refer to  
19 tires and wheels as the same thing.

20 Q. Sure. I think that makes sense.

21 Then what is a telescoping stock?

22 A. Telescoping stock is a stock that extends  
23 generally straight back, pulls out. It's a 18 Century  
24 technology. Depending on what length you want it to be,  
25 the pieces that are pulling out can either run along the

1 side of the stock or they can run into the stock  
2 depending on the firearm design. But it simply pulls  
3 back and locks into position instead of folding.

4 Q. So, in general, when utilizing a telescoping  
5 stock, what would be the added length that could be  
6 achieved using a telescoping stock with a rifle?

7 MR. BRADY: Objection; calls for speculation,  
8 incomplete hypothetical.

9 BY MR. ECHEVERRIA:

10 Q. Do you understand my question?

11 A. Yeah. Assuming that the person with the firearm  
12 end of the stock was sufficiently fearful of prosecution  
13 under state law, the firearm, if it's a rifle, must have  
14 a barrel of at least 16 inches, and it must have an  
15 overall length of 26 inches. So the rifle could be no  
16 less than 26 inches in its shortest configuration. So  
17 then how much you wanted it to telescope could be three  
18 yards if you chose.

19 But that's not really relevant. It can't be  
20 less than 26, and so.

21 Q. Okay. So I'm going to refer you to Page 10 of  
22 Exhibit 87 in which you are discussing adjustable stocks.  
23 And you state that such stocks, referring to telescoping  
24 stocks, have a relatively short adjustment range, usually  
25 three to four inches.

1           So it's your opinion that, in general,  
2   telescoping stocks can adjust in length between two to  
3   four inches, is that right, of additional length when  
4   extended?

5           A. Well, let's talk about the AR. What controls on  
6   the AR platform is that buried inside the stock is a tube  
7   that contains a follower and a recoil spring which is  
8   what slows the bolt down as it comes back and then speeds  
9   it up as it reloads another round. The adjustable stock  
10   can't go any further in than that tube. And that tube is  
11   -- I've never put a tape to one of them, but maybe eight  
12   inches long or so. Practical adjustment range for  
13   people's arms, because what we're talking about here, is  
14   length of pole. Length of pole is the distance between  
15   your shoulder and your trigger finger in a firing  
16   position.

17          Q. Uh-huh.

18          A. Most people have a length of pole that's about  
19   14 inches or so. That's what the factories make most  
20   stock lengths to. That varies by your chest development,  
21   your hand size, your neck length. There are a lot of  
22   factors that go into stock fit.

23                But most people, like I just bought a 22 for my  
24   grandkids that has an adjustable stock, and they're 10  
25   and 12. So a 12-inch length of pole for them works. It

1 allows them to get their face down on the stock, see the  
2 scope. And most people, unless you're Shaquille O'Neal  
3 or somebody, don't have a stock length that's more than  
4 15.

5 I'm sure there are people out there that have a  
6 16, 17, you know, huge folks with very long arms. But  
7 the necessary adjustment range for an AR adjustable  
8 stock, a telescoped stock, and I've gone and measured  
9 some of them, extends in the three- to four-inch range,  
10 and it's starting with the gun longer than the minimum  
11 requirement by --

12 Q. Understood.

13 A. So it starts at state law compliance and gets  
14 bigger.

15 Q. Right. But there's a range of different  
16 adjustment ranges that a telescoping stock can have.  
17 Right?

18 So you say that on average it's between two to  
19 four inches, but some telescoping stocks can extend much  
20 more than that. Is that right?

21 A. Possibly. I don't know what purpose it would  
22 serve. If you wanted greater length of pole, the way you  
23 deal with that is increase the thickness of the butt  
24 plate.

25 Q. Okay. So going back to Section 30515, Exhibit

1 21, Subdivision A(1)(d) identifies a grenade launcher or  
2 flare launcher. Do you see that?

3 A. Yes.

4 Q. Is it your understanding that the plaintiffs are  
5 not challenging that particular provision of the statute?

6 A. I don't think so.

7 Q. You haven't been asked to provide an opinion  
8 about that?

9 A. No. Would have liked to, but.

10 Q. Why would you like to?

11 A. Because it's silly.

12 Q. What's silly about it?

13 A. Well, there are no grenades.

14 Q. What do you mean there are no grenades?

15 A. I don't know where you'd go to get a grenade.  
16 The grenades, let's say that we had a grenade launcher on  
17 an AR. I have no idea where you would -- I mean, it  
18 would take a miracle to find something to shoot from it.

19 Q. So you're not aware of any black market for  
20 grenades or other types of devices --

21 A. No.

22 Q. -- that could be used with a grenade launcher?

23 A. No. And it's legal to possess grenades.  
24 They're destructive devices that you pay a transfer tax  
25 on. Conceivably if you could find somebody that had one

1 for sale, I supposed you could.

2 The people that I know that shoot canons and  
3 shoot, you know, big projectiles, they make them from  
4 clay and -- or some of them shoot bowling balls.

5 Q. So people could be in possession of a grenade.  
6 Right?

7 A. Anything is possible. It's not probable though.

8 Q. And people could, as you just referenced, could  
9 make their own type of destructive device. Is that  
10 right?

11 A. Well, I don't -- I don't know about making  
12 grenades. I don't -- again, it's not something that in  
13 my career at DOJ in the crime labs or in my whole life of  
14 shooting have I come across someone who did it or knew  
15 how to do it. Possible? I suppose so. I don't know of  
16 a crime that's ever been committed by a grenade launcher,  
17 but.

18 Q. Okay. So do you disagree with including a  
19 grenade launcher or flare launcher as a prohibited  
20 feature?

21 A. No.

22 Q. Okay. So moving on to Subdivision A(1)(e) of  
23 Section 30515, Exhibit 21, the statute identifies a flash  
24 suppressor. Do you see that?

25 A. Uh-huh.

1 Q. What is your understanding of flash suppressor?

2 A. Well, the one thing I know is that I don't know  
3 all that's involved in what causes the flash. It's a  
4 mixing of gas and air and heat, and I do know that flash  
5 is determined to some degree by barrel length. It's  
6 determined by the type of powder that's used. And the --  
7 I know the flash suppressors, first flash suppressors  
8 that went on military US arms were in World War II were  
9 the carbine and the M1 Grand. They've been standard on  
10 the M16. They were initially on the AR-15s, and then  
11 removed in favor of muzzle brakes and compensators.

12 Q. Uh-huh.

13 A. Which that really gets into the weeds in terms  
14 of the distinctions between compensators and brakes and  
15 --

16 Q. We will be getting into the weeds on that later  
17 on, I presume, in the deposition.

18 And you've noted in your expert report, Exhibit  
19 87, that longer barrels will produce less flash than  
20 shorter ones. Is that correct?

21 A. Yes, with the given cartridges, yes.

22 Q. And why is that generally the case?

23 A. Because the powder is consumed more fully in the  
24 longer barrel. There's less -- there's less gas.  
25 There's less of what produces the flash because of the



1 completeness of the ignition.

2 Q. Okay. Going back to the statute Section 30515,  
3 Exhibit 21, in Subdivision A(1)(f), the statute  
4 identifies a forward pistol grip as a feature. Is that  
5 correct?

6 A. Yes.

7 Q. And what is a forward pistol grip, to your  
8 understanding?

9 A. Well, a forward grip, the first gun that I can  
10 recall seeing that had a forward pistol grip was the  
11 Thompson sub machine gun, might well have been one before  
12 that. But the Thompson sub machine gun used what are  
13 called stick magazines which are straight, protruded  
14 straight down, and drums.

15 They had an L drum and a C drum, the L with the  
16 Latin characters for 50 and 100. And with the drums  
17 installed, I know that you can't shoot a Thompson sub  
18 machine gun from your shoulder with a C drum installed  
19 and hold the fore grip, even if you had a standard grip,  
20 because your arm won't go around the drum. It's so  
21 large.

22 So I assume that the forward grip on the  
23 Thompson was driven by the fact that if you use our big  
24 drums, it's the only way you can hold on to the front end  
25 of the gun. You can hold on to the magazine, but that

1 can foul up feeding if you're applying pressure to it.

2 So I don't know. I've wondered why Thompson  
3 initially put a grip on the front, and from shooting  
4 them, I have to assume that it's the only way there's  
5 something up there to grab hold to at all.

6 Q. Okay. Now, with semiautomatic rifles, when  
7 someone is firing a semiautomatic rifle, they have a  
8 shooting hand that's pulling the trigger. Right?

9 A. Yes.

10 Q. Where does their other hand go, generally, to  
11 stabilize the weapon?

12 A. Okay. Let me speak to shotguns first and  
13 digress into pistol grips.

14 Shotguns are sort of instinctive tools. You  
15 don't aim. You look at the clay bird, for instance, and  
16 you follow it with your eyes, you bring the gun up to  
17 your eyes and fire, and it's all just a flowing.

18 The straight hand grip on a double trigger gun  
19 allows your hand to slide back into position for the  
20 second trigger. And the straight hand grip, if you use  
21 it, it's easier to swing. Hard to describe, but shooting  
22 a shotgun is very much like playing golf, which I must  
23 admit I don't know, but the weak hand, if you will, in  
24 golf, if you're a golfer, that's sort of what controls  
25 where the club is going.

1           It's the same thing on the shotgun, the forearm,  
2   the forehand that's up on the fore stock is what's  
3   pulling, pushing. The back hand is the pivot point, and  
4   the forehand is the one that's deciding where the barrel  
5   is going to.

6           And so depending on the type of shooting you're  
7   doing, what that front hand is doing is deciding where  
8   the firearm goes.

9           Q. And where does the -- where does the front hand,  
10   where is the front hand placed on the rifle when a rifle  
11   is being fired? Is it placed on the muzzle or placed on  
12   the barrel?

13          A. No. Again, the -- assuming now we have a wooden  
14   stock for sake of discussion, your hand is on and around  
15   the pistol grip, across the top, and your forehand, your  
16   weak hand we'll call it, is on the wooden stock further  
17   up toward the end of the gun.

18          If the barrel is 28 inches long for the sake of  
19   discussion, the stock is probably going to run 14 inches  
20   beyond the bolt face of the gun. So the wood is going to  
21   cover half of the barrel.

22          In some stocks that are called the Mannlicher,  
23   M-a-n-n-l-i-c-h-e-r, the wood goes all the way to the end  
24   of the barrel. To some degree, at least in military  
25   arms, that is because of heat.

1           Some of the first cartridge arms used in the  
2 Civil War had just the barrel, and they quickly found out  
3 if they fired them fast, that the barrel was too hot to  
4 hold unless you had a glove on.

5           And so the stock, the fore part of the stock  
6 allows you to cup it in your hand, control the direction  
7 it's going in, and the stock provides you a protection  
8 from heat.

9           Q. Okay. Would a forward pistol grip also provide  
10 potentially some protection from heat?

11          A. Yes.

12          Q. And if you go back to Section 30515, we're  
13 almost done looking at the statute, in Subdivision A(3),  
14 the statute identifies a semiautomatic Centerfire rifle  
15 that has an overall length of less than 30 inches. Do  
16 see that?

17          A. Uh-huh.

18          Q. Is it your understanding that the plaintiffs are  
19 also challenging the constitutionality of this provision?

20          A. I think I recall that.

21          Q. And is it also your understanding that the  
22 plaintiffs are not challenging any of the provisions in  
23 Section 30515 in this case concerning semiautomatic  
24 pistols and semiautomatic shotguns?

25          A. Yes, I believe that's the case because I was not

1 asked to opine on those.

2 Q. So, in other words, it's your understanding that  
3 the plaintiffs are only challenging the provisions of  
4 Section 30515 that apply to rifles?

5 A. I believe that's the case.

6 Q. Excluding the grenade launching, flare launching  
7 feature?

8 A. Yes.

9 Q. Okay. I'd also like to show you a document that  
10 has been marked previously as Exhibit 31, which is a copy  
11 of California Code of Regulations, Title 11, Division 5,  
12 Chapter 40, Section 5499.

13 Have you seen this document or a version of this  
14 regulation before?

15 A. Yes. If this is the same one that was in the  
16 booklet that DOJ put out on category one, category two,  
17 this looks like what was contained in that booklet.

18 Q. Would it be your understanding that the firearms  
19 that are listed in Section 5499 of the California Code of  
20 Regulations would be considered category two firearms?

21 A. I think that's the way it works.

22 Q. Okay. So if you turn to Page 1 of Exhibit 87,  
23 you provide a summary of your background and  
24 qualifications. Is that correct?

25 A. Uh-huh.

1 Q. What is a carbine?

2 A. Carbine is a shorter form of a rifle that was  
3 frequently used on horseback and/or for troops assigned  
4 to artillery or specialized functions where having a  
5 handier size, if you will, of firearm was called for.

6 The rifles of the day, for instance, with  
7 Custard and his ill-fated meeting up with the Sioux on  
8 horseback, the rifles of that day were very long, and if  
9 mounted on a saddle would have protruded well below the  
10 stomach of the horse. And so most of the cavalry troops  
11 were armed with carbines which were substantially  
12 shorter.

13 Q. Okay. So when you were working in drug  
14 enforcement, you did not have a semiautomatic rifle?

15 A. No.

16 Q. And when you were working in drug enforcement,  
17 did you ever have to work undercover?

18 A. Extensively.

19 Q. And what kind of undercover work did you do?

20 A. Buying drugs.

21 Q. When you were engaged in your undercover work in  
22 drug enforcement, were you armed?

23 A. Yes.

24 Q. What weapon were you armed with or weapons?

25 A. It varied. For the majority of the time when I

1 started I had a model 39 Smith and Wesson. And then I  
2 bought a Colt Commander, which is a 45, but it has a  
3 shorter barrel than the standard 45. And then I traded  
4 that for a full size Colt 45. But sometimes I would  
5 carry a 22, either a Walther Ppk/s or a Beretta smaller  
6 22.

7 Q. These are all handguns?

8 A. Yes.

9 Q. Okay. Did you ever arm yourself with a rifle  
10 when you were engaged in undercover work?

11 A. No. The department did not allow special agents  
12 to use rifles at that time. There were none.

13 Q. Do you know why the department did not allow  
14 special agents to use rifles in the course of their work?

15 A. Well, I can tell you why I think, is that our  
16 leadership was lazy and had no concern for training. A  
17 lot of them didn't care for our welfare, and they didn't  
18 want to do the work to do the political change proposals  
19 that were required to get the funds.

20 Initially you had to provide your own gun and  
21 handcuffs. The Department provided you nothing. You  
22 brought to the game what you had.

23 Q. And when was that?

24 A. When I came to work until 1976.

25 Q. So 1967 to 1976?

1           A. That's right. You provided your own firearm.  
2           You provided your own cuffs. But you could not use a  
3           rifle. The Department bought shotguns in 1973, I believe  
4           it was.

5           Q. Were you provided a shotgun from the Department  
6           to perform your official duties?

7           A. The field office was provided a complement of  
8           shotguns. They weren't issued to someone specifically.  
9           There were just a couple of them there, but there was no  
10          training in their use.

11          Q. Did you ever have to use one of those shotguns?

12          A. No, I wouldn't -- I wouldn't allow my team to  
13          use them because nobody was trained in their use.

14          Q. Okay. So after your service as chief of the  
15          Bureau of Narcotic Enforcement in 1985, you were  
16          reassigned to the Bureau of Forensic Services. Is that  
17          correct?

18          A. Correct.

19          Q. And you were appointed chief of that bureau. Is  
20          that right?

21          A. I was transferred there. I was a chief. I just  
22          switched bureaus.

23          Q. So same title, different bureau?

24          A. Yes.

25          Q. And what was your role as the chief of Bureau of



1 was in the first training class for the sub machine guns.  
2 That would have been in 1989.

3 We had no agent involved shoot -- shootings with  
4 sub machine guns while I was still there. They later  
5 have had them, but not while I was there.

6 Q. And while you were employed by the California  
7 Department of Justice, you were involved in the drafting  
8 of the Roberti-Roos Assault Weapons Control Act. Right?

9 A. Yes, I was.

10 Q. And when would that have been?

11 A. Well, the sequence of events was in 1986, I  
12 believe it was, Assemblyman Agnos introduced the first  
13 assault weapon related bill. And it was the practice  
14 then, I assume it still is the practice, that when bills  
15 are introduced, the legislative affairs unit of the  
16 department staffs them to all the units that might be  
17 required by them.

18 And so that bill came to BFS, and I tasked our  
19 lab managers with going through their files to see what  
20 we knew about the firearms that Agnos had in his bill.

21 And the result was we knew zero. We had seen  
22 none of them in the crime labs.

23 So we fast forward now to I'm assistant  
24 director, and Roberti and Roos introduce their bills.  
25 And I write -- I write a memorandum to the then director,

1 Jerry Clemins saying this isn't going to work. And I --

2 Q. Let me pause you right there, Mr. Helsley.  
3 Let's mark this memorandum as an exhibit. This way you  
4 have it before you instead of trying to recall what you  
5 wrote in that memo.

6 A. Sure.

7 Q. So this is going to be Exhibit 91.

8 (Whereupon, Exhibit 91 was marked for  
9 identification.)

10 THE WITNESS: Go on.

11 BY MR. ECHEVERRIA:

12 Q. Please take an opportunity to examine Exhibit  
13 91.

14 Have you seen that document before?

15 A. Yeah.

16 Q. And is that the memorandum that you were just  
17 discussing?

18 A. Yes.

19 Q. This is a memorandum that was dated October  
20 31st, 1988?

21 A. Yes.

22 Q. And it was to JW Clemins, the director of DLE?

23 A. Correct.

24 Q. And you were the acting assistant director at  
25 that time?

1 A. Correct. Go on? Oh, I'm sorry.

2 Q. So according to Exhibit 89, which is your  
3 resume, it indicates that you were the assistant director  
4 and not the acting assistant director. So there was a  
5 time when you were an acting assistant director?

6 A. Well, yes and no. What happened, the prior  
7 assistant director died. Clemens told me to come  
8 upstairs and fill in for him, and then very suddenly  
9 after that Van de Kamp appointed me.

10 So the appointment date went back to cover the  
11 acting time. So essentially I never was acting  
12 officially. But then the administrative services  
13 division had to move the paperwork through to do it. But  
14 I took no exam. Just Van de Kamp said you're it. And so  
15 yes and no.

16 The paperwork hadn't moved yet, so I was still  
17 acting that couple weeks.

18 Q. Okay. So it was during those couple weeks that  
19 you drafted this memorandum?

20 A. Yeah. It was one of the -- it was one of the  
21 first things. I forget one.

22 My predecessor died, but I believe the stimulus  
23 for this was that we'd had a bill come through requiring  
24 analysis, and I submitted this to Clemens, and I believe  
25 it went downtown to Kempinski, who was then the chief

1 said would be the best kind to ban because they don't  
2 exist, and -- but that was the context.

3 Q. And you write at what is Page 2 of Exhibit 92  
4 that you directed the compilation of a list of all  
5 weapons which were not covered by the exclusionary  
6 language developed in December.

7 A. Yes.

8 Q. What was the exclusionary language that you're  
9 referring to in that sentence?

10 A. Can you say that -- can you repeat the question?

11 Q. Sure.

12 What is the exclusionary language that you  
13 developed -- that was developed in December that you're  
14 referring to in this sentence?

15 A. Oh, this was very much like what Senator  
16 Feinstein did with her bill. She had the features and  
17 then she had, as I recall, a list of guns that, you know,  
18 we don't mean these guns.

19 And so these guns, this was to placate the fears  
20 of gun owners that their gun would be swept into this  
21 description. So she was specifically saying these listed  
22 guns are not bad guns.

23 And at one point that was part of the  
24 Roberti-Roos mix because there were concerns because  
25 nobody knew what we were doing, that they wanted to have

1 a list that said we're not going to do the mini 14 or  
2 we're not going to do this gun or that gun, so.

3 Q. Now, the final result of the Roberti-Roos bill  
4 was a list of firearms that are prohibited. Is that  
5 right?

6 A. Well, they were taxed. There was a fee.

7 There was a prohibition of future sale, but  
8 everyone who had one of them could keep it as long as  
9 they registered it with DOJ and paid a fee.

10 Q. There was grandfathering?

11 A. Yes, and the crime was not paying the fee.

12 Q. But individuals were prohibited from selling or  
13 purchasing the firearms?

14 A. Yes.

15 Q. That were listed?

16 A. Yes.

17 Q. In the Roberti-Roos bill?

18 A. Well, they could transfer them out of state.  
19 They could transfer them to assault weapon dealers.  
20 There are certain exempted transfers, but, as a general  
21 proposition, yes.

22 Q. And how did you decide what firearms would be  
23 included in the list that became Section 30510 A(1)?

24 A. Imagine your phone ringing off the hook with  
25 everyone and their aunt has a theory. And I have the gun

1 digest in hand, and I'm questioning Alan Sumner, who is  
2 judge now but was the ledge guy for us. Alan, what are  
3 we trying to do? I don't know. And asking Kempinski or  
4 Van de Kamp what are we trying to do. You know, what  
5 guns do we want.

6 Well, just make a list. We want them if they  
7 look like military guns, put them on the list. And so  
8 got the gun digest out and went ding, ding, ding, ding,  
9 ding, and transferred those to a list, and then as  
10 various suggestions came in or the groups met --

11 Like the Sherman Block story with the carbine,  
12 that was a meeting that we were the host for and  
13 California police chiefs, I think California sheriff's  
14 post, a variety of groups were there, and they all had  
15 their own theories about which guns should be on the list  
16 and off.

17 And so it was a mixture of lobbying of me, input  
18 from various directions, but primarily it came right out  
19 of gun digest.

20 Q. So you looked at gun digest or some other  
21 periodical and you looked at pictures of certain firearms  
22 in deciding whether to include that firearm on the list?

23 A. Yeah. I talked to the Bureau of Forensic  
24 Firearms guys too because we didn't know if some of these  
25 guns existed.

1 I mean, I know that a company can intend to  
2 build something and well in advance of release they get  
3 it into a book like that. But nobody in our crime labs  
4 had ever seen some of these guns. So we don't know if we  
5 were banning existing guns or not.

6 Q. Okay. But when you were looking at photographs  
7 of the guns to decide whether to include them on the  
8 list, what particular features of the guns were you  
9 looking at or looking for?

10 A. Well, the universe of firearms then, and it's  
11 changed dramatically since then, but if you were to go  
12 back and look at the universe of semi auto rifles say in  
13 1965, this were about four or five being sold .I mean, it  
14 was a tiny market.

15 That grew, and by the time we were going the  
16 Roberti-Roos list, there were more than that. But the  
17 guns that nobody wanted to do anything with were pretty  
18 much -- well, the ones that are on the list are basically  
19 the ones that nobody was an advocate for. So.

20 Q. No, I understand that individuals advocated to  
21 remove firearms from the list. But what are the features  
22 that you were looking at when you were looking at these  
23 firearms in gun digest that would lead you to include the  
24 firearm on the list in the first place?

25 A. For the most part it was that the push was on

1 black plastic stocks, detachable magazine, black plastic  
2 stocks.

3 Q. Any other features you were looking for or did  
4 you just include every -- every firearm that had black  
5 plastic stocks and detachable magazines?

6 A. One of the guns that was put on the list that  
7 was subsequently removed from the list was a revolver.  
8 It was a revolving shotgun, but it didn't meet the  
9 definition that we had in the statute. But nobody knew  
10 what it was or how it worked because nobody had seen one  
11 of them.

12 The pistol grip, I don't recall that being part  
13 of the discussion at the time, or the bayonet lugs --

14 Q. Aside from the discussion when you were looking  
15 at the pictures of the firearms, what features did you  
16 look for to decide whether to include or exclude a  
17 firearm from the list?

18 A. Well, I was trying to be responsive to my bosses  
19 or my boss, you know, and that was very hard because they  
20 couldn't articulated what they wanted me to do. And so  
21 if the guns had a sponsor like Sherman Block, and carbine  
22 for instance, they didn't get on the list.

23 If they were call them non-traditional, and I  
24 had the lieutenant over at Oakland Police Department  
25 beating on my door whether I thought it should be on the



1 list or not, okay, well, we'll stick it on the list;  
2 we'll let the AG decide.

3 Q. Right. But when you were looking at photographs  
4 of firearms, you were making a decision independently  
5 about whether to include a firearm on the list. Even if  
6 the firearm may have fallen off the list at some  
7 subsequent point in time, you were making an initial  
8 determination. Is that right?

9 A. Yeah.

10 Q. And were you using any criteria when you were  
11 looking at these photographs to decide whether to include  
12 a firearm on the list or not?

13 A. It was just appearance. Because the universe of  
14 call them traditional, for lack of a better description,  
15 the semi auto detachable magazine sporting arms that were  
16 available in '89 were the Ruger 44, which didn't have a  
17 detachable magazine, so it was out. The Winchester 100,  
18 the Remington 740 series, the universe of detachable  
19 magazines, Centerfire, supporting arms was very small.  
20 So basically the newer guns on the market all had or  
21 virtually all had plastic stocks, detachable magazines.  
22 So those were what got on to the list. If they --

23 Q. Did virtually all of them have pistol grips as  
24 well?

25 A. I'm trying to recall. I'd have to go back and

1 look at a gun digest from that year. Probably, but.

2 Q. Well, let's mark as an exhibit -- not any issues  
3 of gun digest but the assault weapon identification guide  
4 that was issued by the Department of Justice in 2001.  
5 This will be Exhibit 93.

6 (Whereupon, Exhibit 93 was marked for  
7 identification.)

8 BY MR. ECHEVERRIA:

9 Q. Have you seen this document before, Mr. Helsley?

10 A. Yes, I have.

11 Q. I believe you referred to this document earlier  
12 in the deposition. Is that right?

13 A. Yes.

14 Q. And just quickly going back to Exhibit 92, which  
15 was your memo to Patrick Kenady, on Page 3 of Exhibit 92  
16 towards the bottom you state, "Publication of a manual  
17 for public or law enforcement use will require that we've  
18 reached some unreached conclusion about which weapons are  
19 covered."

20 Do you see that?

21 A. I do.

22 Q. And then eventually after your drafting of this  
23 memo, the Department of Justice did, in fact, issue a  
24 publication or did, in fact, issue a manual for public  
25 law enforcement use about assault weapons, and that is

1 now marked as Exhibit 93?

2 A. Right. It only took a decade and a couple two  
3 or three revisions of the law to get there.

4 Q. Okay. But they did get there eventually?

5 A. Yes.

6 Q. Okay. So let's look at Exhibit 93, which is a  
7 document published by the California Attorney General  
8 titled, "Assault Weapons Identification Guide."

9 On page -- unfortunately, the page row -- oh,  
10 the pages are numbered in Exhibit 93. But the front  
11 matter is not numbered.

12 But if we look at the fourth page of Exhibit 93,  
13 that is the introduction.

14 Do you see that?

15 A. Uh-huh.

16 Q. The document describes category one, the  
17 Roberti-Roos Assault Weapons Control Act of 1989.

18 Do you see that?

19 A. And the document states this is California's  
20 first assault weapons act.

21 Are you with me?

22 A. Yeah, I'm trying to find it.

23 Q. So it's not Page 4 of the manual itself. It's  
24 going to be Page 4 of the exhibit. So it's one of the  
25 first pages that doesn't actually have a page number on

1 have anything to do with.

2 BY MR. ECHEVERRIA:

3 Q. Okay. But, in general, the firearms that are  
4 listed on page three of Exhibit 93, with maybe some  
5 exceptions, are the firearms that you identified for  
6 inclusion on the list?

7 A. Yes.

8 Q. Okay. I'd like you to turn to Page 6 of Exhibit  
9 93.

10 And you can see an image of an AK series rifle.  
11 Is that right?

12 A. Yes.

13 Q. And then on Page 7 of Exhibit 93 there's an  
14 image of a Norinco 86 Rifle S. Is that right?

15 A. Yes.

16 Q. And then on Page 8 there's an image of a Colt  
17 AR-15 series rifle. Is that correct?

18 A. Correct.

19 Q. And then moving on we have images of all of the  
20 rifles that are listed in California Penal Code Section  
21 30510. Is that right?

22 A. Correct.

23 Q. Would these be images similar to the images you  
24 were looking at when deciding whether to include a  
25 firearm on the list?

1 MR. BRADY: Objection; vague.

2 THE WITNESS: Similar, yes.

3 BY MR. ECHEVERRIA:

4 Q. And would you agree that the vast majority of  
5 the firearms that are depicted from Page 6 through Page  
6 37 of Exhibit 93 all had the capacity to accept  
7 attachable magazines?

8 A. Yes, or they wouldn't be on the list.

9 Q. Do those firearms also all have pistol grips  
10 that protrude conspicuously beneath the action of the  
11 rifle?

12 A. No, they don't.

13 Q. Do the vast majority of them have pistol grips  
14 that protrude conspicuously beneath the action of the  
15 rifle?

16 A. Is your question relating to the volume and  
17 popularity of the type of arm or just the pictures?

18 Q. Just the number of pictures.

19 A. Yes.

20 Q. From pages 6 to 37 of Exhibit 93.

21 There are two firearms that are depicted on Page  
22 29 and 30 that do not appear to have pistol grips that  
23 protrude conspicuously beneath the action.

24 Do you see those two firearms?

25 A. I do.

1 Q. That would be the SKS with detachable magazine  
2 and the Springfield Armory BM 59.

3 A. Correct.

4 Q. Why were these two rifles included, to your  
5 knowledge?

6 MR. BRADY: Objection; calls for speculation.

7 MR. ECHEVERRIA: To your knowledge.

8 THE WITNESS: The fact that it was military.  
9 I'm speaking now of the SKS. It was military. It had a  
10 detachable AK-type magazine. We didn't -- we didn't have  
11 one of those. We didn't know how the magazine worked.  
12 And, frankly, we didn't even know if the gun existed.  
13 But it made the appearance test.

14 The SKS probably accounted for more sales than  
15 every other gun in this booklet except the AR. And this  
16 is the rifle that the flap occurred about with Lungren  
17 and that Assemblyman Wright had to do a cleanup bill on.

18 And just to give you some idea of scale of sales  
19 of these things, I was in a warehouse about eight blocks  
20 from here in '88 or '9, and the guy had 8,000 of these  
21 for sale. They were on pallets and shrink wrapped.

22 Thanks to President Clinton, huge amounts of  
23 Chinese and Soviet stuff were imported, and primarily  
24 they were the SKS. Most of them had what would be  
25 described as fixed magazines. The --

1 of the receiver would slide.

2 Q. Understood.

3 And there are other firearms that depicted in  
4 Exhibit 93 that are rifles with telescoping stocks.  
5 Right? If you look at Page 12, there's an image of a  
6 Calico M-900?

7 A. Yeah, that's a telescoping stock.

8 Q. And the image of the Daewoo K-1 on Page 14 also  
9 includes a telescoping stock. Correct?

10 A. Yes.

11 Q. And the image of the Fabrique Nationale on Page  
12 17, would you agree that's a telescoping stock?

13 A. No. That's a folder.

14 Q. Okay. And the image of the Daewoo K-2 Max 2 on  
15 Page 15 of Exhibit 93, would that also appear to be a  
16 folding stock there? Appears to be a hinge?

17 A. Yes.

18 Q. And the Fabrique FAL on Page 16 would also have  
19 a folding stock?

20 A. No, no. I believe that's a fixed stock.

21 Q. How about the Galil on Page 18, would you agree  
22 that's a folding stock?

23 A. Yes.

24 Q. So would you agree that many of these firearms  
25 have folding or telescoping stocks as well as pistol

1 grips?

2 MR. BRADY: Objection; compound, vague.

3 MR. ECHEVERRIA: Let me rephrase.

4 Q. Would you agree that many of the firearms  
5 depicted in 93 are rifles with folding or telescoping  
6 stocks?

7 A. Yes.

8 Q. Is there a way by looking at an image of a  
9 firearm to tell whether it has a flash suppressor?

10 A. Well, you can certainly tell if there's a device  
11 on the end of the barrel. What that device does or was  
12 designed to do can be tricky.

13 Q. Okay. So let's look at Page 9, the Armalite  
14 AR-180. So you can see at the tip of the muzzle there  
15 appears to be some device. Right?

16 A. Uh-huh, yes.

17 Q. In your opinion, would that be a flash  
18 suppressor, potentially?

19 A. Well, I'm having trouble resolving it. It looks  
20 like it could be what they call the bird cage on an M16,  
21 which was a three-prong flash suppressor. But the photos  
22 aren't of high enough resolution. It almost looks like  
23 there's a cutout that can make it into a compensator to  
24 blow gas forward or backwards to reduce the recoil  
25 effect. So, you know.



1 Q. So you can't tell by looking at that image --

2 A. No.

3 Q. -- whether it is a flash suppressor?

4 How about the image of the Beretta AR-70 on Page  
5 10 of Exhibit 93, does that look like a flash suppressor,  
6 in your opinion?

7 A. No. And -- well, I don't know, because I know  
8 that in researching a French firearm, the Moss 4956 and  
9 the Egyptian firearm the Hakim, H-a-k-i-m, the literature  
10 will alternately refer to them as -- the device on the  
11 end of the barrel in one place it's a flash suppressor,  
12 the next place it's a muzzle brake. It's the same  
13 device.

14 I think the only way you can know what these  
15 things are is to define what you mean the function is and  
16 then go and test them.

17 And that was one of the things I discussed with  
18 my forensic friends was if the crime labs were tasked  
19 with distinguishing between these three devices, how  
20 would we do it. And the conclusion was we don't have the  
21 equipment to measure the flash or the sound or the  
22 direction of the gas and nor do we have any experience  
23 doing it.

24 So I know that in catalogs there are things  
25 called flash brakes, or, you know, I assume they think

1 Justice, you became employed by the National Rifle  
2 Association. Is that right?

3 A. There was a year and a half or two break.

4 Q. Who offered you the job at the National Rifle  
5 Association?

6 A. Well, the person who pushed for me to be hired  
7 was Sandy Froman, who had been elected to the board of  
8 directors just about the time I retired. And her husband  
9 had worked for me at DOJ in B and E, and she decided that  
10 now that I was retired, I should come to work for the  
11 NRA.

12 And I had no such plans. I was planning on  
13 going to Moscow to work, and that's what I went back to  
14 school to do.

15 And she persisted, and one day I got a call from  
16 -- trying to think it. Last name is O'Malley. Patrick  
17 O'Malley called me and said we'd like you to come back to  
18 DC, talk to you about a job. And I said doing what. And  
19 he said, well, I'm not sure, but we'd like you to fly  
20 back. We'll give you a ticket.

21 So I said okay. So I flew back, and I met with  
22 George McNeal, who was the head of the state and local  
23 affairs division at the time, and O'Malley and Jim Baker,  
24 who was in charge of, I think he was in charge of all of  
25 the ILA or Institute for Legislative Action. And then he

1 took me to meet Wayne LaPierre, and --

2 Q. Wayne LaPierre would be the --

3 A. Executive vice president of NRA.

4 Q. Okay. And they offered you a job to be a state  
5 liaison for the NRA. Is that correct?

6 A. They hadn't at that point. We hadn't gotten to  
7 the job at that point.

8 Later on that day they crafted a proposal saying  
9 we'd like you to do A, B, and C. And I said okay, I'll  
10 do it for five years.

11 Q. And you recall testifying that they made an  
12 offer you couldn't refuse?

13 A. Yeah, yeah.

14 Q. So you served as a state liaison for seven  
15 years?

16 A. Yes.

17 Q. From 1993 to the year 2000?

18 A. Yes.

19 Q. And you were a lobbyist for the NRA at that  
20 time?

21 A. Yes.

22 Q. And you lobbied against Senate Bill 23, which we  
23 discussed earlier today?

24 A. I did.

25 Q. And you were compensated for your services as a

1 state liaison?

2 A. Yes, I was.

3 Q. How many state liaisons was there at that time?  
4 Was there one state liaison for each state?

5 A. Oh, no, no. I had at one time three states.

6 Q. So there were even fewer state liaisons. Right?

7 A. Oh, yes. I'm guessing that the state liaison  
8 work force is probably ten. See, there's state and local  
9 affairs and federal affairs. So there are two different  
10 groups of lobbyists that the NRA has, and I was in the  
11 state and local affairs side of things, and I'm guessing  
12 we had ten.

13 Q. So there were roughly ten state liaisons,  
14 including you, during that time?

15 A. Yes.

16 Q. Would you say that that position is a prominent  
17 position within the NRA?

18 MR. BRADY: Objection; vague.

19 MR. ECHEVERRIA: Let me rephrase.

20 Q. Would you say that that position has a certain  
21 amount of prestige within the NRA?

22 A. I'll tell you why that's hard to respond to is  
23 that I was here, and everybody else was there, and I had  
24 very little contact with them. I talked to my boss on --

25 Q. By them, it would be the NRA in Washington D.C.

1           A. Yeah, all of the employee, because they're a big  
2       bureaucracy, and I really don't have a clue about what  
3       fellow employees think about liaisons, because I didn't  
4       know them, didn't see them. I was here. They were  
5       there. I didn't know them. I did my job.

6           Q. And I believe you testified in the Duncan matter  
7       you were compensated by salary?

8           A. Yes.

9           Q. And you also received retirement benefits. Is  
10      that correct?

11          A. Yes.

12          Q. You received a 401k from the NRA?

13          A. Yes.

14          Q. And you were compensated 525,000 and 560,000  
15      during the seven years that you served as a state  
16      liaison?

17          A. I think that was your calculation.

18          Q. That was my calculation based on the salary  
19      ranges that you testified to.

20          A. Yeah. If you're talking about the salary, yes,  
21      but in terms of 401s or retirements or, you know,  
22      benefits, it was probably more than that. But salary,  
23      that's close enough.

24          Q. Did the NRA tell you why they wanted to hire you  
25      as a state liaison?

1 MR. BRADY: Objection; right to privacy.

2 To the extent you can answer that without  
3 violating any privileged information, go ahead.

4 THE WITNESS: Respond?

5 MR. BRADY: If you want to give your privilege  
6 away.

7 BY MR. ECHEVERRIA:

8 Q. Are you comfortable answering that question?  
9 Did the NRA tell you why they wanted to hire you?

10 A. I guess in pieces they were dissatisfied with  
11 the person they had here. They were taking a beating on  
12 the Roberti-Roos Act. Sandy Froman was pushing them to  
13 hire me.

14 I was here. I was willing to do it. I had the  
15 background on the Roberti-Roos Act. I assume that memos  
16 that I wrote and what they knew about me from Froman  
17 probably, you know, he's our kind of a guy. But I never  
18 sat down and had that kind of a discussion with them  
19 because I was there for that day, and then in most cases  
20 I either never saw them again or, you know, didn't see  
21 them for years.

22 So I -- but that would be my assumption, that it  
23 was my DOJ credentials and Roberti-Roos experience and  
24 being attested to as the -- I had the support of Froman I  
25 guess.

1 Q. And then after seven years as a state liaison,  
2 in 2000 you became a consultant to the NRA. Is that  
3 right?

4 A. Yes.

5 Q. And what were your duties as a consultant to the  
6 NRA?

7 A. I don't have them. They would ask from time to  
8 time, a lot of telephone calls, questions about technical  
9 stuff, or I think I made the comparison last time with a  
10 DOJ employee by the name of Orville J Bud Hawkins for who  
11 the data Bud had been with DOJ for 50, 60 years, really a  
12 pleasant fellow, knew all the sheriffs and the DAs and  
13 police chiefs.

14 And Van de Kamp used to remark that he had Bud  
15 as a security position, said it's the only security guy  
16 I've had ever that I had to help up the stairs.

17 He knew things. He knew the history of things,  
18 and I'm a history buff, as you can tell.

19 And I think I have use for them historically,  
20 technically, and I've been asked to do a variety of  
21 things.

22 Q. Do you have any written contract with the NRA  
23 that governs your role as a consultant?

24 A. Yes.

25 Q. So you signed a contract with the NRA in 2000 or

1 thereabouts when you became a consultant?

2 A. Yes.

3 Q. Does that contract specify any particular  
4 duties?

5 A. No.

6 Q. Does it specify the payment arrangement for your  
7 role as a consultant to the NRA?

8 A. Yes.

9 Q. So in the year 2000, when you became an  
10 consultant to the NRA, you were receiving \$4,120 per  
11 month?

12 A. Initially, yes.

13 Q. And then at some point your monthly payment was  
14 reduced to \$3,300 per month. Is that right?

15 A. Correct.

16 Q. And when did that happen again?

17 A. I think that was seven years in.

18 Q. So approximately 2007?

19 A. Yeah, 2007 or '8.

20 Q. And during your deposition last year in Duncan  
21 versus Becerra, you testified that your contract as a  
22 consultant to the NRA was set to expire at the end of  
23 that month. So at the end of December 2017.

24 Did the contract expire at the end of December  
25 2017?



1 A. It was renewed.

2 Q. So you did renew the contract with the NRA?

3 A. Yes.

4 Q. So you're presently a consultant to the NRA?

5 A. Waiting to find out if I renew again.

6 Q. When is the contract set to expire?

7 A. 31 December.

8 Q. So it was a yearly contract?

9 A. Yes.

10 Q. The prior contracts that you had with the NRA  
11 regarding your role as a consultant, were those also per  
12 year, one per year?

13 A. I believe all of them except the first, and I  
14 think the first one was for three years. About 75  
15 percent sure on that.

16 And then I think the association decided as a  
17 policy that they were going to do just one year at a  
18 time. But the first one may have been for three years.

19 Q. Okay. So with the most recent contract that is  
20 the current operative contract with the NRA, how much  
21 money are you receiving per month?

22 A. Same month 33.

23 Q. \$3,300 per month currently?

24 A. Yes.

25 Q. Did you engage in any contract associations with

1           A. John Rigby & Company is London based. They're  
2 the oldest firearms manufacturer in the English-speaking  
3 world. They started to produce guns in 1775. Still do.

4           Q. Do they produce any rifles?

5           A. Yes.

6           Q. Any semi-automatic rifles?

7           A. No.

8           Q. So no centerfire semiautomatic rifles?

9           A. They produce bolt action and double barrel  
10 rifles and will soon produce some shotguns.

11          Q. Can you provide an estimate how much money  
12 you've been paid by the NRA since 1993?

13          A. Give me a calculator. I suppose I could. But I  
14 wouldn't know how to deal with benefits, and you've got  
15 the years I was employed.

16          Q. Yes, we have about half a million?

17          A. And you've got the pay rate I had for the first  
18 seven or eight years. Then you've got the rate I was  
19 paid for the following --

20          Q. Okay.

21          A. -- nine or ten years. It's that amount.

22          Q. Okay. I'll do the math after the deposition.

23          A. Yeah.

24          Q. Are you currently a member of the NRA?

25          A. Yes.

1 Q. And you've been an member of the NRA since 1961.  
2 Is that correct?

3 A. Yes.

4 Q. When did you become a member of the California  
5 Rifle and Pistol Association?

6 A. 1993.

7 Q. What is the California Rifle and Pistol  
8 Association?

9 A. It's the state affiliate of the NRA.

10 Q. So there's no other California affiliate of the  
11 National Rifle Association?

12 A. Not that I'm aware of.

13 Q. Do you have any ownership interest in any  
14 business that sells firearms?

15 A. No.

16 Q. Do you own any stock in any company that  
17 manufacturers firearms or magazines?

18 A. No.

19 Q. Would you consider yourself a gun enthusiast?

20 A. Yes.

21 Q. I really didn't need an answer to that question,  
22 did I?

23 A. Yes, take a wild guess.

24 Q. How many firearms do you own?

25 MR. BRADY: Objection; right to privacy. The

1 witness does not need to answer that question.

2 But to the extent you wish to waive a privilege,  
3 it's your call.

4 THE WITNESS: A lot, and that's as far as I'll  
5 go.

6 BY MR. ECHEVERRIA:

7 Q. Do you own any semiautomatic Centerfire  
8 semiautomatic rifles that would qualify as assault  
9 weapons under California law?

10 MR. BRADY: Objection; right to privacy. The  
11 witness does not need to answer that question.

12 But to the extent you wish to, you may.

13 THE WITNESS: Well, no, I don't.

14 BY MR. ECHEVERRIA:

15 Q. Have you ever owned any semiautomatic Centerfire  
16 rifles that are capable of accepting detachable magazines  
17 that would qualify as assault weapons under California  
18 law?

19 MR. BRADY: Objection; right to privacy. The  
20 witness does not need to answer the question.

21 But if you wish to, you may.

22 THE WITNESS: Yes.

23 BY MR. ECHEVERRIA:

24 Q. How many of those types of weapons have you  
25 owned?

1 to four assault weapons in self-defense. Is that  
2 correct?

3 MR. BRADY: Objection; mis-characterizes the  
4 testimony.

5 THE WITNESS: Well, they weren't assault weapons  
6 when I had them.

7 BY MR. ECHEVERRIA:

8 Q. Sure. But you didn't have to use any of those  
9 weapons that would now be considered assault weapons  
10 under California law in self-defense?

11 A. No.

12 Q. When you had those three to four weapons that  
13 would now be considered assault weapons under California  
14 law, did you possess them for self-defense purposes?

15 MR. BRADY: Objection; mis-characterizes  
16 testimony.

17 THE WITNESS: I'll not sure I can respond to  
18 that because why I buy things and possess them can have  
19 multiple things that drive it.

20 They were perfectly capable of providing  
21 self-defense if I chose to use them, but if there was  
22 something that motivated me to buy them, it was probably  
23 to understand them because I'm a student of the -- of  
24 firearms.

25 BY MR. ECHEVERRIA:

1 Q. So your primary motivation in acquiring those  
2 weapons was not self-defense?

3 MR. BRADY: Objection; misstates testimony.

4 THE WITNESS: As a general proposition, I  
5 acquire to study. But they have multiple uses.

6 BY MR. ECHEVERRIA:

7 Q. Would you say that handguns or rifles are more  
8 suited towards self-defense?

9 MR. BRADY: Objection; incomplete hypothetical.

10 THE WITNESS: They've both suited. If you're  
11 talking about carry concealed in public, it's more  
12 difficult to carry a long gun concealed in public. But  
13 if you're talking about home defense or defense out on  
14 your property somewhere or something, they're both fine.

15 The article that I said I just wrote we were in  
16 Meridian, Idaho and shooting at a dairy farm, and I went  
17 to the truck of one of the folks putting on the shoot,  
18 and there was an AR in the front seat. And that's what  
19 he transported around for his self-defense gun.

20 Idaho's laws are different than ours, but since  
21 I'm story-telling, I must share this story.

22 We went to Montana each year to shoot prairie  
23 dogs, and we were on a ranch, 35 miles off the paved  
24 road. And one of the employees had worked for US Forest  
25 Service but had been laid off, and he was working as a

1 hand on this ranch, had three kids, 12 year old and like  
2 four or five year old. And we went outside after  
3 breakfast and were going to get into the trucks. And  
4 into the yard rolled a crew cab Ford truck, and out of it  
5 came the 12 year old with an AR slung over his shoulder,  
6 and then the two little kids bounced out of the back  
7 seat, and his dad was standing alongside me and said I  
8 never let him thrive unless he's armed.

9 I wish I'd had a video of that one.

10 Q. Yeah. You also engage in shooting competitions.  
11 Is that right?

12 A. Yes.

13 Q. Do you currently participate in shooting  
14 compositions?

15 A. Shotgun, yes.

16 Q. Have any of the shooting competitions that  
17 you've participated in used Centerfire semiautomatic  
18 rifles?

19 A. Yes.

20 Q. And you personally fired those types of firearms  
21 in these competitions?

22 A. That's not the firearm that I used, but that's  
23 the article that I just gave to you to photocopy. That's  
24 what the majority of the shooters use.

25 If I'd wanted to I really couldn't because of

1 A. Yeah, the paratrooper stock is partially wood  
2 and partially metal frame.

3 Q. And in the next paragraph you insert a  
4 discussion of the term "assault weapon." Is that right?

5 A. Yes.

6 Q. Why did you insert this paragraph here? It's  
7 not relevant to the surrounding paragraphs, is it?

8 A. Well, I put it there because we were at the  
9 transition point where we were going to start to talk  
10 about assault type firearms. Up to this point, for the  
11 most part, what we were discussing was not clearly not.  
12 And then in the paragraphs that follow this now we're  
13 into the AK's and the AR's. And so that's why I thought  
14 it was appropriate to place it there.

15 Q. Okay. So chronologically you felt it was  
16 appropriate to start talking about the phrase "assault  
17 weapons"?

18 A. Yes.

19 Q. Because assault weapons began to appear around  
20 this time?

21 A. Well, we were. Yeah, we were going to be  
22 discussing firearms that have been since designated as  
23 such.

24 Q. Right. Where did the phrase "assault weapon"  
25 come from?



1 A. I have no idea.

2 Q. Is it your view that the phrase came from  
3 government?

4 A. I just don't know.

5 Q. Is it possible that the phrase came from the  
6 firearm industry itself?

7 A. Is it possible? Yes, but I don't know.

8 Q. So it is not your opinion that the California  
9 legislature invented the phrase "assault weapon." Is  
10 that right?

11 A. No, because you can see that in the memo that I  
12 wrote the terms were the assault rifle and assault weapon  
13 had already been conflated. Now, whether that sprung  
14 from the Agnos bill or something that George Bush did, I  
15 have no idea.

16 Q. Okay. I'm going to mark as Exhibit 94 a  
17 photocopy of a 1981 Guns and Ammo issue?

18 A. '81 or '84?

19 Q. '81. Actually, it's already Exhibit 24. No  
20 need to mark it.

21 So you have a copy of the exhibit that's been  
22 marked as Exhibit 28 in front of you. It also appears  
23 that you have brought a copy of the magazine itself.

24 Is that right, Mr. Helsley?

25 A. Yes.

1 Q. And can you confirm that the magazine is Guns  
2 and Ammo July 1981? Can you confirm that --

3 A. Yes.

4 Q. -- for the record?

5 Actually, the date of the magazine comes out  
6 much clearer in your original copy than in the Xerox that  
7 we have. So if you look at the cover of Exhibit 28, the  
8 Guns and Ammo magazine, the cover has in bold print the  
9 new breed of assault rifle. Do you see that?

10 A. I do.

11 Q. So is this an example of an industry publication  
12 using the phrase "assault rifle" in 1981?

13 A. Yes.

14 Q. Was Guns and Ammo referring to a fully automatic  
15 or select-fire weapon when it's referring to the new  
16 breed of assault rifle?

17 MR. BRADY: Objection; calls for speculation.

18 THE WITNESS: I think the text of the article  
19 discussed both, because the text of the article refers to  
20 a state-of-the-art sporting rifle and --

21 BY MR. ECHEVERRIA:

22 Q. And that would not be a fully automatic or  
23 select-fire rifle. Is that right?

24 A. Correct.

25 MR. BRADY: Objection; calls for speculation.

1 Go ahead.

2 BY MR. ECHEVERRIA:

3 Q. I'd also like to refer you to Page 4 of Exhibit  
4 28. I believe this would be Page 49 of the magazine  
5 itself.

6 I prefer it if you'd look at the exhibit so we  
7 are all on the same page.

8 A. Uh-huh.

9 Q. There's a discussion of -- there's an article by  
10 Art Blatt about tomorrow's state-of-the-art sporting  
11 rifle. And on Page 4 of Exhibit 28 there's an individual  
12 named Barry Kahn, who's the owner of a firearms dealer in  
13 North Hollywood.

14 Do you see that paragraph?

15 A. Yes, B&B Sporting.

16 Q. B&B. That's right.

17 And it refers to him as a major or his  
18 establishment as a major gun dealer in all types of  
19 military look-alikes. Do you see that?

20 A. I do.

21 Q. And it goes on to explain who is purchasing  
22 these assault-type rifles. You see that?

23 A. It's on the final paragraph of that page it  
24 says: We asked them, that'd be the purchasers, of these  
25 assault rifles, we asked them why they bought their AR

1 180s and what they used them for. To a man they all  
2 stated that the AR-180 was merely an addition to their  
3 existing battery of sporting rifles. Sure there was a  
4 secondary reason, and they purchased a bit of military  
5 history. After all, the AR-180 was developed from the  
6 military M16 full auto version of the Colt AR15.

7 Do you see that?

8 A. Uh-huh.

9 Q. So is the AR 180 developed, to your knowledge,  
10 from the military issue M16?

11 A. I don't think so. I don't think that's the  
12 sequence of events.

13 There was a AR-18 and an AR-15, and there was  
14 one of them was 308, one of them was 223. They had  
15 variants that were folding stocks. But I believe the  
16 AR-10 came first. The AR-15 followed that. And the  
17 AR-180 followed the 15 by some years.

18 Q. Did any of the AR platform rifles predate the  
19 military's M16 rifle?

20 A. Yes.

21 Q. Was the military's M16 rifle developed from the  
22 AR rifle?

23 A. Yes.

24 Q. So the civilian version came first, according to  
25 your testimony?

1           A. Well, this is where words and terms are  
2 important.

3           Initially the select-fire version of the M16 was  
4 called the AR-15. The Armalite AR-10 and AR-15 were  
5 initially developed as Select-fire guns.

6           Q. And that'd be for military use?

7           A. Yes. They were trying to sell the AR-10, I  
8 think, to Denmark and to -- I think they gave AR-10s to  
9 the Bay of Pigs folks. And the -- but they quickly saw  
10 that there might not be a market there because they  
11 weren't well received. And in 1963 they began the  
12 civilian, civilian marketing of what was called the  
13 AR-15.

14          Q. Okay. I'd also like to refer you to Exhibit 91  
15 again, which is the 1988 memo that you wrote to the  
16 director of the Division of Law Enforcement.

17          A. All right.

18          Q. You attached to the memo a series of attachments  
19 that have what appear to be advertisements for different  
20 types of firearms.

21               Do you see those advertisements?

22          A. Yes.

23          Q. And if you look at attachment five to Exhibit  
24 91, attachment five is an advertisement for a belt fed  
25 AR-15. The full title of the firearm is obscured by the

1 sticker that says attachment five, but do you see that?

2 A. Right. It's by Jerry James.

3 Q. Yes. It's an article by Jerry James.

4 A. Yes.

5 Q. And above the by line the article states, "The  
6 semi auto version of America's battle rifle goes mega  
7 round with new Ciener multi-shot conversion."

8 Do you see that?

9 A. Yes.

10 Q. So this AR-15 is the semi auto civilian version  
11 of a military rifle. Is that correct?

12 A. Let me see. I think it's pronounced Ciener, but  
13 Ciener, if I recall correctly, was a producer of machine  
14 guns. And I assume, let's see if it says here, doesn't  
15 have a second page, I assume, see, it's talking here it  
16 says transforming it into a pretty spiffy light machine  
17 gun.

18 That's in the second paragraph.

19 Q. Uh-huh.

20 A. Maybe this is semi, but all that I know that  
21 Ciener ever built were select-fires, and you can't see  
22 the trigger group here to know how it works, but this  
23 refers to what appears to be a machine gun.

24 Q. So this belt fed AR-15 would not have been  
25 available for civilian purchase?

1           A. I don't know. I've never seen one, but it would  
2 have been available if he built them in states that allow  
3 the transfer of machine guns. As long as this was  
4 pre-1986 and pre the Volkmer McClure Act, then the  
5 machine gun version of this belt fed would have been  
6 available for civilians to purchase but as a machine gun  
7 with all of the federal and, you know, requirements.

8           Q. Okay. I'd also like to refer you to attachment  
9 11 to your 1988 memo, which is Exhibit 91.

10          A. Uh-huh.

11          Q. So in attachment 11 there's an attachment for an  
12 AK-47. Do you see that?

13          A. Yes.

14          Q. And do you see where it says, "We want your  
15 assault rifle business"?

16          A. Yes.

17          Q. You see that?

18          A. Yes.

19          Q. So this is another example of a firearm  
20 manufacturer or dealer referring to assault rifles?

21          A. Well, in this case this was -- these were  
22 photocopies, I know for sure this, and I think this of  
23 materials we had when -- we were developing the  
24 Roberti-Roos list, and, you know, the cow had already  
25 gotten out of the barn when this was written because the

1 media, the politicians and -- we're talking about assault  
2 rifle, slash, assault weapons, the hope for precision of  
3 language was gone and --

4 Q. Like here you do have a periodical or an  
5 advertisement within the firearms industry referring to  
6 assault rifles that are semiautomatic rifles and not  
7 fully automatic or select-fire rifles. Is that correct?

8 A. Yes, of course, I guess the problem you had then  
9 is that if you -- the term assault weapon was just in its  
10 infancy, and I know that there were people who had never  
11 heard the term. It was a term of political art that  
12 probably wouldn't know what else to call them. It looks  
13 like an AK that's an assault rifle. So we'll call it  
14 that. I don't know.

15 Q. So going back to your expert report, which is  
16 Exhibit 87, on Page 5 you say that, "The term assault  
17 weapon is not based on function but rather on appearance,  
18 country of origin, or other irrelevant criteria."

19 Is that right?

20 A. Yes.

21 Q. And by appearance, are you referring to the  
22 features that are listed in Section 30515?

23 A. The black plastic.

24 Q. So you're not referring to any of the features  
25 that are listed in Section 30 when you used the word --



1 A. Well, you know, the stocks, the pistol grip, or  
2 the folding or telescoping, the stock is plastic. So by  
3 black plastic I'm referring to --

4 Q. You're considering those features as part of the  
5 appearance of a firearm?

6 A. Yes.

7 Q. Okay. And back when you were coming up with the  
8 list, for the initial Roberti-Roos list of assault  
9 weapons, you testified that you were looking at  
10 photographs of different fire arms. Is that right?

11 A. Yes. Some of them are here in this attachment  
12 in in -- where'd they go. To these. Yeah, I'm quite  
13 sure that --

14 Q. So you actually looked at some of the pictures  
15 that are attached to your 1988 memo, Exhibit 91, when you  
16 were deciding whether to include firearms on the list?

17 A. Yeah, I was -- when I wrote this for Clemens in  
18 '88, I used the same documents that were going to be used  
19 for the Roberti-Roos Act list.

20 Q. And by looking at these photographs, could you  
21 tell whether the firearms were made of plastic?

22 A. In some cases I just knew because I knew the  
23 firearms. I'd fired them. It's not hard to tell if  
24 something has a synthetic stock on it.

25 Some of them, you know, for instance, where in

1 this ad they're black and white in the magazines, you  
2 know, you saw the way the stocks were made.

3 Like with Heckler & Koch, for instance, we had  
4 the MP5 sub machine guns, and the entire Heckler and Koch  
5 series has synthetic stocks regardless of which ones, the  
6 '91, the '93, the '94, they're all synthetic stock.

7 Q. And you don't believe that any of the features  
8 of a firearm that is designated an assault weapon has any  
9 impact on the function of that firearm?

10 MR. BRADY: Objection; misstates testimony.

11 THE WITNESS: No.

12 BY MR. ECHEVERRIA:

13 Q. Is it your view that the features that would  
14 render a Center-fire semiautomatic rifle with a  
15 detachable magazine assault weapon under California law,  
16 is it your view that those features are useful for  
17 self-defense?

18 A. The most important thing for self-defense is  
19 confidence in the firearm and practice with the firearm  
20 to gain proficiency. And if the AR-15 fits you, if it  
21 feels right, kind of like your golf clubs, then it's  
22 important that you have confidence in the arm that you  
23 have.

24 Do I think that an AR-15 is more capable of  
25 self-defense than a mini 14 is? I see them as being

1 essentially the same firearm with different clothes on.

2 Q. Going on to Page 6 of Exhibit 87 your expert  
3 report, you discuss the second wave of surplus rifle  
4 imports that began in 1987. Is that right?

5 A. Yes.

6 Q. And what rifles were being imported around that  
7 time?

8 A. Oh, boy.

9 Q. Briefly.

10 A. AK's, SKS, SAFN, Rasheed, Hakim, MAS-49/56,  
11 Czech SHE.

12 That's Czechoslovakia s-h-e.

13 Ljunman, L-g-u-n-m-a-n. It's a Swedish firearm.

14 There were just everything World War II, Korea  
15 era up through the '60s was flooding in.

16 Q. And those are generally firearms that today  
17 would be considered assault weapons under California law?

18 A. No. The -- well, the AK's would for sure.

19 Q. The SKS that you refer to in your report, which  
20 is a semiautomatic rifle with a fixed ten-round magazine,  
21 that would not be considered an assault rifle?

22 A. Well, there were fixed and detachable both.

23 Q. Would the SKS with detachable magazine, would  
24 those be considered assault weapons under California law  
25 today?

1 the last 50 plus years, variants of the AR-15."

2 Would those be select-fire and semiautomatic  
3 variants of the AR-15?

4 A. Can you repeat the question please?

5 (Record read.)

6 THE WITNESS: Well, the military ones were  
7 variants of the AR-15 slash M16. Because the  
8 nomenclature quickly changed to M16, A1, A2, M\$, there's  
9 a -- the gun has been around for such a long time that  
10 there are untold variants.

11 BY MR. ECHEVERRIA:

12 Q. And you mentioned in this paragraph that the  
13 AR-15's appeared in American Rifle Man in the June 1959  
14 issue. Is that right?

15 A. Yes.

16 Q. In your view are AR-15s and similar  
17 semiautomatic rifles commonly possessed in the United  
18 States?

19 A. Yes.

20 Q. At what point in history would you say that  
21 those firearms become commonly possessed by civilians?

22 A. You mean AR's or.

23 Q. AR platform rifles.

24 A. I think since we referenced this, I think they  
25 may have -- on Page 48 of tomorrow's state-of-the-art

1 sporting rifle.

2 MR. BRADY: What exhibit number?

3 THE WITNESS: Exhibit 28.

4 He opines Colt's AR-45 is among the most popular  
5 auto loading rifles.

6 BY MR. ECHEVERRIA:

7 Q. And that was in 1981?

8 A. Yes.

9 Q. So was it around the early 1980s would you say  
10 that the AR-15 became commonly possessed by civilians in  
11 the United States?

12 A. I assume so.

13 Q. And what is the basis for your assumption that  
14 that would be the case?

15 A. Well, as I've stated before, my world is 24/7  
16 guns. And I spend a lot of time at gun shows, gun shops,  
17 dealing with at the range.

18 If you go out to the Sacramento Valley Shooting  
19 Center, which is a very large range, and go on to the  
20 rifle range there, the public range, you will see just a  
21 line of AR's.

22 If you go into gun stores, AR's.

23 If you go to gun shows, AR's.

24 Go to the shot show, which is the industry show,  
25 it looks like the black plastic show. AR's, AR's, and AR

1 accessories, staggering amounts of them.

2 Q. And when would you say -- sorry, strike that.

3 Is it your opinion that semiautomatic rifles  
4 with detachable magazines are commonly possessed in the  
5 United States today?

6 A. Yes.

7 Q. And when would you say did those firearms become  
8 commonly possessed by civilians in the United States?

9 A. Rifle semi?

10 Q. Semiautomatic rifles with Centerfire firing  
11 mechanisms.

12 A. I would say that it was probably the wave began  
13 about 1960, because I know that my own case what inspired  
14 me to join the NRA was the ad in the Rifle Man that said  
15 I could buy a MR carbine for 50 bucks from DCM and have  
16 it shipped right to my house. Of course, I didn't have  
17 the 15 bucks, but.

18 Private sellers, private gun makers then started  
19 to produce the carbines, and the government was pushing  
20 out waves of M1 grands. And in the gun magazines you  
21 would see all sorts of stories about how to refinish the  
22 stock or how to convert the grand into a more friendly  
23 deer rifle or how to put a scope on one.

24 And so at that time you had a wave of surplus  
25 military semis on their way into the country, and you had

1 the United States government pouring out through DCM both  
2 the M1 grands and the carbines both, and that's when --  
3 that's when it looked like it to me.

4 Subsequently --

5 Q. And when was that?

6 A. Subsequently the FALs, the FN FALs started to  
7 come into the country, and by the late '60s when I  
8 started in law enforcement, it just seemed that they were  
9 everywhere.

10 Q. And by they, you're not referring to AR platform  
11 rifles, those became --

12 A. Well, your question was semi detachables.

13 Q. More generally.

14 A. Yes.

15 Q. Right. So I'm going to show you an OP Ed that  
16 was written by Professor Gary Cleck who's an expert  
17 witness in this case.

18 Do you know who Professor Cleck is?

19 A. I know who he is. I don't know him. Okay.

20 Q. This has been previously marked as Exhibit 36.  
21 So Exhibit 36 is an OP Ed written by Gary Cleck titled  
22 "Assault weapons aren't the problem" in the New York  
23 Times in 1992.

24 And if you look down on the third paragraph, the  
25 first sentences says, "Military style semiautomatics have

1           -- and compare it to an AR without a pistol grip  
2     on it, I can fire those two at the same speed because  
3     they're going to fire at the rate that the gun is  
4     designed to go back and forth.

5           Q.   So I believe you testified earlier that the  
6     features that are listed in Section 30515 may give  
7     comfort to a shooter. Is that right?

8           A.   Some do. Some like the bayonet lug, those kind  
9     of features are silly, but the -- if we're talking about  
10    cyclic rate and rate of fire, then I can fire them both  
11    at the same speed.

12          Q.   So if an individual has greater comfort because  
13    the firearm has certain features that they desire, you  
14    don't believe that that can have a positive effect on the  
15    effective rate of fire for that firearm?

16          MR. BRADY: Objection; incomplete hypothetical,  
17    calls for speculation.

18          THE WITNESS: Well, that gets into skill,  
19    training.

20    BY MR. ECHEVERRIA:

21          Q.   Well, I assume effective rate of fire we need to  
22    take that into account as well. Right?

23          A.   Well, I think I took your question to mean the  
24    theoretical rate that someone who's trained can achieve,  
25    because that's generally the way that it's characterized



1 that a soldier who's trained in the use of this firearm  
2 can get off this number of rounds in this amount of time.  
3 I don't know that there's a standard that he or she has  
4 to hit anything in particular, but I'm assuming a certain  
5 level of training.

6 Q. Okay. So assuming a certain level of training,  
7 if the shooter has greater comfort because a firearm has  
8 the features that they desire, would that enable them to  
9 fire that firearm at a greater effective rate of fire  
10 than if the firearm did not have those features?

11 MR. BRADY: Objection; incomplete hypothetical,  
12 calls for speculation.

13 THE WITNESS: Yeah, I think we're getting too  
14 far into the weeds here.

15 Guns will fire at a certain rate of speed.  
16 Certain rate. And the features have nothing to do with  
17 that rate. And if we start to talk about effective rate  
18 of fire and accurate fire, then all sorts of new  
19 dimensions are brought in to it, and I'd have to have,  
20 you know, a whole lot more specifics to respond to that.

21 MR. ECHEVERRIA: Can you read his answer back to  
22 me please?

23 (Record read.)

24 BY MR. ECHEVERRIA:

25 Q. So if we're talking about effective rate of fire

1 and accuracy, is it possible that the features could  
2 relate to those issues?

3 A. Possible, and could be stacked on top of each  
4 other. That's a little bit vague. Accuracy is better  
5 achieved with a rifle firearm that fits you well, thus  
6 the telescoping stock to fit you. You've got the right  
7 length of stock.

8 If you like the rifle, you enjoy it, you're  
9 probably more apt to practice, probably more apt to  
10 increase your skill.

11 And then the variable that we haven't discussed  
12 for accurate fire is what sort of sights does it have.  
13 Are we talking about iron sights or optical sights or  
14 what's the distance because the distance is critical as  
15 well.

16 Q. Well, I think we could assume the same type of  
17 sights for two firearms. One firearm has no features  
18 that are prohibited under Section 30515, and another  
19 rifle has those features or some of the features.

20 Would those features contribute to more accurate  
21 fire?

22 A. Well, the further away the target or targets  
23 are, the slower everything has to be.

24 Q. Okay. Well, let's assume that the target is at  
25 the same distance for each rifle. I'm trying to control

1 for all the different variables to determine whether the  
2 variables have any relation it whatsoever to the accuracy  
3 of a firearm.

4 A. Well, the accuracy is inherent to the firearm  
5 and the cartridges you use, but the question is how  
6 accurately can I fire the firearm.

7 The firearm can do X. Can I achieve X with it  
8 with my skills. The better the fit, the more confidence  
9 you have. All things being equal, you're probably going  
10 to perform better to whatever your standard is if the  
11 features enhance your comfort and your confidence in the  
12 firearm.

13 Q. So the features can help a shooter perform  
14 better when firing a firearm?

15 A. On a stock fit, yes, it is a critical dimension  
16 to --

17 Q. What about the pistol grip in the action of a  
18 rifle, does the protruding pistol grip have a shooter  
19 fire a weapon more accurately?

20 A. I assume there are some people that think it  
21 does.

22 Q. How about your opinion as an expert witness?

23 A. Well, I would have to modify those grips for it  
24 to fit my hand and arm and all that correctly. I know  
25 that there are people that love them, so I guess I fall

1 in the category of yes, there are people who think that,  
2 and I guess that's all I can say on it. I'm struggling  
3 with the question.

4 Q. Is it possible that a public mass shooter may  
5 think that a pistol grip can help them fire a weapon more  
6 accurately?

7 MR. BRADY: Objection; calls for speculation.

8 THE WITNESS: I assume so. In a lot of the  
9 matches, particularly the high power they're called, you  
10 don't have a choice on what kind of firearm you're going  
11 to use. If you compete, you're going to use this  
12 particular kind of arm because that's the gun.

13 So is it possible, yes.

14 BY MR. ECHEVERRIA:

15 Q. Okay. So for your statement that none of the  
16 features that California prohibits has anything to do  
17 with the rifle's rate of fire power or capacity to accept  
18 ammunition, what was the basis of that statement?

19 A. Well, it's just I think it's just factually  
20 correct.

21 Q. So you didn't do any studies to confirm that  
22 opinion?

23 A. No, I -- well, the capacity is a design -- a  
24 design feature for it.

25 Q. So let's table capacity and power because I

1 understand what you're saying there, but what about with  
2 rate of fire, did you conduct any studies to confirm that  
3 the features have no effect on a firearm's cyclic or  
4 effective rate of fire?

5 A. Well, I know this, that you can do what's called  
6 fanning a trigger. It's called bumping. Now bump stock.  
7 And without the bump stock I can fire the AR at machine  
8 gun rates. Semi, it's a semi gun, but it will fire at  
9 machine gun rates.

10 Q. I'm sorry. The question was, did you conduct  
11 any studies to confirm that none of the features that  
12 California prohibits has anything to do with the rifle's  
13 rate of fire?

14 A. Fire the guns.

15 Q. So it's based on your experience firing weapons?

16 A. Yes, and seeing how fast I can fire. A FAL, an  
17 AR, an AAK, a Glock.

18 Q. Did you observe anyone else fire weapons to form  
19 your opinion that none of the features that California  
20 prohibits has anything to do with the rifle's rate of  
21 fire?

22 A. No.

23 Q. So it's all based on your own personal  
24 experience --

25 A. Yes.

1 Q. -- firing semiautomatic Centerfire rifles?

2 A. Absolutely.

3 Q. Would you say that you are a skilled shooter?

4 A. Less skilled now than I was in my younger years,  
5 yes.

6 Q. Are you also taking into account your experience  
7 firing weapons in your younger years in forming your  
8 opinion that none of the features that California  
9 prohibits has anything to do with the rifle's rate of  
10 fire?

11 A. Yeah. I can go out to the range today despite  
12 my advanced years and torch off a 20 mag round AR at the  
13 same rate that I could when I was 21.

14 Q. By torch off you've mean fire?

15 A. Fire, fan it off I'd call it.

16 Q. Okay. And you were a firearms instructor?

17 A. Yes.

18 Q. Is that correct?

19 A. (Moves head up and down.)

20 Q. So your opinion that's set forth on Page 6 of  
21 Exhibit 87 was based on your own personal experience  
22 firing firearms?

23 A. Yes. And just knowing how firearms are designed  
24 and work.

25 Q. Is it possible that for somebody with less

1 experience than you, that the features may have something  
2 to do with the rifle's rate of fire, particularly the  
3 rifle's effective rate of fire?

4 A. Is it possible? Everything's possible. I think  
5 you could fire the mini 14 without the features at the  
6 same rate that you could fire the AR with the features.

7 Q. And you state on Page 7 of Exhibit 87 at the top  
8 that all, and all here refers to the features, improve  
9 the shooting and driving experience while having nothing  
10 to do with the basic mechanical function of the firearm  
11 or vehicle. Is that right?

12 A. Uh-huh, yes.

13 Q. So it is your opinion that the features improve  
14 the shooting experience?

15 A. It can, yes.

16 Q. And does that relate to the comfort issue that  
17 you were discussing previously?

18 A. Stock, fit.

19 Q. So these features can improve the shooting  
20 experience for somebody who's using a semiautomatic rifle  
21 in self-defense?

22 A. Yeah, well, if it improves the shooting  
23 experience for them, regardless of what shooting they do,  
24 it would improve it.

25 Q. Can the features also improve the shooting

1 experience for somebody who is using the firearm in a  
2 public mass shooting?

3 A. It's hard to talk about that in terms of  
4 improving the experience. I don't know that it would  
5 improve the effectiveness if they went in to kill folks.  
6 I don't know that it would make them more effective.

7 Q. So would the features make a shooter more  
8 effective if they're using the firearm in self-defense?

9 A. Again, if they have -- if they like it, if  
10 they've trained with it and as a result of liking it  
11 their shooting skills are improved, then whether it was  
12 features directly or the training, yes, it could.

13 Q. Couldn't the name same analysis apply to  
14 somebody who instead of using a rifle for self-defense is  
15 using a rifle for illicit purposes, like a public mass  
16 shooting?

17 A. It could. I don't know that most of the mass  
18 shootings that I read about there was much practice  
19 involved.

20 Q. So based on what you've read about public mass  
21 shootings, it's your opinion that the shooters don't have  
22 a lot of practice with the firearms they're using. Is  
23 that right?

24 A. A lot of them, ones that I've read about, no, it  
25 doesn't seem that they had a great deal of experience.



1 They bought the guns. They went out and fired a few  
2 rounds, and then did what they did.

3 Q. And, in your view, would any of the features  
4 help an inexperienced shooter operate a firearm?

5 A. Operate.

6 Q. Let me rephrase that.

7 A. Okay.

8 Q. Would any of the features help a shooter who  
9 doesn't have a lot of experience with a firearm fire that  
10 weapon accurately?

11 A. Well, if you don't have experience and if you  
12 haven't trained, accuracy is not high on the list. I  
13 don't know. I'm trying to --

14 If a new shooter has an AR and they know how to  
15 operate the AR, does the flash suppressor or does the  
16 pistol grip enhance their ability, competence.

17 Well, if they've fired it and it's been an  
18 enjoyable experience and they fire sufficient rounds  
19 through it to know how to operate it correctly, then  
20 probably incorrectly, yes.

21 Q. So if there's a public mass shooter who's  
22 inexperienced operating a particular firearm, the  
23 features may help them fire that weapon more accurately?

24 MR. BRADY: Objection; incomplete hypothetical,  
25 calls for speculation, misstates testimony.

1 THE WITNESS: Well, the people who violate the  
2 law with them, for whatever their reasons are, they have  
3 chosen a particular firearm, and because I guess they  
4 like it whether it's the appearance or the features or  
5 whatever it is, just hard to say.

6 BY MR. ECHEVERRIA:

7 Q. Okay. I'm going to mark -- I'm not going to  
8 mark it. I'm going to show you a document that has been  
9 previously marked as Exhibit 35. It's a big document.  
10 This is the report by Christopher S Koper, titled,  
11 "Updated Assessment of the Federal Assault Weapons Ban:  
12 Impacts on Gun Markets and Gun Violence, 1994 to 2003."

13 Have you ever seen this document before?

14 A. I'm aware of it, and I think that I've probably  
15 read parts, but on the web.

16 Q. I'd like to refer you to Page 8 of Exhibit 35,  
17 passage 8 of Exhibit 35 has figure two hyphen, two  
18 features of assault weapons?

19 A. Uh-huh.

20 Q. The AK-47 assault rifle, do you see that?

21 A. Yep.

22 Q. And do you see how several of the features are  
23 itemized and discussed?

24 A. Yes.

25 Q. So if we look at the pistol grip, this would be

1 an example of a pistol grip that would be prohibited  
2 under California law. Is that right?

3 A. Yes.

4 Q. And beneath the pistol grip this report states,  
5 quote, allows the weapon to be spray fired from the hip,  
6 also helps stabilize the weapon during rapid fire.

7 Do you see that?

8 A. Yes.

9 Q. Do you disagree with that statement?

10 A. No. The spray fire from the hip, any gun can do  
11 that with fanning the trigger. This gets us into the  
12 world of the bump stock, which are controlled in this  
13 state, but you can take a semiautomatic rifle with no  
14 features on it, put it up against your hip, and fan it  
15 off.

16 Q. So without a pistol grip?

17 A. You don't need a pistol grip.

18 Q. So where would you be holding the firearm with  
19 your shooting hand?

20 A. On the M1 carbine, for instance, just where the  
21 grip is, you can go on to uTube and watch these all day  
22 long of folks fanning off non-conspicuously protruding  
23 pistol grips.

24 Q. Let's set the M1 carbine aside, because I  
25 believe it was your testimony that the M1 carbine would

1 doesn't go around the back, you're still just going bang,  
2 bang, bang, bang, bang, bang, bang. It's the design.

3 Q. So you disagree with the statement on Page 8 in  
4 Exhibit 35 that the pistol grip allows the weapon to be  
5 spray fired from the hip. Is that right?

6 A. Well, pistol grip is not necessary.

7 Q. My question was, was that right?

8 A. Yes, a pistol -- a stock, a pistol grip, monster  
9 man hip allows things to be fired from the hip.

10 Q. But you disagree with the statement on Page 8 of  
11 Exhibit 35 that a pistol grip allows the weapon to be  
12 spray fired from the hip. Correct?

13 MR. BRADY: Objection; misstates testimony.

14 THE WITNESS: I disagree with it in the sense  
15 that it -- when I read it, I hear that it's distinct from  
16 other stock designs, that it allows it to do something  
17 that a conventional stock would not allow it to do, and  
18 that is incorrect.

19 BY MR. ECHEVERRIA:

20 Q. So it's your opinion that firearms without a  
21 pistol grip that is prohibited under California law can  
22 be fired from the hip, spray fired from the hip as well?

23 A. Absolutely.

24 Q. Is it also your opinion that a protruding pistol  
25 grip such as that depicted on Page 8 of Exhibit 35 would

1 not help the shooter spray fire from the hip more  
2 effectively?

3 A. Spray fire is --

4 Q. Let me rephrase.

5 Is it your opinion than the pistol grip depicted  
6 on Page 8 of Exhibit 35 would not help a shooter fire the  
7 weapon from the hip more effectively?

8 A. Talking about single rounds? No, no. The  
9 problem with rapid fire is when it's -- that losing  
10 control of the grip, but particularly for single fire, no  
11 problem.

12 Q. Okay. Let's take rapid fire. You mentioned  
13 that there's the possibility to lose control of the grip.  
14 Does the pistol grip that's depicted on Page 8 of Exhibit  
15 35 help a shooter maintain control of the grip as opposed  
16 to the monster man or a rifle that does not have any  
17 pistol grip whatsoever?

18 A. As opposed to the monster man, I'd say no  
19 because you still have a -- you're bracing it against  
20 your hip. You've got a good surface to grab to, and  
21 you're firing.

22 Q. So it's your opinion that you can maintain  
23 control equally well whether or not the firearm has a  
24 pistol grip when you're firing from the hip?

25 A. Yeah, if it's conspicuously protruding grip

1 versus monster man grip, if that's the question.

2 Q. Is there another type of grip where there would  
3 be a difference?

4 A. Yes, I mean there are all kinds of work-arounds.  
5 And --

6 Q. Are there any work-arounds that would be less  
7 effective in maintaining control?

8 A. I haven't given that any thought.

9 (Discussion off the record.)

10 MR. ECHEVERRIA: We'll go back on the record.

11 Q. You're under oath again, Mr. Helsley.

12 A. Yes.

13 Q. Do you see the next sentence under pistol grip  
14 where it says, "Also helps stabilize the weapon during  
15 rapid fire," do you agree with that statement? Yes or  
16 no.

17 A. Well, that's what pistol grips do, be they  
18 protruding or non-protruding grips.

19 The pistol grip is the part of the stock that  
20 your strong hand grasps, and I guess the question would  
21 be do conspicuously protruding give you more control than  
22 non-conspicuously protruding do.

23 Q. What's your answer to that question?

24 A. I would say that the heaviest recoiling rifles  
25 that I've fired are four bores and eight bores, and they

1 generate probably 30 times the recoil of an AR.

2 Q. Okay.

3 A. And those rifles have conventional stocks, and  
4 it's possible to control the recoil impulse with those  
5 giant rounds with a conventional stock.

6 Q. It's possible, but when you say that generally a  
7 protruding pistol grip such as that that is prohibited  
8 under California law would be more effective in  
9 stabilizing the weapon during rapid fire than other forms  
10 of pistol grips?

11 A. It possibly could.

12 Q. Okay.

13 A. Probably depends on hand size and --

14 Q. In general though.

15 A. Yes.

16 Q. Okay. Can a protruding pistol grip such as that  
17 prohibited under California law also help a shooter  
18 maintain aim while unloading a detachable magazine from a  
19 rifle?

20 A. Well, generally, when you're doing a magazine  
21 change, you're simply looking down range to keep your  
22 target in view. That's a training issue because you're  
23 naturally inclined to take your eyes off the target and  
24 look at the magazine well and the magazine as opposed to  
25 keeping your eye on the target. So you're not really

1 aiming the rifle. You're keeping the target in view as  
2 the magazine change occurs, and that's training, and it  
3 can be performed just as well regardless of the type of  
4 stock you have.

5 Q. And that's based on your own personal experience  
6 operating firearms?

7 A. Yes.

8 Q. So on Page 8 of Exhibit 87 you write that the AR  
9 grip simply places the shooting hand -- this is on the  
10 second full paragraph on Page 8 of Exhibit 87, you write  
11 an AR-type rifle -- sorry.

12 You write that the AR grip simply places the  
13 shooting hand in the optimal position to operate the  
14 firearm's trigger magazine release and safety mechanism.

15 Do you see that?

16 A. What page we on here?

17 Q. Second full paragraph of Page 8 of your report.  
18 Do you see where you say the AR grip simply places the  
19 shooting hand in the optimal position to operate the  
20 firearm's trigger magazine release and safety mechanism?

21 A. Yes.

22 Q. So is the converse true that a different pistol  
23 grip would be sub-optimal?

24 A. Well, with semi firearms generally they are  
25 designed so that your finger, your trigger finger is in



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1 the right position. Of course, the stock design is to  
2 get your finger on the trigger and to operate the safety  
3 both. So that's the sort of thing that you just expect  
4 to be designed into a firearm.

5 Q. Well, you do write in the subsequent sentence  
6 that an AR-type rifle can still be fired without a  
7 pistol grip installed but would leave the user's hand in  
8 a non-optimal and less safe position to operate the  
9 rifle. Right?

10 A. Yes.

11 Q. So if an AR-type rifle does not have an AR  
12 pistol grip, then it can still be fired but where the  
13 user's hand is in a non-optimal position. Right?

14 A. Well, I'm saying that if the pistol grip is just  
15 gone and the AR has no pistol grip at all, protruding or  
16 non-protruding, there's just a void there where it was,  
17 that would be -- it would be -- it would be difficult  
18 because your hand would sort of be floating in the air  
19 and you'd probably just have to pinch the trigger and the  
20 trigger guard.

21 Q. So when you say, for example, the monster man  
22 grip in the next sentence, are you indicating that the  
23 monster man grip provides for a less optimal hand  
24 position when operating an AR rifle?

25 A. The monster man grip is functional. It's not as

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1 comfortable as a non-monster man grip.

2 Q. Right. So my question was, does the monster man  
3 style grip place the user's hand in a non-optimal  
4 position when operating an AR rifle?

5 A. Well, it places the thumb in sort of a --

6 Q. So I was asking a yes or no question.

7 A. Okay.

8 Q. So does, in your opinion, does the monster man  
9 style grip place the user's hand in a non-optimal  
10 position when operating an AR rifle?

11 A. Yes.

12 Q. Okay. And if the shooter's hand is in a  
13 non-optimal position, could that affect that rifle's  
14 effective rate of fire?

15 A. If I was going to fire it fast --

16 Q. I asked a yes or no question. I'm sorry, Mr.  
17 Helsley.

18 A. I can't -- I can't give you a yes or no on that  
19 because firing it fast, you hold the rifle in a different  
20 way.

21 Q. How do you hold the rifle?

22 A. Well, instead of shouldering it like this,  
23 (indicating), you'd either bring it down to your hip and  
24 firing it --

25 Q. So by effective rate of fire, you are

1 understanding that phrase to mean firing it at the  
2 fastest possible rate for that firearm. Is that right?

3 A. Yes, yes.

4 Q. What about maintaining a steady rate of fire.  
5 So not necessarily the fastest rate that the firearm can  
6 operate under real world conditions, but maintaining a  
7 steady rate of fire if the hand is placed in a  
8 sub-optimal position on the firearm? For example, if  
9 there's a monster man grip, could that affect  
10 detrimentally the effective rate of fire for that  
11 firearm?

12 A. I would say yes.

13 Q. Okay. And when you say that an AR-type rifle  
14 can still be fired without a pistol grip installed but  
15 would leave the user's hand in a non-optimal and less  
16 safe position to operate the rifle, what do you mean by  
17 the phrase less safe?

18 A. Well, you're reduced to, as I described before,  
19 sort of pitching the trigger and the trigger guard, and  
20 so it's not going to be something that you're trained to  
21 do, that you have the feel for. It's going to be a very  
22 unnatural way of shooting it. It will still fire, but  
23 it's going to be bizarre.

24 Q. And you also write that the weak hand is  
25 critical for muzzle control and for accurate aimed fire.

1 Is that right?

2 A. Yes.

3 Q. So when a rifle has a forward pistol grip, is  
4 that where the weak hand would be placed when operating  
5 that firearm?

6 A. If it has a forward pistol grip, then that's  
7 where the hand would be.

8 Q. Is it your opinion that a firearm without a  
9 forward pistol grip would be equally capable of muzzle  
10 control and accurate fire as a firearm that has a pistol  
11 grip?

12 A. Yes.

13 Q. In the forward position?

14 A. Yes.

15 Q. So they're both functionally the same.

16 MR. BRADY: Was there an answer?

17 THE WITNESS: I said yes. I think I said yes.

18 BY MR. ECHEVERRIA:

19 Q. And moving on to adjustable stocks, you focus  
20 your opinion exclusively on telescoping stocks. Is that  
21 right?

22 A. Yes.

23 Q. So what about folding stocks, can folding stocks  
24 help a person conceal a rifle?

25 A. Well, to give you a precision answer on that, I

1 need a little more precision in the question.

2 Q. So you provide the general opinion in Page 10 or  
3 the first full paragraph on Page 10 in the last paragraph  
4 in the section discussing adjustable stocks that  
5 telescoping stocks have a relatively short adjustment  
6 range, usually three or four inches. So there's little  
7 if any change in the user's ability to conceal an AR with  
8 a telescoping stock. You wrote that. Right?

9 A. Yes.

10 Q. So what about folding stocks, folding stocks  
11 enable someone to reduce the length of a firearm much  
12 more dramatically than three or four inches. Right?

13 A. First of all, I want to say that concealing  
14 firearms is one of the sections that I taught in our  
15 academy. So I assume we're not talking about concealing  
16 in a vehicle, because you can conceal whatever you want  
17 to in a vehicle.

18 Concealing has to do with your body shape. It  
19 has to do with the clothing that you wear. And it has to  
20 do with how creative you are.

21 So, for instance, if it's cold outside and I'm  
22 wearing an overcoat, I can carry four AR's below that  
23 coat hung on my shoulder with shoulder straps.

24 If I wanted to hide my firearms, conceal them in  
25 plain view, I would do what we did at DOJ and I assume we

1 still do or you guys still do, the MP5s were carried in a  
2 black nylon case with a racketball racket attached to the  
3 outside of it so it looked like a sporting case.

4 I believe that the guy who carried the AR's into  
5 the casino in Nevada brought them in in suitcases.

6 There's the folding stock when you're putting on  
7 a rain coat or an overcoat, makes no difference at all in  
8 concealing it because you have a bulky coat on.

9 The telescoping stock in concealing is  
10 absolutely preposterous because the gun can't be more  
11 than a certain length, whatever the minimum length is.  
12 Telescoping can only make it longer. So if a gun is  
13 longer, it's not going to be less concealable.

14 Q. Okay. But is it your opinion that a folding  
15 stock has more of an effect on the user's ability to  
16 conceal an AR than a telescoping stock?

17 A. No. I can put a folding stock or a full AR into  
18 a banjo case and carry it around.

19 Q. But you're assuming the use of a banjo case for  
20 concealment. I'm talking at a very general level.

21 A. Okay, but are you talking about on the person?

22 Q. Well, I'm talking about it in the same way that  
23 you're talking about it.

24 So if you look at Page 10 at that last paragraph  
25 on the section that deals with adjustable stocks, you had

1 made a general statement that telescoping stocks have  
2 little, if any, change in the user's ability to conceal a  
3 AR with a telescoping stock.

4 A. That's correct.

5 Q. And I'm wondering if a folding stock can have a  
6 greater change in the user's ability to conceal an AR in  
7 the telescoping stock at the same level of abstraction  
8 and generality that you've been providing your opinion  
9 at?

10 A. No, just different. Because I can carry the  
11 folding stock AR, there aren't a whole lot of those, but  
12 I can carry the folding stock one in the guitar case, or  
13 I can carry the unfolded one in the guitar case. Both  
14 cases they're concealed.

15 Q. Is it possible that it's easier to conceal a  
16 firearm with a folding stock on one's person, all things  
17 being equal?

18 A. Depending on your build. The wider your  
19 shoulders are in relationship to your waist, the more  
20 space you have in here.

21 All the folding stock does is increase width.  
22 So if you've got a rain coat on, if you've got an  
23 overcoat on, makes no difference at all.

24 Q. And if it's an underfolding stock, would have  
25 still increase the width?

1 A. No.

2 Q. Okay. So at the conclusion of the section  
3 dealing with adjustable stocks, you reference that some  
4 of the most adjustable stocks will be found on rifles or  
5 shotguns used at the highest level of composition, e.g.  
6 the Olympic games, and you cite Exhibit A attached  
7 hereto.

8 I didn't find an Exhibit 2 attached to your  
9 expert report.

10 A. Well, blame him.

11 MR. ECHEVERRIA: Sorry to call you out, Sean.

12 MR. BRADY: No, that very well could be my  
13 fault. I'm going to obviously pass the buck to Laura.  
14 I'm just kidding. I will note it.

15 BY MR. ECHEVERRIA:

16 Q. And you note that custom stocks may cost a lot  
17 of money. Is that right?

18 A. Yes.

19 Q. And that's why it's your opinion that  
20 telescoping stocks may serve an ergonomic benefit to the  
21 user of a rifle.

22 Are stocks for, for example, the AR platform  
23 rifle sold in a variety of lengths? So instead of a  
24 custom length that you're having designed bespoke for  
25 you, is there a range of different lengths that a



1 purchaser of a firearm can select from when purchasing an  
2 AR platform rifle?

3 A. Based on the number of accessories that are  
4 available for the AR, I can't imagine there aren't  
5 because the range of doodads and accessories for those  
6 things is staggering.

7 Q. There are a lot of options out there?

8 A. Yes.

9 Q. So an individual who has a particular need for a  
10 certain length of stock, they may be able to find that on  
11 the market without having a stock custom built for them.  
12 Is that right?

13 A. Yes. The reason I bought one is, as I think I  
14 said earlier this morning, was that it allows my  
15 grandkids and I to shoot the same firearm, because I can  
16 shorten it for them and lengthen it for me. And if you  
17 buy a fixed-length stock, that's it.

18 Q. And a folding stock wouldn't have that benefit.  
19 Right?

20 A. A folding stock generally don't adjust for  
21 length they are, what they are, and --

22 Q. It's one size or the other?

23 A. Yeah.

24 Q. So moving on to your discussion of flash  
25 suppressors, a flash suppressor protects a shooter's

1 vision in low light conditions. Would you agree to that?

2 A. That's what it's supposed to do.

3 Q. So do flash suppressors aid in the accurate  
4 firing of a firing arm in low light conditions?

5 A. If the muzzle flash has caused you to have, you  
6 know, a bright spot in your field of view and a follow-up  
7 shot is required, then it could get in the way of your  
8 follow-up shot.

9 Q. So where a person firing multiple shots from a  
10 rifle in low light conditions, a flash suppressor may  
11 help that shooter fire that firearm more accurately. Is  
12 that correct?

13 A. It may. I'm not sure how effective flash  
14 suppressors are. It varies, but it might.

15 Q. And you also write that flash suppressors do not  
16 hide the flash from those who are in the direct line of  
17 fire. Is that right?

18 A. Correct. The people that you're shooting at  
19 know exactly where you are if they see you with the  
20 flash, because the flash is coming directly at them.

21 Q. So what if an individual is not in the direct  
22 line of fire but is in the periphery, does the flash  
23 suppressor still have no effect on the ability of a  
24 shooter to remain hidden in low light conditions?

25 A. The flash suppressor, if you're watching someone

1 from the side, assuming that you can't see them just by  
2 whatever the level of light is, the flash suppressor is  
3 going to show your presence, you know, there's going to  
4 be a flash of light.

5 Q. So it's your view that flash suppressors do not  
6 have any effect on a shooter to remain concealed in low  
7 light conditions?

8 A. Well, you're certainly not concealed from the  
9 people you're shooting at because they're going to --  
10 they're going to see the flash if they're looking in your  
11 direction.

12 Q. Have you ever heard of a device called a flash  
13 hider?

14 A. Yes.

15 Q. What is a flash hider?

16 A. It's one of those -- it's another name, as far  
17 as I know, for a flash suppressor.

18 Again, the way terms are used are pretty loose.  
19 But, as far as I know, you'd find a flash hider on say a  
20 Number 5 Lee-Enfield Jungle Carbine. That's what they  
21 called it. And the flash hider was one of the first  
22 generations, if you will, of something trying to hide  
23 flash. And it was like that one picture we looked at in  
24 here where it was a cone-shaped and I said I couldn't see  
25 what was inside of it.

1 A. Yes, it'd be more of a compensator or a brake.

2 Q. Okay. Let's assume that is not an AK-47. I  
3 don't want to get too into the weeds.

4 A. I love getting into the weeds.

5 Q. No, I can tell you do, but just generally the  
6 purpose of this image in this report is not to discuss  
7 the features of an AK-47, but it's more generally to  
8 discuss the features of assault weapons.

9 So if you look at flash suppressor, the report  
10 states, "Reduces the flash from the barrel of the weapon  
11 allowing the shooter to remain concealed when shooting at  
12 night."

13 Do you see that?

14 A. Uh-huh.

15 Q. Do you agree with that statement?

16 A. No.

17 MR. BRADY: Objection --

18 BY MR. ECHEVERRIA:

19 Q. You don't agree with that statement for the  
20 reasons we were just discussing?

21 A. Well, you're shooting at one, and they're going  
22 to see your flash because you're shooting at them.

23 Q. So you take objection to the statement that this  
24 allows the shooter to remain concealed?

25 A. Well, you're concealing yourself from the folks

1 you're shooting at. And if the people you're shooting at  
2 can see you, they can see the flash, then you're not  
3 concealed. If you've got people on the sides that are  
4 trying to find your flash, you've got problems.

5 Q. What do you mean you've got problems?

6 A. Well, if you have people in combat that you're  
7 fighting with and you've got people on both sides and  
8 you're firing this direction, these folks are going to  
9 see you for sure.

10 Q. In the line of fire?

11 A. Yeah, in the line of fire. But even if they  
12 can't see you, they're going to hear you, and they've  
13 already flanked you.

14 Q. I see what you're saying.

15 But can a flash suppressor make it more  
16 difficult to identify the location of a shooter in low  
17 light conditions?

18 MR. BRADY: Objection; vague as to flash  
19 compressor. Are we talking about California flash  
20 compressors over federal flash compressors?

21 MR. ECHEVERRIA: California.

22 THE WITNESS: Well, the question is more  
23 difficult. Was that your question?

24 BY MR. ECHEVERRIA:

25 Q. Yes.

1 A. Probably combined with the right cartridges,  
2 because if you got the wrong cartridge, they're going to  
3 blow an orange fire ball out the end of the barrel.

4 Q. Let's keep it at a more general abstract level.

5 A. With the right cartridges and right device, it's  
6 going to minimize it.

7 Q. Okay. I'm going to mark as Exhibit 94 a copy of  
8 California Code of Regulations Title 11, Division 5,  
9 Chapter 39, Article 2, Section 5471, registration of  
10 assault weapons pursuant to Penal Code Section  
11 30900(b)(1), explanation of terms related to assault  
12 weapon designation.

13 (Whereupon, Exhibit 94 was marked for  
14 identification.)

15 BY MR. ECHEVERRIA:

16 Q. Have you seen this document or a version of this  
17 document before?

18 A. I don't think so.

19 Q. Okay. So these are regulations that were  
20 promulgated by the Department of Justice concerning the  
21 registration of assault weapons, and I'd like to refer  
22 you to Section 5471, Subdivision R.

23 This would be on the second page of Exhibit 94,  
24 Subdivision R.

25 A. Okay.

1 Q. Has flash suppressor in quotation marks.

2 A. Yes.

3 Q. And Subdivision R states, "Flash suppressor  
4 means any device attached to the end of the barrel that  
5 is designed, intended, or functions to perceptively  
6 reduce, reduce, or redirect muzzle flash from the  
7 shooter's field of vision. A hybrid device that has  
8 either advertised flash suppressing properties or  
9 functionally has flash suppressing properties would be  
10 deemed a flash suppressor. A device labeled or  
11 identified by its manufacturer as a flash hider would be  
12 deemed a flash suppressor."

13 Do you see that?

14 A. Yeah.

15 Q. So according to this regulation with respect to  
16 the registration of assault weapons, the flash suppressor  
17 feature would include flash hidere. Right?

18 A. Yes.

19 Q. Okay. And I believe it was your testimony  
20 before that flash hidere can help conceal a shooter in  
21 low light conditions?

22 A. Anything that lengthens the barrel is going to  
23 reduce the flash. The longer the barrel is, the less  
24 flash. So whether there's a disproportionate reduction  
25 or not, no idea.

1 But, simply putting, if the flash hider is two  
2 inches or three inches long, you're probably going to get  
3 some reduction.

4 Q. Just by the lengthening of the barrel?

5 A. Yes.

6 Q. Could there also be a reduction due to what the  
7 flash hider is doing based on its own mechanical  
8 function?

9 A. Yes. This is one of the things I've talked to  
10 our forensic folks about, about how you measure this,  
11 because perceptibly reduce or redirect, the forensic  
12 folks I've talked to have no way of testing that.

13 Q. And you do write on Page 13 of 87, your expert  
14 report, that a flash suppressor or muzzle brake may cause  
15 some minimal reduction in flash. Is that right?

16 A. Yes.

17 Q. So it is your opinion that a flash suppressor  
18 may cause some minimal reduction in flash?

19 A. Yes.

20 Q. And would you agree that any reduction in flash  
21 can reduce -- or, sorry, scratch that.

22 And would you agree that any reduction in flash  
23 can enhance the concealability of a shooter in low light  
24 conditions?

25 MR. BRADY: Objection; vague, calls for



1 speculation, incomplete hypothetical.

2 Go ahead.

3 THE WITNESS: Well, just what's missing in all  
4 of this is a cartridge to cartridge comparison, because  
5 firing cartridge A through it and if you could read the  
6 muzzle flash with and without might reduce, you might  
7 change to you cartridge B --

8 BY MR. ECHEVERRIA:

9 Q. Well, if we're staying with the same cartridge  
10 --

11 A. -- and you have triple the flash of the one  
12 before.

13 Q. But with the same cartridge in general would a  
14 reduction in flash generally enhance the concealability  
15 of a shooter in low light conditions?

16 A. Not from the people they're shooting at.

17 Q. So when you write here, "It may cause some  
18 minimal reduction in flash" --

19 A. Yes.

20 Q. -- were you excluding the people who are in the  
21 direct line of fire of the shooter?

22 A. Even if you reduce the flash, the people in the  
23 direct line are still going to see it. You'd have to  
24 reduce it almost to nothing for the people in the line of  
25 fire not have to see it.

1           If the question is people on the periphery,  
2 perhaps.

3           Q. So when you say it may cause some minimal  
4 reduction in flash, you're not referring to people who  
5 are in the direct line of fire?

6           A. Correct.

7           Q. But it can still reduce flash as to people who  
8 are in the periphery. Correct?

9           A. Can, yes.

10          Q. So a flash suppressor could help a shooter  
11 remain concealed from the periphery in low light  
12 conditions when operating a firearm with a flash  
13 suppressor?

14          A. Yes. As a law enforcement officer, I assume we're  
15 concerned about people who are being fired at.

16          Q. Well, people operating a firearm from a  
17 concealed condition, mass shooting from a concealed  
18 position, they wouldn't only be concerned about their  
19 targets in the direct line of fire; they would also be  
20 concerned about being spotted by people in the periphery.  
21 Correct?

22           MR. BRADY: Objection; incomplete hypothetical,  
23 calls for speculation.

24           THE WITNESS: I'm not sure which mass shooting  
25 that would be applicable to.

1 BY MR. ECHEVERRIA:

2 Q. A hypothetical one.

3 A. Well, I can't do that one.

4 Q. Okay. And you state that flash suppressors have  
5 no relevance to a firearm's rate of fire. Correct?

6 A. Correct.

7 Q. So if a rifle does not have a flash suppressor  
8 and the shooter is being blinded by the flash, you're  
9 saying that that shooter could maintain the same rate of  
10 fire as if they were firing a rifle with a flash  
11 suppressor?

12 MR. BRADY: Objection; misstates testimony.

13 THE WITNESS: The -- I'm trying to follow your  
14 question here. The rate of fire, not necessarily the  
15 rate of accurate fire.

16 BY MR. ECHEVERRIA:

17 Q. Well, let's talk about rate of accurate fire.

18 A. If it's really low light where you're going to  
19 get the most effect of the flash, you know, it's really  
20 dark, you can't see the target for the most part in the  
21 first place, so your rate of fire is going to be slowed  
22 down just by the fact that it's dark. If you're using  
23 the sights that are on the rifles, the peep sights, the  
24 darker it gets, the harder it gets to resolve the target.

25 Q. Sure. But all things being equal, if we're

1 assuming that a rifle was being used in the same low  
2 light conditions, would a rifle with a flash suppressor  
3 versus a rifle without one be able to be fired at a  
4 higher rate of fire?

5 A. At a --

6 Q. Accurately?

7 A. At a certain point it would be moot because  
8 there would not be enough light to resolve the target  
9 through the sight. And I don't know, I suppose that  
10 varies from person to person, but with deep sights where  
11 you have a tiny little hole you're looking through, which  
12 is what most of these rifles have, in a low light  
13 condition you simply can't see them. You can't see your  
14 target.

15 Q. Let's assume a certain degree of visibility.

16 A. Well, the lighter it is, the brighter the  
17 ambient light is, the less effect the flash has on what  
18 you can see. I don't know where the two factor cross,  
19 where the flash gets in your way as opposed to what you  
20 can see.

21 Q. Have you done any studies to arrive at your  
22 opinions that flash suppressors do not -- do not have any  
23 relevance to a firearm's rate of fire?

24 A. Have I studied them or have I shot things at  
25 night and watched the flash? I have -- I have fired at

1 night shoots and shot at the range and out where we shoot  
2 using firearms that -- with and without flash  
3 suppressors.

4 Q. Okay. So your opinion is based on your own  
5 personal experience?

6 A. Personal experience, no studies.

7 Q. Operating firearms in low light conditions?

8 A. Correct.

9 Q. And how about your opinion that people in the  
10 line of fire would still be able to detect the location  
11 of a shooter with or without a flash suppressor, what is  
12 the basis of that opinion that you're providing today?

13 A. One experience I had is when I was laying on the  
14 lawn in Bakersfield exchanging rounds with the guy behind  
15 the car, I could see the muzzle flash from his gun every  
16 time he fired because he was in the direct line.

17 Q. Was that person using a flash suppressor?

18 A. No.

19 Q. Have you ever been in the line of fire with  
20 somebody who was using a flash suppressor that would  
21 allow you to compare the two experiences?

22 A. No.

23 Q. And have you read any literature on subject to  
24 arrive at your opinion?

25 A. No.

1 Q. And you haven't conducted any experience or  
2 tests to arrive at your opinion?

3 A. No. It's pretty hard to conduct those type of  
4 tests.

5 Q. You could fire blanks.

6 A. Well, a blank is generally not going to give you  
7 the same signature. Many blanks are black powder blanks,  
8 and that's a completely different world.

9 Q. But still in some -- your opinion was based on  
10 your own personal experience?

11 A. Yes.

12 Q. So moving on to your third opinion, and this is  
13 the final opinion that you discuss. In your report on  
14 Page 11 of Exhibit 87 you state, "Semiautomatic  
15 Centerfire rifles having a detachable magazine and the  
16 features described above have been commonly chosen by the  
17 American public for lawful purposes such as self-defense  
18 for decades."

19 What was the basis for that statement?

20 A. The people that I know, the people that I shoot  
21 with, the literature that I read, their varying theories  
22 on the number of AR's that have been sold since they hit  
23 the market in '63. Some say 8 million. Some say 10  
24 million. It's an awful lot.

25 And so many people that I know are AR fans.

1 They hunt with them. They target shoot with them. They  
2 have them for self-defense. If you live in the gun  
3 culture, you're absolutely inundated with what they call  
4 black plastic guns.

5 Q. But your opinion isn't limited to people who are  
6 in gun culture, as you previously stated. You're  
7 referring to the American public more generally. Is that  
8 right?

9 MR. BRADY: Objection; misstates testimony.

10 THE WITNESS: Whoever it is that's buying these.  
11 BY MR. ECHEVERRIA:

12 Q. But you're basing your opinion on your own  
13 personal preferences and your discussions with people  
14 that you know who are in gun culture?

15 A. Well, and reading newspaper accounts or  
16 magazines or news reports. Literature remarks about the  
17 AR are everywhere.

18 Q. You haven't conducted any surveys to confirm the  
19 popularity of each particular feature that is prohibited  
20 under California law. Right?

21 A. No.

22 Q. Have you reviewed any survey data about the  
23 popularity of the features that are prohibited under  
24 California law?

25 A. Well, the rifles have the features, and if,

1 let's say for the sake of discussion, that 8 million  
2 people in the United States have bought an AR with the  
3 features who don't live in this state so they can have  
4 them, then that's a pretty long comment as far as I'm  
5 concerned.

6 Q. But that type of purchasing data wouldn't allow  
7 you to determine the popularity of each individual  
8 feature. Correct?

9 A. Well, the -- all of the AR's are going to come  
10 from conspicuously protruding pistol grips, and that's  
11 the critical feature in the mix.

12 Q. Unless the firearm is sold with the monster man  
13 style grip. Right?

14 A. Well, that's a California thing. The --  
15 virtually all of the AR's that have ever been sold that  
16 are being sold today have the conspicuously protruding  
17 pistol grip.

18 Q. In your view, are semi-automatics Center-fire  
19 rifles with detachable magazines necessary for  
20 self-defense?

21 MR. BRADY: Objection; vague, incomplete  
22 hypothetical?

23 THE WITNESS: If that's the firearm that a law  
24 abiding citizen chooses to use for his or herself  
25 defense, then yes. It's not for me to decide what you



1 need.

2 BY MR. ECHEVERRIA:

3 Q. But that individual could use a different type  
4 of firearm in self-defense. Right?

5 MR. BRADY: Objection; incomplete hypothetical,  
6 calls for speculation, vague.

7 THE WITNESS: They've made the choice. It's not  
8 my job to tell them what they need.

9 BY MR. ECHEVERRIA:

10 Q. Well, I wasn't ask asking you about what your  
11 job is.

12 If an individual wants to use a particular  
13 firearm that is prohibited under California law, they can  
14 use a different firearm for self-defense that is not  
15 prohibited under California law?

16 A. Well, they have to because the government has  
17 decided what their needs are.

18 Q. And they can use that alternative firearm for  
19 self-defense purposes and other lawful purposes.  
20 Correct?

21 MR. BRADY: Objection; incomplete hypothetical,  
22 calls for speculation.

23 THE WITNESS: The government is gracious enough  
24 to allow them to use it until the government decides that  
25 they can't.

1 BY MR. ECHEVERRIA:

2 Q. Is that a yes?

3 A. Yes.

4 Q. Okay. You also note in the middle of the first  
5 paragraph under heading three, "An owner can configure  
6 his AR to use 22 Rimfire ammunition for training a new  
7 shooter."

8 Is that right?

9 A. Yes.

10 Q. Are 22 Rimfire semi-automatic rifles prohibited  
11 under California law?

12 A. No.

13 Q. Okay. So an owner can configure his AR to use  
14 .22 Caliber Rimfire ammunition for training a new shooter  
15 under California law legally. Right?

16 A. Yes.

17 Q. And an individual can also own a semiautomatic  
18 center-fire rifle with detachable magazines that does not  
19 have the prohibited features under section -- whatever  
20 the statute is.

21 MR. BRADY: 30515.

22 MR. ECHEVERRIA: 30515.

23 Q. And they can still legally own that weapon.  
24 Right?

25 A. Well, if they comply with state law, they can do

1 it.

2 Q. Is it your view that the features prohibited  
3 under Section 35158 are relevant to the use of a firearm  
4 for self-defense purposes?

5 MR. BRADY: Objection; vague.

6 THE WITNESS: I go back to individual choice.  
7 If a person believes that they enhance his or her ability  
8 to defend themselves, then it's relevant to them, and I  
9 think that should be controlling.

10 BY MR. ECHEVERRIA:

11 Q. Is it relevant to the effectiveness of their use  
12 of a firearm for self-defense?

13 A. That gets back to what I've said about  
14 confidence, training, practice.

15 Q. And comfort?

16 A. If a person is comfortable with a firearm,  
17 they're more apt to go out and practice, been my  
18 experience they're more apt to go out and practice and  
19 become proficient, become safe because safety is it's  
20 between your ears, but muscle memory as well in terms of  
21 operating the firearm. So the more trigger time you  
22 have, as they call it, the more you use the firearm, the  
23 likelihood is you'll become more competent with it and,  
24 ideally, safer.

25 Q. Do the features themselves, setting aside

1 whether the features may cause a gun owner to have more  
2 comfort and more interest in practicing with a firearm,  
3 do the features themselves relate to the effective use of  
4 a firearm for self-defense purposes?

5 A. If the user thinks they do, they do.

6 Q. It's like a placebo effect?

7 A. I shoot a straight hand grip shotgun, and I  
8 don't know why it feels good, but it does. And I have  
9 all of the other types of grips. But maybe it's the way  
10 my wrist bends, I don't know. But I'm going to shoot  
11 that all the time because, for some reason, it just feels  
12 good to me.

13 And there are people that I know that just love  
14 the AR's. And perhaps it's the recoil. Perhaps it's the  
15 pistol grip. I don't know. But they have made their  
16 decision, and I respect that decision, and I think the  
17 government should as well.

18 Q. So aside from the fact that a gun owner has made  
19 the decision to purchase a particular firearm or to own a  
20 particular firearm, do the features themselves make that  
21 firearm more effective for lawful purposes like  
22 self-defense?

23 A. The correct fit of the stock, as I've mentioned  
24 before, is critical in all firearms. If the stock does  
25 not fit correctly, the heavier the recoil is, the more

1 unpleasant it is to shoot, and the shooter is not going  
2 to want to shoot it.

3 Q. Does an individual -- sorry.

4 A. No, that's fine.

5 Q. Does a shooter need a telescoping stock to have  
6 a correct fit for the stock?

7 A. The telescoping stock, as I've described in my  
8 own case, allows me and my grandkids to adjust it so we  
9 can all go to the range and shoot the same firearm the  
10 same day.

11 Q. Outside of the circumstance where a firearm is  
12 being shared, is a telescoping stock necessary to have a  
13 proper fit for a user using a firearm for self-defense?

14 MR. BRADY: Objection; vague, incomplete  
15 hypothetical.

16 THE WITNESS: It can be if you hunt with it,  
17 because the proper length when you're wearing a t-shirt  
18 is not the proper length when you're wearing a heavy  
19 coat, and perhaps have a backpack strapped across your  
20 shoulder, and you're putting the firearm up against it.  
21 The stock has to get shorter.

22 That's why a lot of military arms have short  
23 stocks is because you can fire a gun if the stock is too  
24 short. If it's too long, it's sitting underneath your  
25 armpit.

1 And so, yes, if the rifle is going to be used  
2 with different kinds of clothing on, if it's a  
3 self-defense gun and you're out in North Dakota out in  
4 the prairies and you've got it in your -- got in gun in  
5 your truck, and you have an adjustable stock on it,  
6 you're probably going to go click, click, and shorten the  
7 stock when it's cold just so that you can shoulder it.

8 Q. Okay. And an individual who instead of using a  
9 firearm for self-defense wants to use a firearm for  
10 unlawful purposes, such as a public mass shooting, do the  
11 features help them conduct a public mass shooting more  
12 effectively?

13 MR. BRADY: Objection; vague, calls for  
14 speculation, incomplete hypothetical.

15 THE WITNESS: More effectively. With the  
16 exception of the Las Vegas shooting, which was at  
17 distance, it was a quarter mile or so I think was the  
18 figure that I heard, virtually all of these are point  
19 blank distance. Pittsburg, all those were just --

20 BY MR. ECHEVERRIA:

21 Q. So the features would have no effect on the  
22 shooter's ability to accurately fire that weapon and kill  
23 more people?

24 A. No. When you're -- when you're walking up to  
25 you someone who's laying on the floor and shooting them

1 when they're laying down, anything would work.

2 Q. How about if it's not at a point blank  
3 situation.

4 A. Well, virtually all of them have been at just  
5 about point blank distance. I'm trying to recall the  
6 Parkland -- all of them are up close and personal  
7 shootings that probably could have been done with a  
8 handgun. Some cases a handgun was used as well.

9 So it's hard to imagine, and of course the guy  
10 in Vegas didn't do aimed fire. He was shooting to a  
11 parking lot.

12 Q. Okay. And, just to be clear, you have provided  
13 the three opinions that are disclosed in your expert  
14 report marked 87, and I just want to confirm you have no  
15 other opinions that you intend to offer in this case  
16 beyond the three opinions that you've laid out in your  
17 expert report. Is that correct?

18 A. I do not. I do not.

19 MR. ECHEVERRIA: I have no further questions.

20 MR. BRADY: Nor do I. Off the record.

21 THE REPORTER: Sean, do you want a copy of the  
22 transcript?

23 MR. BRADY: Yes.

24 (Time noted: 5:50 p.m.)  
25

REPORTER'S CERTIFICATE

I, DONNA J. WILLIAMS, CSR No. 11133, Certified  
Shorthand Reporter, certify:

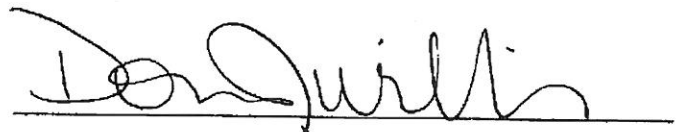
That the foregoing proceedings were taken before me  
at the time and place therein set forth, at which time  
the witness was put under oath by me;

That the testimony of the witness, the questions  
propounded, and all objections and statements made at the  
time of the examination were recorded stenographically by  
me and were thereafter transcribed;

That the foregoing is a true and correct transcript  
of my shorthand notes so taken.

I further certify that I am not a relative or  
employee of any attorney of the parties, nor financially  
interested in the action.

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



DONNA J. WILLIAMS, CSR NO. 11133



## **Exhibit 17**



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# Bullet Buttons

## The Gun Industry's Attack on California's Assault Weapons Ban

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15SPR1LB-CA - SPR Mod 1™

ArmaLite® is known for its history of innovation. Its Special Purpose Rifle (SPR) has proved it for years. Now, the introduction of the ArmaLite SPR Mod 1™ proves it once more. In spectacular fashion, the SPR Mod 1 is a forged, one-piece upper receiver/rail system with exclusive detachable side and bottom rails.

In true ArmaLite fashion, the SPR Mod 1 is like no other on the market. With other one-piece systems, you're stuck forever with the rails you get at purchase, and stuck with their limits. But ArmaLite knows you and your firearm often have more than one mission, and you want options. ArmaLite gives you just that. The SPR Mod 1's three rail, six clock, and nine clock rails are detachable. That's right: you can change your 1913 rails to fit your changing needs for sights... lights... lasers... grips... or rails.

Ingenuity isn't the only reason you'll want an SPR Mod 1. Its one-piece construction offers you a continuous optics platform (COP). There's no gap to bridge between receiver and upper rail when you're installing your scope or sights. This one-piece construction also gives the sighting platform extra rigidity. It's a good, strong backbone. That means your sights will stay zeroed in the most trying conditions.

Caliber: 223/5.56 NATO  
Barrel: 16" chrome lined, chrome moly vanadium steel (M16)  
Killing Tool: California Compliant  
Magazine Release: Flush hinged  
Muzzle Device: Picatinny gas block  
Front Sight Base: A.J.M.S. polymer #7114 & #7114-6  
Trigger: Tactical two stage  
Length: 35.3" with stock extended, approximately 32" collapsed  
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**BULLET BUTTON PATROLMAN'S CARBINE**



**FEATURES**

- A3 upper receiver with detachable carry handle
- 16" M4 carbine barrel with A2 flash hider
- Bullet Button lower receiver
- Tool required for magazine removal
- 10 round magazine

**BULLET BUTTON M4 TYPE ORC**



**FEATURES**

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- 16" M4 carbine barrel with A2 flash hider and low profile gas block
- Bullet Button lower receiver
- Tool required for magazine removal
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DPMS 308  
MSRP: \$999

Now, the best-selling rifle in the history of DPMS, has a higher caliber offering. The DPMS 308 AP4, shown here in bullet button configuration, ships with (1) fixed 10 round magazine.



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AP4 (BULLET BUTTON)**

DPMS 223  
MSRP: \$999

The best-selling rifle in the history of DPMS, the AP4 Carbine is trusted and proven as the rifle of choice by countless agencies.

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## **Introduction**

California's assault weapons ban—the toughest in the nation—is under attack by America's gun industry.

Following a series of high-profile mass shootings in the 1980s and 1990s, California led the nation in protecting its citizens from the proliferation of military-style assault weapons. Assault weapons are a discrete class of firearm that incorporate specific design characteristics to enhance lethality. Civilian assault weapons are derived from their full-auto military counterparts developed by the Nazis during World War II to allow German soldiers to spray a wide geographic area with bullets to combat advancing troops. Chief among the characteristics that make assault weapons so lethal compared to other firearms is their ability to accept a detachable, high-capacity ammunition magazine, which, after being emptied, can be replaced with a new fully-loaded ammunition magazine in seconds.

In 1989, California passed the Roberti-Roos Act, the first statewide law in the nation designed to ban assault weapons. Soon after its passage however, the firearms industry made minor cosmetic changes to many banned assault weapons—evading the intent of the law and allowing their continued sale. In 1999, after intense media attention, California legislators moved to update the law to address the industry's actions. Now, the gun industry is once again working to undermine California's assault weapons ban. And if no action is taken by California policymakers to address this newest attack, the state's longstanding ban on assault weapons will be eviscerated.

### **The “Bullet Button”—Assault Weapon Manufacturers’ Gateway to the California Market**

Catalogs and websites from America's leading assault rifle manufacturers are full of newly designed “California compliant” assault weapons. Number one and two assault weapon manufacturers Bushmaster and DPMS, joined by ArmaLite, Colt, Sig Sauer, Smith & Wesson, and others are all introducing new rifles designed to circumvent California's assault weapons ban and are actively targeting the state in an effort to lift now-sagging sales of this class of weapon. They are accomplishing this with the addition of a minor design change to their military-style weapons made possible by a definitional loophole: the “bullet button.” [Please see the Appendix beginning on page six for 2012 catalog copy featuring “California compliant” assault rifles utilizing a “bullet button” from leading assault weapon manufacturers.]

California law bans semiautomatic rifles with the capacity to accept a detachable ammunition magazine and any one of six enumerated additional assault weapon characteristics (e.g., folding stock, flash suppressor, pistol grip, or other military-style features).

High-capacity detachable ammunition magazines allow shooters to expel large amounts of ammunition quickly and have no sporting purpose.<sup>1</sup> However, in California an ammunition magazine is not viewed as detachable if a “tool” is required to remove it from the weapon. The “bullet button” is a release button for the ammunition magazine that can be activated with the tip of a bullet. With the tip of the bullet replacing the use of a finger in activating the release, the button can be pushed and the detachable ammunition magazine removed and replaced in seconds. Compared to the release process for a standard detachable ammunition magazine it is a distinction without a difference.

### **California’s Assault Weapons Ban: A Victim of Its Own Success**

Ironically the gun industry is targeting California because of the very success of the state’s assault weapons ban. As the result of its comprehensive laws, Californians own relatively few assault weapons. One indication of this is the map on the next page, taken from an 80-page 2010 assault rifle marketing report presenting the findings of an on-line survey conducted by the gun industry trade association the National Shooting Sports Foundation (NSSF). In the study, assault rifles are euphemistically dubbed “modern sporting rifles,” the latest rebranding effort embraced by the NSSF and its industry patrons for these military-bred weapons.<sup>2</sup> On the map, the deeper the color red, the greater the number of responses to the NSSF survey “per household.”

California’s light pink shade graphically illustrates the relatively low response rate to the survey, suggesting significantly lower assault weapons ownership. The map helps explain why the gun industry is desperate to access the California market as the demand for assault rifles has slowed since 2008 and the election of Barack Obama—whose election was quickly, and falsely, cited by the industry and gun lobby as heralding an impending juggernaut of federal firearms regulation, including a renewed federal assault weapons ban. For example, production figures from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for five major long-time assault rifle manufacturers including the two manufacturers, Bushmaster and DPMS, that “represent the largest and second largest designers and suppliers of modern sporting rifles [assault rifles], components and parts for the commercial market,”<sup>3</sup>—show that the number of assault rifles manufactured in the United States by these companies dropped from 244,242 in 2008 to 131,706 in 2010 (figures for 2011 are not yet available).<sup>4</sup>

---

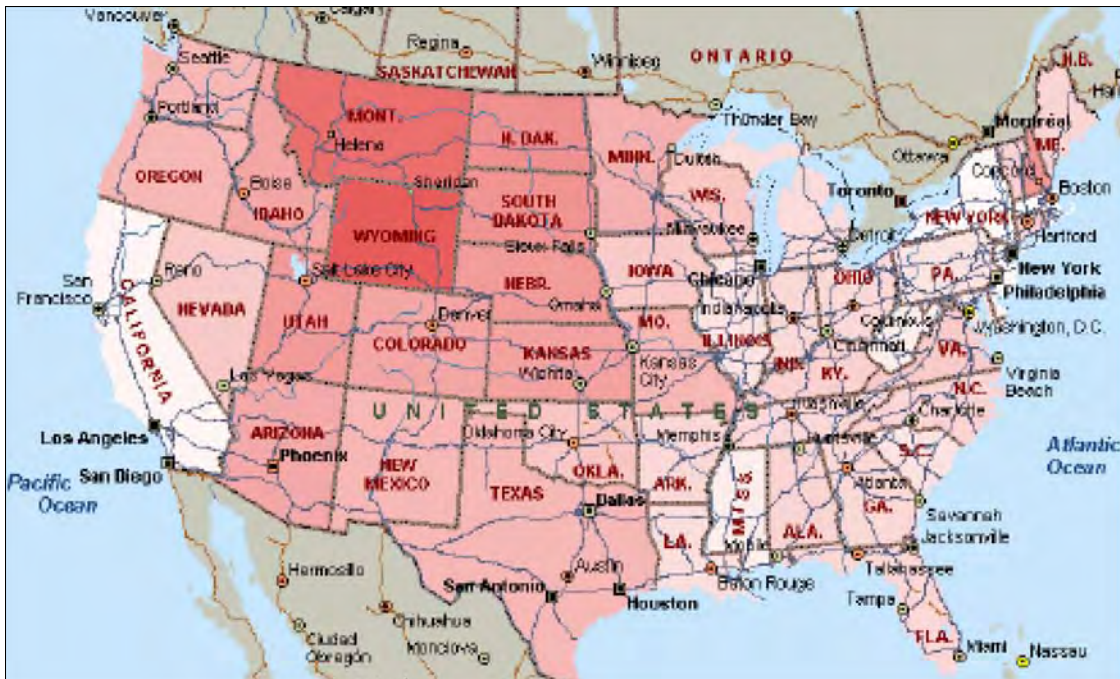
<sup>1</sup> *Department of the Treasury Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles*, April 1998.

<sup>2</sup> *Modern Sporting Rifle (MSR), Comprehensive Consumer Report 2010, Ownership, Usage and Attitudes Towards Modern Sporting Rifles*, National Shooting Sports Foundation, Newtown, CT, 2010.

<sup>3</sup> Freedom Group Annual Report for the year ending December 31, 2011. Parentheses added.

<sup>4</sup> The five long-time assault weapon manufacturers are ArmaLite, Bushmaster, Colt, DPMS, and Rock River Arms.





The lighter the shade of red the fewer responses “per household” to a survey targeted at assault rifle owners according to a marketing study by the gun industry trade association National Shooting Sports Foundation (NSSF)

Catalog text from gunmakers describing these new “California compliant” assault rifles present an almost celebratory tone in noting their ability to circumvent the law.

According to Colt: *“The world renowned line of Colt rifles and carbines will now be available to residents of all 50 states. The premier model of this new family is the LE6940CA...All models in this new family will come standard with nine round magazines and a factory installed Bullet Button.”*

According to DPMS: *“OUR BEST-SELLING RIFLES NOW SELLING EVERYWHERE. DPMS now offers several of our most popular rifles with a Bullet Button fixed 10 magazine lower receiver.”*

The negative public safety implications of the renewed sale of assault weapons in California are clear. California first acted to ban assault weapons in response to deadly mass shootings perpetrated with legal assault weapons equipped with high-capacity detachable ammunition magazines: the 1984 James Huberty massacre at a McDonald’s in San Ysidro that left 22 dead and 19 wounded and the 1989 Patrick Purdy massacre at Cleveland Elementary

School in Stockton that left six dead and 30 wounded. Outside of California, assault weapons equipped with high-capacity ammunition magazines have been used in many mass shootings and are routinely used in attacks against law enforcement officers.<sup>5</sup>

A parallel threat, however, is that California could become a major source for gun traffickers supplying violent drug organizations in Mexico and Latin America. Other border-area states such as Texas, Arizona, New Mexico, and Nevada are currently significant source states for gun traffickers. Research suggests that California's stronger gun laws have deterred gun traffickers by denying them their "weapons of choice," which consist primarily of AK- and AR-type assault rifles and 50 caliber sniper rifles (also banned in California).

Analyses of federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) trace data by researchers at the Johns Hopkins Center for Gun Policy and Research indicate that the border states with the highest per capita exporting of crime guns to Mexico (Arizona, New Mexico, and Texas) had export rates four times that of California. The researchers attributed this to California having much more stringent gun sales laws than the other border states. They observed that California would make a relatively unattractive environment for traffickers to acquire their guns because the state banned the assault weapons that they clearly wanted, gun purchasers can more readily be held accountable for illegally transferring their guns, and California's law prohibits bulk gun sales common in gun trafficking rings operating in Texas and Arizona.<sup>6 7</sup>

Of equal concern should be the fact that recent data from ATF reveals that the appetite of cross-border illegal gun traffickers for assault rifles is growing. On April 26, 2012, ATF released a major analysis of firearm traces of guns recovered in Mexico from 2007 to 2011. The agency stated:

Since 2007, trace data shows a trend in recovered and submitted crime guns from Mexico shifting from pistols and revolvers to rifles. Law enforcement in Mexico now report that certain types of rifles, such as the AK and AR variants with detachable magazines, are used more frequently to commit violent crime by drug trafficking organizations.<sup>8</sup>

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<sup>5</sup> See, for example, the following Violence Policy Center publications: *Mass Shootings in the United States Involving High-Capacity Ammunition Magazines* ([http://www.vpc.org/fact\\_sht/VPCshootinglist.pdf](http://www.vpc.org/fact_sht/VPCshootinglist.pdf)); *Target: Law Enforcement—Assault Weapons in the News* (<http://www.vpc.org/studies/targetle.pdf>); and, "Officer Down"—*Assault Weapons and the War on Law Enforcement* (<http://www.vpc.org/studies/officecont.htm>).

<sup>6</sup> As cited on the Violence Policy Center website *Cross-Border Gun Trafficking* (<http://www.vpc.org/indicted.htm>).

<sup>7</sup> See also Testimony of Eric L. Olson, Senior Associate, Woodrow Wilson International Center for Scholars Latin America Program—Mexico Institute Before the Senate Committee on Foreign Relations Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs, "A Shared Responsibility: Counternarcotics and Citizen Security in the Americas," Thursday, March 31, 2011, at 5.

<sup>8</sup> ATF Press Release, "ATF Releases Government of Mexico Firearms Trace Data," April 26, 2012 (<http://www.atf.gov/press/releases/2012/04/042612-atf-atf-releases-government-of-mexico-firearms-trace-data.html>).

## Conclusion

California is in the sights of the assault weapons industry.

Without swift action by California policymakers, the state's ban on assault weapons will be eviscerated by assault weapon manufacturers. And while assault weapon manufacturers will reap the financial benefit of penetrating what they view as one of the last great sales opportunities, California residents, and the law enforcement personnel who help protect them, will be placed at increased risk of death and injury from these military-style weapons. At the same time, California could also become a new source for assault weapons illegally trafficked to Mexico and other nations in the Southern Hemisphere.

California is a victim of its own success in regulating assault weapons. It is because of the effectiveness of its law, and the state's willingness to modify it in the past to address gun industry efforts to circumvent it, that ownership of these weapons is relatively low.

In the past, when gun industry efforts to circumvent the law have been exposed, the state has moved to address the problem. It is time, once again, for California to protect its gun laws from industry attack. California policymakers, as well as concerned institutions, organizations, and civic leaders, should move quickly to explore all possible solutions—administratively and legislatively, short-term and long-term—to ensure the integrity and effectiveness of its landmark law and the safety of its citizens.

# 15SPR1LB-CA

California
Compliant

EOTECH  
sold separately



15SPR1LB-CA - SPR Mod 1™

ArmaLite® is known for its history of innovation. Its Special Purpose Rifle (SPR®) has proved it for years. Now, the introduction of the ArmaLite SPR Mod 1™ proves it once more, in spectacular fashion. The SPR Mod 1 is a forged, one-piece upper receiver/rail system with exclusive detachable side and bottom rails.

In true ArmaLite fashion, the SPR Mod 1 is like no other on the market. With other one-piece systems, you're stuck forever with the rails you get at purchase, and stuck with their limits.

But ArmaLite knows you and your firearm often have more than one mission, and you want options. ArmaLite gives you just that. The SPR Mod 1's three o'clock, six o'clock, and nine o'clock rails are detachable. That's right, you can change your 1913 rails to fit your changing needs for sights... lights... lasers... grips... or swivels.

Ingenious versatility isn't the only reason you'll want an SPR Mod 1. Its one-piece construction offers you a continuous optics platform (COP). There's no gap to bridge between receiver and upper rail when you're installing your scope or sights. This one-piece construction also gives the sighting platform extra rigidity. It's a good, strong backbone. That means your sights will stay zeroed in the most trying conditions.

Caliber:	.223/5.56 NATO
Barrel:	16" chrome lined, chrome moly vanadium steel
Rifling twist:	RH 1:9"
Magazine Release:	California Compliant
Muzzle Device:	Flash suppressor
Front Sight Base:	Picatinny gas block
Sights:	A.R.M.S. polymer #71L-F & #71L-R
Trigger:	Tactical two stage
Length:	35.3" with stock extended, approximately 32" collapsed
Weight:	Approximately 6.5 lbs.
Accuracy:	1.5 - 2.5 MOA

**Included with Rifle:** One 10 Round Magazine, Sling, Black Case, Owner's Manual, Limited Lifetime Warranty





**ARMA LITE, Inc.**  
"A History of Innovation"

### ArmaLite 2012 Handout

ArmaLite's 15SPR1LB-CA assault rifle is presented under the headline "California Compliant" with a "California Compliant" magazine release listed under its specifications.



# BULLET BUTTON

## BULLET BUTTON ORC ACR®



**FEATURES**

- ORC (Optics Ready Carbine) configuration (does not include flip up sights shown)
- 16" M4 contour barrel with A2 flash hider
- Bullet Button lower receiver
- Tool required for magazine removal
- 10-round magazine

Bullet Button ORC ACR® (90893)



ORDER #	CALIBER	WEIGHT W/O MAG	OVERALL LENGTH	BARREL LENGTH
90877	5.56 NATO/223 Rem	7.9 lbs	38.2"	20"
90880	5.56 NATO/223 Rem	6.42 lbs	32.5"	16"
90883	5.56 NATO/223 Rem	8.46 lbs	38.2"	20"
90886	5.56 NATO/223 Rem	8.16 lbs	42.2"	24"
90888	5.56 NATO/223 Rem	6.42 lbs	32.5"	16"
90890	308 Win/7.62 Nato	7.9 lbs	35"	16"
90893	5.56 NATO/223 Rem	6.42 lbs	32.5"	16.5"


28 2012 BUSHMASTER® PRODUCT CATALOG

### Bushmaster 2012 Catalog

Bushmaster bullet button assault rifles promise "SAME PERFORMANCE" while remaining "STATE-COMPLIANT."

## SAME PERFORMANCE STATE-COMPLIANT

### BULLET BUTTON PATROLMAN'S CARBINE




**FEATURES**

- A3 upper receiver with detachable carry handle
- 16" M4 contour barrel with A2 flash hider
- Bullet Button lower receiver
- Tool required for magazine removal
- 10-round magazine

Bullet Button Patrolman's Carbine (90880)

### BULLET BUTTON M4 TYPE ORC



**FEATURES**

- A3 upper receiver with two 1 1/4" mini-risers
- 16" M4 contour barrel with A2 flash hider and low profile gas block
- Bullet Button lower receiver
- Tool required for magazine removal
- 10-round magazine

Bullet Button M4 Type ORC (90888)

800.883.6229 | BUSHMASTER.COM 29

**COLT CARBINES - CALIFORNIA COMPLIANT**



**Special Features**

- Factory Installed Bullet Button®
- 1-Piece Upper Receiver with Back Up Iron Sight (BUIS)
- Full Floated Barrel
- Bayonet Lug and Flash Hider

**Model LE6940CA**

Caliber	5.56X45 NATO
Barrel Length	16.1"
Bore	Chromed, 6 Grooves, 1-7" RH Twist
Front Sight	Flip-Up, Adjustable Post for Elevation
Rear Sight	Flip-Up, Adjustable Post for Windage and Elevation
Extended Length	35.5"
Collapsed Length	32"
Weight	6.8 lbs
Action	Direct Gas System, Locking Bolt
Finish	Matte Black

The world renowned line of Colt rifles and carbines will now be available to residents of all 50 states. The premier model of this new family is the LE6940CA. This carbine offers a patented one-piece monolithic upper receiver that incorporates a continuous Mil-Spec M1913 Picatinny rail from the rear of the receiver to the folding front sight. This allows for endless mounting options for optics, lights or lasers. The 16.1" chrome lined barrel is completely full floating and produces exceptional accuracy thanks to this monolithic upper receiver. All models in this new family will come standard with nine round magazines and a factory installed Bullet Button®. Go ahead America, enjoy your Colt rifle!

30 COLTSMFG.COM 2012

## Colt 2012 Catalog

"The world renowned line of Colt rifles and carbines will now be available to residents of all 50 states. The premier model of this new family is the LE6940CA...All models in this new family will come standard with nine round magazines and a factory installed Bullet Button."



**BULLET BUTTON RIFLES**

**OUR BEST-SELLING RIFLES NOW SELLING EVERYWHERE.**

**DPMS PANTHER ARMS**

DPMS now offers several of our most popular rifles with a Bullet Button fixed 10 magazine lower receiver. All customers should be familiar with the legalities of owning DPMS or AR style rifles in their State.

**DPMS .308/7.62 NATO AP4 (BULLET BUTTON)**

RFTLR-AP4 MSRP: \$999

Now, the best-selling rifle in the history of DPMS, has a higher caliber offspring. The DPMS .308 AP4, shown here in bullet-button configuration, ships with (1) fixed-10 round magazine.

**DPMS .223/5.56 AP4 (BULLET BUTTON)**

RFTLR-AP4 MSRP: \$999

The best-selling rifle in the history of DPMS, the AP4 Carbine is trusted and proven on the field of battle by countless agencies.

34 | 2012 DPMS FIREARMS DPMSINC.COM

### DPMS Panther Arms 2012 Catalog

“OUR BEST-SELLING RIFLES NOW SELLING EVERYWHERE. DPMS now offers several of our most popular rifles with a Bullet Button fixed 10 magazine lower receiver.”

## MODERN SPORTING RIFLES

**A Model: M&P150R**  
**OPTICS READY**  
Product: 811003  
16" Barrel  
5.56 mm NATO  
30 Round PMAG®

**FEATURES**

- Gas Block with Integral Picatinny-Style Rail
- QD Sling Swivel Attachment Point (bottom of gas block)

**B Model: M&P150RC**  
**COMPLIANT\***  
Product: 151009  
16" Barrel  
5.56 mm NATO  
10 Rounds  
\*Compliant For Sale in CA

**FEATURES**

- **Fixed Magazine**
- **Bullet-Button®**
- Gas Block with Integral Picatinny-Style Rail
- QD Sling Swivel Attachment Point (bottom of gas block)

**C Model: M&P150RC**  
**COMPLIANT\***  
Product: 811013  
16" Barrel  
5.56 mm NATO  
10 Rounds  
\*Compliant For Sale in CT, MA, MD, NJ, NY

**FEATURES**

- **Fixed Stock**
- Gas Block with Integral Picatinny-Style Rail
- QD Sling Swivel Attachment Point (bottom of gas block)

\*Compliance subject to change. Please check with your local dealer.

Model # Prod/SKU	Caliber	Action	Capacity	Overall Length	Stock	Sight Radius Barrel Length	Barrel Twist	Weight (No Mag)	Trigger Pull	Upper & Lower Material	Barrel Material	Chromed Components	Finish	Front Sight/ Rear Sight
<b>A</b> M&P150R 811003	5.56 mm NATO	Gas Operated Semi Auto	30 Rds	35" Extd 32" Clpsd	6-Position CAR	16"	1 in 9"	6.07 lbs.	7 lbs +/-	7075 T6 Aluminum	4140 Steel	Barrel Bore, Gas Key, Bolt Carrier	Hard Coat Black Anodized	-
<b>B</b> M&P150RC 151009	5.56 mm NATO	Gas Operated Semi Auto	10 Rds	35" Extd 32" Clpsd	6-Position CAR	16"	1 in 9"	6.07 lbs.	7 lbs +/-	7075 T6 Aluminum	4140 Steel	Barrel Bore, Gas Key, Bolt Carrier	Hard Coat Black Anodized	-
<b>C</b> M&P150RC 811013	5.56 mm NATO	Gas Operated Semi Auto	10 Rds	35"	Fixed	16"	1 in 9"	6.12 lbs.	7 lbs +/-	7075 T6 Aluminum	4140 Steel	Barrel Bore, Gas Key, Bolt Carrier	Hard Coat Black Anodized	-

20
smith-wesson.com

### Smith & Wesson 2012 Catalog

The Model M&P 150RC is just one of a number of Colt assault rifles that feature a "Fixed Magazine" and "Bullet Button" to make them "Compliant For Sale in CA."

# Exhibit 18

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*Attorneys for Defendant Xavier Becerra*

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

**STEVEN RUPP; STEVEN  
DEMBER; CHERYL JOHNSON;  
MICHAEL JONES; CHRISTOPHER  
SEIFERT; ALFONSO VALENCIA;  
TROY WILLIS; and CALIFORNIA  
RIFLE & PISTOL ASSOCIATION,  
INCORPORATED,**

Plaintiffs,

v.

**XAVIER BECERRA, in his official  
capacity as Attorney General of the  
State of California; and DOES 1-10,**

Defendants.

8:17-cv-00746-JLS-JDE

**DEFENDANT'S SECOND  
SUPPLEMENTAL RESPONSE TO  
PLAINTIFF TROY WILLIS'S  
FIRST SET OF  
INTERROGATORIES**

Propounding Party: Troy Willis

Responding Parties: Defendant Xavier Becerra

SET No.: One



Defendant Attorney General Xavier Becerra (Defendant) responds and objects to the First Set of Interrogatories of Plaintiff Troy Willis (Plaintiff) as follows:

**PRELIMINARY STATEMENT**

Defendant has not yet completed the investigation of the facts relating to this case and has not yet completed discovery in this action. All of the responses contained herein are based solely upon information and documents that are presently available to and specifically known by Defendant, and disclose only those contentions that presently occur to Defendant. It is anticipated that further discovery, independent investigation, legal research, or analysis will supply additional facts and lead to additions, changes, and variations from the responses herein.

Defendant expressly reserves the right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege. Further, Defendant makes the responses and objections herein without in any way implying that the interrogatories and responses to the interrogatories are relevant or material to the subject matter of this action.

An objection or response to an interrogatory shall not be construed as an acknowledgment that Defendant performed any of the acts described in the interrogatory or definitions applicable to the interrogatory, or that Defendant acquiesces in the characterization of the conduct or activities contained in the interrogatory or definitions applicable to interrogatory.

The following responses are given without prejudice to the right to produce evidence or witnesses that Defendant may later discover. Defendant reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s).

**GENERAL OBJECTIONS**

1  
2 1. Defendant objects to each instruction, definition, and interrogatory to  
3 the extent that it purports to impose any requirement or discovery obligation greater  
4 than or different from those under the Federal Rules of Civil Procedure and the  
5 applicable Rules and Orders of the Court.

6 2. Defendant objects to the Interrogatories to the extent that any  
7 particular interrogatory is overbroad, vague, ambiguous, unintelligible, unduly  
8 burdensome, or not relevant to any party's claim or defense and proportional to the  
9 needs of the case.

10 3. Defendant objects to the Interrogatories to the extent that any  
11 particular interrogatory requires the production of information available to Plaintiff  
12 through the subpoena process or his own records.

13 4. Defendant objects to the Interrogatories to the extent that any  
14 individual interrogatory calls for information subject to a claim of privilege,  
15 including, without limitation, the attorney-client privilege, the governmental  
16 deliberative process privilege, the law enforcement investigatory privilege, the  
17 official information privilege, the attorney work product doctrine, and other  
18 applicable privileges and protections.

19 5. Defendant objects to the definition of "ASSAULT WEAPON" as  
20 overbroad and unduly burdensome, and vague and ambiguous, as the definition and  
21 scope of the term in California Penal Code section 30510 and/or section 30515,  
22 and/or California Code of Regulations, title 11, section 5495 and/or section 5499  
23 have changed over time.

24 6. The fact that Defendant may not specifically object to any individual  
25 interrogatory on the ground that it seeks information subject to the attorney-client  
26 privilege and the attorney work-product doctrine is not to be deemed a waiver of  
27 the protection of non-disclosure afforded by the attorney-client privilege or the  
28 attorney work-product doctrine. Should any disclosure by Defendant of such



1 information occur, it is inadvertent and shall not constitute a waiver of any privilege  
2 or protection.

3 7. Defendant objects to the Interrogatories to the extent that any  
4 individual interrogatory assumes the truth of facts either in dispute or not yet in  
5 evidence.

6 8. Defendant objects to the Interrogatories insofar as any individual  
7 interrogatory calls for speculation or legal conclusions.

8 9. To the extent that any individual Interrogatory purports to impose on  
9 Defendant the burden of providing information which is not in Defendant's  
10 possession, custody, or control, or is already in Plaintiff's possession, custody or  
11 control, or is not reasonably available to Defendant after a diligent search and  
12 reasonable inquiry, Defendant objects on the grounds that the Interrogatories are  
13 overbroad, unduly burdensome, oppressive, and the burden, expense and/or  
14 intrusiveness of the discovery clearly outweighs the likelihood that the information  
15 sought will lead to the discovery of admissible evidence.

16 10. The foregoing objections apply to each and every response contained  
17 herein and are incorporated by reference to the extent applicable in the specific  
18 responses set forth below as though fully set forth therein. The failure to mention  
19 one of the foregoing objections in the specific response set forth below shall not be  
20 deemed a waiver of such objection.

21 11. Defendant will make reasonable efforts to respond to each  
22 interrogatory, to the extent that no objection is made, as Defendant understands and  
23 interprets the interrogatory. If Plaintiff's interpretation of any individual  
24 interrogatory differs from that of Defendant, Defendant reserves the right to  
25 supplement his objections and responses.  
26  
27  
28

**RESPONSES TO INTERROGATORIES**

**INTERROGATORY NO. 1:**

IDENTIFY each person who prepared or assisted in the preparation of the responses to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

**RESPONSE TO INTERROGATORY NO. 1:**

Defendant incorporates by reference the General Objections stated above as if fully set forth herein. Defendant further objects to the terms “prepared” and “assisted in the preparation” are vague and overbroad. Defendant objects that this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence relevant to any party’s claim or defense and proportional to the needs of the case. Defendant objects that the interrogatory calls for information protected from disclosure by the attorney-client privilege, the governmental deliberative process privilege, the official information privilege, and the attorney work product doctrine. Defendant objects to this request as a responding party need not identify the person or persons who assisted in preparation of the answers to interrogatories. *See Maple Drive-in Theatre Corp. v. Radio-Keith-Orpheum Corp.*, 153 F. Supp. 240, 244 (S.D.N.Y. 1956); *U. S. v. Natl. Steel Corp.*, 26 F.R.D. 599, 600 (S.D. Tex. 1960).

**INTERROGATORY NO. 2:**

State the total number of ASSAULT WEAPONS that have been registered with the California Department of Justice.

**RESPONSE TO INTERROGATORY NO. 2:**

Defendant incorporates by reference the General Objections stated above as if fully set forth herein. Defendant objects that this interrogatory is unlimited with respect to time and scope and therefore vague, unduly burdensome, and overbroad. Defendant further objects that this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence relevant to any party’s claim or defense and

1 proportional to the needs of the case. Defendant objects that this interrogatory is  
2 unlimited with respect to time and scope and therefore vague, unduly burdensome,  
3 and overbroad. Defendant objects to the term “registered” as vague, overbroad, and  
4 ambiguous. Defendant objects to the definition of “ASSAULT WEAPON” as  
5 overbroad and unduly burdensome, and vague and ambiguous, as the definition and  
6 scope of the term in California Penal Code section 30510 and/or section 30515,  
7 and/or California Code of Regulations, title 11, section 5495 and/or section 5499  
8 have changed over time. Defendant objects that the interrogatory calls for  
9 information protected from disclosure by the attorney-client privilege, the  
10 governmental deliberative process privilege, the law enforcement investigatory  
11 privilege, the official information privilege, and the attorney work product doctrine.

12 Subject to and without waiving any of the foregoing objections, Defendant  
13 responds: Defendant will provide this information in a supplemental interrogatory  
14 response.

15 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:**

16 Defendant incorporates by reference the General Objections stated above and  
17 the specific objects made in Defendant’s original response as if fully set forth  
18 herein.

19 Subject to and without waiving any of the foregoing objections, Defendant  
20 responds: according to information the Department of Justice had collected,  
21 compiled, and sorted as of October 1, 2018, a total of 27,538 applications for  
22 firearm registration as an “assault weapon” under Penal Code section 30900,  
23 subdivision (b), had been approved as of that date.

24 **SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:**

25 Defendant incorporates by reference the General Objections stated above and  
26 the specific objects made in Defendant’s original and first supplemental responses  
27 as if fully set forth herein.  
28

1 Subject to and without waiving any of the foregoing objections, Defendant  
2 responds: There are up to approximately 184,552 assault weapons currently  
3 registered with the Department of Justice, of which up to approximately 166,640  
4 are assault rifles. These numbers are the best-available approximations as of  
5 November 2, 2018. The Department of Justice can provide only best-available  
6 approximations for various reasons. For example, an assault weapon can be  
7 registered to two or more persons, and if an assault weapon is registered to two  
8 persons, that weapon would be counted twice in determining the number of  
9 registered assault weapons. As of November 2, 2018, 9,313 of the registered  
10 assault weapons are registered for possession by two or more persons. Therefore,  
11 the actual numbers of assault weapons and assault rifles currently registered with  
12 the Department of Justice are likely lower than the approximate numbers stated  
13 above.

14 There have been up to approximately 194,065 assault weapons that have ever  
15 been registered with the Department of Justice, of which up to approximately  
16 175,180 are assault rifles. These numbers are the best-available approximations as  
17 of November 7, 2018. Many of these weapons that were at one time registered may  
18 no longer be registered for various reasons, including the death of the registrant, the  
19 weapon no longer being in possession of the registrant, the registrant moved out of  
20 state, and the registrant became prohibited from possessing the weapon. The  
21 Department of Justice can provide only best-available approximations for various  
22 reasons. One reason, as stated above, is that if an assault weapon is registered for  
23 possession by two or more persons, it would be counted two or more times.  
24 Another reason is that the Department of Justice does not possess records prior to  
25 March 23, 2000, sufficient to determine whether a weapon that is not currently  
26 registered was at one time registered with the Department of Justice prior to March  
27 23, 2000.  
28

**INTERROGATORY NO. 3:**

State whether YOU are aware of the approximate number of ASSAULT WEAPONS that are lawfully possessed in the United States.

**RESPONSE TO INTERROGATORY NO. 3:**

Defendant incorporates by reference the General Objections stated above as if fully set forth herein. Defendant objects that this interrogatory is unlimited with respect to time and scope and therefore vague, unduly burdensome, and overbroad. Defendant objects to the interrogatory to the extent that it seeks expert materials, including information or facts that expert witnesses may locate or rely on, outside of the framework for expert disclosures. Defendant objects to the definition of "ASSAULT WEAPON" as overbroad and unduly burdensome, and vague and ambiguous, as the definition and scope of the term in California Penal Code section 30510 and/or section 30515, and/or California Code of Regulations, title 11, section 5495 and/or section 5499 have changed over time. Defendant objects to the term "approximate number" as vague, overbroad, ambiguous, argumentative, unrelated to any governing standard. Defendant also objects that the term "lawfully possessed" as vague and ambiguous, subject to legal determinations, and lacks foundation. Defendant objects that the interrogatory calls for information protected from disclosure by the attorney-client privilege, the governmental deliberative process privilege, the law enforcement investigatory privilege, the official information privilege, and the attorney work product doctrine.

Subject to and without waiving any of the foregoing objections, Defendant does not have information sufficient to estimate the approximate number of assault weapons, as defined in this interrogatory, that are lawfully possessed in the United States.

**INTERROGATORY NO. 4:**

If YOUR response to Interrogatory No. 3 is in the affirmative, state the approximate number of ASSAULT WEAPONS that are lawfully possessed in the United States.

**RESPONSE TO INTERROGATORY NO. 4:**

Defendant incorporates by reference the General Objections stated above as if fully set forth herein. Defendant objects that this interrogatory is unlimited with respect to time and scope and therefore vague, unduly burdensome, and overbroad. Defendant objects to the interrogatory to the extent that it seeks expert materials, including information or facts that expert witnesses may locate or rely on, outside of the framework for expert disclosures. Defendant objects to the definition of "ASSAULT WEAPON" as overbroad and unduly burdensome, and vague and ambiguous, as the definition and scope of the term in California Penal Code section 30510 and/or section 30515, and/or California Code of Regulations, title 11, section 5495 and/or section 5499 have changed over time. Defendant objects to the term "approximate number" as vague, overbroad, ambiguous, argumentative, unrelated to any governing standard. Defendant also objects that the term "lawfully possessed" as vague and ambiguous, subject to legal determinations, and lacks foundation. Defendant objects that the interrogatory calls for information protected from disclosure by the attorney-client privilege, the governmental deliberative process privilege, the law enforcement investigatory privilege, the official information privilege, and the attorney work product doctrine.

Subject to and without waiving any of the foregoing objections, Defendant responds: No response is required.

**INTERROGATORY NO. 5:**

State whether YOU are aware of the approximate number of rifles equipped with a "bullet button," as defined in 11 C.C.R. § 5471, tit. 11, subd. (f) that have been sold by a licensed California dealer in California since the year 2001.



**RESPONSE TO INTERROGATORY NO. 5:**

Defendant incorporates by reference the General Objections stated above as if fully set forth herein. Defendant objects that this interrogatory is unlimited with respect to time and scope and therefore vague, unduly burdensome, and overbroad. Defendant objects to the interrogatory to the extent that it seeks expert materials, including information or facts that expert witnesses may locate or rely on, outside of the framework for expert disclosures. Defendant objects to this interrogatory as lacking foundation Defendant objects to the term "approximate number" as vague, overbroad, ambiguous, argumentative, unrelated to any governing standard. Defendant objects that the interrogatory calls for information protected from disclosure by the attorney-client privilege, the governmental deliberative process privilege, the law enforcement investigatory privilege, the official information privilege, and the attorney work product doctrine.

Subject to and without waiving any of the foregoing objections, Defendant does not have information sufficient to estimate the approximate number of rifles equipped with a bullet button, as defined in this interrogatory, that have been sold by licensed California dealers in California since 2001.

**INTERROGATORY NO. 6:**

If YOUR response to Interrogatory No. 5 is in the affirmative, state the approximate number of rifles equipped with a "bullet button," as defined in 11 C.C.R. § 5471, tit. 11, subd. (f), that have been sold by a licensed California dealer in California since the year 2001

**RESPONSE TO INTERROGATORY NO. 6:**

Defendant incorporates by reference the General Objections stated above as if fully set forth herein. Defendant objects that this interrogatory is unlimited with respect to time and scope and therefore vague, unduly burdensome, and overbroad. Defendant objects to the interrogatory to the extent that it seeks expert materials, including information or facts that expert witnesses may locate or rely on, outside

1 of the framework for expert disclosures. Defendant objects to the term  
2 “approximate number” as vague, overbroad, ambiguous, argumentative, unrelated  
3 to any governing standard. Defendant also objects that the term “lawfully  
4 possessed” as vague and ambiguous, subject to legal determinations, and lacks  
5 foundation. Defendant objects that the interrogatory calls for information protected  
6 from disclosure by the attorney-client privilege, the governmental deliberative  
7 process privilege, the law enforcement investigatory privilege, the official  
8 information privilege, and the attorney work product doctrine.

9 Subject to and without waiving any of the foregoing objections, Defendant  
10 responds: No response is required.

11 **INTERROGATORY NO. 7:**

12 Identify any case where a person used an ASSAULT WEAPON for self-  
13 defense of which YOU are aware.

14 **RESPONSE TO INTERROGATORY NO. 7:**

15 Defendant incorporates by reference the General Objections stated above as if  
16 fully set forth herein. Defendant objects that this interrogatory is unlimited with  
17 respect to time and scope and therefore vague, unduly burdensome, and overbroad.  
18 Defendant objects to the interrogatory to the extent that it seeks expert materials,  
19 including information or facts that expert witnesses may locate or rely on, outside  
20 of the framework for expert disclosures. Defendant objects to the definition of  
21 “ASSAULT WEAPON” as overbroad and unduly burdensome, and vague and  
22 ambiguous, as the definition and scope of the term in California Penal Code section  
23 30510 and/or section 30515, and/or California Code of Regulations, title 11, section  
24 5495 and/or section 5499 have changed over time. Defendant objects to the term  
25 “approximate number” as vague, overbroad, ambiguous, argumentative, unrelated  
26 to any governing standard. Defendant objects to the term “used” as vague and  
27 ambiguous, overbroad and unduly burdensome. Defendant also objects that the  
28 term “self-defense” as vague and ambiguous, subject to legal determinations, and



1 lacks foundation. Defendant objects that the interrogatory calls for information  
2 protected from disclosure by the attorney-client privilege, the governmental  
3 deliberative process privilege, the law enforcement investigatory privilege, the  
4 official information privilege, and the attorney work product doctrine. Defendant  
5 objects to this interrogatory as an incomplete hypothetical, and an adequate  
6 response can be provided without the facts and circumstances of a given scenario.

7 **INTERROGATORY NO. 8:**

8 Identify any case where a person used an ASSAULT WEAPON for self-  
9 defense that the Legislature mentioned in the AWCA's legislative file.

10 **RESPONSE TO INTERROGATORY NO. 8:**

11 Defendant incorporates by reference the General Objections stated above as if  
12 fully set forth herein. Defendant objects that this interrogatory is unlimited with  
13 respect to time and scope and therefore vague, unduly burdensome, and overbroad.  
14 Defendant objects to the interrogatory to the extent that it seeks expert materials,  
15 including information or facts that expert witnesses may locate or rely on, outside  
16 of the framework for expert disclosures. Defendant objects to the definition of  
17 "ASSAULT WEAPON" as overbroad and unduly burdensome, and vague and  
18 ambiguous, as the definition and scope of the term in California Penal Code section  
19 30510 and/or section 30515, and/or California Code of Regulations, title 11, section  
20 5495 and/or section 5499 have changed over time. Defendant objects to the term  
21 "used" as vague and ambiguous, overbroad and unduly burdensome. Defendant  
22 also objects that the term "self-defense" as vague and ambiguous, subject to legal  
23 determinations, and lacks foundation. Defendant objects to this interrogatory as an  
24 incomplete hypothetical, and an adequate response can be provided without the  
25 facts and circumstances of a given scenario. Defendant objects to this interrogatory  
26 because it seeks information that is equally available to the Plaintiff, from public  
27 sources.

1 Subject to and without waiving any of the foregoing objections, Defendant  
2 responds that the Attorney General is not aware of any case in which a person used  
3 an ASSAULT WEAPON for self-defense that was mentioned in the AWCA's  
4 legislative file.

5 **INTERROGATORY NO. 9:**

6 Identify any case where a person used an ASSAULT WEAPON in a crime  
7 that the Legislature mentioned in the AWCA's legislative file.

8 **RESPONSE TO INTERROGATORY NO. 9:**

9 Defendant incorporates by reference the General Objections stated above as if  
10 fully set forth herein. Defendant objects that this interrogatory is unlimited with  
11 respect to time and scope and therefore vague, unduly burdensome, and overbroad.  
12 Defendant objects to the interrogatory to the extent that it seeks expert materials,  
13 including information or facts that expert witnesses may locate or rely on, outside  
14 of the framework for expert disclosures. Defendant objects to the definition of  
15 "ASSAULT WEAPON" as overbroad and unduly burdensome, and vague and  
16 ambiguous, as the definition and scope of the term in California Penal Code section  
17 30510 and/or section 30515, and/or California Code of Regulations, title 11, section  
18 5495 and/or section 5499 have changed over time. Defendant objects to the term  
19 "used" as vague and ambiguous, overbroad and unduly burdensome. Defendant  
20 also objects that the term "crime" as vague and ambiguous, subject to legal  
21 determinations, and lacks foundation. Defendant objects to this interrogatory as an  
22 incomplete hypothetical, and an adequate response can be provided without the  
23 facts and circumstances of a given scenario. Defendant objects to this interrogatory  
24 because it seeks information that is equally available to the Plaintiff, from public  
25 sources.

26 Subject to and without waiving any of the foregoing objections, Defendant  
27 responds: Pursuant to Federal Rule of Civil Procedure 33(d), Defendant will  
28

1 produce and/or identify documents from which answer to this interrogatory may be  
2 derived or ascertained.

3 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:**

4 Defendant incorporates by reference all general and specific objections  
5 asserted in Defendant's original response.

6 Subject to and without waiving any of the foregoing objections, Defendant  
7 directs Plaintiff to the following production pages: AG00014463-14510 and  
8 AG00014526-14643. Defendant further directs Plaintiff to the Legislative Counsel  
9 website where relevant legislative history materials may be obtained for Stats.

10 2000, c.967 (AB2351), § 3

11 ([http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=199920000](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=199920000)  
12 [AB2351](#)), Stats. 2002, c. 911 (AB 2793), § 3

13 ([http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=200120020](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=200120020)  
14 [AB2793](#)), and Stats. 2016, c. 40 (AB 1135), § 1

15 ([http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201520160](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160)  
16 [AB1135](#)).

17 **INTERROGATORY NO. 10:**

18 Describe any notice that YOU gave to ASSAULT WEAPON owners that they  
19 were required to register any ASSAULT WEAPON they owned with YOU prior to  
20 the deadline for registration

21 **RESPONSE TO INTERROGATORY NO. 10:**

22 Defendant incorporates by reference the General Objections stated above as if  
23 fully set forth herein. Defendant objects that this interrogatory is unlimited with  
24 respect to time and scope and therefore vague, unduly burdensome, and overbroad.  
25 Defendant objects to the definition of "ASSAULT WEAPON" as overbroad and  
26 unduly burdensome, and vague and ambiguous, as the definition and scope of the  
27 term in California Penal Code section 30510 and/or section 30515, and/or  
28 California Code of Regulations, title 11, section 5495 and/or section 5499 have

1 changed over time. Defendant objects to this interrogatory because it seeks  
2 information that is equally available to the Plaintiff, from public sources.  
3 Defendant objects to the term "registered" as vague, overbroad, and ambiguous.

4 Defendant objects that this request calls for information and documents that  
5 are not relevant to any party's claim or defense, not reasonably expected to lead to  
6 the discovery of admissible evidence, and not proportional to the needs of the case  
7 for reasons including that Plaintiffs has dismissed all claims based on the  
8 registration of assault weapons.

9 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10:**


10 Defendant incorporates by reference all general and specific objections  
11 asserted in Defendant's original response.

12 Subject to and without waiving any of the foregoing objections, Defendant  
13 directs Plaintiff to the following production pages AG00018273-18320.

14  
15 Dated: November 15, 2018

Respectfully submitted,

16 XAVIER BECERRA  
17 Attorney General of California  
18 MARK R. BECKINGTON  
Supervising Deputy Attorney General

19 

20  
21 PETER H. CHANG  
22 Deputy Attorney General  
23 *Attorneys for Defendant Xavier*  
24 *Becerra*

25 SA2017106868  
26  
27  
28

**VERIFICATION OF INTERROGATORY ANSWERS**

I, Emily Gargiulo, am employed by the State of California Department of Justice as an Associate Governmental Program Analyst in the Office of the Attorney General. I believe, based on reasonable inquiry, that the foregoing answers are true and correct to the best of my knowledge, information and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 15, 2018, at Sacramento, California.

  
EMILY GARGIULO

## CERTIFICATE OF SERVICE

Case Name: **Rupp, et al. v. Xavier Becerra**

No. **8:17-cv-00746-JLS-JDE**

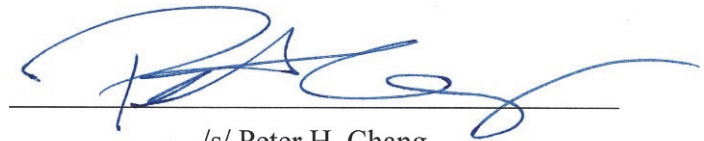
I hereby certify that on November 15, 2018, I served the following documents via e-mail to counsel for Plaintiffs, Sean Brady, at [SBrady@michellawyers.com](mailto:SBrady@michellawyers.com):

- Defendant's Second Supplemental Response to Willis Interrogatories.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed on November 15, 2018, at San Francisco, California.

Signature

SA201710686 8



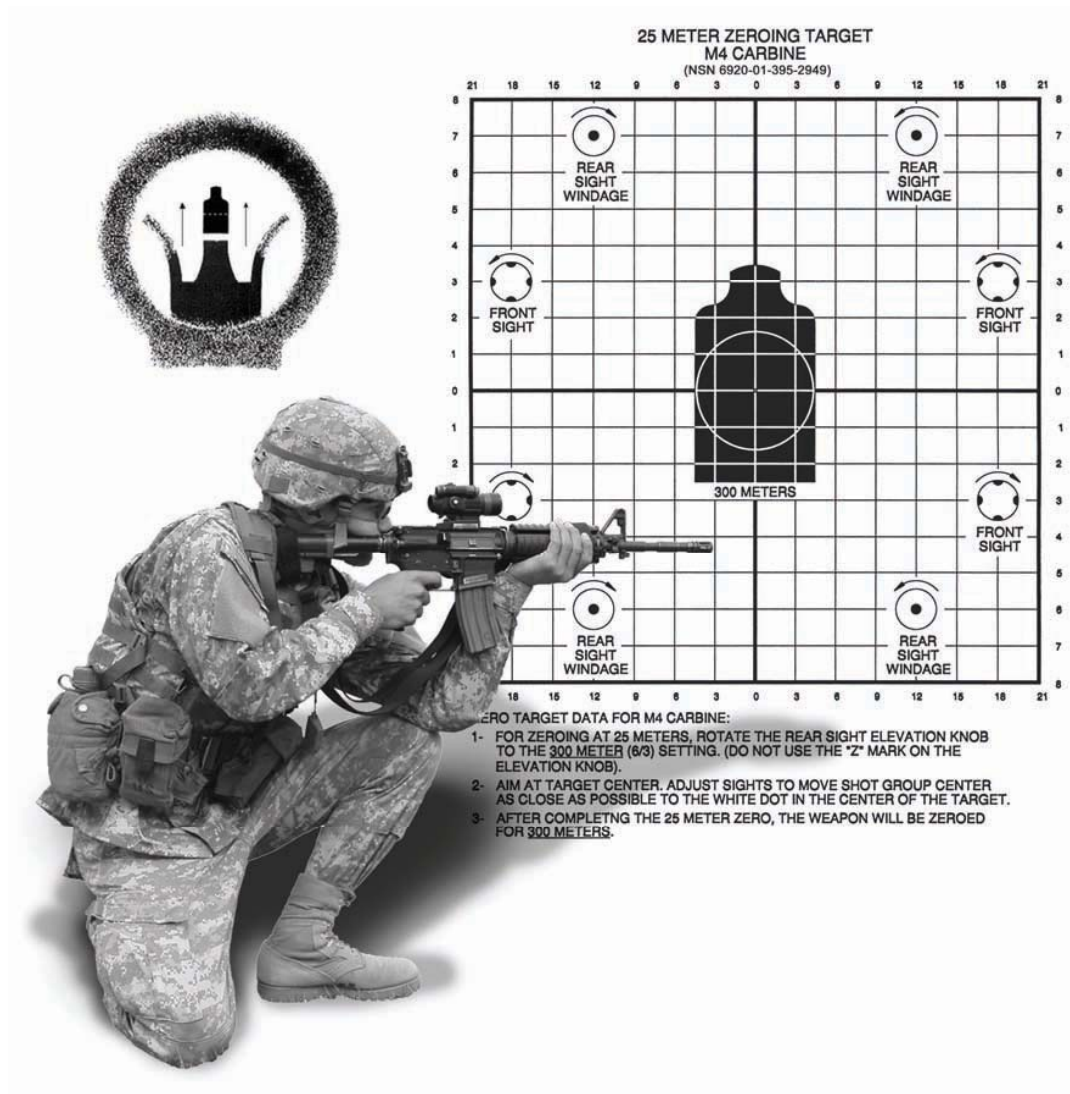
/s/ Peter H. Chang

## Exhibit 19



FM 3-22.9

## RIFLE MARKSMANSHIP M16-/M4-SERIES WEAPONS



August 2008

DISTRIBUTION RESTRICTION: Approved for public release; distribution is unlimited.

HEADQUARTERS  
DEPARTMENT OF THE ARMY



### ***FIRING FROM WINDOWS***

7-11. When firing from windows, Soldiers should stay in the shadows and make sure that the weapon's muzzle does not protrude out of the opening (Figure 7-7).



**Figure 7-7. Firing from a window.**

## **SECTION II. COMBAT FIRE TECHNIQUES**

Combat is the ultimate test of a Soldier's ability to apply the fundamentals of marksmanship and firing skills. Soldiers must apply the marksmanship skills mastered during training, practice, and record fire exercises to many combat situations (for example, attack, assault, ambush, or UO). Although these situations present problems, basic techniques and fundamentals require only two modifications: changes to the rate of fire and alterations in weapon/target alignment.

---

**NOTE:** The necessary changes are significant and must be thoroughly taught and practiced before performing LFXs.

---

### **RAPID SEMIAUTOMATIC FIRE**

7-12. The most important firing technique during fast-moving, modern combat is rapid semiautomatic fire. It is the most accurate technique of placing a large volume of fire on poorly defined targets or target areas, such as short exposure, multiple, or moving targets. To apply rapid semiautomatic fire, the Soldier intentionally fires a quick series of shots into the target area to ensure a high probability of a hit.

---

**NOTE:** Increased speed and volume should be sought only after the Soldier has demonstrated expertise and accuracy during slow semiautomatic fire.

---

### ***EFFECTIVENESS AND CONTROL OF RAPID SEMIAUTOMATIC FIRE***

7-13. With proper training, Soldiers can select the appropriate mode of fire: semiautomatic fire, rapid semiautomatic fire, or automatic/burst fire.

---

**NOTE:** Leaders must ensure that Soldiers apply proper fire discipline at all times. Even in training, unaimed fire must never be tolerated, especially unaimed automatic fire.

---

7-14. While Soldiers sacrifice some degree of accuracy to deliver a greater volume of fire, it is surprising how devastatingly accurate rapid semiautomatic fire can be. At ranges beyond 25 meters, rapid semiautomatic fire is superior to automatic fire in all measures: shots per target, trigger pulls per hit, and time to hit. Proper training and repeated practice increases the degree of accuracy.

7-15. Rapid application of the four fundamentals will result in a well-aimed shot every one or two seconds. This technique of fire allows a unit to place the most effective volume of fire in a target area while conserving ammunition. It is the most accurate means of delivering suppressive fire.

### ***MODIFICATIONS FOR RAPID SEMIAUTOMATIC FIRE***

7-16. Trainers must consider the impact of the increased rate of fire on the Soldier's ability to properly apply the fundamentals of marksmanship and other combat firing skills, such as immediate action procedures.

### **Marksmanship Fundamentals**

7-17. The following paragraphs describe the modifications necessary for Soldiers to apply the four fundamentals when firing in the rapid semiautomatic fire mode.

#### ***Steady Position***

7-18. Consider the following modifications to achieve a steady position:

- Make sure that the weapon is well-supported to improve accuracy and reduce recovery time between shots.
- Grip the handgrip tightly to reduce recovery time and rapidly shift or distribute fire to subsequent targets.
- When possible, pivot the weapon where the nonfiring hand meets the support.
- Avoid changing the position of the nonfiring hand on the support; it is awkward and time-consuming when rapidly firing a series of shots.

#### ***Aiming***

7-19. Consider the following recommendations to properly aim the weapon:

- Do not change sighting and stock weld during rapid semiautomatic fire. Keep the cheek on the stock for every shot, align the firing eye with the rear aperture, and focus on the front sightpost.
- When using slow semiautomatic fire, seek a stable sight picture.
- In the fast-moving situations that require rapid semiautomatic fire, accept target movement and unsteady sight picture, and keep firing into the target area until the target is down or there is no chance of a hit.
- Aim every shot.

#### ***Breath Control***

7-20. Breath control must be modified because the Soldier does not have time to take a complete breath between shots. Consider the following modifications to achieve proper breath control:

- Hold your breath at some point in the firing process.
- Take shallow breaths between shots.

Chapter 7

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**Trigger Squeeze**

7-21. To maintain the desired rate of fire, the Soldier has a brief period of time to squeeze the trigger. The firer must cause the weapon to fire in about half of a second or less and still not anticipate the precise moment of firing. Consider the following modifications to achieve proper trigger squeeze:

- Apply initial trigger pressure as soon as a target is identified and while the front sightpost is being brought to the desired point of aim.
- When the front sightpost reaches the point of aim, apply final pressure to cause the weapon to fire almost at once. Apply this additional pressure, also known as final trigger squeeze, without disturbing the lay of the weapon.
- Increase the firing rate by firing, releasing enough trigger pressure to reset the sear, and then immediately firing the next shot. This technique is called rapid trigger squeeze. It eliminates the time used in fully releasing pressure on the trigger and allows the firer to rapidly deliver subsequent rounds.

---

**NOTE:** Training and practice sessions are required for Soldiers to become proficient in the technique of rapid trigger squeeze.

---

7-22. Repeated dry-fire training using simulators, such as the EST 2000 and LMTS, and live-fire practice ensure that the Soldier can squeeze the trigger and maintain a rapid rate of fire consistently and accurately.

**Immediate Action Procedures**

7-23. To maintain an increased rate of suppressive fire, Soldiers must apply immediate action quickly. Repeated dry-fire practice using blanks or dummy rounds, followed by live-fire training and evaluation, ensures that Soldiers can rapidly apply immediate action procedures while other Soldiers initiate fire.

**RAPID SEMIAUTOMATIC FIRE TRAINING**

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**NOTE:** Soldiers should be well-trained in all aspects of slow semiautomatic firing before attempting any rapid semiautomatic fire training. Those who display a lack of knowledge of fundamental marksmanship skills should not advance to rapid semiautomatic fire training until these skills are learned and mastered.

---

7-24. Initial training should focus on the modifications to the fundamentals and other basic combat skills necessary during rapid semiautomatic firing.

---

**NOTE:** See Table 7-1 for the current training program.

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**Table 7-1. Rapid semiautomatic fire training program.**

RAPID SEMIAUTOMATIC FIRE TRAINING PROGRAM	
<b>Instructional Intent</b>	
<ul style="list-style-type: none"> <li>Soldiers learn to engage targets using rapid semiautomatic fire and practice rapid magazine changes.</li> </ul>	
<b>Special Instructions</b>	
<p>Ensure that—</p> <ul style="list-style-type: none"> <li>The M16A2/A3/A4 rifle's or M4 carbine's rear sight is set on the 0-2 aperture.</li> <li>The M16A1's rear sight is set on the unmarked aperture.</li> <li>Soldiers use a 25-meter alternate course C qualification target.</li> <li>Each Soldier is given four 5-round magazines of 5.56-millimeter ball ammunition.</li> <li>Soldiers use rapid semiautomatic fire to engage targets.</li> <li>Each Soldier fires one round at each of the 10 silhouettes on the alternate course C qualification target.</li> <li>Each Soldier does a rapid magazine change after each magazine is fired.</li> <li>The first iteration of 10 rounds is fired within a time limit of 40 seconds.</li> <li>The second iteration of 10 rounds is fired within a time limit of 30 seconds.</li> <li>Each target is inspected, and the results are posted after each iteration.</li> </ul>	
<b>Observables</b>	
<ul style="list-style-type: none"> <li>Coaches continuously analyze the firer's application of the fundamentals.</li> <li>Each Soldier obtains 14 hits out of 20 silhouette target exposures.</li> </ul>	

## Conduct

7-25. Each Soldier receives four 5-round magazines of 5.56-millimeter ball ammunition. Using rapid semiautomatic fire, the Soldier fires one round at each of the 10 silhouettes on the alternate course C qualification target. Soldiers fire two iterations, performing a rapid magazine change after each magazine is fired. The targets are inspected, and the results are posted after each iteration. Each Soldier must obtain 14 hits out of 20 silhouette target exposures.

7-26. Table 7-2 depicts the two iterations and provides related information, such as time constraints, number of rounds that must be fired, type of target that must be used, and the distance away from the firer that the target must be placed.

**Table 7-2. Rapid semiautomatic fire training and related information.**

ITERATION	TIME CONSTRAINTS	NUMBER OF ROUNDS	TYPE OF TARGET	DISTANCE (m)
1	40 sec	10	25-m alternate course C qualification target	25
2	30 sec	10	25-m alternate course C qualification target	25

## Dry-Fire Exercises

7-27. Repeated dry-fire exercises are the most efficient means to ensure that Soldiers can apply modifications to the fundamentals. Multiple dry-fire exercises are needed, emphasizing a rapid shift in position and point of aim, followed by breath control and fast trigger squeeze.

- NOTES:**
- Blanks or dummy rounds may be used to train rapid magazine changes and immediate action procedures.
  - The Soldier should display knowledge and skill during dry-fire exercises before attempting LFXs.

## Live-Fire Exercises

7-28. There are two types of LFXs:

- Individual.
- Collective.

### *Individual*

7-29. To conduct an individual LFX—

- Ensure that the emphasis is on each Soldier maintaining a heavy volume of accurate fire.
- Keep weapon downtime (during immediate action and rapid magazine changes) to a minimum.
- Begin by firing at shorter ranges, progressing to longer ranges as Soldiers display increased proficiency.
- Shorten exposure or engagement times and increase the number of rounds to simulate the need for a heavy volume of fire.
- Provide downrange feedback to determine the accuracy of fire.

### *Collective*

7-30. Rapid semiautomatic fire should be the primary means of delivering fire during a collective LFX. To conduct a collective LFX, ensure that the emphasis is on performing staggered rapid magazine changes, maintaining a continuous volume of fire, and conserving ammunition.

## AUTOMATIC OR BURST FIRE

---

**NOTE:** Automatic or burst fire should be trained only after the Soldier has demonstrated expertise during slow and rapid semiautomatic fire.

---

7-31. When applying automatic or burst fire, Soldiers deliver the maximum number of rounds (one to three rounds per second) into a designated target area while rapidly applying the four fundamentals. This specialized technique of delivering suppressive fire may not apply to most combat engagements.

---

**NOTE:** The M16A1/A3 rifle and M4A1 carbine have fully automatic settings. The M16A2/A4 rifle and M4 carbine use a three-round burst capability.

---

### ***EFFECTIVENESS AND CONTROL OF AUTOMATIC OR BURST FIRE***

7-32. Automatic or burst fire is inherently less accurate than semiautomatic fire. The first fully automatic shot fired may be on target, but recoil and a high cyclic rate of fire often combine to place subsequent rounds far from the desired point of impact. Even controlled (three-round burst) automatic or burst fire may place only one round on the target. Because of these inaccuracies, it is difficult to evaluate the effectiveness of automatic or burst fire, and even more difficult to establish absolute guidelines for its use.

### ***FACTORS FOR USE OF SEMIAUTOMATIC VERSUS AUTOMATIC OR BURST FIRE***

7-33. Trainers must ensure that Soldiers understand the capabilities and limitations of automatic or burst fire. They must know when it should and should not be used.

### **Semiautomatic Fire**

7-34. M16 rifles and M4 carbines should normally be employed in the semiautomatic fire mode.

7-35. Depending on the tactical situation, Soldiers should employ the semiautomatic fire mode in the following conditions:

- Ammunition is in short supply, or resupply may be difficult.
- Single targets are being engaged.
- Widely spaced multiple targets are being engaged.
- The target is located more than 50 meters away.
- The effect of bullets on the target cannot be observed.
- Artificial support is not available.
- Targets may be effectively engaged using semiautomatic fire.

### **Automatic or Burst Fire**

7-36. In some combat situations, the use of automatic or burst fire can improve survivability and enhance mission accomplishment. Clearing buildings, final assaults, FPF, and ambushes may require limited use of automatic or burst fire.

7-37. Depending on the tactical situation, Soldiers should employ automatic or burst fire in the following conditions:

- Ammunition is readily available, and there are no problems with resupply.
- Closely spaced multiple targets are located 50 meters away or less.
- Maximum fire is immediately required at an area target.
- Tracers or some other means can be used to observe the effect of bullets on the target.
- Leaders can maintain adequate control over weapons firing in the automatic fire mode.
- Good artificial support is available.
- The initial sound of gunfire disperses closely spaced enemy targets.

### ***MODIFICATIONS FOR AUTOMATIC OR BURST FIRE***

7-38. Automatic or burst fire is inherently less accurate than semiautomatic fire. Trainers must consider the impact of recoil and the high cyclic rate of fire on the Soldier's ability to properly apply the fundamentals of marksmanship and other combat firing skills, such as immediate action procedures and rapid magazine changes.

### **Marksmanship Fundamentals**

7-39. The following paragraphs describe the modifications necessary for Soldiers to apply the four fundamentals when firing in the automatic fire mode.

#### ***Steady Position***

7-40. Consider the following modifications to achieve a steady position:

- Make sure that the weapon is well-supported.
- Grip the weapon a little more firmly and pull it into the shoulder a little tighter than when in the semiautomatic fire mode.

---

**NOTE:** This support and increased grip help offset the progressive displacement of weapon/target alignment caused by recoil.

---

- To provide maximum stability, assume the modified supported prone firing position (Figure 7-4).

---

**NOTE:** If the weapon is equipped with the ARS, use the vertical pistol grip to further increase control of the weapon.

---

### ***Aiming***

7-41. Consider the following recommendations to properly aim the weapon:

- Do not change sighting and stock weld during automatic or burst fire. Keep the cheek on the stock for every shot, align the firing eye with the rear aperture, and focus on the front sightpost.
- Although recoil may disrupt this process, try to apply the aiming techniques throughout recoil.

### ***Breath Control***

7-42. Breath control must be modified because the Soldier does not have time to take a complete breath between shots. Consider the following modifications to achieve proper breath control:

- Hold your breath at some point in the firing process.
- Take shallow breaths between shots.

### ***Trigger Squeeze***

7-43. Training and repeated dry-fire practice aid the Soldier in applying proper trigger squeeze during automatic firing. LFXs enable him to improve this skill.

### **M16A2/3/4 Rifles and M4 Carbines**

7-44. Until the weapon fires, trigger squeeze is applied in the normal manner. To use the burst fire mode—

- (1) Hold the trigger to the rear until three rounds are fired.
- (2) Release pressure on the trigger until it resets.
- (3) Reapply pressure for the next three-round burst.

- 
- NOTES:**
1. Do not slap or jerk the trigger. Squeeze it, and then quickly release pressure.
  2. Depending on the position of the burst can when the selector is moved to the burst fire mode, the weapon may fire one, two, or three rounds when the trigger is held to the rear for the first time. If the weapon fires only one or two rounds, quickly release pressure on the trigger and squeeze again, holding it to the rear until a three-round burst is completed.
- 

### **M16A1 Rifles**

7-45. Until the weapon fires, trigger squeeze is applied in the normal manner. Because three-round bursts are the most effective rate of fire, pressure on the trigger should be released as quickly as possible. To use the burst fire mode, keep the index finger on the trigger, but quickly release pressure to prevent an excessive number of rounds from being fired in one burst. With much dry-fire practice, the Soldier can become proficient at delivering three-round bursts with the squeeze/release technique.

### **Immediate Action**

7-46. To maintain an increased rate of suppressive fire, Soldiers must apply immediate action quickly. Repeated dry-fire practice using blanks or dummy rounds, followed by live-fire training and evaluation, ensures that Soldiers can rapidly apply immediate action procedures.

### **Rapid Magazine Changes**

7-47. Rapid magazine changes are vital in maintaining automatic or burst fire. Rapid magazine changes must be correctly taught and practiced during dry-fire and live-fire exercises until the Soldier becomes proficient.



## ***AUTOMATIC OR BURST FIRE TRAINING***

**NOTE:** Soldiers should be well-trained in all aspects of slow semiautomatic firing before attempting any automatic training. Those who display a lack of knowledge of fundamental skills should not advance to automatic or burst fire training until these skills are learned.

7-48. Initial training should focus on the modifications to the fundamentals and other basic combat skills necessary during automatic firing.

7-49. Unit training is vital to properly applying this technique. Soldiers must be taught the advantages and disadvantages of automatic and burst firing so they know when it should be used. Without this knowledge, Soldiers tend to switch to the automatic or burst fire mode in life-threatening situations.

**NOTE:** See Table 7-3 for the current training program.

**Table 7-3. Automatic or burst fire training program.**

<b>AUTOMATIC OR BURST FIRE TRAINING PROGRAM</b>	
<b>Instructional Intent</b>	
<ul style="list-style-type: none"> <li>Soldiers learn the advantages and disadvantages of automatic or burst fire.</li> </ul>	
<b>Special Instructions</b>	
Ensure that— <ul style="list-style-type: none"> <li>The M16A2/A3/A4 rifle's or M4 carbine's rear sight is set on the 0-2 aperture.</li> <li>The M16A1's rear sight is set on the unmarked aperture.</li> <li>Soldiers use a 25-meter alternate course C qualification target.</li> <li>Each Soldier is in a proper modified automatic/burst firing position.</li> <li>Each Soldier is given two 15-round magazines of 5.56-millimeter ball ammunition.</li> <li>Each Soldier fires one 3-round burst at each of the 10 silhouettes on the alternate course C qualification target.</li> <li>Each Soldier does a rapid magazine change after each magazine is emptied.</li> </ul>	
<b>Observables</b>	
<ul style="list-style-type: none"> <li>Each Soldier obtains five target hits.</li> <li>Soldiers demonstrate control of the weapon in the automatic/burst fire mode.</li> </ul>	

## **Conduct**

7-50. Each Soldier receives two 15-round magazines of 5.56-millimeter ball ammunition. Each Soldier fires one 3-round burst at each of the 10 silhouettes on the alternate course C qualification target, performing a rapid magazine change after each magazine is emptied. Each Soldier must obtain five target hits.

7-51. Table 7-4 depicts automatic or burst fire training and provides related information, such as number of rounds that must be fired, type of target that must be used, and the distance away from the firer that the target must be placed.

**Table 7-4. Automatic or burst fire training and related information.**

<b>FIRING POSITION</b>	<b>NUMBER OF ROUNDS</b>	<b>TYPE OF TARGET</b>	<b>DISTANCE (m)</b>
Modified automatic/burst firing position	30, one 3-round burst at each of the 10 silhouettes	Alternate course C qualification target	25



## Dry-Fire and Live-Fire Exercises

7-52. Repeated dry-fire exercises are the most efficient means to ensure that Soldiers can apply modifications to the fundamentals. Multiple dry-fire exercises are needed, emphasizing a stable position and point of aim, followed by breath control and appropriate trigger squeeze.

- 
- NOTES:**
1. Blanks or dummy rounds may be used to train trigger squeeze, rapid magazine changes, and immediate action procedures.
  2. The Soldier should display knowledge and skill during dry-fire exercises before attempting LFXs.
- 

## SUPPRESSIVE FIRE

7-53. Suppressive fire is precisely aimed at a definite point or area target. Some situations may require a Soldier to place suppressive fire into a wide area (for example, wood line, hedgerow, or small building) while, at other times, the target may be a smaller area (for example, a bunker or window). Suppressive fire is used to control the enemy and the area he occupies. It is employed to kill the enemy or to prevent him from observing the battlefield, effectively using his weapons, or moving.

### *EFFECTIVENESS AND CONTROL OF SUPPRESSIVE FIRE*

7-54. Many Soldiers have difficulty delivering effective suppressive fire when they cannot see a definite target, only likely locations or general areas where the enemy is known to exist. Even though definite targets cannot be seen, most suppressive fire should be well-aimed.

7-55. When controlling suppressive fires, two factors must be considered:

- Point of aim.
- Rate of fire.

### Point of Aim

7-56. Suppressive fire should be well-aimed, sustained, semiautomatic fire. Although lacking a definite target, the Soldier must be taught to control and accurately deliver fire within the limits of the suppressed area. As when engaging a point target, the weapon sights are used, with the front sightpost placed so each shot impacts within the desired area.

### Rate of Fire

7-57. During most phases of live-fire training (for example, grouping, zeroing, qualifying), shots are delivered using slow semiautomatic fire (one round every 3 to 10 seconds). During training, this allows a slow and precise application of the fundamentals. Successful suppressive fire requires a faster, but sustained, rate of fire. Soldiers may need to fire full automatic or bursts (13 rounds per second) for a few seconds to gain initial fire superiority. Rapid semiautomatic fire (one round every one or two seconds) allows the firer to sustain a large volume of accurate fire while conserving ammunition.

### *MODIFICATIONS FOR SUPPRESSIVE FIRE*

7-58. The tactical situation dictates the most useful rate of fire, but the following must be considered:

- Marksmanship fundamentals.
- Rapid magazine changes.
- Ammunition conservation.

## Marksmanship Fundamentals

7-59. As the stress of combat increases, some Soldiers may fail to apply the fundamentals of marksmanship. This factor contributes to reduced accuracy and effectiveness. While some modifications are appropriate, the basic fundamentals should be applied and emphasized—regardless of the rate of fire or combat stress. Strategies to enhance marksmanship skills under combat stress include shooting in the prone position, as opposed to standing.

7-60. Factors that contribute to combat stress are:

- Environmental.
- Operational.

### *Environmental*

7-61. Environmental stressors have been shown to degrade marksmanship accuracy up to 20 percent. Such stressors include—

- Heat.
- Altitude.

### *Operational*

7-62. Operational stressors have been shown to degrade marksmanship accuracy from 17 percent to 136 percent. Such stressors include—

- MOPP gear.
- Tasks that require carrying rucksacks, litter patients, and other equipment on the body.
- Sleep deprivation.

## Rapid Magazine Changes

7-63. One of the keys to sustained suppressive fire is reloading the weapon rapidly. Rapid magazine changes must be correctly taught and practiced during dry-fire and live-fire exercises until the Soldier becomes proficient. Small-unit training exercises must be conducted so Soldiers who provide suppressive fire practice staggered magazine changes.

## Ammunition Conservation

7-64. Automatic or burst fire should be used sparingly and only to gain initial fire superiority. Depending on the tactical situation, the rate of fire should be adjusted so that a minimum number of rounds are expended. Accurate fire conserves ammunition, while preventing the enemy from placing effective fire on friendly positions.

## *SUPPRESSIVE FIRE TRAINING*

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**NOTE:** See Table 7-5 for the current training program.

---

Table 7-5. Suppressive fire training program.

SUPPRESSIVE FIRE TRAINING PROGRAM	
<b>Instructional Intent</b>	
<ul style="list-style-type: none"> <li>Soldier learns to suppress targets using suppressive fire.</li> </ul>	
<b>Special Instructions</b>	
<p>Ensure that—</p> <ul style="list-style-type: none"> <li>The M16A2/A3/A4 rifle's or M4 carbine's rear sight is set on the 0-2 aperture.</li> <li>The M16A1's rear sight is set on the unmarked aperture.</li> <li>Soldiers use a 25-meter scaled landscape target.</li> <li>Each Soldier is given two 9-round magazines and one 12-round magazine of 5.56-millimeter ball ammunition.</li> <li>Each Soldier is in a proper supported firing position.</li> <li>Each Soldier fires 9 rounds at the open window area of the target using rapid semiautomatic fire with the first 9-round magazine.</li> <li>Each Soldier fires 12 rounds at the fence or hedgerow area of the target using rapid semiautomatic fire with the 12-round magazine.</li> <li>Each Soldier fires three 3-round bursts at the tank turret area of the target using the automatic/burst fire mode with the second 9-round magazine.</li> </ul>	
<b>Observables</b>	
<ul style="list-style-type: none"> <li>Each Soldier achieves 5 hits inside the open window area within 18 seconds.</li> <li>Each Soldier achieves 10 hits inside the dotted lines surrounding the fence or hedgerow area within 24 seconds.</li> <li>Each Soldier achieves 3 hits inside the tank turret area within 24 seconds.</li> </ul>	

7-65. Figure 7-8 shows a landscape target suitable for suppressive fire training. When this type of target is used, trainers must develop a firing program to include areas of engagement and designated target areas. At 25 meters, this target provides the firer with an area to suppress without definite targets to engage.

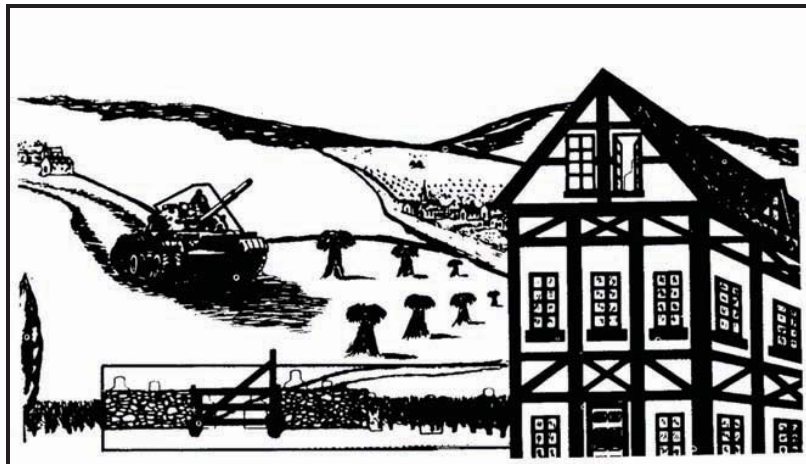


Figure 7-8. Landscape target.

## Conduct

7-66. Each Soldier receives two 9-round magazines and one 12-round magazine of 5.56-millimeter ball ammunition. The Soldier engages three areas of a 25-meter scaled landscaped target: the open window area, the fence or hedgerow area, and the tank turret area. Each Soldier achieves 5 hits inside of the open window area, 10 hits inside of the dotted lines surrounding the fence or hedgerow area, and 3 hits inside of the tank turret area.

7-67. Table 7-6 depicts suppressive fire training and provides related information, such as number of rounds that must be fired, type of target that must be used, and the distance away from the firer that the target must be placed.

**Table 7-6. Suppressive fire training and related information.**

FIRING POSITION	TYPE OF TARGET	AREA OF TARGET ENGAGED	NUMBER OF ROUNDS	TYPE OF FIRE	TIME CONSTRAINTS
Supported firing position	25-m scaled landscape target	Open window	9	Rapid semiautomatic	18 sec
		Fence or hedgerow	12	Rapid semiautomatic	24 sec
		Tank turret	9, in three 3-round bursts	Automatic/burst	24 sec

## QUICK FIRE

7-68. The two main techniques of directing fire with a rifle or carbine are—

- Aim using the sights.
- Use weapon alignment, instinct, bullet strike, or tracers to direct the fire.

7-69. The preferred technique is to use the sights, but sometimes quick reflex action is required. Quick fire, also known as instinctive firing or quick kill, is a technique used to deliver fast, effective fire on surprise personnel targets 25 meters away or less.

### *EFFECTIVENESS AND CONTROL OF QUICK FIRE*

7-70. Quick fire techniques are appropriate when Soldiers are presented with close, suddenly appearing, surprise enemy targets; or when close engagement is imminent.

**NOTE:** Fire may be delivered in the SEMIAUTO or AUTOMATIC/BURST fire mode. For example, a point man in a patrol may carry the weapon on AUTOMATIC/BURST. This may also be required when clearing a room or bunker. Initial training should be in the SAFE mode.

7-71. Two techniques of delivering quick fire are:

- Aimed.
- Pointed.

7-72. The difference in the speed of delivery of these two techniques is small. Pointed quick fire can be used to fire a shot about one-tenth of a second faster than aimed quick fire. The difference in accuracy, however, is more pronounced:

- A Soldier well-trained in pointed quick fire can hit an E-type silhouette target at 15 meters, although the shot may strike anywhere on the target.
- A Soldier well-trained in aimed quick fire can hit an E-type silhouette target at 25 meters, with the shot or burst striking 5 inches from the center of mass.

7-73. This variance of target hit for this type of engagement reinforces the need for well-aimed shots.

## Chapter 7

7-74. Pointed and aimed quick fire should be used only when a target cannot be engaged fast enough using the sights in a normal manner. These techniques should be limited to targets appearing at 25 meters or less. Modern short-range combat (SRC) techniques emphasize carrying the weapon with the buttstock high so that the weapon sights can be brought into display as quickly as firing a hasty unaimed shot. In extremely dangerous moments, special reaction teams (SRTs) commonly advance with weapons shouldered, aiming as they advance.

### Aimed

7-75. When using this technique, a Soldier can accurately engage a target at 25 meters or less in one second or less.

7-76. To use aimed quick fire (Figure 7-9)—

- (1) Bring the weapon to the shoulder.
- (2) With the firing eye, look through or just over the rear sight aperture.
- (3) Use the front sightpost to aim at the target.
- (4) Quickly fire a single shot.



Figure 7-9. Aimed quick fire.



## Pointed

7-77. When using this technique, a Soldier can engage a target at 15 meters or less in less than one second.

7-78. To use pointed quick fire (Figure 7-10)—

- (1) Keep the weapon at your side.
- (2) Keeps both eyes open, and use instinct and peripheral vision to line up the weapon with the target.
- (3) Quickly fire a single shot or burst.



Figure 7-10. Pointed quick fire.

### ***FACTORS FOR USE OF CONTROLLED PAIRS VERSUS BURST FIRE***

7-79. Tactical considerations dictate whether controlled pairs or burst fire is most effective in a given situation.

### ***MODIFICATIONS FOR QUICK FIRE***

7-80. Trainers must consider the impact of the increased rate of fire on the Soldier's ability to properly apply the fundamentals of marksmanship and other combat firing skills.

### **Marksmanship Fundamentals**

7-81. Quick fire techniques require major modifications to the four fundamentals of marksmanship. Initial training in these differences, followed by repeated dry-fire exercises, will be necessary to prepare the Soldier for live-fire.

#### ***Steady Position***

7-82. The quickness of shot delivery prevents the Soldier from assuming a stable firing position. Consider the following modifications:

- Fire from the present position when the target appears.
- If moving, stop.
- Do not make adjustments for stability and support before the round is fired.

#### **Aimed**

7-83. Consider the following modifications:

- (1) Pull the weapon's buttstock into the pocket of the shoulder as the cheek comes in contact with the stock.
- (2) Firmly grip the weapon with both hands, applying rearward pressure.
- (3) Place the firing eye so that it looks through or just over the rear sight aperture.
- (4) Place the sight on the target.

#### **Pointed**

7-84. Consider the following modifications:

- Pull the weapon into the side.
- Firmly grip the weapon with both hands, applying rearward pressure.

#### ***Aiming***

7-85. This fundamental must be highly modified because the Soldier may not have time to look through the rear sight, find the front sight, and align it with the target.

---

**NOTE:** When using either aiming technique, bullets may tend to impact above the desired location. Repeated live-fire practice is necessary to determine the best point of aim or the best focus. Such practice should begin with the Soldier using a center of mass aim.

---

### **Aimed**

7-86. Consider the following modified procedure:

- (1) Initially focus on the target.
- (2) Place the firing eye so that it looks at the target through or just over the rear sight aperture.
- (3) Using peripheral vision, locate the front sightpost and bring it to the center of the target.

---

**NOTE:** Focus remains on the front sightpost throughout the aiming process.

---

- (4) When the front sightpost is in focus, fire a controlled pair.

### **Pointed**

7-87. Consider the following modifications:

- Place the focus on or slightly below the center of the target as you align the weapon with it, and fire the weapon.
- Use your instinctive pointing ability and peripheral vision to aid in proper alignment.

### **Breath Control**

7-88. This fundamental has little application to the first shot of quick fire. The round must be fired before a conscious decision can be made about breathing. If subsequent shots are necessary, breathing must not interfere with the necessity of firing quickly. When possible, use short, shallow breaths.

### **Trigger Squeeze**

7-89. Consider the following modifications:

- (1) Apply initial pressure as weapon alignment is moved toward the target.
- (2) Exert trigger squeeze so when weapon/target alignment is achieved, the rounds are fired at once.

7-90. Perfecting rapid trigger squeeze requires much training and practice.

### **QUICK FIRE TRAINING**

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**NOTE:** Only Soldiers in basic training will conduct quick fire training. SRM will be conducted at the unit level. See Section VI of this chapter for more information about SRM training.

---

7-91. The key to the successful employment of both quick fire techniques is practice. Both pointed and aimed quick fire must be repeatedly practiced during dry-fire training. LFXs provide further skill enhancement and illustrate the difference in accuracy between the two techniques.

---

**NOTE:** See Table 7-7 for the current training program.

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**Table 7-7. Quick fire training program.**

QUICK FIRE TRAINING PROGRAM	
<b>Instructional Intent</b>	
<ul style="list-style-type: none"> <li>Soldiers learn how to engage targets using the quick fire techniques.</li> </ul>	
<b>Special Instructions</b>	
Ensure that— <ul style="list-style-type: none"> <li>The M16A2/A3/A4 rifle's or M4 carbine's rear sight is set on the 0-2 aperture.</li> <li>The M16A1's rear sight is set on the unmarked aperture.</li> <li>Each Soldier is given two 10-round magazines.</li> <li>Each Soldier engages 10 target exposures of 2 seconds each at 15 meters using the first 10-round magazine.</li> <li>Each Soldier moves to the 25-meter line and engages 10 target exposures of 2 seconds each at 25 meters using the second 10-round magazine.</li> </ul>	
<b>Observables</b>	
<ul style="list-style-type: none"> <li>Each Soldier achieves 7 hits out of 10 target exposures at 15 meters.</li> <li>Each Soldier achieves 5 hits out of 10 target exposures at 25 meters.</li> </ul>	

### Conduct

7-92. Each Soldier receives two 10-round magazines. Each Soldier must achieve 7 target hits out of 10 target exposures at 15 meters and 5 target hits out of 10 target exposures at 25 meters.

7-93. Table 7-8 depicts quick fire training and provides related information, such as the number of target exposures, distance from the firer, number of rounds that must be fired, and time constraints.

**Table 7-8. Quick fire training and related information.**

NUMBER OF TARGET EXPOSURES	DISTANCE	NUMBER OF ROUNDS	TIME CONSTRAINTS
10	15	10	2 sec per target exposure
10	15	10	2 sec per target exposure

## SECTION III. CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR FIRING

All Soldiers must effectively fire their weapons to accomplish combat missions in a CBRN environment. With proper training and practice, Soldiers gain confidence in their ability to effectively hit targets in full MOPP equipment. MOPP firing proficiency must be part of every unit's training program.

### MISSION-ORIENTED PROTECTIVE POSTURE EQUIPMENT FIRE

7-94. Firing weapons is only part of overall CBRN training. Soldiers must be familiar with CBRN equipment, its use, and proper wear before they progress to learning the techniques of MOPP firing.

#### *MODIFICATIONS FOR MISSION-ORIENTED PROTECTIVE POSTURE FIRE TRAINING*

7-95. Trainers must consider the impact of MOPP equipment (for example, hood or mask, gloves, overgarments) on the Soldier's ability to properly apply the fundamentals of marksmanship and combat firing skills.

7-177. To turn to the rear—

- (1) Position the firing-side foot forward.
- (2) Place the body weight on the firing-side foot.
- (3) Pivot the body, similar to the drill movement "rear march."

### ***AIMING TECHNIQUES***

7-178. Four aiming techniques are used during SRC:

- Slow aimed fire.
- Rapid aimed fire.
- Aimed quick kill.
- Instinctive fire.

7-179. Each has advantages and disadvantages, and the Soldier must understand when, how, and where to use each technique.

#### **Slow Aimed Fire**

7-180. Slow aimed fire is the slowest, but most accurate, technique. When using this technique, Soldiers take a steady position, properly align the sight picture, and squeeze off rounds. This technique should only be used to engage targets more than 25 meters away, when good cover and concealment is available, or when the need for accuracy overrides the need for speed.

#### **Rapid Aimed Fire**

7-181. The rapid aimed fire technique utilizes an imperfect sight picture. When using this technique, the Soldier focuses on the target and raises his weapon until the target is obscured by the front sightpost. Elevation is less critical than windage when using this technique. This aiming technique is extremely effective on targets 0 to 15 meters away.

#### **Aimed Quick Kill**

7-182. The aimed quick kill technique is the quickest and most accurate method of engaging targets up to 12 meters away. As Soldiers become more experienced at using this technique, they may use it at greater ranges. When using this technique, the Soldier aims over the rear sight, down the length of the carrying handle, and places the top  $\frac{1}{2}$  to  $\frac{3}{4}$  of an inch of the front sightpost on the target.

#### **Instinctive Fire**

7-183. Instinctive fire is the least accurate technique and should only be used in emergencies. It relies on instinct, experience, and muscle memory. To use this technique, the firer concentrates on the target and points the weapon in the general direction of the target. While gripping the handguards with the nonfiring hand, he extends the index finger to the front, automatically aiming the weapon on a line toward the target.

### ***POINT OF AIM***

7-184. Most short-range engagements will be decided by who hits his target with the first round. During this type of engagement, it is more important to put the target down as quickly as possible than it is to kill him immediately.

7-185. Soldiers must aim at the lethal zone (center of mass) of the body. Although shots to the center of the body may prove to be eventually fatal, they may not immediately incapacitate the target. A shot that does not immediately incapacitate the target may be no better than a clean miss. Because of this, and the possible presence of military equipment or protective vests, Soldiers must also be able to engage targets with incapacitating shots.

### Lethal Shot Placement

7-186. The target's lethal zone (Figure 7-24) is its center of mass, between the waist and the chest. Shots in this area maximize the hydrostatic shock of the shot pellets. Due to the nature of SRC, Soldiers must continue to engage targets until they go down.

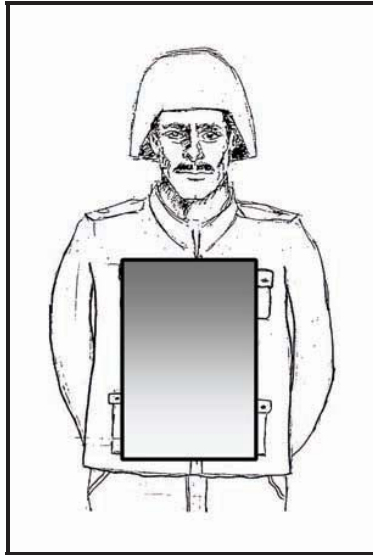


Figure 7-24. Lethal zone.

### Incapacitating Shot Placement

7-187. Only one shot placement guarantees immediate and total incapacitation: roughly centered in the face, below the middle of the forehead and the upper lip, and from the eyes in. Shots to the side of the head should be centered between the crown of the skull and the middle of the ear opening, from the center of the cheekbones to the middle of the back of the head (Figure 7-25).

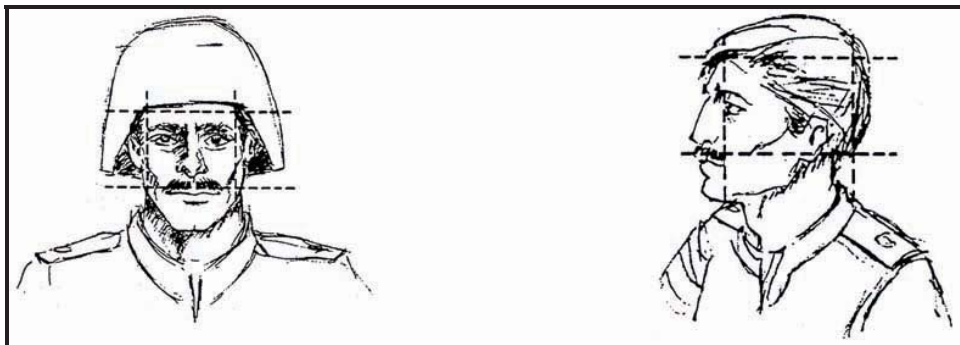


Figure 7-25. Incapacitation zone.

### ***TRIGGER MANIPULATION***

7-188. SRC engagements are usually quick, violent, and deadly. Due to the reduced reaction time, imperfect sight picture, and requirement to effectively place rounds into targets, Soldiers must fire multiple rounds during each engagement in order to survive. Multiple shots may be fired either through the use of a controlled pair or automatic weapon fire.

#### **Controlled Pair**

7-189. A controlled pair is two rounds fired in rapid succession. Controlled pairs should be fired at single targets until they go down. When multiple targets are present the Soldier must fire a controlled pair at each target, and then reengage any targets left standing. To fire a controlled pair—

- (1) Fire the first round, and allow the weapon to move in its natural arc without fighting the recoil.
- (2) Rapidly bring the weapon back on target, and fire a second round.

7-190. Soldiers must practice firing the controlled pair until it becomes instinctive.

#### **Automatic Fire**

7-191. While rapid, aimed, semiautomatic fire is the most accurate method of engaging targets during SRC and controlled three-round bursts are better than automatic fire, automatic weapon fire may be necessary to maximize violence of action or gain fire superiority when gaining a foothold in a room, building, or trench. When properly trained, Soldiers should be able to fire six rounds (two three-round bursts) in the same time it takes to fire a controlled pair. With practice, the accuracy of engaging targets can be equal to that of semiautomatic fire at 10 meters.

---

**NOTE:** The key to burst or automatic firing is to squeeze the trigger, not jerk it.

---

7-192. For the majority of Soldiers, fully automatic fire is rarely effective and can lead to unnecessary noncombatant casualties or fratricide. Not only is fully automatic fire inaccurate and difficult to control, but it also rapidly empties ammunition magazines. A Soldier who finds himself out of ammunition with an armed, uninjured enemy Soldier during SRC will become a casualty unless a fellow Soldier intervenes.

#### **Failure Drill**

7-193. To make sure that a target is completely neutralized, Soldiers should be trained to execute the failure drill. The firer will fire a controlled pair into the lethal zone, followed by a third round placed into the incapacitation zone. This type of target engagement is particularly useful when engaging targets wearing body armor.

### **PRELIMINARY SHORT-RANGE MARKSMANSHIP INSTRUCTION**

7-194. As with all other forms of marksmanship training, preliminary SRM instruction must be conducted to establish a firm foundation. Soldiers must be taught, and must understand, the fundamentals of SRM. Blank-fire drills are conducted to ensure a thorough understanding of the fundamentals, as well as to provide the trainers with valuable feedback about each Soldier's level of proficiency.

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**NOTE:** To maximize safety during training and in combat situations, it is important to emphasize muzzle awareness and selector switch manipulation during preliminary SRM instruction. The risk of fratricide or noncombatant casualties is greatest during SRC.

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7-195. Table 7-17 outlines the tasks that preliminary SRM instruction should include (at a minimum).

## Exhibit 20



# **Assault Weapons "Mass Produced Mayhem"**



**Brady Center to Prevent Gun Violence  
October 2008**



# **Assault Weapons: “Mass Produced Mayhem”**

**Brady Center to Prevent Gun Violence  
October 2008**





**October 2008**

## **ACKNOWLEDGEMENTS**

The Brady Center to Prevent Gun Violence is a national non-profit organization working to reduce the tragic toll of gun violence in America through education, research, and legal advocacy. Through its project, *Gun Industry Watch*, the Brady Center works to monitor and publicly expose gun industry practices that contribute to gun violence, with the goal of bringing about life-saving industry reform. The programs of the Brady Center complement the legislative and grassroots mobilization efforts of its sister organization, the Brady Campaign to Prevent Gun Violence and its network of Million Mom March Chapters.

*Assault Weapons: "Mass Produced Mayhem"* was written by Brian J. Siebel. Thanks go to Robyn Steinlauf, Sarah McLemore, Molly Warren, Lindsay Brooker, Talesia Simon, Natalie Durham, and Elizabeth Haile for their assistance in preparing this report. If you have questions about any part of this report, or would like a copy, please write to *Gun Industry Watch*, Brady Center to Prevent Gun Violence, 1225 Eye Street, N.W., Suite 1100, Washington D.C. 20005. The report and other Gun Industry Watch reports are also available at [www.bradycenter.org/gunindustrywatch](http://www.bradycenter.org/gunindustrywatch) and [www.gunlawsuits.org](http://www.gunlawsuits.org).

### **A Note About the Title**

The phrase "mass produced mayhem" is taken from the federal Bureau of Alcohol, Tobacco, Firearms and Explosive's description of assault weapons in its "Assault Weapons Profile" (April 1994).

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## Executive Summary

Assault weapons are military-style weapons of war, made for offensive military assaults. It is no accident that when a madman, Gian Luigi Ferri, decided to assault the law offices at 101 California Street in San Francisco, he armed himself with two TEC-9 assault weapons with 50-round magazines, which enabled him to kill eight people and wound six others.<sup>1</sup> Or that the Columbine high school shooters, who killed 12 students and a teacher, included a TEC-9 assault pistol in their arsenal.<sup>2</sup> Or that the Branch-Davidians at Waco, Texas, accumulated an arsenal of assault weapons to prepare for battle against the federal government, including 123 AR-15s, 44 AK-47s, two Barrett .50 calibers, two Street Sweepers, an unknown number of MAC-10 and MAC-11s, 20 100-round drum magazines, and 260 large-capacity banana clips.<sup>3</sup> Or that James Huberty used an UZI assault pistol and a shotgun to kill 21 people and wound 19 others at a McDonald's in San Ysidro, California.<sup>4</sup> Or that Patrick Purdy used an AK-47 assault rifle to kill five children and wound 29 others and a teacher at an elementary school in Stockton, California. Equipped with a 75-round "drum" magazine, Purdy was able to shoot 106 rounds in less than two minutes.<sup>5</sup> The list of horrific attacks goes on.<sup>6</sup>

The federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has called assault weapons "mass produced mayhem."<sup>7</sup> They have been weapons of choice for gangs, drug dealers, and mass killers. They have been used to slaughter innocents in numerous high-profile shootings, and have been used to outgun police officers on the streets. They are of no use for hunters and are counterproductive for lawful defense of one's home. Law enforcement throughout the nation has called for them to be banned. Presidents Gerald Ford, Jimmy Carter, Ronald Reagan, Bill Clinton, and George W. Bush did not agree on much, but they all supported an assault weapons ban.

For ten years, from 1994-2004, federal law banned these weapons of war. Although this now-expired law was limited in scope, and was circumvented by many gun manufacturers, it reduced the use of assault weapons in crime. The experience suggests that a stronger, more comprehensive law would enhance public safety even more.

In the four years since the federal ban expired, hundreds of people have been killed in this country with military-style assault weapons. This report lists incidents in which at least 163 people have been killed and 185 wounded in with assault weapons, including at least 38 police officers killed or wounded by them. Moreover, as these incidents are only those that we could find reported in the press, the actual tally of fatalities and injuries is almost certainly much higher.

Since the federal assault weapon expired in 2004, politicians from President George W. Bush to Senator John Warner have called for its renewal. But on this issue, the two major presidential candidates offer two starkly opposing views: Senator Barack



Obama has stated as recently as his convention acceptance speech that it is imperative that criminals be denied the use of assault weapons. Senator John McCain, who has opposed the NRA on gun shows and other issues, has been firm in his opposition to assault weapon bans. The question should be asked of the candidates, "Senator, why should civilians be allowed to wield these weapons of war?"

This report provides the factual basis for answering that question, and makes the evidentiary case for an assault weapons ban. The report also outlines how the availability of assault weapons to criminals has altered the balance of power on urban streets between police and criminals, placing police officers in grave risk of harm.

### **SWD M-10, M-11, M-11/9, and M-12 Assault Pistol**



### **AK-47 Assault Rifle (Many variants)**



v

## Assault Weapons Are Designed to Slaughter People

Assault weapons are semiautomatic versions of fully automatic guns designed for military use. These guns unleash extraordinary firepower. When San Jose, California, police test-fired an UZI, a 30-round magazine was emptied in slightly less than two seconds on full automatic, while the same magazine was emptied in just five seconds on semiautomatic.<sup>8</sup>

As the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) has explained:

Assault weapons were designed for rapid fire, close quarter shooting at human beings. That is why they were put together the way they were. You will not find these guns in a duck blind or at the Olympics. **They are mass produced mayhem.**<sup>9</sup>

ATF has also described semiautomatic assault weapons as “large capacity, semi-automatic firearms designed and configured for rapid fire, combat use.... Most are patterned after machine guns used by military forces.”<sup>10</sup> In short, as a Montgomery County, Alabama Sheriff has said: “[T]here’s only one reason for owning a gun like that – killing people. There’s no other use other than to kill people. That’s all they’re made for.”<sup>11</sup>

Assault weapons have distinct features that separate them from sporting firearms.<sup>12</sup> While semiautomatic hunting rifles are designed to be fired from the shoulder and depend upon the accuracy of a precisely aimed projectile, the military features of semiautomatic assault weapons are designed to enhance their capacity to shoot multiple human targets very rapidly. Assault weapons are equipped with large-capacity ammunition magazines that allow the shooter to fire 20, 50, or even more than 100 rounds without having to reload. Pistol grips on assault rifles and shotguns help stabilize the weapon during rapid fire and allow the shooter to spray-fire from the hip position. Barrel shrouds on assault pistols protect the shooter’s hands from the heat generated by firing many rounds in rapid succession. Far from being simply “cosmetic,” these features all contribute to the unique function of any assault weapon to deliver extraordinary firepower. They are uniquely military features, with no sporting purpose whatsoever.<sup>13</sup>

Accordingly, ATF has concluded that assault weapons “are not generally recognized as particularly suitable for or readily adaptable to sporting purposes” and instead “are attractive to certain criminals.”<sup>14</sup> An ATF survey of 735 hunting guides, conducted during the administration of President George H.W. Bush, found that sportsmen do not use assault weapons.<sup>15</sup> These findings were confirmed in a second study performed by ATF under the Clinton Administration.<sup>16</sup>



A researcher hired by the Department of Justice to analyze the effect of the 1994 federal ban on assault weapons confirmed that the firepower of assault weapons gives them greater destructive potential. His analysis found that:

attacks with semiautomatics – including assault weapons and other semiautomatics equipped with large capacity magazines – result in more shots fired, more persons hit, and more wounds inflicted per victim than do attacks with other firearms.<sup>17</sup>

This contradicts the National Rifle Association’s (“NRA”) assertion that there are only “cosmetic” differences between the guns affected by the assault weapon ban and other firearms.

### **TEC-9, TEC-DC-9, and TEC-22 Assault Pistol**



### **Steyr AUG Assault Rifle**



## **Assault Weapons Threaten Law Enforcement and Terrorize Civilians**

Since the federal assault weapons ban expired in September 2004, assault weapons have again flooded our streets, causing mayhem. Law enforcement agencies throughout the United States have reported an upward trend in assault weapons violence, forcing many police departments to invest in expensive assault weapons to keep from being outgunned by criminals. However, even with greater firepower and the availability of bulletproof vests, many officers have lost their lives to assault weapon attacks. Hundreds of civilians have also been victimized by assault weapons, many of them in multiple-victim attacks. In an appendix to this report, we list more than 200 assault weapons shootings and attacks that have occurred since the federal ban expired – and the list does not purport to be comprehensive. Assault weapons may not be used in the majority of crimes – handguns are – but they are disproportionately used in crime compared to their numbers in circulation. Moreover, assault weapons have special appeal to terrorists. They have no place in a civilized society.

### **Police Outgunned**

Law enforcement has reported that assault weapons are the “weapons of choice” for drug traffickers, gangs, terrorists, and paramilitary extremist groups. As Los Angeles Police Chief William Bratton said:

There is a reason that these weapons are so appealing to criminals. They are designed to be easily concealed and kill as many people as possible as quickly as possible. Congress must act and act now to protect the American public and our police officers from these deadly weapons. This is about public safety and law enforcement.<sup>18</sup>

Law enforcement officers are at particular risk from these weapons because of their high firepower, which often leaves them outgunned by criminals. A researcher for the Department of Justice found that:

[A]ssault weapons account for a larger share of guns used in mass murders and murders of police, crimes for which weapons with greater firepower would seem particularly useful.<sup>19</sup>

Indeed, numerous law enforcement officers have been killed with high-firepower assault weapons.<sup>20</sup> In black sidebars on the following pages, we list ten cases of officers down since the federal assault weapons ban expired in September 2004. Unfortunately, there have been many more.<sup>21</sup>





## **OFFICERS DOWN**

### **San Antonio, Texas. September 8, 2008.**

A man shot two police officers with an assault rifle when the police attempted to arrest him. A standoff between the suspect and police followed, ending hours later when the suspect shot and killed himself.<sup>22</sup>

### **Tucson, Arizona. June 1, 2008.**

A man shot at several houses with an assault rifle, then lead police in pursuit across Tucson for more than an hour. During the chase, the gunman shot at police multiple times, fatally shooting one officer and injuring two Sheriff's deputies.<sup>23</sup>

### **Philadelphia, Pennsylvania. May 3, 2008.**

Officer Stephen Liczbinski was shot and killed by an assault rifle as he was responding to a robbery at a Bank of America branch. Three men robbed the bank and were fleeing when Officer Liczbinski stopped their car and exited his patrol car. At that time, one of the bank robbers opened fire with an SKS assault rifle, striking Liczbinski numerous times. One suspect was eventually shot and killed by police and the other two were arrested and charged with murder.<sup>24</sup>

### **Miami, Florida. September 13, 2007.**

Police spotted a vehicle driving erratically and followed it until it stopped in a residential complex. The suspect got out and hopped a fence to the rear of the home; the officers exited their patrol car and went to the front of the home and were granted permission to search by a female resident. The suspect grabbed a high-powered, military-style assault rifle and fired at the police officers through a window, killing Officer Jose Somohano. The suspect then exited the house and shot three other officers as he escaped. The shooter was caught later that day but would not relinquish his assault rifle so he was shot and killed by police officers.<sup>25</sup>

### **Floyd County, Indiana. June 18, 2007.**

Two officers responded to a domestic disturbance call between a mother and her son. The officers were speaking with the mother on the driveway when the 15-year-old son ambushed both officers from an upstairs window and shot at them with a high-powered assault rifle. One officer was killed and the other was seriously wounded.<sup>26</sup>

In addition, police departments have found that the ban's expiration has led to increased criminal access to assault weapons and levels of violent crime, forcing many to outfit their officers with assault rifles of their own.<sup>27</sup> An informal survey of about 20 police departments conducted by the International Association of Chiefs of Police revealed that since 2004, all of the agencies have either added assault weapons to patrol units or replaced existing weapons with military-style assault weapons.<sup>28</sup>

"We're in an arms race," said Police Chief Scott Knight, chairman of the firearms committee of the International Association of Chiefs of Police.<sup>29</sup> Indeed, data collected from ATF found that, since 2005, the first full year after the federal ban on assault weapons expired, ATF recorded an 11% increase in crime gun tracings of AK-47-type assault weapons.<sup>30</sup>

The Chicago Police Department reported a 10% increase in the number of assault weapons seized. Superintendent Phil Cline said, "[t]hese are guns that can shoot up to 30 rounds with a couple pulls of the trigger. And it puts our police in grave danger out there. So, we'd like still to see some kind of ban, either by the state or federally."<sup>31</sup>

In 2006, law enforcement in Miami noted the effect of the expiration of the assault weapons ban on the rash of crimes used with these now-legal weapons.





County state attorney Katherine Fernandez-Rundle stated that the AK-47 is the “favorite weapon” of dangerous gangs gaining influence in Miami.<sup>32</sup> Miami-Dade Police Director Robert Parker stated “there was nothing positively gained by the lifting of the ban on assault weapons by the government.”<sup>33</sup>

Just over a year later, Miami police said that the amount of assault weapons they recovered, and homicides using assault weapons, had continued to increase. While just four percent of homicides in Miami in 2004 were committed with assault weapons, in 2007, it was one in five.<sup>34</sup> “It’s almost like we have water pistols going up against these high-powered rifles,” said John Rivera, president of the Dade County Police Benevolent Association. “Our weaponry and our bulletproof vests don’t match up to any of those types of weapons.”<sup>35</sup>

The death of Miami police officer Sgt. Jose Somohano - killed by a shooter wielding a MAK-90 three years to the day after the federal ban expired - prompted Miami Police Chief John Timoney for the first time to authorize officers to start carrying assault weapons. The Chief blamed the expiration of the federal ban for the current “arms race” between police and drug gangs using assault weapons:

This is really a failure of leadership at the national level. We are absolutely going in the wrong direction here. The whole thing is a friggin disgrace.<sup>36</sup>

He added:

Two or three years ago, we had the lowest homicide rate since 1967 in Miami. Then the homicides skyrocketed with the availability of AK-47s. And it went from 3% of all homicides being committed with AKs, up to 9% two years ago, then 18% last year, and this year it is around 20%. And it’s going up.... We’re being flooded with these AK-47s.”<sup>37</sup>

Shootings involving assault weapons were among the reasons U.S. Attorney R. Alexander Acosta set up an anti-gang task force of federal, state, and local law enforcement officials in Florida in 2007. Fifteen federal prosecutors were assigned to the effort. Said Acosta of assault weapons:

These bullets are very powerful: they go through walls, they go through cars, and if you just spray the general vicinity you’re going to get innocent bystanders. A shooting that might have been an injury previously is now a death.<sup>38</sup>

Pittsburgh law enforcement also has noticed an increase in criminal use of assault weapons since the expiration of the ban. Firearms like the AK-47 and Soviet SKS Carbine have become the weapons of choice for street criminals. Pittsburgh’s Assistant Chief of Police William Mullen blamed the expiration of the ban for this



## **OFFICERS DOWN**

**Biloxi, Mississippi. June 5, 2007.** A gunman with an AK-47 ambushed police officers in a shootout, killing one, then shooting himself. The gunman lured police by firing shots in the neighborhood and waiting. After shooting one officer, the gunman unloaded an additional round into the patrol car. The gunman had a cache of backup guns and ammunition waiting inside his home.<sup>39</sup>

**Chantilly, Virginia. May 8, 2006.** A teenager with an AK-47 and 5 handguns engaged in a firefight at a police station in suburban Virginia, killing Detective Vicky Armel immediately and wounding two other officers, one of whom, Officer Michael Garbarino, died nine days later from his injuries.<sup>40</sup>

**Las Vegas, Nevada. February 1, 2006.** A 22-year-old fired at least 50 rounds from an assault rifle, shooting two Las Vegas police officers and killing one, before being shot and killed by the surviving officer.<sup>41</sup>

**Livingston County, Kentucky. June 2, 2005.** A deputy was shot when he responded to a domestic disturbance call placed by a couple's 18-year-old daughter. When the officer entered the home, a male fired at least 8 rounds from an assault rifle at him, hitting him four times and killing him. The officer was able to fire one round which killed the gunman.<sup>42</sup>

**Ceres, California. January 9, 2005.** A 19-year-old Marine armed with an SKS assault rifle shot two police officers, killing one, in a gun battle outside a liquor store.<sup>43</sup>

increase and noted, "[t]here's a lot more assault weapons in the area in districts now than ever before."<sup>44</sup>

In Houston, where homicides were up significantly in 2006, Police Chief Harold Hurtt said the AK-47 assault rifle had become "a weapon of choice" among warring gangs.<sup>45</sup>

Palm Beach County police have noted an alarming trend of AK-47 use in violent crimes. Sheriff's Lieutenant Mike Wallace said: "It seems to be the weapon of choice right now. It's a weapon of war, and the function is to kill and maim. When somebody gets hit with that, it causes horrendous damage."<sup>46</sup> Sergeant Laurie Pfiel of the same office said: "[Criminals] don't have .38s anymore. They have AK-47s."<sup>47</sup>

Martin County Sheriff's Office Captain Ed Kirkpatrick of Florida details the effect of criminal possession of assault weapons on effective law enforcement: "Everyone is taking more precautions. When you stop a car in the middle of the night, you [didn't] think about it. Now you do. These are very powerful weapons."<sup>48</sup>

Franklin County, North Carolina Sheriff Pat Green said: "I've been in this business 25 years, and it's just getting worse," referring to a report that they have been finding more and more assault weapons at crime scenes in the state.<sup>49</sup> In South Carolina, Lieutenant Ira Parnell, head of the State Law Enforcement Division's firearms lab, noted that investigators are seeing an increase in criminal use of AK-47 and SKS assault rifles.<sup>50</sup>

Fort Wayne, Indiana police reported a significant spike in seizures of assault weapons since the ban expired, from two in 2003, to nine in 2004, eight in 2005, 29 in 2006, and 20 in 2007. "[W]e're certainly seeing them more and more," said Police Chief Rusty York.<sup>51</sup> Similarly, Omaha, Nebraska police seized 39 assault rifles in 2007, up from nine in 2006.<sup>52</sup>



In San Francisco, Police Officers Association President Gary Delanges said: “Just about every crook you run into out there [who] is a drug dealer or a gang banger’s got one of these weapons. And it’s putting our officers’ lives at risk.”<sup>53</sup> Deputy Chief Morris Tabak displayed some of the seized assault weapons, including a .22 caliber gun modified to hold 100 rounds. “These are what could be described only as anti-personnel weapons,” he said.<sup>54</sup>

### **Israeli Military Industries Action Arms UZI Assault Rifle**



### **Civilians Massacred**

Assault weapons have been used to perpetrate some of the most horrific crimes, including mass murders, ever committed in the United States. Some of the most infamous ones are cited in the Executive Summary of this report. Unfortunately, this gruesome death toll has grown since the expiration of the 10-year federal ban on assault weapons.

As can be seen from the following examples, assault weapons have been used to kill civilians engaged in common activities of life, in all types of circumstances and places. The Appendix lists more than 200 examples from just the last four years.

- **Teens slaughtered at a swimming hole in Wisconsin**

On July 31, 2008, a man used an assault rifle to massacre a group of teenagers, killing three and injuring a fourth near Niagara, Wisconsin. The teens were gathered along a river to go swimming when the gunman emerged from surrounding woods and began shooting.<sup>55</sup>



- **Apartment employees shot by a disgruntled tenant in Virginia**

On March 19, 2008, in Virginia Beach, Virginia, a man shot five people, killing two, with an AK-47 assault rifle and .9mm handgun before killing himself. The man was about to be evicted from his apartment and targeted the apartment complex's employees in his attack.<sup>56</sup>

- **Churchgoers gunned down in Colorado**

On December 9, 2007, a man armed with an assault rifle attacked a missionary training center in Arvada and a church in Colorado Springs. He killed two people and injured two others in Arvada, and killed two and injured three others, including two teenage sisters, in Colorado Springs. He was injured by a security guard and then shot himself.<sup>57</sup>

- **Mall shoppers massacred in Nebraska, Washington, and New York**

On December 5, 2007, nine people were shot to death and five others were injured after a 20-year-old shooter, armed with a military-style assault rifle, attacked shoppers in a department store in an Omaha, Nebraska mall.<sup>58</sup>

On November 20, 2005, a 20-year-old male opened fire in a Tacoma, Washington mall, wounding six. The shooter took four hostages, all of whom were released unharmed.<sup>59</sup>

On February 13, 2005, a gunman fired more than 60 shots from an AK-47 assault rifle in the Hudson Valley Shopping Mall in Ulster, New York, wounding two and causing tens of thousands of dollars of damage before being apprehended. A few hours earlier, the shooter had purchased armor-piercing ammunition from a nearby Wal-Mart.<sup>60</sup>

- **Birthday party celebrants spray-fired in Louisiana**

On September 15, 2007, at least 28 bullets were fired from an AK-47 at an outdoor birthday party for five-year-old twins in the courtyard of a housing complex in Kenner, Louisiana. A 19-year-old was killed and three children were wounded, ages 7, 8 and 13.<sup>61</sup>

- **Pregnant woman and child shot while sleeping in Illinois**

On June 25, 2006, in Calumet City, Illinois, a 22-year old pregnant woman and her three-year old son were shot and killed while they were sleeping when an unknown gunman fired 30 rounds from an AK-47 into their home at 1:15 a.m.<sup>62</sup>



- **Family massacred in a home robbery in Indiana**

On June 2, 2006, in Indianapolis, Indiana, seven family members, four adults and three children, were shot and killed in their home by a robber armed with an assault rifle. Nearly 30 shell casings were found.<sup>63</sup>

- **Two young girls shot in their homes in Illinois**

On March 11, 2006, 10-year-old Siretha White was killed by a shot to her head as she was celebrating her birthday in her living room. A spray of bullets from an assault weapon peppered the house from a nearby fight.<sup>64</sup>

Just over a week earlier, on March 3, 2006, a stray bullet from an assault rifle struck a 14-year-old honor student as she was looking out the window of her home, killing her instantly.<sup>65</sup>

- **College students murdered while camping in Florida**

On January 7, 2006, two college students camping in the Ocala National Forest in Florida were randomly targeted by a man who shot and killed them with a stolen AK-47.<sup>66</sup>

- **Domestic violence leads to mass shootout on courthouse steps in Texas and triple-slaying in Ohio**

On February 25, 2005, in Tyler, Texas, a gunman who was reportedly fighting with his ex-wife over child support for their two youngest children, shot over 50 rounds from an SKS assault rifle on the steps of his local courthouse, killing his ex-wife and a bystander. The shooter's 23-year-old son and three law enforcement officers were wounded in a shootout.<sup>67</sup>

Just a day earlier in Akron, Ohio, a man shot and killed his girlfriend and her seven-year-old son using an AR-15 assault weapon, then fired more than 100 rounds at a dozen law enforcement officers as he fled the murder scene. The gunman was arrested the next morning inside the apartment of a Kent State University student, who he also murdered with the AR-15 assault weapon. Police subsequently seized 21 weapons kept by the suspect, including an Uzi and an AK-47.<sup>68</sup>

- **Hunters gunned down in the woods in Wisconsin**

On November 21, 2004, near Hayward, Wisconsin, a 36-year-old man opened fire with an SKS semiautomatic rifle, killing six members of a hunting party and wounding two after being asked to leave another hunter's property.<sup>69</sup>



### **Crime Use Disproportionate**

The firepower of assault weapons makes them especially desired by violent criminals and especially lethal in their hands. Prior to the Act, although assault weapons constituted less than 1% of the guns in circulation,<sup>70</sup> they were a far higher percentage of the guns used in crime. ATF's analysis of guns traced to crime showed that assault weapons "are preferred by criminals over law abiding citizens eight to one.... Access to them shifts the balance of power to the lawless."<sup>71</sup>

In arguing against assault weapon bans, the NRA and its supporters have cited Justice Department studies based on surveys of state and federal prisoners to claim that assault weapons are used in only 2% of crimes nationally. These studies, however, actually confirm the disproportionate use of assault weapons in crime. More than 80% of these prisoners used *no firearm* in the commission of their crime. Within the category of inmates who used guns to commit crimes, semiautomatic assault weapons were actually used in 6.8% of state prosecutions and 9.3% of federal prosecutions.<sup>72</sup> Both percentages are much higher than the estimated 1% of guns in circulation that are assault weapons.<sup>73</sup>

In addition, research by Dr. Garen Wintemute of the University of California at Davis has found that gun buyers with criminal histories were more likely to buy assault weapons than buyers without such histories. Wintemute further found that the more serious the offender's crimes, the more likely he is to buy assault weapons. Assault weapon buyers also are more likely to be arrested after their purchases than other gun purchasers.<sup>74</sup>

### **Fabrique Nationale FN/FAL, FN/LAR, and FNC Assault Rifle**



### **Terrorists Armed**

As our nation wages a war on terrorism – at home and abroad – one salient fact is especially unassailable: terrorists and assault weapons go together. The assault weapon's capacity to mass-murder within a matter of seconds makes it an ideal weapon for domestic and foreign terrorists alike. The oft-seen file footage of Osama Bin Laden,





aiming his AK-47 at an unknown target, is now a familiar reminder of the incontrovertible connection between terrorism and assault weapons.

After America's bombing of terrorist camps in Afghanistan after 9/11, the *Chicago Tribune* reported that, among the mounds of rubble found at a training facility in Kabul for a radical Pakistan-based Islamic terrorist organization, was a manual entitled "How Can I Train Myself for Jihad" containing an entire section on "Firearms Training."<sup>75</sup> Tellingly, the manual singles out the United States for its easy availability of firearms and advises al-Qaeda members living in the United States to "obtain an assault weapon legally, preferably AK-47 or variations." Further, the manual sets forth guidelines for how would-be terrorists should conduct themselves in order to avoid arousing suspicion as they amass and transport firearms.

As the following examples indicate, terrorists have sought and obtained assault weapons in the U.S.

- **Conspirators armed to attack within the United States**

On May 7, 2007, five New Jersey men were indicted for conspiring to attack the United States Army base at Fort Dix, NJ. Over several months, the conspirators managed to stockpile numerous assault weapons, along with shotguns and various other small arms, and used these weapons in tactical training for their attack. The men had also arranged to purchase five fully automatic AK-47s and several M-16s at the time of their arrest.<sup>76</sup>

On March 16, 2005, in New York, Artur Solomonyan, an Armenian, and Christian Dewet Spies, of South Africa, were indicted for smuggling a small arsenal of assault weapons into the U.S. from Russia and Eastern Europe. The two men, who had entered the U.S. illegally, stored these weapons in storage lockers in New York, Los Angeles, and Fort Lauderdale. When approached by an FBI informant with ties to terrorist organizations, Solomonyan and Spies offered to sell him AK-47s and machine guns, along with RPG-launchers, mines, and other military-grade ordnance.<sup>77</sup>

In late April 2004, Michael J. Breit of Rockford, Illinois, was arrested after firing his AK-47 in his apartment. Federal agents recovered seven guns, more than 1,300 rounds of ammunition, pipe bomb making components and other explosives, a list of government officials and political and public figures with the word "marked" written next to them, and a written plan for 15 heavily armed men to kill 1,500 people at a Democratic presidential event. Breit's library included *The Turner Diaries*, the anti-government cult novel that inspired Timothy McVeigh, and *Guns, Freedom and Terrorism*, the book authored by NRA CEO Wayne LaPierre, investigators said.<sup>78</sup>

In September 2001, Ben Benu, Vincente Pierre and his wife were arrested in Virginia for illegally buying assault weapons and other guns. The arrests were part of the post-September 11<sup>th</sup> sweep of terrorism suspects. They were alleged to be part of a militant group called Muslims of America (also linked to a terrorist group called Al



Fuqra). They bought guns including an SKS assault rifle, a 9mm pistol, and AK-47 ammunition.<sup>79</sup>

### **Street Sweeper/Striker 12 Assault Shotgun**



- **Arming terrorists and criminals abroad with assault weapons bought here**

On May 6, 2008, Phoenix gun dealer George Iknadosian and two associates were arrested after receiving a shipment of weapons intended for sale to a Mexican drug cartel. An undercover investigation by ATF indicated that Iknadosian sold at least 650 AK-47 assault rifles for trafficking to Mexico but that the actual number might have been closer to 1,000. Such weapons feed the on-going conflict between drug traffickers and Mexican authorities, a conflict which resulted in more than 2,000 law enforcement deaths in an 18-month period.<sup>80</sup>

Over several months in 2006, Adan Rodriguez purchased more than 100 assault rifles, along with many other weapons, from Dallas area gun shops on behalf of Mexican drug traffickers who paid him in cash and marijuana. Rodriguez's arrest was one of several key arrests in a five-year crack-down on weapons smuggling to Mexico. AK-47's, AR-15's, and other high-powered assault weapons, obtained either at gun shows or through straw purchasers, fuel an on-going war between major Mexican cartels and police and military officials. Over 4,000 people were killed in this drug-related violence during an 18-month period in 2007-2008.<sup>81</sup>

On September 10, 2001, Ali Boumelhem was convicted on a variety of weapons charges plus conspiracy to ship weapons to the terrorist organization Hezbollah in Lebanon. He and his brother had purchased an arsenal of shotguns, hundreds of rounds of ammunition, flash suppressors and assault weapons components at Michigan gun shows. Had it not been for a police informant, these purchases would have eluded any scrutiny.<sup>82</sup>

Stephen Jorgensen purchased hundreds of firearms, including AK-47 clones called MAK-90s, with plans to ship them overseas from Tampa, Florida. Jorgensen bought 800 MAK-90s, loading them on to small planes. US customs officials say the guns were headed to the FARK guerilla movement in Colombia, a group on the U.S. terrorism watch list. Jorgensen was caught because he illegally exported the guns.<sup>83</sup>





In June 2001 federal agents arrested Keith Glaude when he tried to purchase 60 AK-47 assault rifles and 10 machine guns in Florida. He told authorities that he intended to ship the guns to an Islamic extremist group in his native Trinidad. Previously, that group had acquired over 100 assault weapons in Florida that it used in a 1990 attempt to overthrow the government of Trinidad and Tobago.<sup>84</sup>

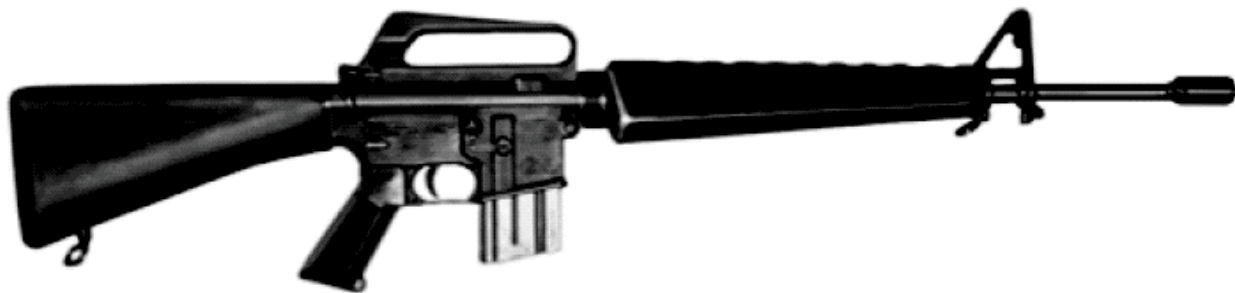
- **Using assault weapons in terrorist attacks**

Over a period of weeks in 2002, John Mohammed, a convicted felon, and his juvenile cohort, Lee Boyd Malvo, terrorized the entire metropolitan Washington, D.C. area by engaging in a series of sniper attacks on randomly-selected victims. In all, they shot 16 victims with a Bushmaster XM-15 E2S .223 caliber semiautomatic assault rifle that one of the snipers allegedly shoplifted from a Tacoma, Washington gun store. Each of the victims was randomly gunned down while going about simple activities of daily living, like closing up a store after work,<sup>85</sup> filling a car with gas at a service station,<sup>86</sup> mowing a lawn,<sup>87</sup> or loading one's car in a mall parking lot.<sup>88</sup> Both shooters have been convicted of their offenses.

On March 1, 1994, terrorist Rashid Baz opened fire on a van of Hasidic students crossing the Brooklyn Bridge, killing one student and wounding another. Baz used a Cobray M-11 assault pistol in the crime. He assembled it from a mail-order kit.<sup>89</sup>

On January 25, 1993, Pakistani national Mir Aimal Kasi killed 2 CIA employees and wounded 3 others outside the entrance to CIA headquarters in Langley, Virginia. Kasi used a Chinese-made semiautomatic AK-47 assault rifle equipped with a 30-round magazine purchased from a Northern Virginia gun store.<sup>90</sup> After fleeing the country, he was arrested in Pakistan in June 1997 and convicted by a Virginia jury in November of that year.<sup>91</sup>

### **Colt AR-15 Assault Rifle**



## Assault Weapons Have No Sporting or Self-Defense Purpose

Prior to passage of the federal assault weapons ban, the importation of certain types of assault weapons from overseas was banned during the Reagan and George H.W. Bush Administrations. These import bans were ordered by ATF under the 1968 Gun Control Act, which bars the importation of guns that are not “particularly suitable for or readily adaptable to sporting purposes.”<sup>92</sup>

Under the Reagan Administration, ATF blocked the importation of certain models of shotguns that were not suitable for sporting purposes. In 1989, during the George H.W. Bush Administration, ATF expanded this list to permanently ban the importation of 43 types of semiautomatic assault rifles that were also determined not to have a sporting purpose. Later, in 1998, President Clinton banned the importation of 58 additional foreign-made “copycat” assault weapons in order to close a loophole in the existing import ban.<sup>93</sup>

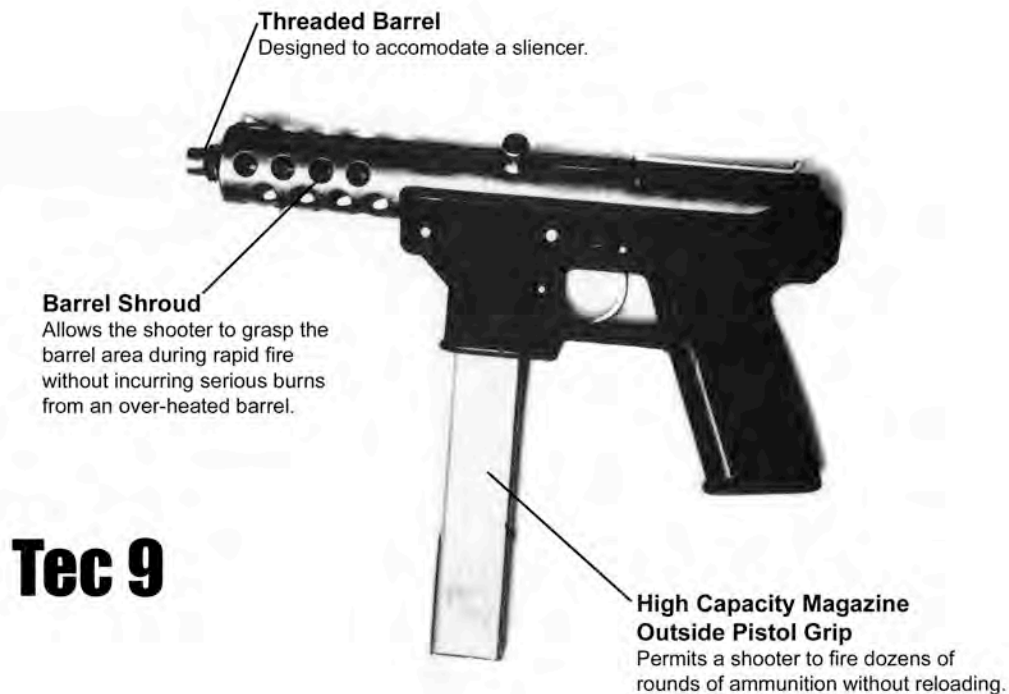
Assault weapons, as opposed to hunting rifles, are commonly equipped with some or all of the following combat features that have no sporting value:

- **A high-capacity ammunition magazine** enabling the shooter to continuously fire dozens of rounds without reloading. Standard hunting rifles are usually equipped with no more than three or four-shot magazines.
- **A folding or telescoping stock**, which sacrifices accuracy for concealability and for mobility in close combat.
- **A pistol grip or thumbhole stock**, which facilitates firing from the hip, allowing the shooter to spray-fire the weapon. A pistol grip also helps the shooter stabilize the firearm during rapid fire.
- **A barrel shroud**, which allows the shooter to grasp the barrel area to stabilize the weapon, without incurring serious burns, during rapid fire.
- **A flash suppressor**, which allows the shooter to remain concealed when shooting at night, an advantage in combat but unnecessary for hunting or sporting purposes. In addition, the flash suppressor is useful for providing stability during rapid fire, helping the shooter maintain control of the firearm.
- **A threaded barrel designed to accommodate a flash suppressor or silencer**. A silencer is useful to assassins but clearly has no purpose for sportsmen. Silencers are also illegal.
- **A barrel mount designed to accommodate a bayonet**, which obviously serves no sporting purpose.



## Combat Hardware Commonly Found on Assault Weapons

Assault weapons generally include features that are useful for offensive assaults on people, but have no sporting or self-defense function. Some of these are shown below.



- **A grenade launcher or flare launcher**, neither of which could have any sporting or self-defense purpose.
- **A shortened barrel** designed to reduce the length of an assault rifle to make it more concealable. This reduces accuracy and range.<sup>94</sup>

In addition to utilizing military features useful in combat, but which have no legitimate civilian purpose, assault weapons are exceedingly dangerous if used in self defense, because the bullets many of the weapons fire are designed to penetrate humans and will penetrate structures, and therefore pose a heightened risk of hitting innocent bystanders. As Jim Pasco, executive director of the Fraternal Order of Police has explained: **“An AK-47 fires a military round. In a conventional home with dry-wall walls, I wouldn’t be surprised if it went through six of them.”**<sup>95</sup> A bullet fired in self-defense that penetrated a home’s walls, could strike bystanders in neighboring rooms, apartments, or houses.

High capacity magazines containing more than 10 rounds, which were also banned as part of the Federal Assault Weapons Act, are also not useful for self-defense, as former Baltimore County Police Department Colonel Leonard J. Supenski has testified:

The typical self-defense scenario in a home does not require more ammunition than is available in a standard 6-shot revolver or 6-10 round semiautomatic pistol. In fact, because of potential harm to others in the household, passersby, and bystanders, too much firepower is a hazard. Indeed, in most self-defense scenarios, the tendency is for defenders to keep firing until all bullets have been expended.<sup>96</sup>

Assault weapons were designed for military use. They have no legitimate use as self-defense weapons.



## **Sportsman Jim Zumbo Speaks Out “Assault” Rifles are “Terrorist” Rifles**

A long-standing writer for *Outdoor Life* magazine, Jim Zumbo, created a huge controversy within the gun lobby when he admitted in an online blog that assault rifles have no place as hunting weapons. Zumbo wrote:

*“I must be living in a vacuum. The guides on our hunt tell me that the use of AR and AK rifles have a rapidly growing following among hunters, especially prairie dog hunters. I had no clue. Only once in my life have I ever seen anyone using one of these firearms.*

*I call them ‘assault’ rifles, which may upset some people. Excuse me, maybe I’m a traditionalist, but I see no place for these weapons among our hunting fraternity. I’ll go so far as to call them ‘terrorist’ rifles. They tell me that some companies are producing assault rifles that are ‘tackdrivers.’*

*Sorry, folks, in my humble opinion, these things have no place in hunting. We don’t need to be lumped into the group of people who terrorize the world with them, which is an obvious concern. I’ve always been comfortable with the statement that hunters don’t use assault rifles. We’ve always been proud of our “sporting firearms.*

*This really has me concerned. As hunters, we don’t need the image of walking around the woods carrying one of these weapons. To most of the public, an assault rifle is a terrifying thing. Let’s divorce ourselves from them. I say game departments should ban them from the prairies and woods.”<sup>97</sup>*

## **Israel Military Industries Action Arms Galil Assault Rifle**



## **“Dangerous and Unusual Weapons” Are Not Protected by the Second Amendment**

The Second Amendment does not provide constitutional protection for military-style assault weapons. In *District of Columbia v. Heller*,<sup>98</sup> the Supreme Court recently ruled that the Second Amendment protects an individual right to keep and bear arms for self-defense in the home.<sup>99</sup> However, the Court also went out of its way to indicate that the right is limited in a number of ways. One limitation, the Court held, is that not all “arms” are protected.

We also recognize another important limitation on the right to keep and carry arms. [U.S. v.] *Miller* said, as we have explained, that the sorts of weapons protected were those “**in common use at the time.**” We think that limitation is fairly supported by the historical tradition of prohibiting carrying of “**dangerous and unusual weapons.**”<sup>100</sup>

Assault weapons are certainly “dangerous and unusual weapons” according to any reasonable analysis of that phrase. They are military-style offensive weapons designed to slaughter human beings.<sup>101</sup> This differentiates them from all hunting rifles and shotguns, as well as common handguns, which are often used in crime but have also been used in self-defense.

Moreover, assault weapons have never been “in common use” at **any** time. As semi-automatic versions of machine guns developed for use during the World Wars of the 20<sup>th</sup> Century, they are a relatively recent invention. In addition to being banned by the federal government for 10 years, they have been banned in several states.<sup>102</sup> Plus, ATF has twice concluded, after thorough analyses in 1989 and 1998, that assault weapons have no “sporting purpose.”<sup>103</sup> This conclusion has blocked them from being imported into the United States.

Another factor suggesting that the Second Amendment does not protect assault weapons is that state supreme courts have consistently upheld the constitutionality of assault weapon bans as reasonable regulations designed to protect public safety under broadly-worded right-to-bear-arms provisions in state constitutions.<sup>104</sup> The *Heller* Court relied on these state constitutional provisions, many of which were adopted in the 18<sup>th</sup> and 19<sup>th</sup> centuries, to support its interpretation that the Second Amendment protects an individual right to bear arms. Courts construing the Second Amendment, post-*Heller*, can be expected to apply a similar standard of review, and uphold a federal assault weapons ban.





## A Strong Federal Assault Weapons Ban Should Be Enacted

In response to mass shootings and mounting public pressure, Congress finally passed a nationwide ban on assault weapons in 1994. In hearings on the bills, the Senate Judiciary Committee explained the need to:

address the carnage wrought by deadly military-style assault weapons on innocent citizens and the law enforcement officers who seek to protect us all. Recent events illustrate again, and with chilling vividness, the tragedy that results from the wide and easy availability of guns with fire power that overwhelm our police, of weapons that have no place in hunting or sport and whose only real function is to kill human beings at a ferocious pace.<sup>105</sup>

Those factors are just as prevalent today. Indeed, after 9/11, the need may be greater.

Unfortunately, the 1994 statute's scope and effectiveness were limited in several important ways. First, the law included a 10-year sunset provision allowing it to lapse when it was not re-enacted in 2004. Second, the law contained a list of assault weapons banned by make and model, but this list was not comprehensive. Third, the statute also banned guns by reference to their military features, but required guns to have **two** of these features (in addition to being semiautomatic firearms capable of accepting a detachable, high-capacity ammunition magazine) in order to be banned. The requirement of two military features created a loophole that allowed gun makers to continue manufacturing and selling stripped-down assault weapons.<sup>106</sup>

The result was a piece of legislation that was valuable at keeping many of the most dangerous assault weapons out of criminals' hands, but one that also had an opening for gun manufacturers to evade the ban. Some manufacturers evaded the ban by developing guns, like the Bushmaster XM-15, Intratec's AB ("After Ban")-10, and Olympic Arms PCR ("Politically Correct Rifle"), with only minor changes in features to banned weapons.

### Effect of the 1994 Ban

According to a study published by the Brady Center in 2004 entitled *On Target: The Impact of the 1994 Federal Assault Weapons Act*, the federal assault weapons ban reduced the incidence of assault weapons use in crime. In the five-year period (1990-1994) before enactment of the ban, assault weapons named in the Act constituted 4.82% of the crime gun traces ATF conducted nationwide. In the post-ban period after 1995,<sup>107</sup> these assault weapons made up only 1.61% of the guns ATF has traced to crime – a drop of 66% from the pre-ban rate.<sup>108</sup> Moreover, ATF trace data showed a steady year-by-year decline in the percentage of assault weapons traced, suggesting that the longer the statute was in effect, the less available these guns became for



criminal misuse. Indeed, the absolute number of banned assault weapons traced also declined. An initial report issued by the Department of Justice supported these findings.<sup>109</sup> These findings were further supported in a later report by one of the same researchers.<sup>110</sup>

This analysis was based on crime gun trace data compiled by ATF of more than 1.4 million crime guns recovered across the United States between 1990 and 2001.<sup>111</sup> If the ban had not been enacted, and had the banned assault weapons continued to make up the same percentage of crime gun traces as before the Act's passage, it was estimated that approximately 60,000 more of the banned assault weapons would have been traced to crime in the 10 years the law was in effect. Former ATF officials at Crime Gun Solutions, LLC, including the former Special Agent in Charge of ATF's National Tracing Center, analyzed the data for the Brady Center.

*On Target* also looked at the problem of "copycat" assault weapons developed by the gun industry to enable the continued sale of high-firepower weapons. The study found that industry efforts to evade the federal ban through the sale of these "copycat" weapons was able to diminish, but not eliminate, the 1994 Act's beneficial effects. Even including copycats of the federally banned guns, there was still a 45% decline between the pre-ban period (1990-1994) and the post-ban period (1995 and after) in the percentage of ATF crime gun traces involving assault weapons and copycat models.

The lesson to be drawn from this study is that a new assault weapons ban should be passed to reduce criminal use of these dangerous weapons, but it should be stronger and more comprehensive than the original federal ban to reduce indirect evasion through the manufacture of "copycat" weapons. One model for a strong assault weapons ban is the law California enacted in 2000 that bans military-style weapons capable of accepting high-capacity ammunition magazines that have even a single combat feature.<sup>112</sup> Representative Carolyn McCarthy has introduced similar strong assault weapons legislation in the U.S. House of Representatives.<sup>113</sup>

### **Support by Law Enforcement, the Public, and Presidents**

The law enforcement community has long supported strong assault weapons bans. Every major national law enforcement organization in the country supported the Federal Assault Weapons Act and urged its renewal, including the Law Enforcement Steering Committee, Fraternal Order of Police, National Sheriffs' Association, International Association of Chiefs of Police, Major City Chiefs Association, International Brotherhood of Police Officers, National Association of Police Organizations, Hispanic American Police Command Officers Association, National Black Police Association, National Organization of Black Law Enforcement Executives, Police Executive Research Forum, and Police Foundation.

In poll after poll, the American people, regardless of party affiliation, have consistently supported a federal ban on assault weapons. In an ABC/Washington Post poll conducted in August-September 1999, 77% of adults supported a nationwide ban





on the sale of assault weapons.<sup>114</sup> That same percentage held firm through the end of 2003 when an NBC News/Wall Street Journal poll found that 78% of adults nationwide expressed support for renewing the federal ban.<sup>115</sup> In September 2004, just after the assault weapons ban expired, a Harris poll found that a substantial majority of Americans, 71%, favored reinstatement of the ban.<sup>116</sup> As more time has passed without a federal assault weapons ban in effect, support for a ban has grown. For example, a 2007 poll from Illinois found that 80% of voters favored banning semiautomatic assault weapons.<sup>117</sup> Newspaper editorial boards have also continued their strong support for getting assault weapons off our nation's streets.<sup>118</sup>

Presidents across the political spectrum have supported an assault weapons ban. Former Presidents Ford, Carter, and Reagan wrote Congress in support of the 1994 ban to "urge you to listen to the American public and to the law enforcement community and support a ban on the further manufacture of these weapons."<sup>119</sup> In 2004, Presidents Ford, Carter, and Clinton wrote to urge re-authorization of the ban.<sup>120</sup> President George W. Bush also stated that he supported the ban and would sign its reauthorization if it passed Congress.

- **Senator Obama Opposes Assault Weapons for Civilians, While Senator McCain Supports Them**

Of the Presidential candidates, Senator Barack Obama supports banning assault weapons. He also addressed the issue in his acceptance speech to the 2008 Democratic Convention, saying, "The reality of gun ownership may be different for hunters in rural Ohio than they are for those plagued by gang violence in Cleveland, but don't tell me we can't uphold the Second Amendment while keeping AK-47s out of the hands of criminals."

Senator John McCain has consistently opposed an assault weapon ban, saying it "represented an arbitrary restriction on the constitutional rights of law-abiding citizens."



## Conclusion

Assault weapons are weapons of war that are sought after and used by street gangs, drug dealers, and terrorists, but are of no use to law-abiding persons who own guns for sporting purposes and self-defense. Law enforcement and an overwhelming majority of the American public realize that these guns have no place in civilian hands, and should be banned. For 10 years, America attempted to limit the mayhem caused by assault weapons and the high-capacity ammunition magazines that they utilize. Although the gun industry worked hard to evade the federal ban by marketing assault weapons stripped of enough features to get by, gun makers were not wholly effective at neutralizing the federal ban's effect. Even accounting for the industry's evasive efforts, the use of assault weapons in crime declined substantially. Unfortunately, President Bush and the 108<sup>th</sup> Congress allowed it to lapse.

We need to enact a new, stronger federal assault weapons ban to keep these dangerous guns off the streets – a law that will ban all military-style weapons and with no sunset provision.

The lives of our law enforcement officers and our citizens hang in the balance.

### **Beretta AR 70 Assault Rifle**



## APPENDIX: Examples of Assault Weapon Violence Since Federal Ban Expired

- **North Tulsa, Oklahoma. October 6, 2008.** A man accidentally shot his roommate with an SKS assault rifle. The victim and shooter were arguing with the victim's estranged wife and another man when the shooter fired warning shots, hitting his roommate inadvertently.<sup>1</sup>
- **Madison, Illinois. October 6, 2008.** A 12-year-old boy died after getting caught in the middle of a gunfight. More than 40 shots were fired as a man with an assault rifle exchanged fire with gunmen in cars.<sup>2</sup>
- **Springfield, Missouri. October 4, 2008.** A 21-year-old shot two men with an AR-15 Assault Rifle during an argument at a nightclub.<sup>3</sup>
- **Kansas City, Missouri. October 2, 2008.** Two men, one armed with an assault rifle, shot at two undercover police officers. The officers returned fire, injuring the two assailants.<sup>4</sup>
- **Brownsville, Texas. September 30, 2008.** Two men armed with an AK-47 Assault Rifle and .38 revolver shot multiple rounds at a group of men gathered outside a home twice in one night. There was a long-standing argument between the shooters and one of the victims. Nobody was hurt in either incident.<sup>5</sup>
- **Battle Creek, Michigan. September 28, 2008.** A felon with an assault weapon shot two teenagers in retaliation for a shooting several weeks prior.<sup>6</sup>
- **Jackson, Mississippi. September 26, 2008.** Two men armed with an assault rifle shot repeatedly at a house, hitting a woman and a one year old boy inside.<sup>7</sup>
- **Lenoir, North Carolina. September 21, 2008.** A former police officer and army veteran, who was armed with an assault rifle, shot two sheriff's deputies, killing one of them.<sup>8</sup>
- **San Antonio, Texas. September 18, 2008.** A gunman with an AK-47 assault rifle fired more than 15 rounds at a home, hitting a woman sleeping inside twice.<sup>9</sup>

<sup>1</sup> *Man accidentally shot by roommate*, KJRH- TV 2, Tulsa, Oklahoma, Oct. 6, 2008.

<sup>2</sup> *12 Year Old Shot Dead In Madison, Illinois Overnight*, ASSOCIATED PRESS, Oct. 7, 2008.

<sup>3</sup> Dirk Vanderhart, *Shooting prompted by conflict over woman, hat*, SPRINGFIELD NEWS-LEADER, Oct. 7, 2008.

<sup>4</sup> *KCMO Officers Fired on with Assault Rifle*, WDAF-TV 4, Kansas City, Missouri, Oct. 2, 2008.

<sup>5</sup> *Police: 10-year grudge prompts downtown shooting*, BROWNSVILLE HERALD, Oct. 3, 2008.

<sup>6</sup> Trace Christenson, *B.C. man faces attempted murder charge*, BATTLE CREEK ENQUIRER, Oct. 2, 2008.

<sup>7</sup> *2 men charged in shooting denied bond*, ASSOCIATED PRESS, Oct. 2, 2008.

<sup>8</sup> Dee Henry, *Armed and dangerous*, HICKORY DAILY HERALD, Sept. 22, 2008.



- **Charlotte, North Carolina. September 15, 2008.** Two people were sitting in a car outside an apartment building when a man shot at them with an assault rifle. One person in the car was hit twice and the other individual was injured by shattered glass.<sup>10</sup>
- **Houston, Texas. September 9, 2008.** One person died and two were injured in an overnight shooting. The assailants were carrying several weapons, including an assault rifle.<sup>11</sup>
- **San Antonio, Texas. September 8, 2008.** A man shot two police officers with an assault rifle when the police attempted to arrest him. A standoff between the suspect and police followed, ending hours later when the suspect shot and killed himself.<sup>12</sup>

**Tulsa, Oklahoma. September 7, 2008.** A gunman with an assault weapon opened fire on a car carrying five teenagers home from church. Four of the five passengers were hit: Donovan Crutcher died from his wounds, Adrion Crutcher sustained damage to his spinal cord, Jeremy Williams lost the sight in his left eye, and Jahmal Bryant was in the intensive care unit. Four days later, a suspect was arrested in connection with the shooting.<sup>13</sup>

- **Birmingham, Alabama. September 5, 2008.** A man shot and killed his landlord with an SKS assault rifle after the two argued over stolen property.<sup>14</sup>
- **Dayton, Ohio. August 26, 2008.** A 31-year-old man sustained severe leg injuries when he was shot multiple times with an assault rifle.<sup>15</sup>
- **Hope Mills, North Carolina. August 25, 2008.** An 18-year-old shot a man in the head with an assault rifle. The victim was leaving the shooter's house by car, along with a woman and baby, when the incident occurred.<sup>16</sup>
- **Miami, Florida. August 23, 2008.** An intoxicated customer was shot with an AK-47 assault rifle after being kicked out of a strip club. The shooter was then shot by another man, who was also carrying an assault rifle.<sup>17</sup>

<sup>9</sup> *Shooter Opens Fire On Home, Sleeping Woman Hit Twice*, WOAI – TV 4 San Antonio, Sept. 18, 2008.

<sup>10</sup> *Apartment Complex Evacuated After Double Shooting*, WSOC-TV 9, Sept. 16, 2008.

<sup>11</sup> *Suspects in Triple Shooting Had Assault Rifle, Multiple Weapons*, FOX 26 TV Houston, Sept. 10, 2008.

<sup>12</sup> *SAPD Details Monday Shooting Investigation*, KSAT12-TV, San Antonio, Texas, Sept. 10, 2008.

<sup>13</sup> *Arrest made in deadly drive-by*, TULSA WORLD, Sept. 12, 2008.

<sup>14</sup> *Landlord Killed After Argument Over Stolen Copper*, NBC13-TV, Birmingham, Alabama, Sept. 8, 2008.

<sup>15</sup> *Man Targeted By Shooter With Assault Rifle*, WHIO-TV, Dayton, Ohio, Aug. 27, 2008.

<sup>16</sup> *Three charged in Hope Mills shooting*, THE FAYETTEVILLE OBSERVER, Aug. 28, 2008.

<sup>17</sup> *2 Dead in Shootout At Strip Club*, NBC6-TV, Miami, Florida, Aug. 23, 2008.



- **Youngsville, North Carolina. August 22, 2008.** A 12-year-old boy accidentally shot an 11-year-old neighbor with an AK-47 assault rifle.<sup>18</sup>
- **San Antonio, Texas. August 20, 2008.** A man was chased by a group of young men outside an apartment complex and was shot twice with an assault rifle.<sup>19</sup>
- **West Valley City, Utah. August 15, 2008.** Three men in an SUV shot at another car with an assault rifle and then led police on a high-speed chase. The police recovered drugs, alcohol, live casings, and an assault rifle from the car.<sup>20</sup>

**Newark, New Jersey. August 14, 2008.** 15-year-old Bukhari Washington was killed after a bullet fired from a Chinese-made Norinco SKS assault rifle struck his bed while he slept. The gun was fired accidentally when its owner, 19-year-old Terrance Perry, was “fiddling” with it in the apartment below. Washington was a student at Christ the King Preparatory School and interned at a nursing home for people with HIV and AIDS.<sup>21</sup>

- **Birmingham, Alabama. August 11, 2008.** A 17-year-old girl was in a car that was sprayed by bullets from an AK-47. The girl exited the car and tried to run home when she was shot twice, once in the chest and again in her left hand, severing it. She died moments later from her injuries.<sup>22</sup>
- **New Orleans, Louisiana. August 10, 2008.** One man was injured and another man died after being shot with an AK-47 assault rifle.<sup>23</sup>
- **New Orleans, Louisiana. August 8, 2008.** A gunman carrying an assault rifle shot two people.<sup>24</sup>
- **Niagara, Wisconsin. July 31, 2008.** A man with an assault rifle massacred a group of teenagers, killing three and injuring a fourth. The group was gathered along a river to go swimming when the gunman emerged from surrounding woods and began shooting.<sup>25</sup>

<sup>18</sup> *Sheriff says boy, 11, shot with AK-47*, THE NEWS & OBSERVER, Aug. 24, 2008.

<sup>19</sup> *Man Chased Down and Shot to Death*, WOAI-TV, San Antonio, Texas, Aug. 21, 2008.

<sup>20</sup> *Shooting triggers high-speed chase; 3 arrested*, THE SALT LAKE TRIBUNE, Aug. 15, 2008.

<sup>21</sup> Jonathan Schuppe, *Senseless Shot, Random Death: Respected teen is slain in bed, to Newark’s grief*, THE STAR-LEDGER, Aug. 15, 2008.

<sup>22</sup> Dan Barry, *Gunshot, then silence: And the sorrow spreads*, NEW YORK TIMES, Aug. 17, 2008.

<sup>23</sup> Nicole Dungca & Ramon Antonio Vargas, *Two die Sunday in separate slayings*, THE TIMES-PICAYUNE, Aug. 11, 2008.

<sup>24</sup> Leslie Williams, *Mob scene follows double shooting*, THE TIMES-PICAYUNE, Aug. 9, 2008.

<sup>25</sup> *Niagara, Wisconsin shooting suspect caught*, THE CHICAGO TRIBUNE, Aug. 1, 2008.



- **Pittsburgh, Pennsylvania. July 31, 2008.** Two men with an assault rifle shot and killed two cousins as they talked outside a home.<sup>26</sup>
- **Orlando, Florida. July 30, 2008.** A man with an assault rifle shot and killed two teenagers and another man over stolen property.<sup>27</sup>
- **Dallas, Texas. July 29, 2008.** A Dallas Morning News deliveryman was shot multiple times with an assault rifle while delivering papers early in the morning. His 14-year-old son was with him, but was not injured.<sup>28</sup>
- **Kansas City, Missouri. July 28, 2008.** Three men broke into a home and held up the occupants at 1:30 in the morning. The men were armed with an assault rifle with a bayonet attached.<sup>29</sup>
- **Detroit, Michigan. July 27, 2008.** Three people died, including a 17-year-old girl, after being shot with an assault rifle while leaving a bar.<sup>30</sup>
- **Salt Lake City, Utah. July 26, 2008.** A 19-year-old airman shot a 22-year-old with an assault rifle after the two argued at a nightclub. The airman shot another person several months earlier.<sup>31</sup>
- **Chattanooga, Tennessee. July 24, 2008.** Two men armed with an SKS assault rifle shot a 28-year-old man in the head and back.<sup>32</sup>

**Oakland, California. July 23, 2008.** 23-year-old Amanda Hunter was killed when she was accidentally shot in the head with an assault rifle. Hunter was attempting to remove the weapon from her home when it fell to the ground and fired. Her boyfriend, the owner of the weapon and a convicted felon, was arrested for weapons related charges including being a felon in possession of a firearm.<sup>33</sup>

- **New Orleans, Louisiana. July 15, 2008.** A man died after being shot repeatedly with an AK-47 while asleep in his trailer.<sup>34</sup>

<sup>26</sup> Jill King Greenwood, *72 killings set bloody pace in city, county*, PITTSBURGH TRIBUNE-REVIEW, Aug. 2, 2008.

<sup>27</sup> Vincent Bradshaw & Willoughby Mariano, *Flurry of bullets near Orlando playground kills three*, THE ORLANDO SENTINEL, July 31, 2008.

<sup>28</sup> Scott Goldstein, *Father, son survive shooting during News delivery*, THE DALLAS MORNING NEWS, Aug. 7, 2008.

<sup>29</sup> Mike Rice, *Home invasion robbery reported in Gladstone*, KANSAS CITY STAR, July 28, 2008.

<sup>30</sup> Candice Williams, *Girl, 17, two men fatally shot outside Detroit bar*, THE DETROIT NEWS, July 27, 2008.

<sup>31</sup> *Airman's arrest for shooting not his first*, STANDARD-EXAMINER, July 29, 2008

<sup>32</sup> Jacqueline Koch, *Police investigate assault-rifle shooting*, CHATTANOOGA TIMES FREE PRESS, July 25, 2008.

<sup>33</sup> *Oakland woman killed when assault rifle accidentally fires*, July 24, 2008, available at: [http://www.insidebayarea.com/ci\\_9977524](http://www.insidebayarea.com/ci_9977524) (last visited Sept. 26, 2008).

<sup>34</sup> Ramon Antonio Vargas, *AK-47 fire kills sleeping former rapper*, THE TIMES PICAYUNE, July 16, 2008.





- **Daytona Beach, Florida. July 13, 2008.** A distraught man fired 30 rounds into the side of an occupied building with an AK-47 assault rifle.<sup>35</sup>
- **Eatonville, Florida. July 8, 2008.** A father and son were shot during a robbery with an AK-47 assault rifle.<sup>36</sup>
- **Youngstown, Ohio. July 8, 2008.** A man beat up and attempted to shoot his girlfriend with an assault weapon.<sup>37</sup>
- **Edwardsville, Illinois. July 7, 2008.** Two 19-year-olds repeatedly shot at a sheriff's deputy with an assault weapon as he pursued them during a car chase.<sup>38</sup>
- **Van Buren, Michigan. July 6, 2008.** Two 19-year-olds with an assault rifle shot and killed a man they had argued with earlier.<sup>39</sup>
- **Beaumont, Texas. July 5, 2008.** One person was injured when a man shot an assault rifle into a crowd standing outside a nightclub.<sup>40</sup>
- **Dallas, Texas. July 4, 2008.** A gunman shot at an apartment building with an AK-47 assault rifle, killing a 17-year-old girl inside. The gunman had been arguing with the girl's stepfather outside.<sup>41</sup>
- **Buena Vista, Michigan. July 3, 2008.** A gunman shot an AK-47 multiple times into a car carrying two teenage girls, hitting one in the leg.<sup>42</sup>

<sup>35</sup> Julie Murphy, *Outlaws clubhouse shot up. Police: man fires 30 rounds, accuses members of rape*, DAYTONA BEACH NEWS JOURNAL, July 17, 2008.

<sup>36</sup> *Shooting may be linked to Orlando Incident*, WESH.COM, Orlando, FL, July 8, 2008, available at: <http://www.wesh.com/print/16817435/detail.html> (last visited Sept. 26, 2008).

<sup>37</sup> *Man charged with assault over domestic dispute*, VINDY.COM, July 9, 2008, available at: <http://www.vindy.com/news/2008/jul/09/man-charged-with-assault-over-domestic-dispute/> (last visited Sept. 26, 2008).

<sup>38</sup> Sandord J. Schmidt, *Two accused of shooting at deputy*, THE TELEGRAPH.COM, July 8, 2008, available at: [http://www.thetelegraph.com/news/county\\_15966\\_\\_\\_article.html/madison\\_accused.html](http://www.thetelegraph.com/news/county_15966___article.html/madison_accused.html) (last visited Sept. 26, 2008).

<sup>39</sup> Susan L. Oppat, *2 Van Buren teens charged in slaying*, THE ANN ARBOR NEWS, July, 10, 2008.

<sup>40</sup> Heather Nolan, *Beaumont police seek help in investigating shooting at night club*, BEAUMONTENTERPRISE.COM, July 7, 2008, available at: [http://www.beaumontenterprise.com/news/local/beaumont\\_police\\_seek\\_public\\_s\\_help\\_in\\_investigaton\\_07-07-2008\\_10\\_43\\_01.html](http://www.beaumontenterprise.com/news/local/beaumont_police_seek_public_s_help_in_investigaton_07-07-2008_10_43_01.html) (last visited Sept. 26, 2008).

<sup>41</sup> Seema Mathur, *Teen hit by stray bullet at dallas apartment*, CBS11TV.COM, July 6, 2008, available at: <http://cbs11tv.com/local/dallas.teen.shot.2.764557.html> (last visited Sept. 26, 2008).

<sup>42</sup> *Buena Vista gunman fires AK-47, strikes girl*, WNEM.COM, July 8, 2009, available at: <http://www.wnem.com/print/16821122/detail.html> (last visited Sept. 26, 2008).



**Warsaw, North Carolina. July 2, 2008.** 18-year-old high school football star Derrick Barden was killed after being shot with an AK-47. Three teenagers were charged with his death, which occurred as a group of people played with an AK-47 outside of an apartment complex.<sup>43</sup>

- **Adairsville, Georgia. June 29, 2008.** A man carrying an AK-47 assault rifle shot a woman twice in the chest during a robbery attempt.<sup>44</sup>
- **Overtown, Florida. June 28, 2008.** A 15-year-old died after he was shot with an assault weapon during a drive-by shooting.<sup>45</sup>
- **Mobile, Alabama. June 27, 2008.** A 6-year-old boy was shot three times and a man twice when a group of men fired AK-47 and SKS assault weapons at the two cars they were riding in.<sup>46</sup>
- **Powhatan, Virginia. June 25, 2008.** A 17-year-old with an assault weapon shot and killed an 18 year old after the two argued.<sup>47</sup>
- **Powhatan County, Virginia. June 24, 2008.** An 18-year-old high school student was shot and killed with an assault rifle following an altercation at a gas station. A juvenile was also wounded in the shooting.<sup>48</sup>
- **Anderson, South Carolina. June 22, 2008.** A man fired more than 30 rounds from an assault rifle at a group of people, killing a 16-year-old who was hit three times and wounding a man.<sup>49</sup>
- **Opa Locka, Florida. June 22, 2008.** A man shot an AK-47 assault rifle at a business, injuring three people inside.<sup>50</sup>

<sup>43</sup> Steve Herring, *Three teens charged in player's shooting*, GOLDSBORO NEWS-ARGUS, July 9, 2008.

<sup>44</sup> Hayden Jennings, *Suspect arrested in Adairsville shooting*, ROMENEWSWIRE.COM, June 30, 2008, available at: <http://www.romenewswire.com/index.php/2008/06/30/suspect-arrested-in-adairsville-shooting/> (last visited Sept. 26, 2008).

<sup>45</sup> David Ovalle, *2 deaths raise 2008 homicides to 136*, THE MIAMI HERALD, July 2, 2008.

<sup>46</sup> Ron Colquitt, *Four suspects denied bail*, THE PRESS-REGISTER, June 28, 2008.

<sup>47</sup> *Authorities: Powhatan teen's killer was 17-year-old*, INRICH.COM, June 30, 2008, available at: <http://www.inrich.com/cva/ric/news.PrintView.-content-articles-RTD-2008-06-30-0195.html> (last visited Sept. 26, 2008).

<sup>48</sup> Linda Dunham & Reed Williams, *Suspects in fatal shooting surrender: Sheriff: Trio wanted in Powhatan teen's death face murder charges; suspected weapon found*, RICHMOND TIMES-DISPATCH, June 29, 2008.

<sup>49</sup> Craig Stanley, *Westside student, shooting victim, is remembered*, INDEPENDENTMAIL.COM, June 27, 2008, available at: <http://www.independentmail.com/news/2008/jun/27/westside-student-shooting-victim-remembered/> (last visited Sept. 26, 2008).

<sup>50</sup> *3 shot in Opa Locka*, NBC6.NET, June 22, 2008, available at: <http://www.independentmail.com/news/2008/jun/27/westside-student-shooting-victim-remembered/> (last visited Sept. 26, 2008).





- **Little Rock, Mississippi. June 21, 2008.** A man died after being shot in the head with an AK-47 assault rifle. The gunman and victim had argued over a dice game.<sup>51</sup>
- **Elyria, Ohio. June 14, 2008.** A woman died after being shot with an AK-47 assault rifle during a robbery.<sup>52</sup>
- **Miami, Florida. June 13, 2008.** A man shot six people at a graduation party with an assault rifle. One of the victims died.<sup>53</sup>
- **Lavaca County, Texas. June 11, 2008.** A 14-year-old boy died after being accidentally shot by his grandfather with an AK-47 assault rifle.<sup>54</sup>
- **Longview, Texas. June 10, 2008.** A man opened fire with an AK-47 assault rifle after arguing with his girlfriend, injuring three people, including a 7-year-old girl.<sup>55</sup>
- **Wilkes, North Carolina. June 6, 2008.** A 17-year-old was seriously injured after being shot with an AK-47 assault rifle. Several teenagers were playing with the gun when it was fired.<sup>56</sup>
- **Shreveport, Louisiana. June 1, 2008.** A 25-year-old man was seriously injured after being shot multiple times with an assault rifle while in his car.<sup>57</sup>
- **Tucson, Arizona. June 1, 2008.** A man shot at several houses with an assault rifle, then lead police in pursuit across Tucson for more than an hour. During the chase, the gunman shot at police multiple times, fatally shooting one officer and injuring two Sheriff's deputies.<sup>58</sup>

<sup>51</sup> Tim Doherty, *Foxworth man held in slaying* THE HATTIESBURG AMERICAN, June 24, 2008.

<sup>52</sup> Matt Suman, *AK-47 used in deadly Gas USA robbery*, THEMORNINGJOURNAL.COM, June 25, 2008 available at:

[http://www.zwire.com/site/news.cfm?newsid=19801129&BRD=1699&PAG=461&dept\\_id=46371&rfi=6](http://www.zwire.com/site/news.cfm?newsid=19801129&BRD=1699&PAG=461&dept_id=46371&rfi=6) (last visited Sept. 26, 2008).

<sup>53</sup> *Teen shot and killed while leaving graduation party*, WSVN.COM, Miami Gardens, FL, available at: <http://www.wsvn.com/news/articles/local/MI88522/> (last visited Sept. 26, 2008).

<sup>54</sup> *Teen shot, killed in hunting accident*, KSAT.COM, June 12, 2008, available at:

[http://www.zwire.com/site/news.cfm?newsid=19801129&BRD=1699&PAG=461&dept\\_id=46371&rfi=6](http://www.zwire.com/site/news.cfm?newsid=19801129&BRD=1699&PAG=461&dept_id=46371&rfi=6) (last visited Sept. 26, 2008).

<sup>55</sup> *3 wounded in Longview gunfire*, THE DALLS MORNING NEWS, June 10, 2008.

<sup>56</sup> *Wilkes teens play with rifle, one shot*, GOBLUERIDGE.NET, June 9, 2008, available at:

[http://www.goblueridge.net/index.php?option=com\\_content&task=view&id=3821&Itemid=1](http://www.goblueridge.net/index.php?option=com_content&task=view&id=3821&Itemid=1) (last visited Sept. 26, 2008).

<sup>57</sup> Katrina Webber, *Violent weekend in Shreveport leaves 3 with gunshot wounds*, KSLA NEWS 12, June 2, 2008, available at: <http://www.ksla.com/Global/story.asp?S=8410023&nav=0RY5RQCK> (last visited Sept. 26, 2008).

<sup>58</sup> Brady McCombs & Alexis Huicochea, *Officer on life support after crosstown pursuit*, ARIZONA DAILY STAR, June 2, 2008.



- **New Orleans, Louisiana. May 26, 2008.** Two people were injured when a gunman carrying an AK-47 assault rifle fired more than twenty rounds at them.<sup>59</sup>
- **Jackson, Mississippi. May 26, 2008.** Five people were shot, one fatally, at a Memorial Day barbecue. A man left the party after an argument and returned with an assault rifle and fired indiscriminately into the crowd.<sup>60</sup>
- **Shreveport, Louisiana. May 19, 2008.** A 15-year-old shot a 14-year-old with an assault weapon.<sup>61</sup>
- **Brooklyn, Connecticut. May 14, 2008.** A 16-year-old boy with Asperger syndrome shot an assault rifle near a group of people playing basketball in a park who he had argued with earlier.<sup>62</sup>
- **Miami, Florida. May 14, 2008.** A man was shot multiple times after his car was sprayed with bullets from an assault weapon.<sup>63</sup>
- **San Jacinto, California. May 12, 2008.** A SWAT team was called in after a man and woman armed with assault rifles shot at security guards and then Sheriff's deputies. The two were killed in the resulting shootout.<sup>64</sup>
- **Raceland, Louisiana. May 12, 2008.** Three men attacked three other men in their car, killing all three. Each victim was shot multiple times with an AK-47 assault rifle.<sup>65</sup>

**Calabash, North Carolina. May 8, 2008.** James Murdock, 25, was killed in a drive-by shooting. Murdock was sitting in a car when a dark SUV pulled up and fired at him with an assault rifle. He died at the scene. Two men were charged with the murder.<sup>66</sup>

- **San Jacinto, California. May 8, 2008.** A 26-year-old man shot at Sheriff's deputies with an assault rifle. The man was killed when the policemen returned fire.<sup>67</sup>

<sup>59</sup> *Pair gunned down by AK-47*, WDSU.COM, May 27, 2008, available at:

<http://www.wdsu.com/news/16401761/detail.html> (last visited Sept. 26, 2008).

<sup>60</sup> Kathleen Baydala, *Man arrested in fatal holiday party shooting*, THE CLARION LEDGER, May 28, 2008.

<sup>61</sup> *Arrest made in shooting of 14 year old boy*, KSLA NEWS 12, May 20, 2008, available at:

[http://www.ksla.com/Global/story.asp?S=8350809&nav=menu50\\_11\\_16\\_4](http://www.ksla.com/Global/story.asp?S=8350809&nav=menu50_11_16_4) (last visited Sept. 26, 2008).

<sup>62</sup> Dustin Racioppi & Don Bond, *Conn. teen with autism held in assault rifle shooting*, THE METRO WEST DAILY NEWS, May 15, 2008, available at:

<http://www.metrowestdailynews.com/archive/x2118739287/Conn-teen-with-autism-held-in-assault-rifle-shooting> (last visited Sept. 26, 2008).

<sup>63</sup> *Man shot with high-powered assault weapon*, LOCAL 10 NEWS, May 14, 2008, available at:

<http://www.local10.com/print/16261614/detail.html> (last visited Sept. 29, 2008).

<sup>64</sup> Gillian Flaccus, *Deputies kill 2 in gun battle on Calif. Reservation*, ASSOCIATED PRESS ARCHIVE, May 14, 2008.

<sup>65</sup> Raymond Legendre, *Grand jury to consider Raceland triple-slaying case*, THE COURIER, August 11, 2008.

<sup>66</sup> Shannan Bowen, *Two charged in Calabash murder*, STAR-NEWS, May 20, 2008.



- **Ripon, Wisconsin. May 6, 2008.** A 19-year-old accidentally shot and killed an 18-year-old friend with an assault rifle while the two were at a friend's house.<sup>68</sup>

**Stafford, Virginia. May 5, 2008.** Aaron Poseidon Jackson shot his children, 1-year-old Aaron and 2-year-old Nicole, with a .38 caliber handgun, then shot their mother, Latasha Thomas, with an AK-47. When police arrived at the home, Jackson, wearing a bulletproof vest and surrounded by guns and ammunition, was found dead from a self-inflicted gunshot wound.<sup>69</sup>

- **Burien, Washington. May 4, 2008.** A man died when he was shot in the head with an assault rifle after arguing with the shooter in a bar. The shooter left after the initial incident but returned with the gun.<sup>70</sup>
- **Chicago, Illinois. May 4, 2008.** A college student died after being shot with an assault rifle when she was caught in crossfire from a gang while in a car.<sup>71</sup>
- **Cordova, New Mexico. May 4, 2008.** A man killed his 17-month-old son by shooting him in the chest with an assault rifle.<sup>72</sup>
- **Philadelphia, Pennsylvania. May 3, 2008.** A police officer was shot and killed by an assault rifle as he was responding to a bank robbery. Three men robbed the bank and were fleeing when the officer stopped their car and exited his patrol car. At that time, one of the bank robbers opened fire with an SKS assault rifle, striking the officer numerous times. One suspect was eventually shot and killed by police and the other two were arrested and charged with murder.<sup>73</sup>
- **San Antonio, Texas. May 2, 2008.** Two teens armed with an assault rifle shot at a man after he tried to stop a fight between groups of teenagers.<sup>74</sup>

<sup>67</sup> Jose Arballo Jr., Steve Fetbrandt & Michelle DeArmond, *Soboba member killed in gun battle with deputies*, THE PRESS-ENTERPRISE, May 8, 2008.

<sup>68</sup> *Teen charged with negligent homicide in Ripon shooting posts bond*, NBC 15 NEWS, Feb. 29, 2008, available at: <http://www.nbc15.com/home/headlines/15839617.html> last visited (Sept. 29, 2008).

<sup>69</sup> Keith Epps & Ellen Biltz, *Gunman heavily armed*, FREDERICKSBURG.COM, May 7, 2008, available at: <http://fredericksburg.com/News/FLS/2008/052008/05072008/377460> (last visited Sept. 26, 2008).

<sup>70</sup> Casey McNerthney, *Man shot after Burien bar fight dies*, SEATTLE POST-INTELLIGENCER, May 5, 2008.

<sup>71</sup> Annie Sweeney & Stefano Esposito, *We had so many plans*, THE CHICAGO SUN-TIMES, May 6, 2008.

<sup>72</sup> Isaac Paul Vasquez, *Police allege father killed son*, KFOXTV.COM, May 4, 2008, available at: <http://www.kfoxtv.com/news/16157794/detail.html> (last visited Sept. 26, 2008).

<sup>73</sup> Joseph A. Gambardello, *Liczbinski suspect's girlfriend to stand trial*, PHILADELPHIA INQUIRER, July 17, 2008; *Officer shot, killed after bank robbery*, NBC 10.COM, May 3, 2008; See Sergeant Stephen Liczbinski, [www.odmp.org](http://www.odmp.org), available at: <http://www.odmp.org/officer/19359-sergeant-stephen-liczbinski> (last visited Sept. 30, 2008).

<sup>74</sup> *Man shot at after breaking up fight*, KSAT TV 12, May 2, 2008, available at: <http://www.ksat.com/news/16136482/detail.html> (last visited Sept. 26, 2008).



- **Compton, California. April 29, 2008.** A 19-year-old with an assault rifle exchanged fire with Sheriff's deputies. No one was injured in the incident.<sup>75</sup>
- **Chicago, Illinois. April 21, 2008.** The owner of a plumbing company was shot in the stomach by an employee using an AK-47 and died as a result. The employee also shot at three police officers later in the evening.<sup>76</sup>
- **York, Pennsylvania. April 11, 2008.** A man died after he was shot multiple times with an assault rifle. The victim and shooter had argued earlier.<sup>77</sup>
- **Miami, Florida. April 5, 2008.** A 16-year-old boy died and his mother was injured when they were shot with an assault rifle outside of their home by people they had previously argued with.<sup>78</sup>
- **Sharonville, Ohio. April 3, 2008.** A 14-year-old girl was shot in the leg when a man fired an assault weapon randomly into the street. The bullet went through a car door and hit the victim.<sup>79</sup>
- **Miami, Florida. April 3, 2008.** A 20-year-old with over thirteen firearms, including four AK-47s, and more than 5,000 rounds of ammunition, was arrested after threatening over the internet that he was going to carry-out a Virginia Tech style massacre.<sup>80</sup>
- **Tarpon Springs, Florida. March 30, 2008.** A man fired several rounds from an assault weapon toward another man who was exiting his car.<sup>81</sup>
- **Donaldsonville, Louisiana. March 22, 2008.** A five-year-old boy and a man were injured after being shot with an assault rifle on the street.<sup>82</sup>
- **Virginia Beach, Virginia. March 19, 2008.** A man shot five people, killing two, with an AK-47 assault rifle and .9 mm handgun before killing himself. The man was

<sup>75</sup> *Suspect arrested in connection to Compton shootout*, CBS2.COM, May 1, 2008, available at: <http://cbs2.com/local/Compton.Shooting.Arrest.2.713125.html> (last visited Sept. 26, 2008).

<sup>76</sup> Lisa Donovan et. al., *SWAT will go on patrol*, CHICAGO SUN TIMES, Apr. 22, 2008.

<sup>77</sup> Kristin Thorne, *York man killed in shooting involving assault rifle*, ABC27 NEWS, Apr. 11, 2008, available at: <http://cfc.whfm.com/printstory.cfm?id=510600> (last visited Sept. 29, 2008).

<sup>78</sup> *Teen killed, mother injured in shooting*, NBC6.NET, Apr. 6, 2008, available at: <http://www.nbc6.net/news/15806302/detail.html> (last visited Sept. 26, 2008).

<sup>79</sup> *Teenage girl accidentally shot in Sharonville*, WCPO 9 NEWS, Apr. 3, 2008, available at: [http://www.wcpo.com/news/local/story.aspx?content\\_id=c473d379-e54d-4b46-a24d-397f12369149](http://www.wcpo.com/news/local/story.aspx?content_id=c473d379-e54d-4b46-a24d-397f12369149) (last visited on Sept. 29, 2008).

<sup>80</sup> *Police: Man threatened to re-enact Virginia Tech-style killings*, ASSOCIATED PRESS, Apr. 4, 2008.

<sup>81</sup> *Tarpon Springs man arrested in assault rifle attack*, TBO.COM, Mar. 31, 2008, available at: <http://suncoastpasco.tbo.com/content/2008/mar/31/tarpon-springs-man-arrested-assault-rifle-attack/> (last visited Sept. 26, 2008).

<sup>82</sup> Samuel Irvin, *Sheriff promises to boost patrols*, THE ADVOCATE, Mar. 27, 2008 available at: <http://www.2theadvocate.com/news/17040851.html> (last visited Sept. 26, 2008).



about to be evicted from his apartment and targeted the apartment complex's employees in his attack.<sup>83</sup>

- **Chattanooga, Tennessee. March 15, 2008.** A man fired more than 20 rounds from an assault rifle at another man outside of an apartment building. The victim was not hit.<sup>84</sup>
- **Baton Rouge, Louisiana. March 7, 2008.** A 16-year-old male shot his father in the arm with an AK-47 and was placed in juvenile detention on one count of attempted murder.<sup>85</sup>
- **Kansas City, Missouri. March 5, 6, 7, 2008.** One man was killed and three injured during a drive-by shooting of a tire store. The shooters used two .223-caliber assault rifles, one of which had two large drum magazines and could fire 100 bullets without reloading. Police pursued the shooters, who were eventually apprehended, and were shot at with the same assault rifles. The following day, three retaliatory shootings occurred; the day after, one retaliatory shooting occurred in which a woman was shot seven times in the chest and torso.<sup>86</sup>
- **Roanoke, Virginia. February 29, 2008.** A car chase ended when the driver pulled over and began shooting at police with an SKS assault rifle. The police shot and seriously wounded the driver. None of the police were seriously injured.<sup>87</sup>

**Gainesville, Georgia. February 19, 2008.** 52-year old Mary Bailey was killed after being shot with an AK-47. Bailey was sleeping on the sofa when her 19-year old son, Derrick Bailey, cleaned his assault weapon and it fired. Derrick claims he did not know the weapon was loaded.<sup>88</sup>

- **Marrero, Louisiana. February 16, 2008.** An 18-year-old was killed and a 16-year-old wounded after being shot with an AK-47 multiple times. The shooter fired more than 20 rounds at the two victims.<sup>89</sup>
- **Pulaski, Kentucky. February 9, 2008.** A man fired more than 50 rounds from his assault rifle into a mobile home and garage after arguing with the owner. The homeowner received only minor injuries in the incident.<sup>90</sup>

<sup>83</sup> *Gunman in mass shooting identified*, WVEC 13 NEWS, Mar. 20, 2008, *available at*: [http://www.wvec.com/news/vabeach/stories/wvec\\_local\\_031908\\_vb\\_shooting.79dfc43.html](http://www.wvec.com/news/vabeach/stories/wvec_local_031908_vb_shooting.79dfc43.html) (last visited Sept. 29, 2008).

<sup>84</sup> Amy Katcher, *East Lake shootout caught on tape*, WDEF NEWS 12, Mar. 26, 2008, *available at*: [http://wdef.com/news/east\\_lake\\_shootout\\_caught\\_on\\_tape/03/2008](http://wdef.com/news/east_lake_shootout_caught_on_tape/03/2008) (last visited Sept. 26, 2008).

<sup>85</sup> *Police and fire briefs*, BATON ROUGE ADVOCATE, Mar. 8, 2008.

<sup>86</sup> Christine Vendel, *Heavy firepower in KC: Officers outgunned by suspects*, KANSAS CITY STAR, Mar. 8, 2007.

<sup>87</sup> Jessica Marcy, *Shots end U.S. 220 chase in Roanoke County*, WWW.ROANOKE.COM, Mar. 1, 2008, *available at*: <http://www.roanoke.com/news/roanoke/wb/152736> (last visited Sept. 26, 2008).

<sup>88</sup> *Gainesville teen: 'I shot my mother'*, WSBTV.COM, Feb. 19, 2008, *available at*: <http://www.wsbtv.com/news/15345707/detail.html> (last visited Sept. 26, 2008).

<sup>89</sup> *Harvey teen booked with murder*, THE TIMES PICAYUNE, Feb. 19, 2008.





- **Phoenix, Arizona. February 9, 2008.** A 17-year-old died and a 23-year-old was injured after being shot with an assault rifle during an attack by four men.<sup>91</sup>
- **Indianapolis, Indiana. February 8, 2008.** An 8-year-old girl died after being shot in the head when someone sprayed her house with bullets from an assault weapon.<sup>92</sup>
- **Macon, Georgia. February 4, 2008.** A man fired over 70 rounds from an assault rifle into the front of a house, killing the woman at the door. The man was looking for the woman's son but shot her after learning he was not at home.<sup>93</sup>
- **Cleveland, Tennessee. February 2, 2008.** A 20-year-old man died after being shot several times with an assault rifle as he exited a car. The gunman shot at the other people in the car and at a nearby house as well.<sup>94</sup>
- **Pittsburgh, Pennsylvania. January 28, 2008.** A 12-year-old girl was killed and her mother badly injured after they were shot with an AK-47 assault rifle. The two were visiting a family member when an assailant sprayed the house with dozens of bullets.<sup>95</sup>
- **Camp Hill, Alabama. January 22, 2008.** A 19-year-old shot a 17-year-old in the face with an assault rifle after the two argued over the stolen weapon.<sup>96</sup>
- **Miami, Florida. January 20, 2008.** Three cousins were injured when dozens of rounds were fired from an assault rifle into their car. One of the cousins was left brain-dead.<sup>97</sup>
- **Carmichael, California. January 16, 2008.** A 24-year-old man was shot with an assault rifle in a drive-by shooting and died.<sup>98</sup>

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<sup>90</sup> *Eubank man jailed following hail of bullets fired into residence*, WKYT.COM, Feb. 9, 2008, available at: <http://www.wkyt.com/home/headlines/15476381.html> (last visited Sept. 26, 2008).

<sup>91</sup> David Biscobing, *Teen gunned down in Phoenix with rifle*, EAST VALLEY TRIBUNE, Feb. 9, 2008.

<sup>92</sup> *Community mourns eight-year-old's shooting death*, WTHR 13 NEWS, Feb. 26, 2008, available at: <http://www.wthr.com/Global/story.asp?S=7853369> (last visited Sept. 29, 2008); *Man charged in 8-year-old's shooting death*, WTHR 13 NEWS, Feb. 27, 2008, available at: <http://www.wthr.com/Global/story.asp?s=7865668> (last visited Sept. 29, 2008).

<sup>93</sup> Ashley Tusan Joyner, *Woman died after man sprays home with bullets*, THE MACON TELEGRAPH, Feb. 6, 2008.

<sup>94</sup> Ryan Harris, *Bradley murder victim identified*, CHATTANOOGA TIMES FREE PRESS, Feb. 5, 2008.

<sup>95</sup> Michael Hasch, *Girl, 12, killed as 40 shots blast into North Side home*, THE PITTSBURGH TRIBUNE-REVIEW, Jan. 29, 2008.

<sup>96</sup> *Teen shot in face by assault rifle*, WTVM.COM, Jan. 22, 2008, available at: [http://www.wtvm.com/Global/story.asp?S=7757100&nav=menu91\\_2](http://www.wtvm.com/Global/story.asp?S=7757100&nav=menu91_2) (last visited Sept. 26, 2008).

<sup>97</sup> David Ovalle, *Little Haiti: Gun violence tears family*, THE MIAMI HERALD, January 24, 2008.

<sup>98</sup> *Two Carmichael killings may be connected*, KCRA.COM, Jan. 16, 2008, available at: <http://www.kcra.com/news/15067608/detail.html> (last visited Sept. 26, 2008).



- **Louisville, Kentucky. January 14, 2008.** A man carrying an assault rifle fired several rounds at a police officer during a traffic stop. The officer was not injured.<sup>99</sup>
- **North Miami Beach, Florida. January 8, 2008.** An off-duty Miami police detective was killed by a man who shot him with an AK-47 assault rifle as he sat in his car.<sup>100</sup>
- **Merrillville, Indiana. December 31, 2007.** A 25-year-old man shot a 20-year-old man with an assault rifle. The shooter asked the victim and another man to leave his apartment after they argued, then followed them outside and shot the victim multiple times.<sup>101</sup>

**Little Rock, Arkansas. December 29, 2007.** 6-year-old Kamyia Weathersby was shot at least 7 times by gunmen outside her home as she was lying in bed. Police believe at least one assault rifle was used to fire 50 or more rounds at her home. The following day, Kamyia died when her family made the decision to take her off life support.<sup>102</sup>

- **Ozark, Alabama. December 29, 2007.** An 18-year-old man repeatedly shot a 22-year-old man using a SKS assault rifle after the two argued. The 22-year-old died from his injuries.<sup>103</sup>
- **Southington, Connecticut. December 24, 2007.** One man shot another in the head with an assault rifle, killing him, after the two argued.<sup>104</sup>
- **Arvada & Colorado Springs, Colorado. December 9, 2007.** One man with an assault rifle attacked a missionary training center in Arvada and a church in Colorado Springs. He killed two people and injured two others in Arvada, and killed two and injured three others in Colorado Springs. He died after being shot by a security guard and then shooting himself.<sup>105</sup>

<sup>99</sup> 4<sup>th</sup> arrest made in SWAT case, WLKY.com, Jan. 14, 2008, available at: <http://www.wlky.com/news/15048297/detail.html> (last visited Sept. 26, 2008).

<sup>100</sup> David Quinones, *Dispute boils over mourning of detective*, MIAMI HERALD, Jan. 19, 2008; See Detective James Walker, www.odmp.org, available at: <http://www.odmp.org/officer/19128-detective-james-walker> (last visited Sept. 30, 2008).

<sup>101</sup> *M'ville man charged in shooting*, THETIMESONLINE.COM, Jan. 4, 2008, available at: [http://www.thetimesonline.com/articles/2008/01/04/news/lake\\_county/doc88e35a05299f4540862573c600061f09.txt](http://www.thetimesonline.com/articles/2008/01/04/news/lake_county/doc88e35a05299f4540862573c600061f09.txt) (last visited Sept. 26, 2008).

<sup>102</sup> *Girl, 6, dies after being shot 7 times – Ark. police search for suspects, motive*, MEMPHIS COMMERCIAL APPEAL, Jan. 1, 2008.

<sup>103</sup> *Ozark shooting suspect surrenders*, PRESS-REGISTER, Jan. 1, 2008.

<sup>104</sup> Chris Velardi, *\$2million bond for Southington murder suspect*, WTNH.COM, Jan. 2, 2008, available at: <http://www.wtnh.com/global/story.asp?s=7566985> (last visited on Sept. 29, 2008).

<sup>105</sup> Erin Emery, *Report details church shooting, the document chronicles the days leading up to the Dec. 9 deaths of four young people*, DENVER POST, Mar. 13, 2008.



- **Omaha, Nebraska. December 5, 2007.** Nine people were shot to death and five others were injured after a 20-year-old shooter, armed with a military-style assault rifle, attacked shoppers in a department store in a Nebraska mall.<sup>106</sup>
- **Arden, South Carolina. December 4, 2007.** One man was injured when he was shot at close range in the leg and foot with an AK-47 assault rifle.<sup>107</sup>
- **Memphis, Tennessee. November 13, 2007.** One man was killed and another injured after an unidentified man opened fire on a grocery store parking lot with an AK-47 assault rifle.<sup>108</sup>
- **Vallejo, California. November 4, 2007.** One man died after being shot several times with an assault rifle while arguing with two other men. Witnesses of the shooting pursued the shooters by car and were also shot at, although none were injured.<sup>109</sup>
- **Crandon, Wisconsin. October 7, 2007.** An off-duty Sheriff's deputy killed six and wounded a seventh person when he burst into a pizza party and started shooting with an assault weapon. The shooter later killed himself as the police closed in.<sup>110</sup>
- **West Palm Beach, Florida. September 18, 2007.** Two men were killed and another injured when they were attacked in their car by two men carrying a handgun and an assault rifle. The suspects shot at the police as they escaped.<sup>111</sup>
- **New Orleans, Louisiana. September 15, 2007.** At least 28 bullets were fired from an AK-47 at an outdoor birthday party for 5-year-old twins in the courtyard of a public housing complex. A 19-year-old was killed and three children were wounded, ages 7, 8 and 13.<sup>112</sup>
- **Miami, Florida. September 13, 2007.** Police spotted a vehicle driving erratically and followed it until it stopped in a residential complex. The driver got out and hopped a fence to the rear of the home; the officers exited their patrol car and went to the front of the home where they were granted permission to search by a female resident. The suspect grabbed a high-powered, military-grade rifle and fired at the police officers through a window, killing one officer, then exited the house and shot

<sup>106</sup> *The American Way*, REGISTER-GUARD, Dec. 17, 2007.

<sup>107</sup> Clarke Morrison, *Arden man gets 12 years for assault rifle shooting*, THE CITIZEN-TIMES, Aug. 8, 2008.

<sup>108</sup> Chris Conley & Jody Callahan, *Drive-by shooting kills 1—police search for two gunmen in B-52 Market incident*, MEMPHIS COMMERCIAL APPEAL, Nov. 13, 2007.

<sup>109</sup> Henry K. Lee, *Two suspects sought in Vallejo homicide*, SFGATE.COM, Nov. 10, 2007, available at: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/11/10/BAUJT9HSA.DTL> (last visited Sept. 26, 2008).

<sup>110</sup> Todd Richmond, *Crandon mass murder-suicide: Questions linger in killing of seven, officials tight-lipped despite suspect's death*, ST. PAUL PIONEER PRESS, Dec. 4, 2007.

<sup>111</sup> *2 killed in West Palm shootings, suspects escape on foot after one fires at police officer pursuing them*, SOUTH FLORIDA SUN-SENTINEL, Sept. 19, 2007.

<sup>112</sup> Mary Sparacello, *Housing Authority reining in parties, Kenner shooting leads to regulations*, THE TIMES PICAYUNE, Oct. 11, 2007.





three other officers as he escaped. The shooter was caught later that day but would not relinquish his assault rifle so he was shot and killed by police officers.<sup>113</sup>

- **Aiken, South Carolina. September 12, 2007.** A 20-year-old man died after being shot multiple times with an assault rifle by a 19-year-old when they were having an argument.<sup>114</sup>
- **Rome, Georgia. August 26, 2007.** One man was killed and a woman seriously injured inside their home. The shooter was found with an AK-47, from which several clips of ammunition had been emptied, and a 12-gauge shotgun when police arrived at the scene.<sup>115</sup>
- **Treme, Louisiana. August 13, 2007.** Two men were killed and another was seriously wounded as a shooter sprayed the crowd with an AK-47 assault rifle at a recreational league basketball game.<sup>116</sup>
- **Dallas, Texas. August 12, 2007.** One person was killed and three others wounded in a shooting outside a poetry/coffee shop. The gunman, who used an assault rifle, fled the scene.<sup>117</sup>

**Hialeah, Florida. August 5, 2007.** Eric Lopez, 38, was fatally shot in his home, and his wife, Olga, was shot in the leg. The incident began around noon when gunmen entered their home and began firing with a military-style semi-automatic weapon. Police arrested four people in connection with the shooting.<sup>118</sup>

- **Oakland, California. August 4, 2007.** A gunman with an assault rifle unleashed a barrage of bullets at a van parked on a North Oakland street, killing one man who lived nearby and wounding his brother and their friend. The gunman then fled.<sup>119</sup>
- **Orangeburg, South Carolina. July 19, 2007.** A man brandishing an assault rifle shot a woman once in the leg. The man was charged with assault and battery with intent to kill.<sup>120</sup>

<sup>113</sup> David Ovalle et al., *The murder and the manhunt started in a South Miami-Dade townhouse, zigzagged...*, MIAMI HERALD, Sept. 15, 2007.

<sup>114</sup> Michelle Guffey, *Police seek murder suspects*, THE AUGUSTA CHRONICLE, Sept. 19, 2007.

<sup>115</sup> *Man goes on shooting rampage, kills one, severely injures another*, ROMENEWSWIFE.COM, available at: <http://www.romenewswire.com/index.php/2007/08/26/police-on-scene-of-possible-murder-in-west-rome/> (last visited Sept. 29, 2008).

<sup>116</sup> Richard A. Webster, *Soaring murder rate in New Orleans undermines recovery strides*, NEW ORLEANS CITY BUSINESS, Aug. 20, 2007.

<sup>117</sup> Marissa Alanis, *Peacekeeper is killed outside club, police say: Dallas 3 others injured as gunman fires assault rifle into crowd*, DALLAS MORNING NEWS, Aug. 13, 2007.

<sup>118</sup> Laura Figueroa, *Hialeah: 4 charged in 'crime of passion'*, MIAMI HERALD, Aug. 7, 2007.

<sup>119</sup> *Two more slain in Oakland weekend violence*, THE OAKLAND TRIBUNE, Aug. 5, 2007.

<sup>120</sup> Richard Walker, *Woman recovering after being shot with AK-47*, THE TIMES AND DEMOCRAT, July 20, 2007.



- **North Augusta, South Carolina. July 15, 2007.** Twenty-one bullets were shot from an assault rifle into a home, hitting a 14-year-old boy sleeping inside. The bullets reportedly came from a car outside, tore through a foosball table, couch, and the wall to a back bedroom, where they pierced furniture, blasted a TV to the floor, and hit the boy.<sup>121</sup>
- **Floyd County, Indiana. June 18, 2007.** Two officers responded to a domestic disturbance call between a mother and her son. The officers were speaking with the mother on the driveway when the 15-year-old son ambushed both officers from an upstairs window and shot at them with a high powered assault rifle. One officer was killed and the other was seriously wounded.<sup>122</sup>
- **Biloxi, Mississippi. June 5, 2007.** A gunman with an AK-47 ambushed police officers in a shootout, killing one, then shooting himself. The gunman lured police by firing shots in the neighborhood and waiting. After shooting one officer, the gunman unloaded an additional round into the patrol car. The gunman had a cache of backup guns and ammunition waiting inside his home.<sup>123</sup>
- **Dallas, Texas. March 23, 2007.** A Dallas police officer was killed when he was struck in the neck and chest by an assault weapon as he approached a suspect's car.<sup>124</sup>
- **Metairie, Louisiana. February 27, 2007.** Two AK-47s were among several guns fired into a Metairie apartment that resulted in four men being shot, one fatally and another critically.<sup>125</sup>
- **Philadelphia, Pennsylvania. February 13, 2007.** A gunman used an assault weapon to kill 3 and wound another before killing himself.<sup>126</sup>
- **Palm Beach County, Florida. January 1, 2007.** An 8-month-old baby boy was shot in his car seat after his mom parked in front of a drug house and rivals opened fire with assault rifles.<sup>127</sup>
- **New Bedford, Massachusetts. December 12, 2006.** Three people were killed and two police officers were injured when a gunman opened fire at the Foxy Lady strip

<sup>121</sup> Meredith Anderson, *North Augusta 14-year-old shot*, WRDW 12 NEWS, July 16, 2007, *available at*: <http://www.wrdw.com/home/headlines/8526357.html> (last visited on Sept. 29, 2008).

<sup>122</sup> See Officer Frank Charles Denzinger, *odmp.org*, *available at*: <http://www.odmp.org/officer/18926-officer-frank-charles-denzinger> (last visited Sept. 30, 2008).

<sup>123</sup> Ryan LaFontaine, *Gunman had a large arsenal, Police say Asher used AK-47*, SUN HERALD, June 9, 2007.

<sup>124</sup> Tanya Eiserer et al., *Dallas officer dies after shootout*, THE DALLAS MORNING NEWS, Mar. 24, 2007.

<sup>125</sup> Michelle Hunter, *Cops say victim not innocent bystander*, THE TIMES PICAYUNE, Feb. 28, 2007.

<sup>126</sup> Larry King & Joseph A. Gambardello, *Investor rage, lethal trap*, PHILADELPHIA INQUIRER, Feb. 14, 2007.

<sup>127</sup> Rochelle E.B. Gilken, *County has most homicides since '89*, PALM BEACH POST, Jan. 6, 2008.



club; the shooter was fatally shot. One of the weapons used was described as an AR-15.<sup>128</sup>

- **Westboro, Massachusetts. December 2, 2006.** Police seized a semiautomatic assault rifle from the bedroom closet of a young Shrewsbury man who posted threatening internet messages and who claimed to admire one of the Columbine High School killers.<sup>129</sup>
- **Newport, Kentucky. November 19, 2006.** A fight at a nightclub led to four people being shot that evening. A 23-year-old was shot several times and left for dead on a bridge. An hour later, police found a 20-year-old man shot dead in his vehicle. Two other people were taken to the hospital with gunshot wounds and police recovered casings from an assault weapon.<sup>130</sup>
- **Chicago, Illinois. October 30, 2006.** Members of the New Breed Street gang shot at Chicago police officers with an AK-47 from their car, injuring one officer. One gang member was killed and another critically wounded in the shoot-out.<sup>131</sup>
- **Palm Beach County, Florida. August 15, 2006.** A 50-year-old landscaper was shot at least 15 times as he walked toward a house to collect money for completed yard work. The shooters used assault weapons in the drive-by and police say the shooters mistook the victim for a gang member.<sup>132</sup>
- **Chapel Hill, North Carolina, July 29, 2006.** A gunman with an assault rifle shot a man multiple times outside a nightclub, killing him. The shooter fled in a getaway car and later turned himself in.<sup>133</sup>

<sup>128</sup> Jessica Heslam, *Strip club gunman at 'crossroads', killer bid farewell in cell phone messages*, BOSTON HERALD, Dec. 14, 2006.

<sup>129</sup> Kevin Keenan, *State police seize weapons*, WORCESTER TELEGRAM & GAZETTE, Dec. 2, 2006.

<sup>130</sup> *A fight at a Northern Kentucky nightclub lead to a wild shooting spree*, WLEX TV 18, Lexington, KY, Nov. 19, 2006, available at: <http://www.lex18.com/Global/story.asp?S=5704257&nav=EQ1p> (last visited Oct. 2, 2008).

<sup>131</sup> Lisa Donovan et al., *Shoot-out 'looked like a movie': Cops kill 2 men they say were about to execute gang rivals*, CHICAGO SUN TIMES, Oct. 31, 2006.

<sup>132</sup> Tim Collie, *Two members offer a look inside a South Florida gang*, SOUTH FLORIDA SUN-SENTINEL; July 22, 2007; Jerome Burdi, *'Innocent victim' killing unsolved, family awaits arrest in 2006 Boynton drive-by shooting*, SOUTH FLORIDA SUN-SENTINEL, Aug. 20, 2007.

<sup>133</sup> *Chapel Hill nightclub under review after fatal shooting*, WRAL.COM, July 31, 2006, available at: <http://www.wral.com/news/local/story/1056918/> (last visited Sept. 29, 2008).



**St. John the Baptist Parish, Louisiana. June 27, 2006.** 25-year-old Kelvin Thomas Jr. died after being shot in the abdomen with an assault rifle. Alonzo Bolden, 20, was arrested and booked with second-degree murder in connection with the shooting. Police believe the two men were engaged in an argument that was part of a long-running feud and ended with Bolden firing multiple shots at Thomas at close range. Thomas had three young children.<sup>134</sup>

- **Calumet City, Illinois. June 25, 2006.** A 22-year-old pregnant woman and her 3-year-old son were shot and killed while they were sleeping when an unknown gunman fired 30 rounds from an AK-47 into their home at 1:15 a.m.<sup>135</sup>
- **St. John the Baptist Parish, Louisiana. June 20, 2006.** A man who had killed a deputy police officer and injured another during a crime spree broke into the house of an 81-year-old man and held him hostage with an AK-47 until he eventually gave himself up and released the hostage.<sup>136</sup>
- **Metairie, Louisiana. June 15, 2006.** Police attempted to serve a man with an emergency committal order but the man barricaded himself in his home and engaged in a 12-hour standoff with police. Seven hours into the standoff, the man shot and wounded two Sheriff's deputies with an assault rifle.<sup>137</sup>
- **Reno, Nevada. June 12, 2006.** An owner of a gun shop, with a license to carry concealed weapons and access to a cache of guns, stabbed his wife to death and then shot the family court judge presiding over his divorce with a Bushmaster .223 high-powered assault rifle with sniper capabilities. The judge survived.<sup>138</sup>
- **Howard County, Maryland. June 8, 2006.** County police officers were shot at by a man wielding an assault rifle whom they were attempting to serve a warrant on.<sup>139</sup>
- **Norman, Oklahoma. June 7, 2006.** Two men opened fire on a Native American gathering of over 300 with an SKS assault rifle, killing one man and injuring another.<sup>140</sup>

<sup>134</sup> Allen Powell II, *Garyville man held in fatal shooting, Deputies suspect long-running feud*, THE TIMES PICAYUNE, June 27, 2006.

<sup>135</sup> Tom Rybarczyk, *Calumet City reels after spray of bullets*, CHICAGO TRIBUNE, June 26, 2006.

<sup>136</sup> Allen Powell II, *Mourners salute slain St. John deputy*, NEW ORLEANS TIMES PICAYUNE, June 21, 2006.

<sup>137</sup> Michelle Hunter & Walt Philbin, *2 deputies wounded in Metairie standoff*, THE TIMES PICAYUNE, June 16, 2006.

<sup>138</sup> FOX NEWS, June 24, 2006.

<sup>139</sup> Tyrone Richardson, *Man found guilty of murder attempt*, BALTIMORE SUN, Oct. 29, 2006.

<sup>140</sup> Tom Blakely, *Pair arraigned in Sunday crowd shooting*, THE NORMAN TRANSCRIPT, June 7, 2006.



- **Miami, Florida. June 6, 2006.** Three men were killed and another injured when the van they were riding in was shot numerous times by assault weapons. About 50 rounds were fired into the van.<sup>141</sup>
- **Indianapolis, Indiana. June 2, 2006.** Seven family members, four adults and three children, were shot and killed in their home by a robber armed with an assault rifle. Nearly 30 shell casings were found.<sup>142</sup>
- **San Diego, California. June 2, 2006.** A 17-year-old was wounded in an accidental workplace shooting when the teen's co-worker brought an AK-47 to work and was unaware that there was a live round inside the rifle's chamber.<sup>143</sup>
- **New Milford Township, Pennsylvania. May 27, 2006.** Two brothers were camping with their wives and children when they were awakened by gunshots coming from a neighbor's property at 3:00 a.m. The brothers knew the neighbor so they went to his house to ask him to stop shooting. The neighbor, armed with a shotgun, told the two brothers to leave and then told his stepson to pick up an AR-15 rifle. The brothers were both shot in the stomach and wounded severely.<sup>144</sup>
- **West Palm Beach, Florida. May 17, 2006.** Two men carrying AK-47 assault rifles ordered a man out of his car at gun-point, mugged him, and ripped off his pants.<sup>145</sup>
- **Kingston, Tennessee. May 14, 2006.** A deputy sheriff and another individual were shot and killed by high-powered assault rifles. The deputy had 33 gunshot wounds.<sup>146</sup>
- **Port Salerno, Florida. May 12, 2006.** A deputy sheriff was shot and wounded with an AK-47 assault rifle.<sup>147</sup>

<sup>141</sup> David Ovalle, *Ambush takes lives of 3 men*, MIAMI HERALD, June 6, 2006.

<sup>142</sup> Ashley M. Heher, *Suspect in slaying of 7 family members surrenders / Indianapolis police say he had nowhere else to go*, HOUSTON CHRONICLE, June 4, 2006.

<sup>143</sup> Debbi Farr Baker, *Man accidentally shoots co-worker*, SAN DIEGO UNION-TRIBUNE, June 3, 2006.

<sup>144</sup> Nyier Abdou, *Somerville brothers still hospitalized after shooting: Pa. Man charged with assaulting rescue squad members during family camping trip*, THE STAR-LEDGER, May 31, 2006.

<sup>145</sup> *Digest*, SOUTH FLORIDA SUN-SENTINEL, May 17, 2006.

<sup>146</sup> Duncan Mansfield, *'Anti-government' man sought in ambush of Tennessee deputy*, CHARLESTON GAZETTE, May 13, 2006.

<sup>147</sup> Leon Fooksman, *Police fearful of violent crime trend: AK-47 shootings*, SOUTH FLORIDA SUN-SENTINEL, May 13, 2006.



**Fort Worth, Texas. May 9, 2006.** 16-year-old Derick Giles, an innocent bystander, was killed after being shot in the abdomen in the crossfire of a gang shooting outside a convenience store. Five minutes later, one man was shot in the leg and another in the foot during a second drive-by shooting. One hour and half later, a 50-year-old woman was shot in the shoulder by gunfire from a high-powered assault weapon as she stood in her kitchen.<sup>148</sup>

- **Chantilly, Virginia. May 8, 2006.** A teenager with an AK-47 and 5 handguns engaged in a firefight at a police station, killing a female detective immediately and wounding two other officers, one of whom died nine days later from his injuries.<sup>149</sup>
- **Los Angeles, California. May 8, 2006.** Police arrested a man and found over 20 assault weapons in his home after the man fired multiple rounds in the air while driving through his neighborhood with a semiautomatic pistol. The man had his young son in the car with him.<sup>150</sup>
- **Oskaloosa, Iowa. May 5, 2006.** A 17-year-old shot his 13-year-old friend in the chest with a military-style rifle and then shot himself.<sup>151</sup>
- **West Palm Beach, Florida. April 28, 2006.** Shots were fired into an apartment at 6:00 in the morning, hitting one man in the right leg and left knee. Seventeen shell casings from an AK-47 were found at the scene.<sup>152</sup>

**West Palm Beach, Florida. April 27, 2006.** An AK-47 was used to shoot 24-year-old David Paulk and his 16-year-old sister. Mr. Paulk was critically injured and died four days later. The next day, the alleged gunman, Brandon Williams, was shot in the back with an assault rifle and taken to the hospital, where he was treated and left before police were able to find cause to arrest him.<sup>153</sup> However, he was arrested soon after.<sup>154</sup>

<sup>148</sup> Deanna Boyd, *Teen killed in shooting at convenience store*, FORT WORTH STAR-TELEGRAM, May 9, 2006.

<sup>149</sup> Ian Urbina, *Fatal police station attack shocks tranquil community*, NEW YORK TIMES, May 10, 2006; *Officer Killed*, BOSTON GLOBE, May 18, 2006.

<sup>150</sup> *Man said to be on 'edge of Armageddon'*, LONG BEACH PRESS-TELEGRAM, May 9, 2006.

<sup>151</sup> AP-News Agenda, Broadcast News, May 5, 2006.

<sup>152</sup> *Police Blotter*, PALM BEACH POST, Apr. 29, 2006; Jerome Burdi, *Rash of shootings hits city in 2 days*, SOUTH FLORIDA SUN-SENTINEL, Apr. 29, 2006.

<sup>153</sup> Jerome Burdi, *Rash of shootings hits city in 2 days*, SOUTH FLORIDA SUN-SENTINEL, Apr. 29, 2006; Jerome Burdi, *New task force seeks man suspected in 2 shootings*, SOUTH FLORIDA SUN-SENTINEL, Apr. 30, 2006; *Police Blotter*, PALM BEACH POST, Apr. 30, 2006.

<sup>154</sup> Nirvi Shah, *West Palm slaying suspect jailed after Pensacola stop*, PALM BEACH POST, May 8, 2006.





- **Oakland, California. March 19, 2006.** A gunman with an AK-47 opened fire on an apartment building, filling it with bullets and killing a 49-year-old man.<sup>155</sup>
- **Lake Worth, Florida. March 17, 2006.** A man angry over an argument with a woman, shot the woman and her roommate with an AK-47 and left the victims in the doorway of their home.<sup>156</sup>
- **Chicago, Illinois. March 11, 2006.** A 10-year-old girl was killed by a shot to her head as she was celebrating her birthday in her living room. A spray of bullets from an assault weapon peppered the house from a nearby fight.<sup>157</sup>
- **Chicago, Illinois. March 3, 2006.** A stray bullet from an assault rifle struck a 14-year-old honor student as she was looking out the window of her home, killing her instantly.<sup>158</sup>
- **Las Vegas, Nevada. February 1, 2006.** A 22-year-old fired at least 50 rounds from an assault rifle, shooting two Las Vegas police officers and killing one, before being shot and killed by the surviving officer.<sup>159</sup>
- **Brooklyn, New York. January 20, 2006.** A man was arrested after firing at least two rounds from an Uzi at two members of the New York Police Department.<sup>160</sup>
- **Ocala, Florida. January 7, 2006.** Two college students who were camping in the Ocala National Forest were randomly targeted by a man who shot and killed them with a stolen AK-47.<sup>161</sup>
- **Indianapolis, Indiana. January 2, 2006.** A man dubbed the “Tec-9 Robber” was arrested after being wanted in connection with as many as 23 robberies in four months of fast food restaurants, convenience stores, and gas stations.<sup>162</sup>
- **Caddo Parish, Louisiana. January 1, 2006.** A 19-year-old was arrested after he was found hiding in an alley with an assault weapon. He faces two counts of aggravated assault on a police officer and potential charges for riddling a house with bullets, injuring a man.<sup>163</sup>

<sup>155</sup> Henry K. Lee, *Oakland: Two new slayings brings homicide total to 30*, SAN FRANCISCO CHRONICLE, Mar. 21, 2006.

<sup>156</sup> Kevin Deutsch, *Man arrested in assault-rifle shooting*, PALM BEACH POST, Mar. 17, 2006.

<sup>157</sup> Gov. Blagojevich, *victims' families, advocates urge lawmakers in Springfield to pass statewide assault weapons ban*, US STATE NEWS, Mar. 23, 2006.

<sup>158</sup> Charles Sheehan, *Neighborhood buries another child*, CHICAGO TRIBUNE, Mar. 19, 2006.

<sup>159</sup> Omar Sofradzija, *Processions to honor Prendes*, LAS VEGAS REVIEW-JOURNAL, Feb. 7, 2006.

<sup>160</sup> Veronika Belenkaya et al., *Uzi maniac shot by cops. Tied to 3 attacks on city's finest*, NEW YORK DAILY NEWS, Jan. 22, 2006.

<sup>161</sup> Stephen Kudak & Sarah Lundy, *Cops: Suspect admits killing 2 campers in Ocala forest*, ORLANDO SENTINEL, Jan. 28, 2006.

<sup>162</sup> CBS 8 WISH, Indianapolis, IN, Jan. 5, 2006.

<sup>163</sup> CBS 12 KSLA, Shreveport, LA, Jan. 2, 2006.



- **Harper Woods, Michigan. December 31, 2005.** A 40-year-old man was shot sixteen times with an assault weapon while standing on his front porch around 3:15 p.m. and died from his injuries. His wife and daughters were in the house at the time of the shooting. His murder, occurring on the last day of the year, was the first murder of 2005 in his town.<sup>164</sup>
- **Miami, Florida. December 28, 2005.** A man dressed in all black used an assault weapon to fire multiple rounds into a house killing a 20-year-old man and injuring another man who was hit in the leg.<sup>165</sup>
- **Fortville, Indiana. December 13, 2005.** A man slapped a female relative and fired a round from an assault weapon into his driveway then barricaded himself in his house and threatened to shoot anyone who came to the door. When the 8-hour standoff ended, police found more than 10 weapons in the home.<sup>166</sup>
- **Tacoma, Washington. November 20, 2005.** A 20-year-old male opened fire in a Tacoma mall, wounding six. The shooter took four hostages, all of whom were released unharmed.<sup>167</sup>

**San Francisco, California. October 14, 2005.** 22-year-old Derna Wysinger and his two-year-old son, Naemon, were killed when a man opened fire on their car with an assault weapon. The toddler's mother, Jazmanika Ridout, was shot in the foot and survived. The family was leaving the home of the toddler's great aunt, who had been babysitting Naemon so that Wysinger and Ridout could go on a date.<sup>168</sup>

- **North Braddock, Pennsylvania. August 12, 2005.** A man was found dead, shot in the back and head. Police found assault rifle bullet casings near the body.<sup>169</sup>
- **Denton County, Texas. August 9, 2005.** In a night-long standoff at his home, a man fired his SKS assault rifle at police to avoid being arrested. After shooting an officer in the leg and refusing to negotiate, police shot and killed the suspect.<sup>170</sup>
- **New Orleans, Louisiana. August 8, 2005.** While driving, a man was shot and killed when an occupant of another car opened fire with an AK-47 assault rifle.<sup>171</sup>

<sup>164</sup> NBC 51 WDIV, Detroit, MI, Jan. 4, 2006.

<sup>165</sup> *Man killed in early morning shooting*, MIAMI HERALD, Dec. 28, 2005.

<sup>166</sup> *Eight-hour standoff ends peacefully*, THEINDYCHANNEL.COM, Dec. 13, 2005 available at: <http://www.theindychannel.com/news/5524484/detail.html> (last visited Sept. 29, 2008).

<sup>167</sup> *Suspect: 'follow screams', Man opens fire at mall in Tacoma; 6 wounded*, AKRON BEACON JOURNAL, Nov. 22, 2005.

<sup>168</sup> Christopher Heredia, *San Francisco police ask public for help in finding shooting suspect*, SAN FRANCISCO CHRONICLE, Oct. 16, 2005.

<sup>169</sup> Michael Hasch, *Shooting victim was teen suspect's uncle*, PITTSBURGH TRIBUNE REVIEW, Aug. 17, 2005.

<sup>170</sup> Domingo Ramirez Jr., *Trooper is shot; suspect is killed*, FORT WORTH STAR-TELEGRAM, Aug. 9, 2005.





- **West Palm Beach, Florida. June 25, 2005.** A man was killed and his 9-year-old daughter severely wounded when a man fired into their parked car with an assault weapon that police believe had been converted to fully automatic.<sup>172</sup>
- **Cincinnati, Ohio. June 22, 2005.** Assailants armed with SKS-type assault rifles sprayed over forty armor-piercing bullets in twenty seconds, hitting two women leaving a grocery store.<sup>173</sup>
- **Livingston County, Kentucky. June 2, 2005.** A deputy was shot when he responded to a domestic disturbance call placed by a couple's 18-year-old daughter. When the officer entered the home, a male fired at least 8 rounds from an assault rifle at him, hitting him four times and killing him. The officer was able to fire one round which killed the gunman.<sup>174</sup>
- **Fresno, California. May 31, 2005.** A man fired at least eight shots from an assault rifle at two veteran police officers sitting in their patrol car outside the police K-9 facility. The police later found a partially loaded 30 round magazine in the assailant's car.<sup>175</sup>
- **Kansas City, Missouri. May 29, 2005.** After being pulled over for a routine traffic stop, a recently fired elementary school janitor shot a Highway Patrol trooper nine times with a 9 mm assault rifle.<sup>176</sup>
- **Tulsa, Oklahoma. May 29, 2005.** A gunman fired more than 20 shots from an assault rifle at an apartment building security guard, wounding the guard and hitting his car and surrounding buildings.<sup>177</sup>
- **Camden, New Jersey. May 21, 2005.** A mother of three young children was killed by a stray bullet fired from an AK-47 during a shoot-out.<sup>178</sup>
- **Jackson, Mississippi. May 18, 2005.** A man fired at least 17 shots from an SKS assault rifle and 9 mm pistol at police during a traffic stop.<sup>179</sup>

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<sup>171</sup> Walt Philbin, *Three men killed in seven hours: All are shot to death on New Orleans streets*, NEW ORLEANS TIMES PICAYUNE, Aug. 9, 2005.

<sup>172</sup> *Gun owners trade in arms, W. Palm Beach shootings spark city buyback*, SOUTH FLORIDA SUN-SENTINEL, July 10, 2005.

<sup>173</sup> *Two wounded in West End*, CINCINNATI POST, June 24, 2005.

<sup>174</sup> *Livingston County Kentucky Deputy Sheriff killed in gunfight*, LMPD.com, June 3, 2005, available at: <http://www.lmpd.com/index.php?name=News&file=article&sid=291&theme=AutoPrint> (last visited Sept. 30, 2008).

<sup>175</sup> *Two held in assault-rifle attack on two officers*, FRESNO BEE, June 1, 2005.

<sup>176</sup> *Accused man tells trooper he's sorry*, KANSAS CITY STAR, May 30, 2005.

<sup>177</sup> *Security guard at apartment is shot*, TULSA WORLD, May 29, 2005.

<sup>178</sup> *Two more men arraigned in fatal street shoot-out*, THE PHILADELPHIA INQUIRER, June 1, 2005.

<sup>179</sup> *Bond denied for man in shootout*, SUN HERALD, July 20, 2005.



**Clayton County, Georgia. April 23, 2005.** High school senior Larry Bishop Jr. was killed, and three other teens were wounded, when a gunman opened fire on a group of partygoers. 18-year old Artavious Rashad Abercrombie was arrested in connection with the crime.<sup>180</sup>

- **Miami, Florida. April 10, 2005.** Three men were injured during a dispute in a strip club parking lot when a fourth man fired an AK-47 at them.<sup>181</sup>
- **Canton, Texas. April 8, 2005.** A man shot his son's football coach in the chest with an AK-47 after a dispute.<sup>182</sup>
- **Houston, Texas. April 8, 2005.** Two robbers armed with AK-47s fired nearly twenty rounds at police during a shoot-out outside a pawnshop.<sup>183</sup>
- **New Orleans, Louisiana. March 27, 2005.** A woman was shot in the chest outside her apartment with an AK-47 when she refused to give her purse to two armed robbers.<sup>184</sup>

**Pittsburgh, Pennsylvania. March 16, 2005.** 16-year-old Keith Watts was killed, and two other students were injured, when a shooter fired at least eight rounds from an AK-47 into their parked vehicle.<sup>185</sup>

- **Dallas, Texas. March 15, 2005.** Three people were killed after a man fired an assault rifle at them through the sunroof of his car.<sup>186</sup>
- **Schertz, Texas. March 3, 2005.** After being pulled over, a man fired more than 30 bullets from a handgun and AK-47 at a state police officer.<sup>187</sup>
- **Tyler, Texas. February 25, 2005.** A gunman with a history of domestic violence and a felony conviction, who was reportedly fighting with his ex-wife over child support for their two youngest children, shot over 50 rounds from an SKS assault rifle on the steps of his local courthouse when his ex-wife exited the building. His ex-wife was killed along with a bystander who tried to shoot the gunman. The shooter's 23-year-old son and three law enforcement officers were wounded during the shooting, including a 28-year-old deputy who was in grave condition. The

<sup>180</sup> *Teen faces murder charge*, THE ATLANTA JOURNAL-CONSTITUTION, May 28, 2005.

<sup>181</sup> *Pair of early-morning shootings leave six hurt*, MIAMI HERALD, April 11, 2005.

<sup>182</sup> *Gunman attacks coach at school*, FORT WORTH STAR-TELEGRAM, April 8, 2005.

<sup>183</sup> *Pawnshop heist ends in bloody shootout*, HOUSTON CHRONICLE, April 7, 2005.

<sup>184</sup> *Jeff woman shot in struggle with thief*, THE TIMES-PICAYUNE, March 29, 2005.

<sup>185</sup> *Schools need permission to shield kids from threats*, PITTSBURGH POST-GAZETTE, March 18, 2005.

<sup>186</sup> *Police say revenge went awry for slaying suspects*, DALLAS MORNING NEWS, March 18, 2005.

<sup>187</sup> *Man indicted in Schertz shootout*, SAN ANTONIO EXPRESS-NEWS, March 24, 2005.



gunman fled the scene but was pursued and shot by police when he exited his car and shot toward officers.<sup>188</sup>

- **Los Angeles, California. February 24, 2005.** A disgruntled Los Angeles municipal employee opened fire with an AK-47 after being reprimanded at work, killing his supervisor and another employee.<sup>189</sup>

**Akron, Ohio. February 24, 2005.** A man shot and killed his girlfriend and her seven year old son using an AR-15 assault rifle, then fired more than one-hundred rounds at a dozen law enforcement officers as he fled the murder scene. The gunman was arrested the next morning inside the apartment of a Kent State University student, who he also murdered with the AR-15 assault rifle. Police subsequently seized 21 weapons kept by the suspect, including an Uzi and an AK-47.<sup>190</sup>

- **Las Vegas, Nevada. February 15, 2005.** A suspected murderer fled from police as his girlfriend fired an assault rifle with a 100 round magazine at pursuing police vehicles. The man was wanted in connection with a drug related murder and for a nonfatal shooting. The man also had convictions for attempted manslaughter and armed robbery, and was suspected of shooting at a Louisiana police officer five months earlier.<sup>191</sup>
- **Ulster, New York. February 13, 2005.** A gunman fired more than 60 shots from an AK-47 assault rifle in the Hudson Valley Shopping Mall, wounding two and causing tens of thousands of dollars of damage before being apprehended. A few hours earlier, the shooter had purchased armor-piercing ammunition from a nearby Wal-Mart.<sup>192</sup>
- **Lebanon, Tennessee. February 10, 2005.** A second grade student found a Tec-9 inside a closet and brought it to school in his backpack, where it was confiscated by police. The gun was not fired but sixteen bullets were discovered in the magazine.<sup>193</sup>
- **Dayton, Ohio. January 31, 2005.** Three teens were shot with a Russian-made assault rifle following an argument at a grocery store.<sup>194</sup>

<sup>188</sup> Bill Hanna & Jack Douglas Jr., *Rampage in Tyler leaves three dead, four wounded*, FORT WORTH STAR-TELEGRAM, Feb. 25, 2005; Jack Douglas Jr. & Bill Hanna, *Police order emergency trace on weapon used in shootings*, FORT WORTH STAR-TELEGRAM, FEB. 26, 2005.

<sup>189</sup> *2 Are Shot to Death at Maintenance Yard*, LOS ANGELES TIMES, Feb. 25, 2005.

<sup>190</sup> Ed Meyer, *Police eye semiautomatic rifles, Brimfield officials want to be prepared after recent shooting rampage that killed 3 people*, AKRON BEACON JOURNAL, Feb. 24, 2005.

<sup>191</sup> Brian Haynes, *Wild chase ends in arrests*, LAS VEGAS REVIEW-JOURNAL, Feb. 19, 2005.

<sup>192</sup> *Mall Gunman Had Columbine Fixation, an Official Says*, THE NEW YORK TIMES, Feb. 15, 2005.

<sup>193</sup> WKRN TV NEWS 2, Nashville, TN, Feb. 10, 2005.

<sup>194</sup> Kelli Wynn, *Assault weapon used in shooting, police say*, DAYTON DAILY NEWS, Feb. 2, 2005.



- **Ravena, Ohio. January 21, 2005.** Three people were killed, including a mother and her seven year old son, when a man fired at least 18 bullets from an assault rifle.<sup>195</sup>

**Jackson, Tennessee. January 11, 2005.** Donna Renee Jordan, 31, David Gordon, 41, and Jerry Hopper, 61, were killed when Jordan's estranged husband, David Jordan, opened fire in a Tennessee Department of Transportation maintenance garage. Two other employees, Larry Taylor and James Goff, were shot and wounded. When David Jordan was arrested shortly after the shootings, police found an SKS assault rifle, a 12-gauge shotgun, and two pistols in his truck. Jordan's wife, whom he shot four times, left behind two children and two stepchildren.

- **Ceres, California. January 9, 2005.** A 19-year-old Marine armed with an SKS assault rifle shot two police officers, killing one, in a gun battle outside a liquor store.<sup>196</sup>
- **Newington, Connecticut. December 31, 2004.** A former correction officer used a fully automatic M-16 to fatally shoot a Newington policeman after the officer responded to a domestic disturbance call.<sup>197</sup>
- **New Orleans, Louisiana. December 23, 2004.** A mentally challenged 19-year-old was chased through the streets with a high-powered assault rifle before being gunned down outside his former elementary school.<sup>198</sup>
- **Hayward, Wisconsin. November 21, 2004.** After being asked to leave another hunter's property, a 36-year-old man opened fire with an SKS semiautomatic rifle, killing six members of a hunting party and wounding two.<sup>199</sup>
- **Oak Creek, Wisconsin. November 5, 2004.** A man wearing body armor and armed with a machine gun fled the hotel room where he murdered his girlfriend, firing 30 to 40 rounds down the hotel hallway, killing one man and injuring two others.<sup>200</sup>
- **Portland, Oregon. October 28, 2004.** A 31-year-old aimed two machine guns out his front window to guard the marijuana growing operation run from his home, which was less than 400 feet from an elementary school. Police seized 29 guns from his home, including several AK-47s and Uzis, a MAC-10 submachine gun and a .50

<sup>195</sup> Stephen Dyer, *Murder suspect pleads insanity*, AKRON BEACON JOURNAL, Feb. 8, 2005.

<sup>196</sup> *Cop, gunman dead: Marine killed after shooting officers*, THE MODESTO BEE, Jan. 11, 2005.

<sup>197</sup> *Officer shot, held hostage*, HARTFORD COURANT, Dec. 31, 2004.

<sup>198</sup> *Barbarity beyond belief*, THE TIMES-PICAYUNE, Dec. 23, 2004.

<sup>199</sup> *Wisconsin Shooting Rampage*, ST. PAUL PIONEER PRESS, Nov. 23, 2004.

<sup>200</sup> *2 dead, 2 wounded in hotel shootings*, MILWAUKEE JOURNAL SENTINAL, Nov. 6, 2004.



caliber anti-aircraft gun. He was later sentenced to more than eight years in prison.<sup>201</sup>

- **Minneapolis, Minnesota. October 21, 2004.** A store clerk died after being shot in the chest with an assault rifle during a botched robbery attempt.<sup>202</sup>
- **Oakland, California. September 22, 2004.** A 16-year-old honor student was killed on the sidewalk near her home after being struck by errant assault rifle fire.<sup>203</sup>

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<sup>201</sup> Local news – Washington County, THE OREGONIAN, May 4, 2006.

<sup>202</sup> *3 teens charged with clerk's slaying*, ST. PAUL PIONEER PRESS, Nov. 2, 2004.

<sup>203</sup> *Girl, 16, gunned down in Oakland drive-by*, THE OAKLAND TRIBUNE, Sept. 24, 2004.



## Endnotes

<sup>1</sup> *Ferri Used Guns That California Ban Does Not Forbid*, SAN FRANCISCO EXAMINER, July 4, 1993.

<sup>2</sup> Michael Janofsky, *Columbine killers thank gun suppliers taped comments revealed in hearing*, CLEVELAND PLAIN DEALER, Nov. 13, 1999.

<sup>3</sup> *Cult's Massive Weapons Purchases Stir Up a Furor Over Federal Regulation*, FORT WORTH STAR-TELEGRAM, May 2, 1993.

<sup>4</sup> *Satellite College Campus Helps to Heal the Scars at San Ysidro Massacre*, LOS ANGELES TIMES, Mar. 30, 1989; *A 77-Minute Moment in History That Will Never Be Forgotten*, LOS ANGELES TIMES, July 16, 1989.

<sup>5</sup> *The Kinds of Guns School Killer Used*, SAN FRANCISCO CHRONICLE, Jan. 19, 1989; Michael Taylor & Leslie Guevarra, *Myterious Scrawlings and Slogans, School Killer's Last Days, Toy Army in his Room*, SAN FRANCISCO CHRONICLE, Jan. 19, 1989.

<sup>6</sup> In an appendix of this report, we have included 27 pages of assault weapons shootings that have occurred in just the last four years. Moreover, this list is not comprehensive. It is merely representative examples.

<sup>7</sup> ATF, *Assault Weapons Profile* 19 (1994)

<sup>8</sup> Judith Bonderman, *In Search of Justice: Compensation for Victims of Assault Weapon Violence*, 20 PRODUCT SAFETY & LIABILITY REP. 25 (June 26, 1992). There are numerous examples of test-firing that display the firepower of semi-automatic assault weapons on YouTube. See, e.g., <http://www.youtube.com/watch?v=nCMEqCPCvV4>; <http://www.youtube.com/watch?v=cYRsPzUYMM4>; and <http://www.youtube.com/watch?v=A75O0-QolJI>.

<sup>9</sup> ATF, *Assault Weapons Profile*, *supra* note 7, at 19 (emphasis added).

<sup>10</sup> *Id.*

<sup>11</sup> *Assault rifles concern police*, MONTGOMERY ADVERTISER, May 25, 2006.

<sup>12</sup> ATF, *Assault Weapons Profile*, *supra* note 7, at 20.

<sup>13</sup> See *infra* p. 15.

<sup>14</sup> Dep't of Treasury, *Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles* 38 (1998).

<sup>15</sup> ATF, *Report and Recommendations of the ATF Working Group on the Importability of Certain Semi-Automatic Rifles* (July 6, 1989)

<sup>16</sup> Dep't of Treasury, *Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles*, *supra* note 14.

<sup>17</sup> Christopher S. Koper, *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, U. PA. JERRY LEE CENTER OF CRIMINOLOGY 3 (June 2004). [Quotation in report spells out 'assault weapons' & 'large capacity magazines' while the actual quotation uses the abbreviations 'AWs' & 'LCMs'].

<sup>18</sup> Press Release, Mayor Hahn, Chief Bratton Unite With Leaders Across Country To Demand Renewal Of Assault Weapons Ban (Apr. 27, 2004) (available at [www.lacity.org](http://www.lacity.org)).

<sup>19</sup> Christopher S. Koper, *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, *supra* note 17, at 87. [Quotation in report spells out 'assault weapons' while the actual quotation uses the abbreviation 'AWs'].





<sup>20</sup> See International Association of Chiefs of Police, *Taking a Stand: Reducing Gun Violence in Our Communities: Report and Recommendations from the IACP Great Lakes Summit on Gun Violence* 26 (2007) (noting that FBI data indicated that 41 of the 211 law enforcement officers slain in the line of duty between January 1, 1998 and December 31, 2001, were killed with assault weapons. See also, H.R. Rep. No. 103-489 (1994) at 14-15 (citing testimony about several assault weapons shootings); *Cops Under Fire: Law Enforcement Officers Killed With Assault Weapons or Guns With High Capacity Magazines*, Handgun Control, Inc. (now the Brady Center to Prevent Gun Violence) (1995).

<sup>21</sup> The Officer Down Memorial Page, Inc. collects information on officers killed in the line of duty. See <http://www.odmp.org/>.

<sup>22</sup> *SAPD Details Monday Shooting Investigation*, KSAT12-TV, San Antonio, Texas, Sept. 10, 2008.

<sup>23</sup> Brady McCombs & Alexis Huicochea, *Officer on life support after crosstown pursuit*, ARIZONA DAILY STAR, June 2, 2008.

<sup>24</sup> Joseph A. Gambardello, *Liczbinski suspect's girlfriend to stand trial*, PHILADELPHIA INQUIRER, July 17, 2008; *Officer shot, killed after bank robbery*, NBC 10.COM, May 3, 2008; See Sergeant Stephen Liczbinski, [www.odmp.org](http://www.odmp.org/officer/19359-sergeant-stephen-liczbinski), available at: <http://www.odmp.org/officer/19359-sergeant-stephen-liczbinski> (last visited Sept. 30, 2008).

<sup>25</sup> David Ovalle et. al., *The murder and the manhunt started in a South Miami-Dade townhouse, zigzagged...*, MIAMI HERALD, Sept. 15, 2007.

<sup>26</sup> See Officer Frank Charles Denzinger, [odmp.org](http://www.odmp.org/officer/18926-officer-frank-charles-denzinger), available at: <http://www.odmp.org/officer/18926-officer-frank-charles-denzinger> (last visited Sept. 30, 2008).

<sup>27</sup> See, e.g., Brittany Wallman, *Fort Lauderdale police to carry assault rifles in cars*, SOUTH FLORIDA SUN-SENTINEL, June 4, 2008; Ronnie Garrett, *Long guns on patrol: Officers find it takes more than a handgun, a badge and handcuffs to protect the public and themselves*, OFFICER.COM, May 20, 2008; David C. Lipscomb, *D.C. to arm police with assault rifles*, WASHINGTON TIMES, May 8, 2008, 'Arms race' has police carrying deadlier guns: Officers armed with increasingly powerful tools, ASSOCIATED PRESS, Mar. 22, 2008; Katie Fretland, *Sheriff's office upgrades to counter criminals*, ORLANDO SENTINEL, Oct. 4, 2007,

<sup>28</sup> Kevin Johnson, *Police needing heavier weapons: Chiefs cite spread of assault rifles*, USA TODAY, Feb. 20, 2007.

<sup>29</sup> Matt Sedensky, *AK-47s are turning up more in U.S.*, ASSOCIATED PRESS, Mar. 27, 2008; Lise Fisher, *Phasing in firepower*, GAINSVILLE SUN, Dec. 17, 2007; Jeffrey Kofman, *Increasing Assault Weapons in Criminal Hands*, ABC NEWS, Nov. 27, 2007

<sup>30</sup> Matt Sedensky, *AK-47s are turning up more in U.S.*, *supra* note 29.

<sup>31</sup> See Mike Flannery, *More Assault Weapons Found in Chicago Since Ban Expired*, CBS 2 CHICAGO, June 7, 2005, available at [http://cbs2chicago.com/topstories/local\\_story\\_158180945.html](http://cbs2chicago.com/topstories/local_story_158180945.html).

<sup>32</sup> *State Attorney: Problems Posed by Haitian Gangs Growing*, NBC6, June 7, 2006 available at: <http://www.nbc6.net/news/9337747/detail.html>.

<sup>33</sup> *Murder Also Stalks Black Men in Their 20s*, MIAMI HERALD, June 25, 2006.

<sup>34</sup> Jack Dolan, *Miami Police get OK for more firepower*, MIAMI HERALD, Sept. 16, 2007.

<sup>35</sup> Matt Sedensky, *Assault-weapon attacks on rise in Miami area where officer slain*, ASSOCIATED PRESS, Sept. 14, 2007.

<sup>36</sup> Jack Dolan, *Miami Police get OK for more firepower*, *supra* note 34.

<sup>37</sup> Bruce Falconer, *How Not to Buy an AK-47*, MOTHER JONES, July 16, 2008.

<sup>38</sup> Matt Sedensky, *Assault-weapon attacks on rise in Miami area where officer slain*, *supra* note 35.

<sup>39</sup> Ryan LaFontaine, *Gunman had a large arsenal, Police say Asher used AK-47*, SUN HERALD, June 9, 2007.



- <sup>40</sup> Ian Urbina, *Fatal police station attack shocks tranquil community*, NEW YORK TIMES, May 10, 2006; *Officer Killed*, BOSTON GLOBE, May 18, 2006.
- <sup>41</sup> Omar Sofradzija, *Processions to honor Prendes*, LAS VEGAS REVIEW-JOURNAL, Feb. 7, 2006.
- <sup>42</sup> *Livingston County Kentucky Deputy Sheriff killed in gunfight*, LMPD.COM, June 3, 2005, available at: <http://www.lmpd.com/index.php?name=News&file=article&sid=291&theme=AutoPrint> (last visited Sept. 30, 2008).
- <sup>43</sup> *Cop, gunman dead: Marine killed after shooting officers*, THE MODESTO BEE, Jan. 11, 2005.
- <sup>44</sup> *Assault Weapons Putting Safety in Crosshairs?*, KDKA CBS 2, July 12, 2005, available at [http://kdka.com/local/local\\_story\\_193165007.html](http://kdka.com/local/local_story_193165007.html).
- <sup>45</sup> Kevin Johnson, *Police needing heavier weapons: Chiefs cite spread of assault rifles*, USA TODAY, Feb. 20, 2007.
- <sup>46</sup> Michael Laforgia, *Assault rifles escalate violence*, PALM BEACH POST, Jan. 28, 2007.
- <sup>47</sup> Susan Candiotti, *Cops find themselves in arms race with criminals*, CNN.COM, Nov. 6, 2007.
- <sup>48</sup> Len Fooksman, *Police Fearful of Violent Crime Trend: AK-47 Shootings*, SOUTH FLORIDA SUN-SENTINEL, May 13, 2006.
- <sup>49</sup> *Authorities seeing increase in use of assault weapons*, WRAL-TV, Aug. 28, 2008.
- <sup>50</sup> Glenn Smith, *Police can't get handle on supply*, POST AND COURIER, Oct. 1, 2006.
- <sup>51</sup> Evan Goodenow, *AK-47-type weapons in city, police reporting: Seizures are up nationally since assault-rifle ban expired in 2004*, FORT WAYNE NEWS SENTINEL, June 24, 2008.
- <sup>52</sup> Lynn Safranek, *Assault rifles becoming more common in Midlands*, OMAHA WORLD-HERALD, Jan. 27, 2008.
- <sup>53</sup> Vic Lee, *SF cops say they're outgunned*, KGO TV 7 NEWS, Aug. 24, 2006.
- <sup>54</sup> *Id.*
- <sup>55</sup> *Niagara, Wisconsin shooting suspect caught*, THE CHICAGO TRIBUNE, Aug. 1, 2008.
- <sup>56</sup> *Gunman in mass shooting identified*, WVEC 13 NEWS, Mar. 20, 2008, available at: [http://www.wvec.com/news/vabeach/stories/wvec\\_local\\_031908\\_vb\\_shooting.79dfc43.html](http://www.wvec.com/news/vabeach/stories/wvec_local_031908_vb_shooting.79dfc43.html) (last visited Sept. 29, 2008).
- <sup>57</sup> Erin Emery, *Report details church shooting, the document chronicles the days leading up to the Dec. 9 deaths of four young people*, DENVER POST, Mar. 13, 2008.
- <sup>58</sup> *The American Way*, REGISTER-GUARD, Dec. 17, 2007.
- <sup>59</sup> *Suspect: 'follow screams', Man opens fire at mall in Tacoma; 6 wounded*, AKRON BEACON JOURNAL, Nov. 22, 2005.
- <sup>60</sup> *Mall Gunman Had Columbine Fixation, an Official Says*, THE NEW YORK TIMES, Feb. 15, 2005.
- <sup>61</sup> Mary Sparacello, *Housing Authority reining in parties, Kenner shooting leads to regulations*, NEW ORLEANS TIMES PICAYUNE, Oct. 11, 2007.
- <sup>62</sup> Tom Rybarczyk, *Calumet City reels after spray of bullets*, CHICAGO TRIBUNE, June 26, 2006.
- <sup>63</sup> Ashley M. Heher, *Suspect in slaying of 7 family members surrenders / Indianapolis police say he had nowhere else to go*, HOUSTON CHRONICLE, June 4, 2006.
- <sup>64</sup> *Gov. Blagojevich, victims' families, advocates urge lawmakers in Springfield to pass statewide assault weapons ban*, US STATE NEWS, Mar. 23, 2006.
- <sup>65</sup> Charles Sheehan, *Neighborhood buries another child*, CHICAGO TRIBUNE, Mar. 19, 2006.





<sup>66</sup> Stephen Kudak & Sarah Lundy, *Cops: Suspect admits killing 2 campers in Ocala forest*, ORLANDO SENTINEL, Jan. 28, 2006.

<sup>67</sup> Bill Hanna & Jack Douglas Jr., *Rampage in Tyler leaves three dead, four wounded*, FORT WORTH STAR-TELEGRAM, Feb. 25, 2005; Jack Douglas Jr. & Bill Hanna, *Police order emergency trace on weapon used in shootings*, FORT WORTH STAR-TELEGRAM, Feb. 26, 2005.

<sup>68</sup> Ed Meyer, *Police eye semiautomatic rifles, Brimfield officials want to be prepared after recent shooting rampage that killed 3 people*, AKRON BEACON JOURNAL, Feb. 24, 2005.

<sup>69</sup> *Wisconsin Shooting Rampage*, ST. PAUL PIONEER PRESS, Nov. 23, 2004.

<sup>70</sup> Marianne Zawitz, *Guns Used in Crime*, U.S. Dep't of Justice, Bureau of Justice Statistics 6 (1995).

<sup>71</sup> ATF, *Assault Weapons Profile* *supra* note 7, at 19-20.

<sup>72</sup> NIJ, *Firearm Use By Offenders 2-3* (2001).

<sup>73</sup> ATF, *Assault Weapons Profile*, *supra* note 7, at 19.

<sup>74</sup> Dep't of Treasury, *Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles*, *supra* note 14, at 17.

<sup>75</sup> Paul Salopek, *A Chilling Look into Terror's Lair*, CHICAGO TRIBUNE, Nov. 18, 2001.

<sup>76</sup> Complaint, United States v. Shnewer, Magistrate No. 07-M-2045 (D.N.J. 2007).

<sup>77</sup> *Indictment Details Terror Weapons Smuggling Scheme*, NEW YORK SUN, March 16, 2005.

<sup>78</sup> Press Release, U.S. Dep't of Justice, Rockford Man Faces Federal Explosives Charges; Large Cache of Weapons, Ammunition and Explosives Materials Seized (Apr. 21, 2004).

<sup>79</sup> *Gun Land – Are guns bought in the U.S. ending up in the hands of terrorists?*, NOW WITH BILL MOYERS, Nov. 15, 2002.

<sup>80</sup> *ATF: Phoenix Gun Dealer Supplied Mexican Drug Cartels*, ABC NEWS, May 6, 2008.

<sup>81</sup> *U.S. guns arm Mexican drug cartels*, LOS ANGELES TIMES, Aug. 11, 2008.

<sup>82</sup> *Man Accused of Shipping Arms, Ammunition to Beirut*, ASSOCIATED PRESS, Nov. 21, 2000.

<sup>83</sup> *Gun Land – Are guns bought in the U.S. ending up in the hands of terrorists?*, NOW WITH BILL MOYERS, *supra* note 79.

<sup>84</sup> Elena Cabral, *Attempt to Buy Rifles Linked to Terrorist*, MIAMI HERALD, June 2, 2001.

<sup>85</sup> 22-year-old Rupinder “Benny” Oberoi was shot in the lower back outside his place of work in Silver Spring, Maryland on September 14th. 52-year-old liquor store manager Claudine Parker was shot and killed as she and a coworker closed the store in Montgomery, Alabama. 45-year-old beauty supply store manager named Hong Im Ballenger was shot and killed outside a store she managed in Baton Rouge, Louisiana on September 23<sup>rd</sup>.

<sup>86</sup> Premkumar A. Walekar of Olney, Maryland, a 54-year-old male cabdriver, was shot and killed with the Bushmaster assault rifle at a Mobil gas station in Aspen Hill, Maryland on October 3<sup>rd</sup>.

<sup>87</sup> James L. “Sonny” Buchanan, Jr. of Abingdon, VA, a 39-year-old landscaper, was shot and killed with the Bushmaster assault rifle while mowing grass at a car dealership in White Flint, Maryland On October 3.

<sup>88</sup> Linda Franklin, a 47-year-old FBI employee was shot and killed with the Bushmaster assault rifle while loading packages with her husband in their car in the parking garage of a Home Depot in Seven Corners Shopping Center in Fairfax County, Virginia On October 14.

<sup>89</sup> Second Amended Complaint, Halberstam v. S.W. Daniel, Inc., No. 95-C3323 (E.D.N.Y.1998), Nov. 19, 1997.



<sup>90</sup> *CIA Killings Prompt Scrutiny on 2 Fronts; Fairfax Loophole Expedited Gun Purchase*, WASHINGTON POST, Feb. 11, 1993.

<sup>91</sup> Robert O'Harrow, Jr. *Kansi's Shadowy Stay in U.S. Leaves a Hazy Portrait*, WASHINGTON POST, Mar 3, 1993.

<sup>92</sup> On March 21, 1989, ATF announced a temporary suspension of the importation of five assault weapons. On March 29, 1989, ATF expanded the scope of the suspension to cover all assault weapons "indistinguishable in design, appearance and function to the original five" and established a working group to decide whether to make this import ban permanent. On March 30, 1989, a gun importer challenged ATF's authority to suspend the importation of these weapons. The Eleventh Circuit Court of Appeals upheld ATF's authority to issue the import suspensions. *Gun South, Inc. v. Brady*, 877 F.2d 858 (11th Cir. 1989). ATF then issued its working group report and, pursuant to 18 U.S.C. § 925(d)(3), made the import ban permanent. ATF, *Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles* *supra* note 15.

<sup>93</sup> In April 1998, ATF determined that the 1989 ban on the importation of assault rifles remained valid and expanded the import ban to include rifles with the "ability to accept a detachable large capacity military magazine" because those weapons "cannot fairly be characterized as sporting rifles." ATF, *Department of the Treasury Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles*, *supra* note 14.

<sup>94</sup> See ATF, *Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles*, *supra* note 15, at 5-8 (describing numerous military features of assault weapons).

<sup>95</sup> *Police Fear a Future of Armored Enemies*, USA TODAY, Mar. 3, 1997.

<sup>96</sup> Declaration of Leonard J. Supenski in Support of Plaintiffs' Joint Opposition to Navegar, Inc.'s Motion for Summary Judgment or, in the Alternative, Summary Adjudication at 8, In re 101 California Street Bldg., No. 959316 (Sup. Ct. Cal. 1996).

<sup>97</sup> Jim Zumbo, *Assault Rifles for Hunters?*, available at: [http://razoreye.net/mirror/zumbo/zumbo\\_assault\\_rifles.html](http://razoreye.net/mirror/zumbo/zumbo_assault_rifles.html) (last visited Oct. 7, 2008).

<sup>98</sup> *District of Columbia v. Heller*, 128 S.Ct. 2783 (2008).

<sup>99</sup> The Court was careful to announce only a limited Second Amendment right that was tied to guns used for self-defense in the home. *Id.* at 2821-22. "[W]hatever else [the Second Amendment] leaves to future evaluation, it surely elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home." *Id.* at 2821. "[T]he enshrinement of constitutional rights necessarily takes certain policy choices off the table. These included the absolute prohibition of handguns held and used for self-defense in the home." *Id.* at 2822. "In sum, we hold that the District's ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense." *Id.* at 2821-22.

<sup>100</sup> *Id.* at 55.

<sup>101</sup> See *infra* p. 1, *Assault Weapons are Designed to Slaughter People*.

<sup>102</sup> Those include California, which passed the nation's first statewide ban in May 1989, as well as New Jersey (1990), Hawaii (1991), Connecticut (1993), Maryland (1994), Massachusetts (1998), and New York (2000). California expanded its ban in 2000 to include all semiautomatic rifles or pistols that have the ability to accept a detachable magazine and contain any one of a series of military-style features similar to the list found in the federal ban. CAL. PENAL CODE § 12276.1.

<sup>103</sup> See *infra* p. 14, *Assault Weapons Have No Sporting or Self-Defense Purpose*.

<sup>104</sup> See, e.g., *Benjamin v. Bailey*, 662 A.2d 1226 (Conn. 1995); *Robertson v. Denver*, 874 P.2d 325 (Colo. 1994); *Arnold v. City of Cleveland*, 616 N.E.2d (Ohio 1993).

<sup>105</sup> Hearings Before the Committee on the Judiciary on S. 639 and S. 653, U.S. Senate, 103d Cong. 1 (Aug. 3, 1993) (statement of Hon. Joseph Biden).



<sup>106</sup> The law was intended to cover “copies or duplicates” of named firearms, 18 U.S.C. § 921(30)(A), but it was never successfully applied to ban any of the copycat weapons that emerged after the ban unless they also violated the two-features test.

<sup>107</sup> The data available at the time of the study went up through the end of 2001.

<sup>108</sup> The conclusions in the On Target study were similar to an analysis of assault weapons traced to crime done for United States Senators Dianne Feinstein and Charles Schumer. This analysis showed that the proportion of banned assault weapons traced to crime dropped by more than 65% while the ban was in effect, according to ATF crime gun trace data. See report released on Nov. 5, 2003, *available at* <http://feinstein.senate.gov/03Releases/r-assaultweepsrate1.htm>.

<sup>109</sup> In addition to the Brady Center’s study, the U.S. Department of Justice, National Institute of Justice conducted a study, mandated by the Act, of the short-term impact on crime of the assault weapons ban. The study, published in 1999, found that the ban had “clear short-term effects on the gun market,” leading to semiautomatic assault weapons “becom[ing] less accessible to criminals because there was at least a short-term decrease in criminal use of the banned weapons.” Jeffrey A. Roth & Christopher S. Koper, *Impacts of the 1994 Assault Weapons Ban: 1994-96* 1, 9 (U.S. Dep’t of Justice, National Institute of Justice 1999) (*available at* <http://www.ncjrs.org/pdffiles1/173405.pdf>).

<sup>110</sup> One of the principal authors of that interim study published a follow-up analysis of the effects of the federal ban in June 2004. Christopher S. Koper, *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, U. PA. JERRY LEE CENTER OF CRIMINOLOGY, *supra* note 17. That study documented a dramatic reduction in the incidence of assault weapon use in crime while the ban was in effect. The study found, according to ATF data, that assault weapons, as a percentage of total crime gun traces, fell 70% from 1992-93 to 2001-02. *Id.* at 44. Indeed, the study found it “remarkable” that the annual number of assault weapons traced to crime did not increase during the period the ban was been in effect, even though, due to far more comprehensive tracing of crime guns by ATF, the number of total guns traced to crime increased almost 200% during that same period. *Id.* As the study noted, these results were consistent with the findings of the Brady Center in its On Target report, discussed above. *Id.* at 44, n.43. Koper’s study attributed these declines in the frequency of assault weapon use in crime to the statute itself, in contradiction to the assertions made by some commentators that the decline was due to other factors. The study found that the decline in frequency of assault weapon traces did not begin until 1994, the year of the ban, and concluded that “the ban prevent[ed] a few thousand crimes with assault weapons annually.” *Id.* at 52, n.61.

<sup>111</sup> The firearms listed in this data are considered by ATF to be “crime guns,” which means they have been illegally possessed, used in a crime, or suspected of having been used in a crime. ATF, *The Youth Crime Gun Interdiction Initiative, Crime Gun Trace Analysis Reports: The Illegal Youth Firearms Market in 27 Communities* 5 (1999).

<sup>112</sup> CAL. PENAL CODE § 12276.1.

<sup>113</sup> H.R. 1022, 110th Cong. (2007).

<sup>114</sup> See <http://www.pollingreport.com/guns.htm>.

<sup>115</sup> *Id.*

<sup>116</sup> Majority of U.S. adults favors continuing ban on sales of assault rifles, according to latest Harris poll, Sept. 24, 2004, *available at* [http://www.harrisinteractive.com/harris\\_poll/index.asp?PID=498](http://www.harrisinteractive.com/harris_poll/index.asp?PID=498) (last visited Oct. 3, 2008).

<sup>117</sup> *Survey: 8 out of 10 Illinois voters favor banning assault weapons*, WBBM 780 NEWS, Chicago, IL, Mar. 22, 2007.

<sup>118</sup> Numerous newspaper editorials and columnists are in favor of the reinstatement of an assault weapons ban. See, e.g., *Our leaders are fighting to bring back the national assault weapons ban*, DAILY PENNSYLVANIAN, May 29, 2008; Brian Scheid, *Rendell: Reinstate weapons ban*, BUCKS COUNTY COURIER TIMES, May 12, 2008; David Gambacorta, *In wake of Liczbinski slaying, a push for assault-weapon ban*,



PHILADELPHIA DAILY NEWS, May 8, 2008; *Time for action*, BUCKS COUNTY COURIER TIMES, May 7, 2008; *Gun Control: How many more?*, PHILADELPHIA INQUIRER, May 6, 2008; Sam Wood, *Cheap but deadly weapon killed police officer*, PHILADELPHIA INQUIRER, May 6, 2008; *Assault rifles: Cops find themselves outgunned*, SALT LAKE TRIBUNE, Apr. 14, 2008; *Take aim at guns*, CHICAGO TRIBUNE, Mar. 12, 2008; *Gun Crazy*, NEW YORK TIMES, Mar. 1, 2008; *Assault weapon bill is a start, at least*, SOUTH FLORIDA SUN-SENTINEL, Feb. 12, 2008; *Off-Target: Why are chuka sticks illegal, but not AK-47 knockoff?*, SYRACUSE POST-STANDARD, Dec. 27, 2007; *Mass killings demand serious debate on banning some weapons*, RECORDNET.COM, Dec. 20, 2007, available at: [http://www.recordnet.com/apps/pbcs.dll/article?AID=/20071220/A\\_OPINION01/712200308/1/A\\_OPINION](http://www.recordnet.com/apps/pbcs.dll/article?AID=/20071220/A_OPINION01/712200308/1/A_OPINION) (last visited Oct. 2, 2008); Ralph Fascitelli, *It's time to outlaw military assault weapons*, SEATTLE POST-INTELLIGENCER, Dec. 19, 2007; *Get rid of these guns – now*, TIMES-HERALD, Dec. 19, 2007; *Courage vs. Carnage: What Congress can do to keep the worst weapons out of the wrong hands*, WASHINGTON POST, Dec. 13, 2007; *The Omaha Massacre: Warning Shots*, PHILADELPHIA INQUIRER, Dec. 7, 2007; Charles Rabin, *Dade urges renewing assault-arms ban*, MIAMI HERALD, Nov. 8, 2007; *The other arms race*, BALTIMORE SUN, Nov. 7, 2007; Ana Menendez, *There's no good reason to have an assault rifle*, MIAMI HERALD, Sept. 16, 2007; *Legislature should take aim at assault weapon horrors*, CHICAGO SUN-TIMES, Jan. 10, 2007.

<sup>119</sup> See Press Release, Brady Campaign to Prevent Gun Violence, Jim and Sarah Brady “Personally Offended” by Gun Lobby Efforts to Falsify Reagan Record (June 16, 2004) available at: <http://www.bradycampaign.org/media/release.php?release=565> (quoting letter from President Reagan).

<sup>120</sup> See Press Release, Brady Campaign to Prevent Gun Violence, Former Presidents Ford, Carter, Clinton Urge President Bush to Save the Assault Weapons Ban (June 7, 2004) available at: <http://www.bradycampaign.org/media/release.php?release=569>.

